

HOUSE BILL REPORT

ESSB 5831

As Passed House - Amended:

March 12, 2008

Title: An act relating to certification of heating, ventilation, air conditioning, and refrigeration contractors and mechanics.

Brief Description: Creating the joint legislative task force on heating, ventilation, air conditioning, and refrigeration.

Sponsors: By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Franklin, Keiser and Murray).

Brief History:

Committee Activity:

Commerce & Labor: 2/22/08, 2/26/08 [DPA];

Appropriations: 3/1/08 [DPA(APP w/o CL)].

Floor Activity:

Passed House - Amended: 3/7/08, 58-35.

Conference Committee.

Passed House - Amended: 3/12/08, 95-2.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Establishes a joint legislative task force on heating, ventilating, air conditioning, and refrigeration (HVAC/R) to review issues related to contractor registration and licensing and mechanic certification.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member.

Staff: Jill Reinmuth (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Labor. Signed by 19 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Green, Haigh, Hunt, Hunter, Kagi, Kenney, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 15 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Grant, Hinkle, Kessler, Kretz, Linville, McDonald, Priest, Ross, Schmick and Walsh.

Staff: Owen Rowe (786-7391).

Background:

State laws require registration or licensure for construction, electrical, and plumbing contractors, and certification for electrical administrators, electricians, and plumbers. These laws are administered and enforced by the Department of Labor and Industries (Department).

Depending on the type of heating, ventilating, air conditioning, and refrigeration (HVAC/R) work that a contractor performs, state law may require that the contractor be registered as a general or specialty construction contractor or licensed as an electrical contractor or both. If the contractor performs electrical work, the contractor must be licensed as an electrical contractor, and employ a certified electrical administrator and certified electricians. The electricians may be certified as journeyman electricians or as HVAC/R specialty electricians.

Local ordinances in a number of cities require persons performing HVAC/R work to obtain additional certification. Some require certification for mechanical work and gas fitting work. Others require certification for heating oil and air conditioning/refrigeration work.

In 2005 the Joint Legislative Audit and Review Committee (JLARC) completed a study of the state's rules relating to the licensing and testing requirements for HVAC/R contractors and installers. The study said that ". . . certifying other aspects of HVAC/R work may be an option for the state to consider" and that "[the Department] should provide fiscal and public safety estimates of scenarios that would certify other aspects of HVAC/R work."

In 2006 the Department organized the HVAC/R Task Force. A regulatory alternatives subcommittee considered various options for regulation of the HVAC/R industry, but was not able to reach consensus on a single option.

Summary of Amended Bill:

A joint legislative task force on HVAC/R is established because "it is necessary for the public health and safety to create statewide contractor registration and mechanic certification requirements."

The 17-member task force consists of: four legislative members that are the chairs and the ranking members of the Senate Labor, Commerce, Research and Development Committee and the House Commerce and Labor Committee; four legislative members from the two largest caucuses of the Senate and the House of Representatives; four members representing business; four members representing labor; and one member representing the Department of Labor and Industries.

The chairs of the Senate Labor, Commerce, Research, and Development Committee and the House Commerce and Labor Committee will be the co-chairs of the task force.

The task force is required to review the following in the context of the framework set forth in SB 5831 and the JLARC report from 2005:

- requirements for certifying mechanics;
- methods of registering contractors who qualify for two or more registrations or licenses;
- establishing at least three levels of mechanics, with the ability to be certified in several specialties, including HVAC, refrigeration, and gas piping;
- experience requirements for mechanic levels;
- methods of obtaining training certificates;
- exemptions to registration or certification requirements; and
- other factors the task force deems necessary.

The task force must report its findings and recommendations to the Legislature by December 1, 2008. The provision creating the task force expires January 1, 2009.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: (Commerce & Labor)

(In support of engrossed bill) A task force with legislative involvement is key to resolving this issue. The task force will give us the opportunity to address concerns.

The list of concerns is long, and the core issues have not been addressed in the striking amendment. It proposes the highest level of regulation and state law says that regulation should be minimal.

It is not clear whether this is about protecting consumers. According to the Better Business Bureau, there are not significant complaints about the heating, ventilating, air conditioning,

and refrigeration (HVAC/R) industry. In 25 years as a food retailer, there have been no safety concerns.

The stakeholders have reached impasse. A solution is a long way off.

Efforts to address the concerns of particular industries in the striking amendment are appreciated. However, the striking amendment is problematic.

The food refrigeration industry is concerned about the change from British thermal units (BTUs) to pounds. Food retailers, which have razor thin margins, are concerned about increased costs.

The propane gas industry appreciates the efforts to improve the language, but is not comfortable with the wording.

The hearth industry is concerned about the wording of the exemption and would prefer that it say "according to manufacturer specifications."

(In support of striking amendment) This issue has been before the Legislature since 1987 and has been the subject of numerous meetings in recent years. It is a matter of consumer protection and public safety. It is time to move forward. There has been much discussion and much compromise. This industry is regulated in 36 other states. A broad coalition of business and labor supports the striking amendment that is before the committee. It provides flexibility and simplifies regulation, and should be adopted.

The proponents have made significant changes to respond to the concerns of small business. In particular, there have been changes made to provisions related to food refrigeration, propane gas, fuel oil, and the hearth industry. These changes demonstrate both a willingness to listen and to accommodate concerns.

In Washington, all sorts of local licenses are required. In contrast, in Idaho, a statewide license is required. The statewide license allows contractors to focus continuing education units on the work of HVAC/R mechanics, which enables contractors to save money. It would also be a strong tool for employers to use to hire experienced people.

Important provisions include those dealing with grandfathering, reciprocity, and local preemption. There is also a board composed of people in the industry.

Certification will not put contractors out of business or strand workers. Most contractors are already meeting these requirements. Current workers are grandfathered. Basic services (e.g., maintenance work) are exempt from certification.

The on-the-job training requirements in the striking amendment are not arbitrary. They are intended to mirror the requirements in the electrical statute. The striking amendment is crafted to have concurrent hours, supervision, and ratios.

The fuel oil industry believes that the changes in the striking amendment will work for the industry.

(Information only) Pursuant to the Joint Legislative Audit and Review Committee (JLARC) study, the Department of Labor and Industries (Department) reviewed options for regulation. The Department focused on five principles, and ultimately, five options. There was not consensus as to which option to pursue.

There was a proposal for a new specialty submitted to the Electrical Board and reviewed by a policy review subcommittee. The subcommittee unanimously recommended that there not be a new specialty. The Electrical Board adopted the subcommittee's recommendation with one dissenting vote.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) This certification eliminates the need for multiple licenses; this bill would create one fee for HVAC technicians and mechanics, and the certification would be valid for three years. The fees that will be assessed for this certification will be pennies on the amount of hours a mechanic would work. A certification program would lead to fewer warranty returns, and jobs done right the first time. This bill will enhance safety for consumers and technicians, as well as to save consumers money on energy bills and repair calls. When workers are not trained adequately you see errors which lead to early replacement of systems. Consumers are invested in having protection that a certification program would provide. This new certification will provide for consistency in licensing throughout the state. This bill is supported by both union and non-union contractors. There is no benefit to be gained by additional studies; the industry needs to move forward.

(Opposed) This bill will cost customers, contractors and local governments more money on construction and repair projects. There will be a significant impact on people on fixed and lower incomes. Consumers are not asking for this legislation; there is no perceivable problem. This legislation will not reduce existing fees; this is a new fee. Hearth fire installers, barbecue installers, and refrigeration mechanics need to be exempted from this legislation.

Persons Testifying: (Commerce & Labor) (In support of engrossed bill) Carolyn Logue, Washington Food Industry and Northwest Hearth Patio & Barbecue Association; Gary Smith, Independent Business Association; Jim King, Washington State HVAC/R Association; Mark Johnson, Washington Retail Association; Robin Pavlish, 7-Eleven; and James Curry, Associated Builders and Contractors, and Northwest Propane.

(In support of striking amendment) Senator Kohl-Welles, prime sponsor; Mark Gjurasic; Kathleen Collins, Sheet Metal and Air Conditioning Contractors of North America; Helen Blyton, Northwest HVAC Association; Greg Nolan, Nolan HVAC; Rod Kauffman, Building Owners and Managers Association; Kevin Wilder, Miller Sheet Metal; Christian Dube, International Union of Operating Engineers Local 286; Tonia Neal, Sheet Metal and Air Conditioning Contractors of North America; Charlie Brown, Northwest Oil and Gas; Pete Crow, Washington State Association of Plumbers and Pipe Fitters; Tracy Prezeau, International Brotherhood of Electrical Workers Local 76; Richard King, International

Brotherhood of Electrical Workers; Lance Deyette, Sheet Metal Workers Local 66; and Dale Wentworth, Seattle Area Pipefitters.

(Information only) Patrick Woods, Ron Fuller, Pete Schmidt, and Trista Zugel, Department of Labor and Industries.

Persons Testifying: (Appropriations) (In support) Tena Risley, Northwest HVAC/R Association; Kathleen Collins, Sheet Metal and Air Conditioning Contractors; Pete Crow, Washington State Association of Plumbers and Pipefitters; Dale Wentworth, Seattle Area Pipe Trades; and Cody Arledge, Sheet Metal Workers Local 66.

(Opposed) James Curry, Associated Builders and Contractors and Northwest Propane Gas Association; Gary Smith, Independent Business Association; Jim King, Washington HVAC/R Association; and Carolyn Logue, Washington Food Industry and Northwest Patio and BBQ Association.

Persons Signed In To Testify But Not Testifying: (Commerce & Labor) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.