

# SENATE BILL No. 361

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-8-1.1-13.5; IC 25-1; IC 25-24.5.

**Synopsis:** Licensure of painters. Requires professional painters to be licensed. Requires the occupational safety standards commission to adopt rules for licensing requirements for professional painters. Requires the department of labor to implement the licensing requirements for professional painters.

**Effective:** July 1, 2005.

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January 11, 2005, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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## SENATE BILL No. 361



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 22-8-1.1-13.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2005]: **Sec. 13.5. The commission and the**  
4 **department shall adopt rules under IC 4-22-2 to implement**  
5 **IC 25-24.5.**

6 SECTION 2. IC 25-1-2-2.1 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. Rather than being  
8 issued annually, the following permits, licenses, certificates of  
9 registration, or evidences of authority granted by a state agency must  
10 be issued for a period of two (2) years or for the period specified in the  
11 article under which the permit, license, certificate of registration, or  
12 evidence of authority is issued if the period specified in the article is  
13 longer than two (2) years:

- 14 (1) Certified public accountants, public accountants, and  
15 accounting practitioners.
- 16 (2) Architects and landscape architects.
- 17 (3) Dry cleaners.



- 1 (4) Professional engineers.
- 2 (5) Land surveyors.
- 3 (6) Real estate brokers.
- 4 (7) Real estate agents.
- 5 (8) Security dealers' licenses issued by the securities
- 6 commissioner.
- 7 (9) Dental hygienists.
- 8 (10) Dentists.
- 9 (11) Veterinarians.
- 10 (12) Physicians.
- 11 (13) Chiropractors.
- 12 (14) Physical therapists.
- 13 (15) Optometrists.
- 14 (16) Pharmacists and assistants, drugstores or pharmacies.
- 15 (17) Motels and mobile home park licenses.
- 16 (18) Nurses.
- 17 (19) Podiatrists.
- 18 (20) Occupational therapists and occupational therapy assistants.
- 19 (21) Respiratory care practitioners.
- 20 (22) Social workers, marriage and family therapists, and mental
- 21 health counselors.
- 22 (23) Real estate appraiser licenses and certificates issued by the
- 23 real estate appraiser licensure and certification board.
- 24 (24) Wholesale legend drug distributors.
- 25 (25) Physician assistants.
- 26 (26) Dietitians.
- 27 (27) Hypnotists.
- 28 (28) Athlete agents.
- 29 (29) Manufactured home installers.
- 30 (30) Home inspectors.

31 **(31) Professional painters.**

32 SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section,  
 34 "license" includes all occupational and professional licenses,  
 35 registrations, permits, and certificates issued under the Indiana Code,  
 36 and "licensee" includes all occupational and professional licensees,  
 37 registrants, permittees, and certificate holders regulated under the  
 38 Indiana Code.

39 (b) This section applies to the following entities that regulate  
 40 occupations or professions under the Indiana Code:

- 41 (1) Indiana board of accountancy.
- 42 (2) Indiana grain buyers and warehouse licensing agency.

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- 1 (3) Indiana auctioneer commission.
- 2 (4) Board of registration for architects and landscape architects.
- 3 (5) State board of barber examiners.
- 4 (6) State board of cosmetology examiners.
- 5 (7) Medical licensing board of Indiana.
- 6 (8) Secretary of state.
- 7 (9) State board of dentistry.
- 8 (10) State board of funeral and cemetery service.
- 9 (11) Worker's compensation board of Indiana.
- 10 (12) Indiana state board of health facility administrators.
- 11 (13) Committee of hearing aid dealer examiners.
- 12 (14) Indiana state board of nursing.
- 13 (15) Indiana optometry board.
- 14 (16) Indiana board of pharmacy.
- 15 (17) Indiana plumbing commission.
- 16 (18) Board of podiatric medicine.
- 17 (19) Private detectives licensing board.
- 18 (20) State board of registration for professional engineers.
- 19 (21) Board of environmental health specialists.
- 20 (22) State psychology board.
- 21 (23) Indiana real estate commission.
- 22 (24) Speech-language pathology and audiology board.
- 23 (25) Department of natural resources.
- 24 (26) State boxing commission.
- 25 (27) Board of chiropractic examiners.
- 26 (28) Mining board.
- 27 (29) Indiana board of veterinary medical examiners.
- 28 (30) State department of health.
- 29 (31) Indiana physical therapy committee.
- 30 (32) Respiratory care committee.
- 31 (33) Occupational therapy committee.
- 32 (34) Social worker, marriage and family therapist, and mental
- 33 health counselor board.
- 34 (35) Real estate appraiser licensure and certification board.
- 35 (36) State board of registration for land surveyors.
- 36 (37) Physician assistant committee.
- 37 (38) Indiana dietitians certification board.
- 38 (39) Indiana hypnotist committee.
- 39 (40) Attorney general (only for the regulation of athlete agents).
- 40 (41) Manufactured home installer licensing board.
- 41 (42) Home inspectors licensing board.
- 42 **(43) Department of labor.**

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1           ~~(43)~~ (44) Any other occupational or professional agency created  
2           after June 30, 1981.

3           (c) Notwithstanding any other law, the entities included in  
4           subsection (b) shall send a notice of the upcoming expiration of a  
5           license to each licensee at least sixty (60) days prior to the expiration  
6           of the license. The notice must inform the licensee of the need to renew  
7           and the requirement of payment of the renewal fee. If this notice of  
8           expiration is not sent by the entity, the licensee is not subject to a  
9           sanction for failure to renew if, once notice is received from the entity,  
10          the license is renewed within forty-five (45) days of the receipt of the  
11          notice.

12          SECTION 4. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS  
13          [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

14          "Board" means the appropriate agency listed in the definition of  
15          regulated occupation in this section.

16          "Director" refers to the director of the division of consumer  
17          protection.

18          "Division" refers to the division of consumer protection, office of  
19          the attorney general.

20          "Licensee" means a person who is:

21                 (1) licensed, certified, or registered by a board listed in this  
22                 section; and

23                 (2) the subject of a complaint filed with the division.

24          "Person" means an individual, a partnership, a limited liability  
25          company, or a corporation.

26          "Regulated occupation" means an occupation in which a person is  
27          licensed, certified, or registered by one (1) of the following:

- 28                 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 29                 (2) Board of registration for architects and landscape architects  
30                 (IC 25-4-1-2).
- 31                 (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- 32                 (4) State board of barber examiners (IC 25-7-5-1).
- 33                 (5) State boxing commission (IC 25-9-1).
- 34                 (6) Board of chiropractic examiners (IC 25-10-1).
- 35                 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 36                 (8) State board of dentistry (IC 25-14-1).
- 37                 (9) State board of funeral and cemetery service (IC 25-15-9).
- 38                 (10) State board of registration for professional engineers  
39                 (IC 25-31-1-3).
- 40                 (11) Indiana state board of health facility administrators  
41                 (IC 25-19-1).
- 42                 (12) Medical licensing board of Indiana (IC 25-22.5-2).

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- 1 (13) Indiana state board of nursing (IC 25-23-1).  
 2 (14) Indiana optometry board (IC 25-24).  
 3 (15) Indiana board of pharmacy (IC 25-26).  
 4 (16) Indiana plumbing commission (IC 25-28.5-1-3).  
 5 (17) Board of podiatric medicine (IC 25-29-2-1).  
 6 (18) Board of environmental health specialists (IC 25-32-1).  
 7 (19) State psychology board (IC 25-33).  
 8 (20) Speech-language pathology and audiology board  
 9 (IC 25-35.6-2).  
 10 (21) Indiana real estate commission (IC 25-34.1-2).  
 11 (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).  
 12 (23) Department of natural resources for purposes of licensing  
 13 water well drillers under IC 25-39-3.  
 14 (24) Respiratory care committee (IC 25-34.5).  
 15 (25) Private detectives licensing board (IC 25-30-1-5.1).  
 16 (26) Occupational therapy committee (IC 25-23.5).  
 17 (27) Social worker, marriage and family therapist, and mental  
 18 health counselor board (IC 25-23.6).  
 19 (28) Real estate appraiser licensure and certification board  
 20 (IC 25-34.1-8).  
 21 (29) State board of registration for land surveyors  
 22 (IC 25-21.5-2-1).  
 23 (30) Physician assistant committee (IC 25-27.5).  
 24 (31) Indiana athletic trainers board (IC 25-5.1-2-1).  
 25 (32) Indiana dietitians certification board (IC 25-14.5-2-1).  
 26 (33) Indiana hypnotist committee (IC 25-20.5-1-7).  
 27 (34) Indiana physical therapy committee (IC 25-27).  
 28 (35) Manufactured home installer licensing board (IC 25-23.7).  
 29 (36) Home inspectors licensing board (IC 25-20.2-3-1).  
 30 **(37) Department of labor for purposes of licensing**  
 31 **professional painters under IC 25-24.5-3.**  
 32 ~~(38)~~ **(38)** Any other occupational or professional agency created  
 33 after June 30, 1981.  
 34 SECTION 5. IC 25-1-8-1 IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board"  
 36 means any of the following:  
 37 (1) Indiana board of accountancy (IC 25-2.1-2-1).  
 38 (2) Board of registration for architects and landscape architects  
 39 (IC 25-4-1-2).  
 40 (3) Indiana auctioneer commission (IC 25-6.1-2-1).  
 41 (4) State board of barber examiners (IC 25-7-5-1).  
 42 (5) State boxing commission (IC 25-9-1).

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- 1 (6) Board of chiropractic examiners (IC 25-10-1).
- 2 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 3 (8) State board of dentistry (IC 25-14-1).
- 4 (9) State board of funeral and cemetery service (IC 25-15).
- 5 (10) State board of registration for professional engineers
- 6 (IC 25-31-1-3).
- 7 (11) Indiana state board of health facility administrators
- 8 (IC 25-19-1).
- 9 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 10 (13) Mining board (IC 22-10-1.5-2).
- 11 (14) Indiana state board of nursing (IC 25-23-1).
- 12 (15) Indiana optometry board (IC 25-24).
- 13 (16) Indiana board of pharmacy (IC 25-26).
- 14 (17) Indiana plumbing commission (IC 25-28.5-1-3).
- 15 (18) Board of environmental health specialists (IC 25-32-1).
- 16 (19) State psychology board (IC 25-33).
- 17 (20) Speech-language pathology and audiology board
- 18 (IC 25-35.6-2).
- 19 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 20 (22) Indiana board of veterinary medical examiners
- 21 (IC 15-5-1.1-3).
- 22 (23) Department of insurance (IC 27-1).
- 23 (24) State police department (IC 10-11-2-4), for purposes of
- 24 certifying polygraph examiners under IC 25-30-2.
- 25 (25) Department of natural resources for purposes of licensing
- 26 water well drillers under IC 25-39-3.
- 27 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 28 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 29 (28) Social worker, marriage and family therapist, and mental
- 30 health counselor board (IC 25-23.6-2-1).
- 31 (29) Real estate appraiser licensure and certification board
- 32 (IC 25-34.1-8).
- 33 (30) State board of registration for land surveyors
- 34 (IC 25-21.5-2-1).
- 35 (31) Physician assistant committee (IC 25-27.5).
- 36 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 37 (33) Board of podiatric medicine (IC 25-29-2-1).
- 38 (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- 39 (35) Indiana physical therapy committee (IC 25-27).
- 40 (36) Manufactured home installer licensing board (IC 25-23.7).
- 41 (37) Home inspectors licensing board (IC 25-20.2-3-1).
- 42 **(38) Department of labor for purposes of licensing**

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1           **professional painters under IC 25-24.5-3.**

2           ~~(38)~~ **(39)** Any other occupational or professional agency created  
3           after June 30, 1981.

4           SECTION 6. IC 25-24.5 IS ADDED TO THE INDIANA CODE AS  
5           A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
6           2005]:

7           **ARTICLE 24.5. PROFESSIONAL PAINTERS**

8           **Chapter 1. Application of Article**

9           **Sec. 1. For purposes of this article, the occupation of a licensed**  
10          **professional painter is a regulated occupation under IC 25-1-7-1.**

11          **Sec. 2. For purposes of licensing professional painters under**  
12          **IC 25-24.5-3, the department of labor is a board under IC 25-1-8-1.**

13          **Sec. 3. This article does not apply to the following:**

14                 **(1) A casual laborer who works under the supervision of a**  
15                 **professional painter on a temporary or part-time basis.**

16                 **(2) A commercial artist who creates artwork to illustrate or**  
17                 **promote:**

18                         **(A) products;**

19                         **(B) services; and**

20                         **(C) ideas.**

21                 **(3) A fine artist, including a painter or sculptor.**

22          **Chapter 2. Definitions**

23          **Sec. 1. The definitions in this chapter apply throughout this**  
24          **article.**

25          **Sec. 2. "Commission" refers to the occupational safety**  
26          **standards commission established by IC 22-8-1.1-7.**

27          **Sec. 3. "Commissioner" refers to the commissioner of labor or**  
28          **the commissioner's designated representative.**

29          **Sec. 4. "Department" refers to the department of labor**  
30          **established by IC 22-1-1-1.**

31          **Sec. 5. "Employer" means a professional painter who employs**  
32          **another professional painter to perform hazardous painting.**

33          **Sec. 6. "Hazardous painting" means the application of a**  
34          **substance containing or combined with a toxic or hazardous**  
35          **substance, including:**

36                 **(1) a chemical listed as a toxic and hazardous substance by the**  
37                 **United States Occupational Safety and Health Administration**  
38                 **(OSHA);**

39                 **(2) a chemical listed in "Threshold Limit Values for Chemical**  
40                 **Substances and Physical Agents in the Work Environment",**  
41                 **American Conference of Government Industrial Hygienist**  
42                 **(latest edition);**

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(3) a substance for which an OSHA Form 20 or equivalent information is required under OSHA regulations; and  
(4) a substance determined by the department to be capable of causing acute or chronic adverse effects to health; in vaporized, liquid, or particulate form to create a coating that adheres to a surface to protect or preserve the surface. The term does not include the application of water based paint that does not contain emulsion epoxies or isocyanates.

Sec. 7. "License" means a professional painter's license issued by the department under this article.

Sec. 8. "Licensee" means the holder of a license under this article.

Sec. 9. "Professional painter" means a person engaged in the business of painting for compensation. The term includes a painting contractor and an employee of a painting contractor.

**Chapter 3. Licensing of Professional Painters**

Sec. 1. (a) An individual may not engage in hazardous painting as a professional painter without a license.

(b) The department shall issue a license to each individual who applies and qualifies for a license under this article.

(c) The licensee shall carry the license and, upon request, present it for inspection to the following:

- (1) A representative of the department.
- (2) A person contracting with the licensee for hazardous painting.

Sec. 2. (a) An application for a license must be made on a form prescribed by the commission in rules adopted under IC 4-22-2.

(b) An application for an original license must be accompanied by a license fee established by the commission in accordance with IC 25-1-8.

Sec. 3. (a) To qualify for an original license, an applicant must:

- (1) provide evidence that the applicant completed an approved basic hazardous painting program not more than thirty (30) days before the application was received by the department;
- (2) provide two (2) references, one (1) of whom is a professional painter or licensed professional painter familiar with the applicant's work experience and professional competency; and
- (3) pay the licensing fee established by the commission.

(b) To qualify for a license renewal, an applicant must:

- (1) provide evidence that the applicant completed an

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1 approved supplemental hazardous painting program; and  
2 (2) pay the licensing renewal fee established by the  
3 commission.

4 (c) A license issued under this article is valid for two (2) years  
5 after the date the license is issued by the department.

6 Chapter 4. Regulation of Hazardous Painting

7 Sec. 1. (a) An employer may not employ or contract with a  
8 professional painter to perform hazardous painting unless the  
9 professional painter holds a valid license under this article.

10 (b) A professional painter may not provide a falsified license to  
11 an employer or make a false statement to an employer regarding  
12 the professional painter's license.

13 Sec. 2. The commission shall:

- 14 (1) establish requirements for basic and supplemental
- 15 hazardous painting programs;
- 16 (2) approve or disapprove programs proposed by contractors,
- 17 labor organizations, and other similar persons;
- 18 (3) assist persons who propose programs to meet
- 19 requirements for approval;
- 20 (4) establish requirements necessary to safely perform
- 21 hazardous painting; and
- 22 (5) issue citations to professional painters who violate this
- 23 article.

24 Sec. 3. The department shall inspect job sites to assure that  
25 professional painters are:

- 26 (1) licensed as required under IC 25-24.5-3; and
- 27 (2) performing the work safely.

28 Sec. 4. (a) A basic hazardous painting program must include  
29 instruction and written and practical testing of:

- 30 (1) ventilation;
- 31 (2) respirator selection;
- 32 (3) chemical reaction to body tissue;
- 33 (4) proper use of painting tools;
- 34 (5) knowledge of relevant health and safety laws and
- 35 regulations; and
- 36 (6) other appropriate subjects.

37 (b) A basic hazardous painting program may not exceed sixteen  
38 (16) hours of instruction and testing.

39 (c) A basic hazardous painting program shall be administered  
40 at least two (2) times every calendar year.

41 (d) A supplemental hazardous painting program that is required  
42 for renewal of a license under this article must include instruction

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1 and written and practical testing necessary to ensure that a person  
2 completing the program has knowledge of recent developments  
3 related to hazardous painting.

4 Sec. 5. The commission and the department shall adopt rules  
5 under IC 4-22-2 to implement this article.

6 Chapter 5. Grounds for Action by the Board and Penalties

7 Sec. 1. (a) The commissioner may suspend or revoke the license  
8 of a professional painter who does any of the following:

- 9 (1) Obtains a license through error or fraud.
- 10 (2) Violates this article.

11 (b) The commissioner may refuse to grant, renew, or restore a  
12 license to a person who does any of the following:

- 13 (1) Acts as a professional painter without a license in violation  
14 of this article.
- 15 (2) Obtains a license through error or fraud.
- 16 (3) Violates this article.

17 Sec. 2. (a) The department may initiate injunctive proceedings  
18 in the appropriate court against a person who acts as a  
19 professional painter without a license or while the person's license  
20 is suspended. The department may not be compelled to give bond  
21 in such a case.

22 (b) After an action has been filed and notice has been given, all  
23 matters involved in the action shall be held in abeyance until the  
24 action has been tried and determined.

25 (c) If a defendant continues to violate this article after notice of  
26 the action has been given but before the hearing and determination  
27 on the injunctive proceedings, the department may, upon a verified  
28 showing of the acts of the defendant, obtain a temporary  
29 restraining order without notice. The order is effective until the  
30 case has been heard and determined.

31 Sec. 3. (a) The commission may impose a civil penalty of not  
32 more than two hundred dollars (\$200) for an initial violation of this  
33 article.

34 (b) The commission may impose a civil penalty of not more than  
35 one thousand dollars (\$1,000) for a second or subsequent violation  
36 of this article.

37 SECTION 7. [EFFECTIVE JULY 1, 2005] (a) The definitions in  
38 IC 25-24.5-2, as added by this act, apply throughout this  
39 SECTION.

40 (b) An individual who engages in hazardous painting as a  
41 professional painter does not violate IC 25-24.5, as added by this  
42 act, and may not be disciplined or sanctioned for failure to be

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1 licensed if the person obtains a license before July 1, 2006.  
2 (c) This SECTION expires July 1, 2008.

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