

WV Code §29-3B

§29-3B-1. Declaration of purpose.

This article is enacted to protect the health, safety and welfare of the public as well as public and private property by assuring the competence of those who perform electrical work through licensure by the state Fire Marshal of the state Fire Commission.

§29-3B-2. Necessity of license; definitions.

After the effective date of this article, no electrical work may be performed, offered, or engaged in for compensation or hire within the state of West Virginia by any person, firm, or corporation unless such person, firm, or corporation possesses a license and a certificate issued by the State Fire Marshal in accordance with this article: *Provided*, That any person who is assisting a journeyman or master electrician does not require a license to perform such supervised work, and a copy of the license is posted on any job in which electrical work is being performed for hire.

As used in this article:

(a) “Electrical contractor” means a person, firm, or corporation who engages in the business of electrical work and employs master electricians, journeyman electricians, or other related workers for the construction, alteration, or repair of any electrical wiring, equipment, or systems as defined in the scope of the national electric code.

(b) “Electrical work” means the installation of wires, conduits, apparatus, fixtures, other appliances, equipment, or systems for transmitting, carrying, controlling, or using electricity as defined in the scope of the national electric code.

(c) “Journeyman electrician” means a person qualified by at least one year of electrical work experience to do any work installing wires, conduits, apparatus, equipment, fixtures, and other appliances, provided that this classification is not authorized to design electrical systems.

(d) “License” means a valid and current certificate of competency issued by the state Fire Marshal.

(e) “Master electrician” means a person with at least two years of electrical work experience, including experience in all phases of electrical wiring and installation, who is competent to design electrical systems, and to instruct and supervise the electrical work of journeyman electricians, and other related workers.

(f) “Specialty electrician” means a person qualified to perform electrical work in a limited or specialized area.

§29-3B-3. Exemptions; nonapplicability of license requirements; legislative rules for limited reciprocity.

(a) This article does not apply to, and no license may be required for:

(1) A person who performs electrical work with respect to any property owned or leased by that person or that person's immediate family;

(2) A person who performs electrical work at any manufacturing plant or other industrial establishment as an employee of the firm or corporation operating the plant or establishment;

(3) A person who performs electrical work while employed by an employer who engages in the business of selling appliances at retail, so long as such electrical work is performed incident to the installation or repair of appliances sold by the employer;

(4) A person who, while employed by a public utility or its affiliate, performs electrical work in connection with the furnishing of public utility service;

(5) Any government employee performing electrical work on government property; or

(6) Any person who performs low voltage electrical work with only low voltage wiring will not be required to have an electrician's license other than a specialty license. For purposes of this section, low voltage electrical work is 80 volts or less, and directly related wiring. Wiring is directly related if it:

(A) Originated at the load-side terminals of a disconnecting means or junction box that has been installed, complete with line-side connections by others for the specific purpose of supply to the low voltage wiring system involved;

(B) Is permanently and legibly marked to identify the low voltage wiring system supplied; and

(C) Is not installed in a location considered hazardous under the National Electrical Code.

(b)(1) Notwithstanding any other provision of this article to the contrary, a journeyman or master electrician license may be issued for a person who is a former resident of this state, who formerly held an electrician's license issued by this state, who has obtained an equivalent electrician license from another state, and who returns to this state as a permanent resident, without requiring the person to meet the application or examination requirements that would otherwise be imposed on the person by the requirements of this article when the issuance of the license is permitted by legislative rules promulgated pursuant to the provisions of this subsection.

(2) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to provide for the licensing of electricians with equivalent qualifications described in subdivision (1) of this subsection. Notwithstanding any other provision of this code to the contrary, the legislative rules described in this subsection may not be filed as emergency rules.

§29-3B-4. Licenses; classes of licenses; issuance of licenses by commissioner; qualifications required for license; nontransferability and nonassignability of licenses; expiration of license; renewal; reciprocity.

(a) The following classes of license may be issued by the State Fire Marshal: master electrician license, journeyman electrician license, and temporary electrician license. Additional classes of specialty electrician license may be issued by the State Fire Marshal.

(b) The State Fire Marshal shall issue the appropriate class of license upon a finding that the applicant possesses the qualifications for the class of license to be issued. When considering whether an applicant possess the qualifications for the class of license, the State Fire Marshal shall consider whether an applicant's prior criminal convictions bear a rational nexus on the license being sought.

(1) The State Fire Marshal may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the State Fire Marshal shall consider at a minimum:

(A) The nature and seriousness of the crime for which the individual was convicted;

(B) The passage of time since the commission of the crime;

(C) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(D) Any evidence of rehabilitation or treatment undertaken by the individual.

(2) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the State Fire Marshal shall permit the applicant to apply for initial licensure if:

(A) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(B) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(C) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the State Fire Marshal.

(3) An individual with a criminal record who has not previously applied for licensure may petition the State Fire Marshal at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include

sufficient details about the individual's criminal record to enable the State Fire Marshal to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction.

(c) The State Fire Marshal shall propose rules for legislative approval regarding qualifications for testing, issuance of licenses, and renewal in accordance with the provisions of §29A-3-1 *et seq.*, of this code.

(d) To the extent that other jurisdictions provide for the licensing of electricians, the State Fire Marshal shall grant the same or equivalent classification of license without written examination upon satisfactory proof furnished to the State Fire Marshal that the qualifications of the applicant demonstrate that the person can perform work safely and competently and is in good standing with all other jurisdictions where he or she is licensed, and upon payment of the required fee.

(e) In addition to any other information required, the applicant's social security number shall be recorded on any application for a license submitted pursuant to the provisions of this section.

§29-3B-4a. Veteran qualification for examination for license as an electrician.

Any person who has served as a member of the United States armed forces, National Guard, or reserve, and who has successfully completed the course of instruction required to qualify him or her for rating as an electrician, electrician's mate, or other equivalent rating in his or her particular branch of the armed forces, and whose service in the armed forces was under honorable conditions, may submit to the State Fire Marshal a photostatic copy of the certificate issued to him or her certifying successful completion of such course of instruction, a photostatic copy of his or her discharge from the armed forces, an application for a certification as an electrician, and the prescribed license fee.

If the certificate and discharge, as evidenced by the photostatic copies thereof, and the application and prescribed license fee are in order, and if the veteran meets all of the requirements of this article, the veteran shall be permitted to take the same examination or examinations as are required under this article for applicants who do not apply for a license under the provisions of this article: *Provided*, That the veteran may be required to attend additional training courses prior to taking the examination if more than 30 years have passed from his or her successful completion of the course of instruction and date of application. If the veteran passes the examination or examinations, he or she shall be licensed as an electrician and shall thereafter be subject to all of the provisions of this article. If the veteran does not pass the examination or examinations, any provisions of this article relating to reexaminations shall apply to the veteran the same as they apply to a person who does not apply for a license under the provisions of this article.

§29-3B-5. Rules; applications and examinations; fees.

(a) The State Fire Marshal shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article. Rules adopted by the state Fire Marshal and presently in effect will remain in effect until

and unless the state Fire Marshal adopts new rules, and the state Fire Marshal may adopt any or all of the rules presently in effect.

(b) The State Fire Marshal shall prepare and arrange for the receipt of applications from those who intend to perform electrical work in the State of West Virginia. Such application shall be sufficiently detailed to enable the state Fire Marshal to determine the presence or absence of an applicant's qualifications for a license of a particular class. The State Fire Marshal may require applicants to supply affidavits or other documents attesting to the applicant's qualifications from past employers, other electricians, engineers and others with knowledge of the applicant's qualifications. The State Fire Marshal may make such other inquiries as he or she considers necessary to determine the qualifications of the applicant. An applicant expressly consents to such inquiries by the state Fire Marshal by his or her application.

§29-3B-6. Relicensing without retesting after nonrenewal under certain circumstances.

An electrician previously licensed by the State Fire Marshal who did not renew his or her electrician's license may renew the license without retesting within five years of the date of the last renewal: *Provided*, That the electrician's license had not been revoked and that the applicant pays double the current fee.

§29-3B-7. Denial of license; suspension and revocation of license.

(a) The State Fire Marshal may deny a license to any applicant who fails to comply with the rules established by the State Fire Marshal, or who lacks the necessary qualifications; *Provided*, That the State Fire Marshal shall apply §29-3B-4(b) when determining if an applicant is eligible for licensure.

(b) The State Fire Marshal may upon complaint or upon his or her own inquiry and, after notice to the licensee, suspend or revoke a licensee's license if:

(1) The license was granted upon an application or documents supporting such application which materially misstated the terms of the applicant's qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement by an applicant;

(3) The licensee incompetently or unsafely performs electrical work; or

(4) The licensee fails to comply with any rule of the State Fire Marshal promulgated to fulfill his or her responsibilities under this article.

(c) Any person aggrieved by an order or decision of the State Fire Marshal under this article is entitled to judicial review as provided by section eighteen, article three of this chapter and by chapter twenty-nine-a of this code.

§29-3B-8. Effect of noncompliance with article; failure to obtain license.

Any person, firm, corporation, or employee thereof, or any representative, member, or officer of such firm or corporation, individually, entering upon or engaging in the business of performing any electrical work as defined in this article, without obtaining the required license or otherwise complying with this article, for the first offense shall be fined not less than \$100, nor more than \$500. For a second offense, the penalty and punishment is a fine of not less than \$500 nor more than \$1,000. For the third and each subsequent offense, the penalty and punishment is a fine of not less than \$1,000 nor more than \$5,000.

Each day during which such electrical work is performed without the required license or while in noncompliance with any of the provisions of this article, after official notice that such work is unlawful, is a separate offense.

Any electrical work performed by a person, firm, or corporation which is determined by the State Fire Marshal to constitute a safety or health hazard to members of the public or any electrical work of an extensive nature being performed by any person without the required license or otherwise in noncompliance with the requirements of this article or contrary to an order or rule promulgated lawfully by the State Fire Marshal, is subject to being issued a citation or a civil action in the name of the state in the circuit court of the county where such work is being performed for an injunction against such person, firm, or corporation, enjoining such work or violation. A circuit court by mandatory or prohibitory injunction may compel compliance with the provisions of this article, with the lawful orders of the State Fire Marshal and with any final decision of the State Fire Marshal or State Fire Commission. The State Fire Marshal shall be represented in all such proceedings by the Attorney General or his or her assistants.

§29-3B-9. Nonapplicability of local ordinances; exclusive license.

After the effective date of this article no municipality, local government or county may require any license or other evidence of competence as an electrician from any person, firm or corporation who or which holds a valid and current license issued pursuant to this article, as a condition precedent to permission for the performance of electrical work in such municipality, local government jurisdiction or county.

§29-3B-10. Disposition of fees, fines and other receipts.

All fees shall be paid to the state Fire Marshal. All fines shall be paid into the general revenue of the state. Such receipts shall be deposited by him in a special account with the state Treasurer for the use of the State Fire Marshal as provided in subsection(c), section twelve-b, article three of this chapter.