

1976

Amending 12-51.5-101, 12-51.5-103, 12-51.5-107, 12-51.5-111, 12-51.5-113, 12-51.5-120, 12-51.5-122, 12-51.5-123, and 12-51.5-124, Colorado Revised Statutes 1973, as Amended, and Repealing 12-51.5-114 (3), Colorado Revised Statutes 1973, as Amended, Concerning Mobile Home Dealers and Clarifying the Authority of the Department of Regulatory Agencies.

Colorado General Assembly

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CHAPTER 84

PROFESSIONS AND OCCUPATIONS

MOBILE HOME DEALERS

HOUSE BILL NO. 1145. BY REPRESENTATIVES Barragan, Boley, Castro, DeMoulin, Hamlin, Marks, Massari, Brinton, Cantrell, Dick, Elliott, Gaon, Hayes, Hinman, Kirscht, Valdez, Witherspoon, and Zakheim; also SENATORS Strickland, Allshouse, L. Fowler, Gallagher, Cisneros, Kadlecck, Kogovsek, and Sandoval.

AN ACT

AMENDING 12-51.5-101, 12-51.5-103, 12-51.5-107, 12-51.5-111, 12-51.5-113, 12-51.5-120, 12-51.5-122, 12-51.5-123, AND 12-51.5-124, COLORADO REVISED STATUTES 1973, AS AMENDED, AND REPEALING 12-51.5-114 (3), COLORADO REVISED STATUTES 1973, AS AMENDED, CONCERNING MOBILE HOME DEALERS AND CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF REGULATORY AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. 12-51.5-101 (4), Colorado Revised Statutes 1973, as amended, is amended, and the said 12-51.5-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-51.5-101. Definitions. (4) "Mobile home" shall have the same meaning as set forth in section 42-1-102 (82), C.R.S. 1973 MEANS ANY WHEELED VEHICLE, EXCEEDING EITHER EIGHT FEET IN WIDTH OR THIRTY-TWO FEET IN LENGTH, EXCLUDING TOWING GEAR AND BUMPERS, WITHOUT MOTIVE POWER, WHICH IS DESIGNED AND COMMONLY USED FOR OCCUPANCY BY PERSONS FOR RESIDENTIAL PURPOSES, IN EITHER TEMPORARY OR PERMANENT LOCATIONS, AND WHICH MAY BE DRAWN OVER THE PUBLIC HIGHWAYS BY A MOTOR VEHICLE.

(6.5) "Mobile home salesman" or "salesman" means any person who, for a salary, commission, or compensation of any kind, is employed either directly or indirectly by any mobile home dealer to sell, exchange, rent with option to purchase, or offer or attempt to negotiate a sale or exchange of an interest in a mobile home.

Section 2. 12-51.5-103 (3) (a), Colorado Revised Statutes 1973, as amended, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

12-51.5-103. Board — oath — meetings — powers and duties. (3) (c) To conduct or cause to be conducted, through the division of registrations of the department of regulatory agencies, written examinations which shall be prescribed by the board to test the competency of all licensed applicants and to require the retesting of every licensee every five TEN years;

Section 3. 12-51.5-107 (1) (a), Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-107. Classes of licenses. (1) (a) Mobile home dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging mobile homes. This license shall be issued to an individual, corporation, or partnership and shall permit not more than two designated owners or officers or general partners of the licensee to act as mobile home salesmen. IN ORDER FOR AN OWNER, OFFICER, OR GENERAL PARTNER TO ACT AS A MOBILE HOME SALESMAN PURSUANT TO THIS PARAGRAPH (a), HE SHALL HAVE PASSED THE EXAMINATION REQUIRED BY SECTION 12-51.5-112.

Section 4. The introductory portions to 12-51.5-111 (1) and (1) (a), Colorado Revised Statutes 1973, as amended, are amended to read:

12-51.5-111. Bond of licensees. (1) Before any license is issued or reissued by the board to any applicant, said applicant shall procure and file with the board a bond issued by a corporate surety licensed to do business in this state. Said bond shall be approved as to form by the attorney general and conditioned that the applicant shall honor all warranties and guarantees MADE BY HIM OR ANY OF HIS AGENTS, shall not practice fraud, shall not make any misrepresentation as to the kind or quality of any product sold, and shall not violate any provision of this article or article 1 or 2 of title 6, C.R.S. 1973. The purposes of said bond are to guarantee a fund for the reimbursement of persons who suffer any loss or damage by reason of any violation of this article by a licensee and to protect the public against financially irresponsible mobile home licensees. The amount of bond for each licensee shall be as follows:

(a) Mobile home dealer whose gross sales income for the previous year, as reported ~~on the Colorado sales tax return~~ IN A MANNER TO BE DETERMINED BY THE BOARD, is:

Section 5. 12-51.5-113, Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-113. Filing of written warranties. All manufacturers authorized to do business in this state shall file with the administrator all written warranties and changes in written warranties that such manufacturer makes on any mobile home or parts thereof. All manufacturers shall file with the administrator a copy of the delivery and preparation obligations of a manufacturer's dealer, and these warranties and obligations shall constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defect covered under any express or implied warranties of the manufacturer shall constitute the manufacturer's product or warranty liability, and the manufacturer shall reasonably compensate any authorized dealer who performs work to rectify said manufacturer's product or warranty defects. In the determination of what constitutes reasonable compensation for labor, factors to be given consideration shall include: The prevailing wage rate and voluntary fringe benefits, except those designed to increase dealer profit, being paid by the dealer and other dealers in the community; the prevailing actual labor rate being charged by the dealer to his customers and other dealers in the community to their customers; and specific diagnostic operations performed by productive mechanics. Reasonable compensation for

parts used on warranty repairs shall include reimbursing the dealer for the price of the part to the dealer from the manufacturer plus a reasonable handling fee. ~~of not less than twenty-five percent of the price of such part.~~ The purchaser of any mobile home shall be a third-party beneficiary of such MANUFACTURER'S OR DEALER'S warranties and obligations and may enforce such MANUFACTURER'S warranties and obligations against the manufacturer ~~or~~ AND SUCH DEALER'S WARRANTIES AND OBLIGATIONS AGAINST THE dealer.

Section 6. 12-51.5-120, Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-120. Unlawful acts. It is unlawful for any person to act as a mobile home dealer or mobile home salesman unless such person has been duly licensed pursuant to the provisions of this article. ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, IF A NATURAL PERSON, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT AND, IF A CORPORATION, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS. A SECOND VIOLATION, IF BY A NATURAL PERSON, SHALL BE PUNISHABLE BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS, OR BY IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

Section 7. 12-51.5-122, Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-122. Criminal liability. (1) Any person who knowingly and willfully makes any false statement whatsoever or who conceals a material fact in any application, form, claim, advertisement, contract, warranty, guarantee, or statement, either written or oral, with the intent to influence the actions or decisions of any official of this state, any purchaser or occupant of a mobile home, or any bonding agent is guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the state penitentiary for not more than three years, or by both such fine and imprisonment. **COMMITTS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. 1973.**

(2) Any person who knowingly and willfully makes any false statement or representation as to the year, make, or model of any mobile home to any person or who alters or changes a certificate of title to falsely represent the year, make, or model of a mobile home is guilty of a felony and, upon conviction thereof, shall be punished as provided in subsection (1) of this section. **COMMITTS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. 1973.**

(3) Any person who knowingly possesses, purchases, or sells or otherwise

acquires or disposes of a mobile home, knowing the same to have been stolen, is guilty of a felony and, upon conviction thereof, shall be punished as provided in subsection (1) of this section COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. 1973.

(4) Any person who knowingly and willfully converts, uses, or otherwise disposes of money or anything of value obtained on account of a mobile home transaction without delivering promised goods or services in connection with the sale or purchase of a mobile home is guilty of a felony and, upon conviction thereof, shall be punished as provided in subsection (1) of this section COMMITS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S. 1973.

Section 8. 12-51.5-123, Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-123. Right of action for loss. If any person suffers loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed mobile home dealer or one of such dealer's salesmen acting for the dealer in his behalf or within the scope of the employment of such salesman or suffers any loss or damage by reason of the violation of such dealer or salesman of any of the provisions of this article, whether or not such violation is the basis for denial, suspension, or revocation of a license, such person shall have a right of action against such dealer or his agent OR his mobile home salesman. and the sureties upon their respective bonds. The right of a person to recover for loss or damage as provided in this section against the dealer, AGENT, or salesman shall not be limited to the amount of their respective bonds and shall MAY include reasonable attorney fees. THE RIGHT OF A PERSON TO RECOVER FOR LOSS OR DAMAGE AS PROVIDED IN THIS SECTION AGAINST A CORPORATE SURETY SHALL BE LIMITED TO THE AMOUNT OF THE RESPECTIVE BOND AND MAY INCLUDE REASONABLE ATTORNEY FEES.

Section 9. 12-51.5-124, Colorado Revised Statutes 1973, as amended, is amended to read:

12-51.5-124. Disposition of fees. All fees for mobile home licenses AND FINES shall be collected by the division of registrations of the department of regulatory agencies and transmitted to the state treasurer, who shall credit the same to the general fund. The general assembly shall make annual appropriations from the general fund for the uses and purposes of this article. Expenditures from such appropriations shall be made upon vouchers and warrants drawn pursuant to law.

Section 10. **Repeal.** 12-51.5-114 (3), Colorado Revised Statutes 1973, as amended, is repealed.

Section 11. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 1976