

**SENATE, No. 2944**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED JUNE 18, 2009

**Sponsored by:**  
**Senator RICHARD J. CODEY**  
**District 27 (Essex)**

**SYNOPSIS**

Establishes additional investigative and enforcement powers in Division of Consumer Affairs to deter individuals from engaging in unauthorized practice of professions and occupations.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning the unauthorized practice of certain professions  
2 and occupations and supplementing P.L.1978, c.73 (C.45:1-14 et  
3 seq.).

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. The Legislature finds and declares that:

9 a. The regulation of certain professions or occupations through  
10 the Director of the Division of Consumer Affairs or the boards or  
11 committees within the Division of Consumer Affairs in the  
12 Department of Law and Public Safety is necessary to protect the  
13 health, safety and welfare of the residents of this State;

14 b. The unauthorized practice of a regulated profession or  
15 occupation inures to the detriment of the public;

16 c. The professional and occupational licensing boards and  
17 committees within the Division of Consumer Affairs in the  
18 Department of Law and Public Safety are unable to consistently and  
19 effectively prevent and sanction the unauthorized practice of  
20 regulated professions and occupations due, in part, to limitations in  
21 the investigative and enforcement powers currently afforded to the  
22 boards and commissions, and to the applicable procedures available  
23 to address these issues; and

24 d. It is therefore necessary and appropriate to protect the  
25 health, safety and welfare of the residents of this State to provide  
26 the Director of the Division of Consumer Affairs and the boards and  
27 committees within the Division of Consumer Affairs with additional  
28 investigative and enforcement powers and enhanced procedures to  
29 more effectively deter individuals from engaging in the  
30 unauthorized practice of a regulated profession or occupation.

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32 2. a. The Director of the Division of Consumer Affairs or any  
33 board or committee within the division may exercise its  
34 investigative power pursuant to section 5 of P.L.1978, c.73 (C.45:1-  
35 18) whenever there is reason to believe that there has been a  
36 violation of any applicable law or regulation by a person who:

37 (1) is not licensed, certified, or otherwise permitted by law or  
38 regulation to practice a profession or occupation and who represents  
39 to the public by any means, that he is able to practice a profession  
40 or occupation regulated under Title 45 of the Revised Statutes; or

41 (2) has engaged or is engaging in the unauthorized practice of a  
42 profession or occupation regulated under Title 45 of the Revised  
43 Statutes in violation of any law or regulation administered by the  
44 director or a board or committee within the Division of Consumer  
45 Affairs.

46 b. Any person who, following notice and a hearing, has been  
47 found to have engaged in the conduct specified in paragraph (1) or  
48 (2) of subsection a. of this section shall:

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1 (1) immediately cease and desist from practicing that profession  
2 or occupation, as ordered by the director or a board or committee;  
3 and

4 (2) be liable to a penalty of not more than \$10,000 for the first  
5 offense, and not more than \$20,000 for each subsequent offense, to  
6 be recovered by the director or the board or committee within the  
7 Division of Consumer Affairs.

8 c. Any proceeding instituted pursuant to this section shall be in  
9 addition to any other proceeding authorized by section 10 of  
10 P.L.1978, c.73 (C.45:1-23), or by any other law.

11

12 3. The Director of the Division of Consumer Affairs in the  
13 Department of Law and Public Safety may promulgate regulations  
14 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
15 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

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17 4. This act shall take effect immediately.

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STATEMENT

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22 Under current law, to prevent an individual from engaging in the  
23 unauthorized practice of a profession or occupation regulated by a  
24 board or committee within the Division of Consumer Affairs, the  
25 Attorney General must apply to the Superior Court for an injunction  
26 prohibiting such act or practice. This has proven to be a  
27 cumbersome, ineffective process under which it is difficult to  
28 effectively and consistently prevent or sanction the unauthorized  
29 practice of regulated professions and occupations. Untimely,  
30 sporadic or ineffective enforcement of the laws prohibiting  
31 unauthorized practice of a regulated profession or occupation may  
32 place the public at risk from the actions of unqualified, unregulated  
33 individuals who hold themselves out as able to perform services for  
34 which a license or other qualification is statutorily required. Such  
35 ineffective enforcement often operates to the substantial detriment  
36 of the regulated community by harming the general reputation of  
37 the profession and prejudicing the legitimate business interests of  
38 those duly licensed practitioners who have developed the expertise  
39 and expended the resources necessary to be properly educated,  
40 trained and qualified.

41 This bill enhances the ability of the professional boards and  
42 committees in the Division of Consumer Affairs to more effectively  
43 and expeditiously address instances involving or concerning the  
44 unauthorized practice of a regulated profession or occupation.  
45 Under the bill, the director, and the professional boards and  
46 committees under Title 45 of the Revised Statutes, are authorized to  
47 utilize their investigative authority to determine whether a violation  
48 of the applicable law or regulations has taken place, and to hold

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1 hearings to determine whether an unauthorized individual has  
2 violated the law by holding himself out to the public as able to  
3 practice a particular profession or occupation or to have engaged in  
4 the practice of that regulated profession or occupation. The director  
5 or the boards and committees would also be authorized to order  
6 violators to cease and desist from such practices and penalize them  
7 not more than \$10,000 for the first offense and not more than  
8 \$20,000 for each subsequent offense.