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SENATE BILL 478

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; CHANGING THE ROLE OF THE
CONSTRUCTION INDUSTRIES COMMISSION; GRANTING RULEMAKING
AUTHORITY TO THE CONSTRUCTION INDUSTRIES DIVISION OF THE
REGULATION AND LICENSING DEPARTMENT FOR ITSELF AND ITS BUREAUS;
PROVIDING GREATER OVERSIGHT BY THE REGULATION AND LICENSING
DEPARTMENT; REPEALING SECTIONS OF LAW THAT EXEMPT THE
CONSTRUCTION INDUSTRIES COMMISSION FROM THE AUTHORITY OF THE
SUPERINTENDENT OF REGULATION AND LICENSING; AMENDING, REPEALING
AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 9-16-8 NMSA 1978 (being Laws 1983,
Chapter 297, Section 24, as amended) is amended to read:

"9-16-8. BUREAUS--CHIEFS.--The superintendent shall
establish within each division such "bureaus" as ~~he~~ the

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1 superintendent deems necessary to carry out the provisions of
2 the Regulation and Licensing Department Act. [He] The
3 superintendent shall appoint a "chief" to be the administrative
4 head of any such bureau. [~~The positions so appointed may be~~
5 ~~exempted from the Personnel Act by action of the~~
6 ~~superintendent, except for the construction industries division~~
7 ~~trade bureaus created pursuant to Section 60-13-31 NMSA 1978.~~
8 ~~The chiefs of those bureaus shall be covered positions under~~
9 ~~the Personnel Act.]"~~

10 SECTION 2. Section 22-24-4.1 NMSA 1978 (being Laws 2001,
11 Chapter 338, Section 6, as amended) is amended to read:

12 "22-24-4.1. OUTSTANDING DEFICIENCIES--ASSESSMENT--
13 CORRECTION.--

14 A. No later than September 1, 2001, the council
15 shall define and develop guidelines, consistent with the codes
16 adopted by the construction industries [~~commission~~] division of
17 the regulation and licensing department pursuant to the
18 Construction Industries Licensing Act, for school districts to
19 use to identify outstanding serious deficiencies in public
20 school buildings and grounds, including buildings and grounds
21 of charter schools, that may adversely affect the health or
22 safety of students and school personnel.

23 B. A school district shall use these guidelines to
24 complete a self-assessment of the outstanding health or safety
25 deficiencies within the school district and provide cost

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1 projections to correct the outstanding deficiencies.

2 C. The council shall develop a methodology for
3 prioritizing projects that will correct the deficiencies.

4 D. After a public hearing and to the extent that
5 money is available in the fund for such purposes, the council
6 shall approve allocations from the fund on the established
7 priority basis and, working with the school district and
8 pursuant to the Procurement Code, enter into construction
9 contracts with contractors to correct the deficiencies.

10 E. In entering into construction contracts to
11 correct deficiencies pursuant to this section, the council
12 shall include such terms and conditions as necessary to ensure
13 that the state money is expended in the most prudent manner
14 possible and consistent with the original purpose.

15 F. Any deficiency that may adversely affect the
16 health or safety of students or school personnel may be
17 corrected pursuant to this section, regardless of the local
18 effort or percentage of indebtedness of the school district.

19 G. It is the intent of the legislature that all
20 outstanding deficiencies in public schools and grounds that may
21 adversely affect the health or safety of students and school
22 personnel be identified and awards made pursuant to this
23 section no later than June 30, 2005, and that funds be expended
24 no later than June 30, 2007, provided that the council may
25 extend the expenditure period upon a determination that a

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1 project requires the additional time because existing buildings
2 need to be demolished or because of other extenuating
3 circumstances."

4 SECTION 3. Section 60-13-2 NMSA 1978 (being Laws 1967,
5 Chapter 199, Section 2, as amended) is repealed and a new
6 Section 60-13-2 NMSA 1978 is enacted to read:

7 "60-13-2. [NEW MATERIAL] DEFINITIONS.--As used in the
8 Construction Industries Licensing Act:

9 A. "apprentice" means a person who is engaged as
10 the apprentice's principal occupation in learning and assisting
11 in a trade;

12 B. "bid" means a written or oral offer to contract;

13 C. "building" means a structure built for use or
14 occupancy by persons or property, including manufactured
15 commercial units and modular homes or premanufactured homes
16 designed to be placed on permanent foundations whether mounted
17 on skids or permanent foundations or whether constructed on or
18 off the site of location;

19 D. "certificate of qualification" means a
20 certificate issued by the division to a qualifying party;

21 E. "chief" means the administrative head of a trade
22 bureau;

23 F. "code" means a body or compilation of provisions
24 or standards adopted by the division that govern contracting or
25 some aspect of contracting, that provide for safety and

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1 protection of life and health and that are published by a
2 nationally recognized standards assessment;

3 G. "commission" means the construction industries
4 commission;

5 H. "department" means the regulation and licensing
6 department;

7 I. "director" means the director of the division;

8 J. "division" means the construction industries
9 division of the department;

10 K. "inspection agency" means a firm, partnership,
11 corporation, association or any combination of them approved in
12 accordance with rules as having the personnel and equipment
13 available to adequately inspect for the proper construction of
14 manufactured commercial units, modular homes or premanufactured
15 homes;

16 L. "journeyman" means a person who is properly
17 certified by the electrical bureau or the mechanical bureau to
18 engage in or work at the journeyman's trade;

19 M. "jurisdictional conflict" means any conflict
20 between or among trade bureaus as to the exercise of
21 jurisdiction over an occupation or trade for which a license is
22 required under the provisions of the Construction Industries
23 Licensing Act;

24 N. "manufactured commercial unit" means a movable
25 or portable housing structure over thirty-two feet in length or

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1 over eight feet in width that is constructed to be towed on its
2 own chassis and designed so as to be installed without a
3 permanent foundation for use as an office or other commercial
4 purpose and that may include one or more components that can be
5 retracted for towing purposes and subsequently expanded for
6 additional capacity, or two or more units separately towable
7 but designed to be joined into one integral unit, as well as a
8 single unit, but that does not include any movable or portable
9 housing structure over twelve feet in width and forty feet in
10 length that is used for nonresidential purposes. "Manufactured
11 commercial unit" does not include modular or premanufactured
12 homes, built to a nationally recognized standard adopted by the
13 commission and designed to be permanently affixed to real
14 property;

15 O. "public use" means the use or occupancy of any
16 structure, facility or manufactured commercial unit to which
17 the general public, as distinguished from residents or
18 employees, has access;

19 P. "qualifying party" means a person who submits to
20 the examination for a license to be issued under the
21 Construction Industries Licensing Act and who is responsible
22 for compliance with the requirements of that act and with the
23 rules, codes and standards adopted and promulgated in
24 accordance with that act;

25 Q. "superintendent" means the superintendent of

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1 regulation and licensing;

2 R. "trade bureau" means the electrical bureau, the
3 mechanical bureau, the general construction bureau or the
4 liquefied petroleum gas bureau of the division; and

5 S. "wages" means compensation paid to a person by
6 an employer from which taxes are required to be withheld by
7 federal and state law."

8 SECTION 4. Section 60-13-6 NMSA 1978 (being Laws 1977,
9 Chapter 245, Section 168, as amended) is amended to read:

10 "60-13-6. CONSTRUCTION INDUSTRIES COMMISSION CREATED--
11 MEMBERSHIP--DUTIES.--

12 A. ~~[There is created within the division]~~ The
13 "construction industries commission" is created and is
14 administratively attached to the department. The commission
15 shall be composed of nine voting members who shall serve at the
16 pleasure of the governor. Members shall be appointed by the
17 governor, with the advice and consent of the senate as follows:

18 (1) one member who is a representative of the
19 residential construction industry of this state;

20 (2) one member who is a licensed electrical
21 contractor;

22 (3) one member who is a licensed mechanical
23 contractor;

24 (4) one member who is a licensed and
25 practicing architect;

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1 (5) one member who is a practicing general
2 contractor;

3 (6) one member who is a representative of the
4 liquefied petroleum gas industry;

5 (7) one member who is a resident of the state,
6 who is not a licensed contractor or certified journeyman and
7 who shall represent the people of New Mexico;

8 (8) one member who is a representative of the
9 subcontracting industry of the state; and

10 (9) one member who is a representative of
11 organized labor.

12 Members shall be appointed to provide adequate representation
13 of all geographic areas of the state.

14 B. Each member of the commission [~~shall~~] is
15 entitled to receive per diem and mileage as provided in the Per
16 Diem and Mileage Act and shall receive no other compensation,
17 perquisite or allowance.

18 C. The commission shall annually elect a [~~chairman~~]
19 chair and vice [~~chairman~~] chair from its membership. [~~The~~
20 ~~director shall serve as the executive secretary of the~~
21 ~~commission.~~]

22 D. The commission shall meet bimonthly or at the
23 call of the [~~chairman~~] chair.

24 E. The commission shall [~~establish policy for the~~
25 ~~division. It shall~~]:

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1 (1) advise on [~~review, coordinate and approve~~
2 ~~or disapprove all~~] rules, [~~regulations~~] standards, codes and
3 licensing requirements [~~which are subject to the approval of~~
4 ~~the commission under the provisions of the Construction~~
5 ~~Industries Licensing Act or the LPG Act so as to insure that~~
6 ~~uniform codes and standards are promulgated and conflicting~~
7 ~~provisions are avoided. The commission shall] of the division;~~

8 [~~(1)~~] (2) revoke or suspend, for cause, any
9 license or certificate of qualification issued under the
10 provisions of the Construction Industries Licensing Act or the
11 LPG and CNG Act; and

12 [~~(2) define and establish all~~] (3) recommend
13 to the division license classifications. The licensee shall be
14 limited in [~~his~~] bidding and contracting as provided in
15 Subsection B of Section 60-13-12 NMSA 1978. [~~Any~~] A licensee,
16 subsequent to the issuance of a license, may make application
17 for additional classification and be licensed in more than one
18 classification if [~~he~~] the licensee meets the prescribed
19 qualification for the additional classification."

20 SECTION 5. Section 60-13-9 NMSA 1978 (being Laws 1978,
21 Chapter 73, Section 1, as amended) is amended to read:

22 "60-13-9. DIVISION--DUTIES.--The division shall:

23 A. adopt rules, standards, codes and licensing
24 requirements, which are subject to approval of the
25 superintendent as provided in Section 9-16-6 NMSA 1978;

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1 [A-] B. approve and adopt examinations on codes and
2 standards, business knowledge and division rules [~~and~~
3 ~~regulations~~] and on the Construction Industries Licensing Act
4 recommended by the commission for all classifications of
5 contractor's licenses;

6 [B-] C. issue, under the director's signature,
7 contractor's licenses and certificates of qualification in
8 accordance with the provisions of the Construction Industries
9 Licensing Act;

10 ~~[G. submit a list of all contractor's licenses and~~
11 ~~certificates of qualification issued by the division to the~~
12 ~~commission for review and approval;]~~

13 D. resolve jurisdictional conflicts by assigning
14 specific responsibility to the appropriate bureau for preparing
15 examinations and for certifying and inspecting each occupation,
16 trade or activity covered by the Construction Industries
17 Licensing Act;

18 E. establish and collect fees authorized to be
19 collected by the division pursuant to the Construction
20 Industries Licensing Act;

21 F. adopt all building codes and minimum standards
22 as recommended by the trade bureaus [~~and approved by the~~
23 ~~commission~~] so that the public welfare is protected, uniformity
24 is promoted and conflicting provisions are avoided;

25 G. with approval of the superintendent [~~of~~

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1 ~~regulation and licensing~~], employ such personnel as the
2 division deems necessary for the exclusive purpose of
3 investigating violations of the Construction Industries
4 Licensing Act, enforcing Sections 60-13-12 and 60-13-38 NMSA
5 1978 and instituting legal action in the name of the division
6 to accomplish the provisions of Section 60-13-52 NMSA 1978;

7 ~~[H. approve, disapprove or revise the recommended~~
8 ~~budget of each trade bureau and submit the budgets of those~~
9 ~~bureaus, along with its own budget, to the regulation and~~
10 ~~licensing department;~~

11 ~~I. approve, disapprove or revise and submit to the~~
12 ~~regulation and licensing department all requests of the trade~~
13 ~~bureaus for emergency budget transfers;~~

14 ~~J. make an annual report to the superintendent of~~
15 ~~regulation and licensing and]~~

16 H. develop a policy manual concerning the
17 operations of the division and the trade bureaus; ~~[The report~~
18 ~~shall also contain the division's recommendations for~~
19 ~~legislation it deems necessary to improve the licensing and~~
20 ~~technical practices of the construction and LP gas industries~~
21 ~~and to protect persons, property and agencies of the state and~~
22 ~~its political subdivisions;~~

23 ~~K.]~~ I. adopt ~~[subject to commission approval]~~ rules
24 ~~[and regulations]~~ necessary to carry out the provisions of the
25 Construction Industries Licensing Act and the LPG and CNG Act;

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1 ~~[H.]~~ J. maintain a complete record of all
2 applications; all licenses issued, renewed, canceled, revoked
3 and suspended; and all fines and penalties imposed by the
4 division ~~[or commission]~~ and may make that information
5 available to certified code jurisdictions;

6 ~~[M.]~~ K. furnish, upon payment of a reasonable fee
7 established by the division, a certified copy of any license
8 issued or of the record of the official revocation or
9 suspension ~~[thereof]~~ of a license. Such certified copy shall
10 be prima facie evidence of the facts stated ~~[therein]~~ in the
11 record; and

12 ~~[N.]~~ L. publish a list of contractors, with their
13 addresses and classifications, licensed by the division. The
14 list shall be furnished without charge to such public
15 officials, public bodies or public works and building
16 departments as the division deems advisable. The list shall be
17 published annually, and supplements shall be provided as the
18 division deems necessary. ~~[Copies of the list and supplements~~
19 ~~shall be furnished to any person upon request and payment of a~~
20 ~~reasonable fee established by the division.]"~~

21 **SECTION 6.** Section 60-13-10.2 NMSA 1978 (being Laws 2007,
22 Chapter 38, Section 6) is amended to read:

23 "60-13-10.2. DIVISION ~~[AND COMMISSION]~~--STANDARDS TO
24 ACCOMMODATE SOLAR COLLECTORS.--As provided in the Solar
25 Collector Standards Act, the division ~~[and commission]~~ shall

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1 jointly with the energy, minerals and natural resources
2 department promulgate rules, standards or codes that establish
3 requirements for new construction that will accommodate the
4 installation of solar collectors to or on the new construction
5 after the construction is otherwise complete."

6 SECTION 7. Section 60-13-11 NMSA 1978 (being Laws 1967,
7 Chapter 199, Section 14, as amended) is amended to read:

8 "60-13-11. DIVISION [~~OR COMMISSION~~]-POWERS.--The
9 division [~~or the commission~~] may:

10 A. [~~sue and be sued~~] issue subpoenas and compel the
11 attendance of witnesses and the production of documents,
12 records and physical exhibits in any hearing;

13 B. administer oaths;

14 C. adopt and use a seal for authentication of its
15 records, processes and proceedings;

16 D. compel minimum code compliance in all certified
17 code jurisdictions and political subdivisions; and

18 E. investigate code violations in any code
19 jurisdictions in New Mexico."

20 SECTION 8. Section 60-13-13 NMSA 1978 (being Laws 1967,
21 Chapter 199, Section 16, as amended) is amended to read:

22 "60-13-13. APPLICATION FOR CONTRACTOR'S LICENSE.--

23 A. Applications for a contractor's license or a
24 certificate of qualification shall be submitted to the division
25 on forms prescribed and furnished by the division and shall

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1 contain the information and be accompanied by the attachments
2 required by [~~regulation of the commission~~] the division.

3 B. The application shall be accompanied by the
4 prescribed fee."

5 SECTION 9. Section 60-13-14 NMSA 1978 (being Laws 1967,
6 Chapter 199, Section 17, as amended) is amended to read:

7 "60-13-14. DIVISION--LICENSE ISSUANCE--REPORTS.--

8 A. No license shall be issued by the division to
9 [~~any~~] an applicant unless the director is satisfied that the
10 applicant is or has in [~~his~~] the applicant's employ a
11 qualifying party who is qualified for the classification for
12 which application is made and the applicant has satisfied the
13 requirements of Subsection B of this section.

14 B. An applicant for a license shall:

15 (1) demonstrate proof of responsibility as
16 provided in the Construction Industries Licensing Act;

17 (2) comply with the provisions of Subsection D
18 of this section if [~~he~~] the applicant has engaged illegally in
19 the contracting business in New Mexico within one year prior to
20 making application;

21 (3) demonstrate familiarity with the rules
22 [~~and regulations~~] promulgated by the [~~commission and~~] division
23 concerning the classification for which application is made;

24 (4) if a corporation, incorporated
25 association, registered limited liability partnership or

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1 limited liability company, have complied with the laws of this
2 state requiring qualification to do business in New Mexico and
3 provide the name of its current registered agent and the
4 current address of its registered office in New Mexico;

5 (5) if a person other than the persons
6 described in Paragraph (4) of this subsection, provide a
7 current physical location address and mailing address of the
8 applicant's place of business;

9 (6) submit proof of registration with the
10 taxation and revenue department and submit a current tax
11 identification [~~tax~~] number;

12 (7) comply with any additional procedures and
13 rules [~~and regulations which are established by the commission~~]
14 relating to issuance of licenses; and

15 (8) have had four years, within the ten years
16 immediately prior to application, of practical or related trade
17 experience dealing specifically with the type of construction
18 or its equivalent for which the applicant is applying for a
19 license, except that the [~~commission~~] division may [~~by~~
20 ~~regulation~~] provide for:

21 (a) reducing this requirement for a
22 particular industry or craft where it is deemed excessive, but
23 the requirement shall not be less than two years; and

24 (b) a waiver of the work experience
25 requirement of this paragraph when the qualifying party has

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1 been certified in New Mexico with the same license
2 classification within the ten years immediately prior to
3 application.

4 C. The division, with the consent of the
5 ~~[commission]~~ superintendent, may enter into a reciprocal
6 licensing agreement with any state having equivalent licensing
7 requirements.

8 D. The ~~[director]~~ division may issue a license to
9 an applicant who at any time within one year prior to making
10 application has acted as a contractor in New Mexico without a
11 license as required by the Construction Industries Licensing
12 Act if:

13 (1) the applicant in addition to all other
14 requirements for licensure pays an additional fee as follows:

15 (a) in an amount up to ten percent of
16 the contract price or the value of the nonlicensed contracted
17 work in the discretion of the ~~[commission]~~ director; or

18 (b) if the applicant has bid or offered
19 a price on a construction project and was not the successful
20 bidder or offeror, the fee shall be at least one percent but
21 not more than five percent of the total bid amount; and

22 (2) the director is satisfied that no incident
23 of such contracting without a license:

24 (a) caused monetary damage to any
25 person; or

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1 (b) resulted in an unresolved consumer
2 complaint being filed against the applicant with the division.

3 E. An unlicensed contractor who has performed
4 unlicensed work may settle the claims against ~~him~~ the
5 unlicensed contractor without becoming licensed if the claims
6 arise from ~~his~~ a first offense and ~~he~~ the unlicensed
7 contractor pays an administrative fee calculated pursuant to
8 Paragraph (1) of Subsection D of this section. In addition to
9 the administrative fee, an additional ten percent of the amount
10 of the administrative fee shall be assessed as a service fee.

11 F. If the total fee to be paid by the contractor
12 pursuant to the provisions of ~~Subsection~~ Subsections D ~~or~~
13 and E of this section is twenty-five dollars (\$25.00) or less,
14 the fee may be waived.

15 G. The ~~director~~ division shall report every
16 incident of nonlicensed contracting work to the taxation and
17 revenue department to assure that the contractor complies with
18 tax requirements and pays all taxes due."

19 SECTION 10. Section 60-13-16 NMSA 1978 (being Laws 1967,
20 Chapter 199, Section 18, as amended) is amended to read:

21 "60-13-16. DIVISION--QUALIFYING PARTY--EXAMINATION--
22 CERTIFICATE.--

23 A. Except as otherwise provided in this section, no
24 certificate of qualification shall be issued to ~~an individual~~
25 a person desiring to be a qualifying party until ~~he~~ the

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1 person has passed [~~with a satisfactory score~~] an examination
2 approved and adopted by the division.

3 B. The examination shall consist of a test based on
4 general business knowledge, rules [~~and regulations~~] of the
5 division and the provisions of the Construction Industries
6 Licensing Act. In addition, applicants for a GB, MM or EE
7 classification or for any other classification that the
8 [~~commission~~] division determines to be appropriate shall take a
9 test based on technical knowledge and familiarity with the
10 prescribed codes and minimum standards of the particular
11 classification for which certification is requested. The
12 division shall provide examinations in both English and
13 Spanish.

14 C. In lieu of the examination to determine
15 knowledge of business and construction industries law provided
16 for in Subsection B of this section, an applicant may satisfy
17 the business and law knowledge requirement by receiving a
18 certificate of completion of a business and law course of study
19 offered by an accredited education institute approved by the
20 [~~commission~~] division. The course and [~~any~~] preparation and
21 instruction materials shall be available in both English and
22 Spanish and shall be made available to the division [~~the~~
23 ~~commission~~] or the designated agent of the division, upon
24 request, for review.

25 D. If a contractor's license is subject to

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1 suspension by the commission and if the suspension is based on
2 the requirement that the licensee employ a qualifying party and
3 the employment of the qualifying party is terminated without
4 fault of the licensee, a member of that trade who is
5 experienced in the classification for which the certificate of
6 qualification was issued and has been employed for five or more
7 years by the licensed contractor shall be issued without
8 examination a temporary certificate of qualification in the
9 classification for which the contractor is licensed. The
10 temporary qualifying party is required to pass the regular
11 examination as set forth in Subsection B of this section within
12 ninety days of issuance of a temporary certificate of
13 qualification.

14 E. The certificate of qualification is not
15 transferable.

16 F. A qualifying party whose certificate is revoked
17 by the commission shall not reapply for a certificate for one
18 year."

19 SECTION 11. Section 60-13-18 NMSA 1978 (being Laws 1967,
20 Chapter 199, Section 20, as amended) is amended to read:

21 "60-13-18. LICENSES--RENEWAL.--

22 A. Licenses issued by the division are not
23 transferable.

24 B. Contractor's licenses shall expire two years
25 after the issuance date or as determined by the division, but

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1 in no instance less than one year, and shall be renewable upon
2 application to the division and payment of the prescribed
3 renewal fee; provided that nothing in this subsection shall
4 prohibit the division from establishing a staggered system of
5 license expiration and a procedure for proration of fees for
6 licenses issued for less than the two-year period or other
7 period provided by the division pursuant to this subsection.

8 ~~[G. Licenses shall expire upon the date established~~
9 ~~by regulation of the commission, such regulation to provide for~~
10 ~~a staggered system of license expiration and for proration of~~
11 ~~fees for licenses issued for less than a full year.~~

12 ~~Thereafter, such licenses shall be issued for a period of two~~
13 ~~years or as otherwise provided by the division pursuant to~~
14 ~~Subsection B of this section. Licenses shall be subject to~~
15 ~~renewal upon application to the division and payment of the~~
16 ~~prescribed renewal fee.~~

17 ~~D.]~~ C. Licensees and journeyman certificate holders
18 may be required to complete and submit proof of continuing
19 education as a prerequisite for renewal of a license. When
20 required by rule adopted by the division, an applicant for a
21 license renewal ~~[must]~~ shall submit with the application for
22 license renewal proof of eight hours of instruction in code
23 change and eight hours of instruction in other industry-related
24 and division-approved subjects. The sixteen hours of
25 continuing education must have been completed within the three

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1 years prior to the date of the license renewal application.

2 [E-] D. The [~~director~~] division shall, at least
3 thirty days prior to the expiration date of a license, notify
4 the licensee of the approaching expiration. Notice shall be
5 given by mail addressed to the licensee's last address on file
6 with the division. The notice shall include a renewal
7 application form, instructions and any other information
8 prescribed by the division.

9 [F-] E. Failure of a licensee to make application
10 for the renewal of the licensee's license, to furnish such
11 other information required by the [~~commission and~~] division or
12 to pay the prescribed renewal fee by the last working day prior
13 to the expiration of the license shall cause the license to be
14 suspended by operation of law.

15 [G-] F. Unless the license is renewed within a
16 three-month period, it shall be canceled. The suspended
17 license may be renewed only after payment of a fee equal to one
18 dollar (\$1.00) for each day, up to thirty days, that has
19 elapsed since the expiration date of the license and thereafter
20 for a fee equal to twice the amount of the renewal fee."

21 SECTION 12. Section 60-13-38 NMSA 1978 (being Laws 1967,
22 Chapter 199, Section 41, as amended) is amended to read:

23 "60-13-38. CERTIFICATES OF COMPETENCE--EXAMINATION--
24 JOURNEYMEN.--

25 A. A person shall not engage in the occupation or

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1 trade of journeyman unless [~~he~~] the person holds a certificate
2 of competence issued by the division for the occupation or
3 trade in which [~~he~~] the person desires to engage.

4 B. The categories for certificates of competence
5 are: journeyman electrician, journeyman plumber, journeyman
6 gas fitter, journeyman pipe fitter, journeyman sheet metal
7 worker, journeyman boiler operator, residential wireman and
8 journeyman welder working on pipelines, collection lines or
9 compressor stations.

10 C. An applicant for a certificate of competence
11 shall be required to take an examination approved and adopted
12 by the division as to [~~his~~] knowledge of the orders and rules
13 governing the occupation or trade for which a certificate is
14 sought, and as to [~~his~~] technical knowledge and ability
15 pertaining to [~~his~~] the particular trade. The examination may
16 be oral, written or demonstrative or any combination thereof,
17 as required by rules of the [~~commission~~] division.

18 D. The division shall issue a certificate of
19 competence to [~~any~~] a journeyman welder working on pipelines,
20 collection lines or compressor stations who shows evidence of
21 having satisfactorily completed an examination administered by
22 an independent testing organization or public utility employing
23 engineers registered with the state, such examination meeting
24 the minimum pipeline safety standards set by the public
25 regulation commission.

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1 E. Applications for certificates of competence
2 shall be in the form and shall contain [~~such~~] the information
3 and attachments as the division prescribes.

4 F. The division shall establish a reasonable fee
5 for [~~any~~] an examination or issuance of certificate of
6 competence.

7 G. A person is not eligible to take an examination
8 for a certificate of competence unless [~~he~~] the person has had
9 two years' experience in the occupation or trade for which a
10 certificate of competence is sought, or the equivalent thereof
11 as determined by the [~~commission~~] division, or has successfully
12 completed a course in the trade approved by the instructional
13 support and vocational education division of the [~~state~~
14 ~~department of~~] public education department.

15 H. Employment of an apprentice working under the
16 direct supervision of a certified journeyman is not prohibited
17 by the Construction Industries Licensing Act.

18 I. A person is eligible to take an examination for
19 a journeyman electrician certificate of competence after at
20 least:

21 (1) four years of accredited training in the
22 electrical trade;

23 (2) four years of apprenticeship in the
24 electrical trade;

25 (3) four years of practical experience in the

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1 electrical trade, of which two years are in the commercial
2 trade, industrial trade or the equivalent as determined by the
3 [~~commission~~] division; or

4 (4) successfully completing an electrical
5 trade program approved by the instructional support and
6 vocational education division of the [~~state department of~~]
7 public education department and two years of practical
8 experience in the commercial electrical trade.

9 J. Continuing education requirements for a
10 journeyman electrician shall include at least sixteen hours of
11 continuing education in every three-year period between
12 national electrical code updates, of which eight hours are code
13 change instructions and eight hours are other industry-related
14 instruction. All continuing education curricula and
15 instructors shall be approved by the [~~commission~~] division
16 based on recommendations by the electrical bureau.

17 K. A certificate of competence shall not be renewed
18 until a complete application for renewal has been received by
19 the division. Proof of completion of the continuing education
20 requirements shall be submitted to the division with the
21 application for renewal of certificate of competence. An
22 application for renewal that is not accompanied by proof of
23 completion of the continuing education requirements is
24 incomplete and shall not be processed. The continuing
25 education requirements in this subsection shall only apply to a

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1 journeyman electrician with the designation "EE-98J" or "JE98";
2 this subsection does not apply to EE98.

3 L. A person is eligible to take an examination for
4 a residential wireman's certificate of competence after at
5 least:

6 (1) two years of accredited training or
7 apprenticeship in the electrical trade;

8 (2) two years of practical experience in
9 wiring residential dwellings; or

10 (3) successfully completing a course in the
11 trade approved by the instructional support and vocational
12 education division of the [~~state department of~~] public
13 education department and one year of practical experience in
14 wiring residential dwellings.

15 M. The provisions of Subsections I and L of this
16 section do not apply to a person who was enrolled as a full-
17 time student before June 20, 2003 in an electrical trade
18 program approved by the instructional support and vocational
19 education division of the [~~state department of~~] public
20 education department."

21 SECTION 13. Section 60-13-41 NMSA 1978 (being Laws 1967,
22 Chapter 199, Section 49, as amended) is amended to read:

23 "60-13-41. INSPECTORS--DESIGNATED INSPECTION AGENCIES.--

24 A. State inspectors shall be employed by the
25 director.

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1 B. Qualifications and job descriptions for
2 inspectors for the state, municipalities and all other
3 political subdivisions shall be prescribed by the [~~commission~~]
4 division.

5 C. The division may appoint inspection agencies to
6 inspect the construction, installation, alteration or repair of
7 manufactured commercial units, modular homes and
8 premanufactured homes, including those manufacturers whose
9 business premises are without the state, to ensure that the New
10 Mexico standards of construction and installation are adhered
11 to and that the quality of construction meets all New Mexico
12 codes and standards. If the inspection agency has no place of
13 business within the state, it shall file a written statement
14 with the secretary of state setting forth its name and business
15 address and designating the secretary of state as its agent for
16 the service of process.

17 D. The division may enter into reciprocal
18 agreements with other jurisdictions having comparable codes,
19 standards and inspection requirements for the inspection of the
20 construction, alteration or repair of modular homes,
21 premanufactured homes and manufactured commercial units.

22 E. The division may [~~with the approval of the~~
23 ~~commission~~] establish qualifications for inspectors certified
24 to inspect in more than one bureau's jurisdiction."

25 SECTION 14. Section 60-13-43 NMSA 1978 (being Laws 1967,
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1 Chapter 199, Section 51, as amended) is amended to read:

2 "60-13-43. QUALIFICATION OF MUNICIPAL AND COUNTY
3 INSPECTORS.--

4 A. No person shall be employed by ~~[any]~~ a
5 municipality or county as an inspector unless ~~[he]~~ the person
6 has first secured approval from the division of ~~[his]~~ the
7 person's competence as an inspector.

8 B. Trade bureaus shall issue to all approved
9 municipal and county inspectors a certificate setting forth the
10 fact of approval.

11 C. Certification by the division shall remain in
12 effect unless rescinded by action of the commission.

13 D. ~~[Any]~~ A complaint brought against a certified
14 municipal or county inspector shall cause the director to
15 assign an investigator to investigate the merits of the
16 complaint and report to the ~~[commission]~~ division within thirty
17 days."

18 SECTION 15. Section 60-13-44 NMSA 1978 (being Laws 1967,
19 Chapter 199, Section 52, as amended) is amended to read:

20 "60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

21 A. The electrical bureau shall recommend to the
22 ~~[commission]~~ division minimum standards for the installation or
23 use of electrical wiring. The recommendations shall
24 substantially embody the applicable provisions of an electrical
25 code for safety to life and property promulgated by a

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1 nationally recognized association and developed through an
2 open, balanced consensus process.

3 B. The mechanical bureau shall recommend to the
4 [~~commission~~] division minimum standards for the installation of
5 all fixtures, consumers' gas pipe, appliances and materials
6 installed in the course of a mechanical installation. The
7 recommendations shall be in substantial conformity with codes
8 and standards that are developed through an open, balanced
9 consensus process. Manufacturers may choose the independent
10 certification organization they wish to certify their products
11 if the certification organization is accredited by the American
12 national standards institute or other accreditation
13 organization selected by the [~~commission~~] division.

14 C. The general construction bureau shall recommend
15 to the [~~commission~~] division minimum standards for the
16 construction, alteration or repair of buildings, except for
17 those activities within the jurisdiction of the electrical
18 bureau or the mechanical bureau. The recommendations shall
19 substantially embody the applicable provisions of a nationally
20 recognized building code that is developed through an open,
21 balanced consensus process and shall give due regard to
22 physical, climatic and other conditions peculiar to New Mexico.
23 The standards shall include the authority to permit or deny
24 occupancy of existing and new buildings or structures and
25 authority to accept or deny the use of materials manufactured

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1 within or without the state. The general construction bureau
2 may set minimum fees or charges for conducting tests to verify
3 claims or specifications of manufacturers.

4 D. The general construction bureau shall recommend
5 to the [~~commission~~] division additional specifications for any
6 public building constructed in the state through expenditure of
7 state, county or municipal funds, bonds and other revenues,
8 which specifications shall embody standards making the building
9 accessible to persons who have a physical disability, and the
10 specifications shall conform substantially with those contained
11 in a nationally recognized standard for making public
12 facilities accessible to persons with a physical disability
13 that is developed through an open, balanced consensus process.
14 All orders and rules recommended by the general construction
15 bureau and adopted by the [~~commission~~] division under the
16 provisions of this section shall be printed and distributed to
17 all licensed contractors, architects and engineers and to the
18 governor's commission on disability. The orders and rules
19 shall take effect on a date fixed by the [~~commission~~] division,
20 which shall not be less than thirty days after their adoption
21 by the [~~commission~~] division, and shall have the force of law.

22 E. The general construction bureau shall have the
23 right of review of all specifications of public buildings and
24 the responsibility to ensure compliance with the adopted
25 standards.

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1 F. All political subdivisions of the state are
2 subject to the provisions of codes adopted and approved under
3 the Construction Industries Licensing Act. Such codes
4 constitute a minimum requirement for the codes of political
5 subdivisions.

6 G. The trade bureaus within their respective
7 jurisdictions shall recommend to the [~~commission~~] division
8 standards that are developed through an open, balanced
9 consensus process for the installation or use of electrical
10 wiring, the installation of all fixtures, consumers' gas pipe,
11 appliances and materials installed in the course of mechanical
12 installation and the construction, alteration or repair of all
13 buildings intended for use by persons with a physical
14 disability or persons requiring special facilities to
15 accommodate the aged. The recommendations shall give due
16 regard to physical, climatic and other conditions peculiar to
17 New Mexico.

18 H. The trade bureaus within their respective
19 jurisdictions shall recommend to the [~~commission~~] division
20 standards for the construction, alteration, repair, use or
21 occupancy of manufactured commercial units, modular homes and
22 premanufactured homes. The recommendations shall substantially
23 embody the applicable provisions or standards for the safety to
24 life, health, welfare and property approved by the nationally
25 recognized standards association and developed through an open,

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1 balanced consensus process and shall give due regard to
2 physical, climatic and other conditions peculiar to New Mexico.
3 Wherever existing state codes or standards conflict with the
4 codes and standards adopted by the [~~commission~~] division under
5 the provisions of this subsection, the provisions of the
6 applicable New Mexico building codes adopted pursuant to the
7 Construction Industries Licensing Act and the LPG and CNG Act
8 in effect at the applicable time shall exclusively apply and
9 control, except for codes and standards for mobile housing
10 units.

11 I. Modular homes and premanufactured homes in
12 existence at the time of the effective date of the Construction
13 Industries Licensing Act shall have their use or occupancy
14 continued if such use or occupancy was legal on the effective
15 date of that act, provided such continued use or occupancy is
16 not dangerous to life. Any change in the use or occupancy or
17 any major alteration or repair of a modular home or
18 premanufactured home shall comply with all codes and standards
19 adopted under the Construction Industries Licensing Act.

20 J. The [~~commission~~] division shall review all
21 recommendations made under the provisions of this section and
22 shall by rule adopt standards and codes that substantially
23 comply with the requirements of this section that apply to the
24 recommendations of the trade bureaus."

25 SECTION 16. Section 60-13-45 NMSA 1978 (being Laws 1967,

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1 Chapter 199, Section 53, as amended) is amended to read:

2 "60-13-45. TRADE BUREAUS--PERMITS.--

3 A. The trade bureaus within their respective
4 jurisdictions may require a permit to be secured and
5 conspicuously posted prior to any construction, installation,
6 alteration, repair or addition to or within any building,
7 structure or premises.

8 B. No permit shall be required for the performance
9 of any of the following classes of work:

10 (1) minor repairs, replacement of lamps, the
11 connection of portable electrical equipment to suitable
12 receptacles [~~which~~] that are permanently installed, minor
13 repairs or replacement of or to faucets, taps or jets or
14 connection of portable equipment to suitable connections or
15 inlets [~~which~~] that have been permanently installed;

16 (2) installation of temporary wiring for
17 testing electrical equipment or apparatus or installation of
18 temporary fixtures or devices for testing fixtures, equipment,
19 apparatus or appliances;

20 (3) installation, alteration or repair of
21 electrical equipment for the operation of signals or the
22 transmission of intelligence by wire; [~~and~~] or

23 (4) installation or work [~~which~~] that is done
24 after regular business hours or during a holiday when immediate
25 action is imperative to safeguard life, health or property,

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1 provided the person making the installation or performing the
2 work applies for a permit covering the installation or work not
3 later than the next business day.

4 C. If a permit has been issued for construction of
5 a new residential building, that residential building shall not
6 be occupied until a certificate of occupancy has been issued
7 certifying compliance with all codes and standards.

8 D. The [~~commission~~] division shall make rules [~~and~~
9 ~~regulations~~] pertaining to the issuance of permits and the
10 setting of reasonable fees to be paid by the applicant for a
11 permit. The [~~regulations~~] rules shall provide a procedure for
12 the issuance of permits outside the corporate limits of a
13 municipality where inspection is made by a state inspector or a
14 municipal inspector serving as a part-time state inspector and
15 for inspections within a municipality where the inspection is
16 done exclusively by a full-time state inspector. Pursuant to
17 division rule, each trade bureau [~~by regulation~~] may require a
18 reasonable bond or surety in the penal sum of five hundred
19 dollars (\$500) or more, but not to exceed [~~fifteen hundred~~
20 ~~dollars~~] one thousand five hundred dollars (\$1,500), with such
21 bureau named as obligee and conditioned for the payment of
22 inspection fees provided in the Construction Industries
23 Licensing Act. Nothing in this section shall preclude
24 municipalities from making inspections in accordance with the
25 Construction Industries Licensing Act or rules [~~and~~

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1 ~~regulations~~] pursuant to that act or from establishing a
2 schedule of fees to be paid by an applicant for a permit.

3 E. In the event that the division assumes
4 inspections of a municipal or county jurisdiction, the permit
5 fees shall be paid directly to the division."

6 SECTION 17. Section 60-13-53 NMSA 1978 (being Laws 1967,
7 Chapter 199, Section 60, as amended) is amended to read:

8 "60-13-53. [~~COMMISSION OR~~] DIVISION--POWERS OF
9 INJUNCTION--MANDAMUS.--The [~~commission or~~] division may enforce
10 in the district court of the county in which the offense was
11 committed the provisions of the Construction Industries
12 Licensing Act by injunction, mandamus or any proper legal
13 proceeding."

14 SECTION 18. Section 60-13-55 NMSA 1978 (being Laws 1967,
15 Chapter 199, Section 62, as amended) is amended to read:

16 "60-13-55. CONTINUATION OF CONSTRUCTION CODES AND
17 STANDARDS.--Any code and minimum standard related to the
18 construction, alteration, installation or repair of a private
19 or public building or installation on public or private
20 premises in effect at the time of passage and approval of the
21 Construction Industries Licensing Act shall continue in effect
22 until the [~~commission~~] division and trade bureaus created by
23 the Construction Industries Licensing Act amend or revise those
24 codes and minimum standards pursuant to provisions of the
25 Construction Industries Licensing Act."

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1 SECTION 19. Section 70-5-1 NMSA 1978 (being Laws 1947,
2 Chapter 214, Section 1, as amended) is repealed and a new
3 Section 70-5-1 NMSA 1978 is enacted to read:

4 "70-5-1. [NEW MATERIAL] DEFINITIONS.--As used in the LPG
5 and CNG Act:

6 A. "bureau" means the liquefied petroleum gas
7 bureau of the division;

8 B. "commission" means the construction industries
9 commission;

10 C. "compressed natural gases" and "CNG" means
11 mixtures of hydrocarbon gases and vapors consisting principally
12 of methane in gaseous form, which has been compressed for
13 vehicular fuel;

14 D. "department" means the regulation and licensing
15 department;

16 E. "division" means the construction industries
17 division of the regulation and licensing department;

18 F. "inspector" means a person hired by the bureau
19 to enforce under administrative direction the laws and safety
20 rules of the LP gas industry and the use of CNG in motor
21 vehicles;

22 G. "liquefied petroleum gases", "LPG" and "LP gas"
23 means any material that is composed predominantly of any of the
24 following hydrocarbons or mixtures of them: propane,
25 propylene, butanes (normal butane or iso-butane) and butylenes;

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1 H. "product" or "products" of liquefied petroleum
2 gases or compressed natural gases are considered to be
3 liquefied petroleum gases, or compressed natural gases
4 respectively; and

5 I. "qualified instructor" means an employee who has
6 passed the required examination and performed for at least one
7 year the work being taught."

8 SECTION 20. Section 70-5-3 NMSA 1978 (being Laws 1947,
9 Chapter 214, Section 2, as amended) is amended to read:

10 "70-5-3. RULES [~~AND REGULATIONS~~] FOR DESIGN,
11 CONSTRUCTION, ASSEMBLING, EQUIPPING AND INSTALLING OF
12 CONTAINERS AND EQUIPMENT.--All containers and pertinent
13 equipment used or to be used in this state for CNG equipment
14 when attached to motor vehicles or for the storage,
15 transporting or dispensing of LP gases or CNG by industrial,
16 commercial or domestic users, together with appliances used or
17 to be used in this state with LP gases as fuel, shall be
18 designed, constructed, assembled, equipped and installed as
19 specified by the rules [~~and regulations~~] of the [~~commission~~]
20 division, adopted and promulgated as provided in the LPG and
21 CNG Act."

22 SECTION 21. Section 70-5-4 NMSA 1978 (being Laws 1947,
23 Chapter 214, Section 3, as amended) is amended to read:

24 "70-5-4. ACTS CONCERNING LP GAS OR CNG SUBJECT TO
25 [~~COMMISSION~~] DIVISION RULES [~~AND REGULATIONS~~].--The selling,

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1 offering for sale, constructing, assembling, repairing,
2 equipping, installing, filling with fuel, storage of fuel
3 within, dispensing of fuel from or transporting fuel within
4 containers described in Section 70-5-3 NMSA 1978 without the
5 containers having been designed, constructed, assembled,
6 equipped, maintained, tested and inspected as specified by the
7 rules [~~and regulations~~] of the [~~commission~~] division pursuant
8 to the LPG and CNG Act shall be a violation of the LPG and CNG
9 Act and shall be subject to the fines, penalties and
10 restrictions provided."

11 SECTION 22. Section 70-5-5 NMSA 1978 (being Laws 1947,
12 Chapter 214, Section 4, as amended) is amended to read:

13 "70-5-5. POWER TO ADOPT AND PROMULGATE RULES [~~AND~~
14 ~~REGULATIONS~~]~~--EXCEPTIONS TO ACT.--~~

15 A. The [~~commission~~] division may adopt and
16 promulgate rules [~~and regulations~~] as [~~are~~] necessary to carry
17 out the [~~purpose~~] provisions of the LPG and CNG Act and for the
18 public peace, health and safety as affected by the use of such
19 materials. The [~~regulations~~] rules made shall substantially
20 conform with the standards as published by the national fire
21 protection association covering the same subject matter.

22 Nothing contained in this section is intended to alter the
23 specifications for manufacturing or testing of containers
24 established by the interstate commerce commission or the [~~U.S.~~]
25 United States department of transportation or of containers

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1 installed in refineries, gas processing plants, underground
2 storage terminals, natural gas distributing plants and pipeline
3 terminals.

4 B. The ~~[bureau]~~ division may adopt a schedule of
5 reasonable fees to be charged by the bureau for furnishing any
6 printed matter or forms, for filing or recording any data
7 sheets, blueprints, drawings, plans, specifications, reports
8 and any other instrument or document and for making and
9 furnishing copies of any record, report, ~~[regulation]~~ rule, law
10 or any other matter on file with the bureau."

11 SECTION 23. Section 70-5-6 NMSA 1978 (being Laws 1947,
12 Chapter 214, Section 5, as amended) is amended to read:

13 "70-5-6. LICENSE--EXCEPTIONS.--

14 A. No person ~~[firm or corporation]~~ shall engage in
15 this state in the manufacturing, assembling, repairing, selling
16 or installing of containers or appliances or of equipment for
17 CNG attached or to be attached to motor vehicles to be used
18 with LP gases as a fuel, nor shall any person ~~[firm or~~
19 ~~corporation]~~ engage in the manufacture, sale, transportation,
20 dispensing or storage of LP gases within this state, except
21 where stored by the ultimate consumer for consumption only,
22 without having first obtained from the bureau a license to do
23 so for each main and branch office or business operated within
24 the state pursuant to the LPG and CNG Act. No license shall be
25 issued until the bureau has determined that the applicant meets

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1 all safety requirements provided for in that act and required
2 by the rules [~~and regulations~~] of the [~~commission~~] division and
3 the bureau finds that the applicant is fit and able to perform
4 the work for which a license is requested; provided that
5 household appliances and any other appliance, container or
6 equipment being fed from a reservoir less than five pounds
7 shall not be subject to the LPG and CNG Act; and provided,
8 further, that retail sale of LP gas appliances, including
9 factory installed LP gas appliances and equipment on campers,
10 mobile homes and recreational vehicles, shall be exempt from
11 this section.

12 B. When LP gas or CNG is to be the source of fuel,
13 the installation of piping, appliances and equipment shall be
14 made by installers qualified by the bureau. Property-owner
15 installed systems, when certified by qualified installers or
16 inspectors of the bureau, are exempt from the provisions of
17 this subsection."

18 SECTION 24. Section 70-5-7 NMSA 1978 (being Laws 1970,
19 Chapter 65, Section 1, as amended) is amended to read:

20 "70-5-7. REQUIRING COMPETENT EMPLOYEES IN TRANSPORTING,
21 DISPENSING, INSTALLATION, SERVICE OR REPAIR.--

22 A. The bureau may require each person, firm or
23 corporation that transports or dispenses LP gas or that
24 installs, repairs or services appliances, containers, equipment
25 or piping for the use of LP gas to have all persons who perform

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1 these activities pass an appropriate examination based on the
2 safety requirements of the [~~commission~~] division.

3 B. A trainee employee shall be exempt from such
4 examination for a period of forty-five working days and until
5 examined by a representative of the bureau. A trainee
6 employee, during the forty-five day period, shall be under
7 supervision of a qualified instructor. Any LP or CNG gas
8 licensee hiring a trainee shall, within forty-five days of the
9 commencement of employment, notify the bureau of this fact so
10 that an examination may be scheduled. If the trainee fails to
11 pass the examination, [~~he~~] the trainee may retake it after
12 additional instruction.

13 C. The [~~bureau~~] division shall set a reasonable fee
14 for administering an examination."

15 SECTION 25. Section 70-5-9 NMSA 1978 (being Laws 1970,
16 Chapter 65, Section 2, as amended) is amended to read:

17 "70-5-9. ANNUAL LICENSE FEES--INSPECTION FEES.--

18 A. For the purpose of defraying the expenses of
19 administering the laws relating to the use of CNG in motor
20 vehicles or the LP gas industry, each person, firm or
21 corporation, at the time of application for a license and
22 annually thereafter on or before December 31 of each calendar
23 year, shall pay to the bureau reasonable license fees as set,
24 classified and defined by the [~~bureau~~] division for each
25 operating location; provided that the total annual fees charged

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1 any one licensee for a combination of LP gas activities at one
2 location and subject to licensure under this section shall not
3 exceed three hundred fifty dollars (\$350), and the fee charged
4 for any single activity or operation as set, classified and
5 defined by the bureau shall not exceed one hundred fifty
6 dollars (\$150).

7 B. Nothing in the LPG and CNG Act is intended to
8 alter the jurisdiction of the [~~state corporation commission~~
9 ~~pipeline safety department~~] public regulation commission.

10 C. In addition, there shall be paid a reasonable
11 fee for the safety inspection, made by a representative of the
12 bureau, of each LP gas bulk storage plant and LP gas liquid
13 transfer facility and of the LP gas equipment on each vehicular
14 unit used for transportation of LP gas in bulk quantities. The
15 fee shall be set by the [~~bureau~~] division and shall not be
16 assessed more frequently than once in each twelve months. The
17 bureau may also charge a reasonable fee for late payment of any
18 fees as set by the division.

19 D. No annual license fee fixed by the [~~bureau~~]
20 division as provided in this section shall become effective
21 until after notice to each licensee has been made and hearing
22 held on the proposed annual license fees in the manner provided
23 by Section 70-5-14 NMSA 1978. At the conclusion of any
24 hearing, the [~~bureau~~] division shall enter its findings and
25 decision in writing as a [~~regulation~~] rule, and the

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1 [regulation] rule shall be filed as provided by the State Rules
2 Act."

3 SECTION 26. Section 70-5-10 NMSA 1978 (being Laws 1947,
4 Chapter 214, Section 9, as amended) is amended to read:

5 "70-5-10. REVENUE--SUSPENSE FUND.--All fees and money
6 collected under the provisions of the LPG and CNG Act shall be
7 remitted by the bureau to the [~~director of the division~~]
8 department to be deposited in the general fund of the state.
9 The [~~bureau~~] department may maintain a "special suspense fund"
10 with the division in an amount of one thousand dollars (\$1,000)
11 [~~budgeted by the bureau for the purpose of making~~] to make any
12 necessary refunds. The bureau shall, with the advice and
13 consent of the director of the division, employ inspectors,
14 assistants and other necessary help as may be required to carry
15 out its lawful duties."

16 SECTION 27. Section 70-5-11 NMSA 1978 (being Laws 1973,
17 Chapter 362, Section 11, as amended) is amended to read:

18 "70-5-11. PROOF OF RESPONSIBILITY.--
19 A. The bureau shall require each licensee to have
20 combined single limit public liability insurance of a
21 reasonable amount determined by the [~~commission~~] division.
22 Such coverage shall be filed on a certificate to be prescribed
23 by the [~~commission~~] division, and the coverage shall be
24 effective until canceled by either the carrier or the licensee.
25 The provisions of this subsection do not apply to manufacturers

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1 of LP gas.

2 B. The licensee may file as an alternative to
3 insurance described in Subsection A of this section a corporate
4 surety bond of a reasonable amount determined by the
5 [~~commission~~] division.

6 C. The insurance or the surety bond shall be
7 purchased from a company licensed to do business in New Mexico.

8 D. The certificate of insurance or the surety bond
9 filed with the bureau shall continue to be effective until
10 thirty days after the date the bureau is notified in writing of
11 the cancellation of the insurance or surety bond."

12 SECTION 28. Section 70-5-12 NMSA 1978 (being Laws 1947,
13 Chapter 214, Section 12, as amended) is amended to read:

14 "70-5-12. POWER OF BUREAU AND COMMISSION TO REFUSE TO
15 GRANT, SUSPEND OR CANCEL A LICENSE.--The bureau may refuse to
16 grant a license to any applicant and may request the commission
17 to suspend or cancel the license of any licensee if it appears
18 to the bureau upon hearing, as provided in the LPG and CNG Act,
19 that an applicant or licensee has violated or failed to comply
20 with any provision of law relating to LP gas or CNG or with any
21 rule [~~regulation~~] or order of the [~~bureau or commission~~]
22 division adopted pursuant to the LPG and CNG Act or that any
23 licensee has demonstrated that [~~he~~] the licensee is incompetent
24 or lacks knowledge in matters relevant to a license to such an
25 extent that, in the judgment of the [~~bureau~~] commission, it

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1 would endanger the public safety to allow the licensee to
2 continue to engage in LP gas or CNG activities or operations."

3 SECTION 29. Section 70-5-13 NMSA 1978 (being Laws 1947,
4 Chapter 214, Section 13, as amended) is amended to read:

5 "70-5-13. PROVISIONS FOR HEARINGS.--Upon receipt of
6 written complaint from one of its representatives or by any
7 person or party affected, the bureau may, if it finds probable
8 cause for such complaint, request the commission to hold a
9 hearing to consider the complaint under the provisions of the
10 LPG and CNG Act and under such rules [~~and regulations~~] not
11 inconsistent with that act. If at the hearing the commission
12 finds that the licensee has violated or failed to comply with
13 any of the provisions of the LPG and CNG Act or the rules [~~and~~
14 ~~regulations~~] of the [~~bureau or commission, then~~] division, the
15 commission may revoke or suspend the license of the licensee.
16 The bureau may investigate on its own motion any matters
17 pertaining to the subject of the LPG and CNG Act and may
18 request the commission to hold such hearings as [it] the bureau
19 deems necessary. The [~~bureau~~] commission may also summon and
20 compel the attendance of witnesses, require the production of
21 any records or documents deemed by it to be pertinent to the
22 subject matter of any investigation and provide for the taking
23 of depositions of witnesses [~~under such rules as it may~~
24 ~~prescribe~~]."

25 SECTION 30. Section 70-5-18 NMSA 1978 (being Laws 1947,

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underscored material = new
[bracketed material] = delete

1 Chapter 214, Section 18, as amended) is amended to read:

2 "70-5-18. CIVIL PENALTY FOR FAILURE TO COMPLY WITH ACT OR
3 ANY ORDER OR RULE [~~OR REGULATION~~].--The failure of any person,
4 firm or corporation or any association engaged in any LP gas or
5 CNG activity or operation requiring a license by the bureau to
6 comply, within forty-eight hours after the receipt of any
7 certified order of the bureau [~~or commission~~] requiring
8 compliance, with the laws relating to LP gases or CNG or any
9 order of the bureau or rule [~~or regulation~~] of the division for
10 the bureau [~~or commission~~] shall subject the person or the
11 officers of the corporation to a civil penalty of one hundred
12 dollars (\$100) for each day the violation continues, and the
13 attorney general may institute civil actions in the district
14 court of the county in which the violation occurs to recover
15 penalties in the name and on behalf of the state."

16 SECTION 31. Section 70-5-20 NMSA 1978 (being Laws 1947,
17 Chapter 214, Section 21, as amended) is amended to read:

18 "70-5-20. ENFORCEMENT.--The bureau may enforce the laws
19 relating to LP gases and CNG and any rules [~~regulations~~] or
20 orders adopted [~~by it or the commission~~] pursuant to those laws
21 by injunction in the district courts, which remedy shall be in
22 addition to the civil and criminal penalties provided in the
23 LPG and CNG Act. The chief and the inspectors of the bureau
24 may issue citations for violation of the LPG and CNG Act."

25 SECTION 32. Section 70-5-21 NMSA 1978 (being Laws 1947,

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underscored material = new
[bracketed material] = delete

1 Chapter 214, Section 22, as amended) is amended to read:

2 "70-5-21. MISDEMEANOR.--Any person violating any
3 provision of the LPG and CNG Act or the rules [~~regulations~~] or
4 orders [~~of the bureau or the commission~~] issued pursuant to
5 that act is guilty of a misdemeanor and shall be punished by a
6 fine levied in a magistrate court of not less than fifty
7 dollars (\$50.00) or more than five hundred dollars (\$500) or by
8 imprisonment for not more than ninety days or both."

9 SECTION 33. Section 70-5-22 NMSA 1978 (being Laws 1973,
10 Chapter 362, Section 22, as amended) is amended to read:

11 "70-5-22. ADMINISTRATIVE PENALTY ASSESSMENTS.--The bureau
12 may charge an administrative penalty for any violation of the
13 LPG and CNG Act or the rules [~~regulations, codes~~] adopted
14 pursuant to that act or of the orders of the bureau."

15 SECTION 34. Section 71-6-7.1 NMSA 1978 (being Laws 2007,
16 Chapter 38, Section 5) is amended to read:

17 "71-6-7.1. CONSTRUCTION STANDARDS TO ACCOMMODATE SOLAR
18 COLLECTORS--RULEMAKING.--The department and the construction
19 industries division of the regulation and licensing department
20 [~~and the construction industries commission~~] shall jointly
21 promulgate rules, standards or codes that establish
22 requirements for new construction that will accommodate the
23 installation of solar collectors to or on the new construction
24 after that construction is otherwise complete, including roof
25 orientation, roof strength, location of obstructions to

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underscoring material = new
~~[bracketed material] = delete~~

1 sunlight, access to installation locations, built-in conduit,
2 wiring and piping and brackets for attaching solar collectors."

3 SECTION 35. TEMPORARY PROVISION--RULES.--Rules of the
4 construction industries commission shall be deemed to be rules
5 of the construction industries division of the regulation and
6 licensing department until amended or repealed by the division.

7 SECTION 36. REPEAL.--Sections 9-16-12, 60-13-1.1 and
8 60-13-15 NMSA 1978 (being Laws 1983, Chapter 297, Section 28,
9 Laws 1967, Chapter 199, Section 4 and Laws 1977, Chapter 245,
10 Section 177, as amended) are repealed.

11 SECTION 37. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2011.