

HOUSE BILL REPORT

HB 2966

As Reported by House Committee On:

Commerce & Labor

Appropriations

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

Brief Description: Providing for the certification of heating, ventilation, air conditioning, and refrigeration contractors and mechanics.

Sponsors: Representatives Conway, Wood, McIntire, Campbell, Simpson, Appleton, Hasegawa and Ormsby.

Brief History:

Committee Activity:

Commerce & Labor: 1/22/08, 2/5/08 [DPS];

Appropriations: 2/8/08, 2/11/08 [DP2S(w/o sub CL)].

Brief Summary of Second Substitute Bill

- Establishes requirements for registration of Heating, Ventilation, Air Conditioning, and Refrigeration (HVAC/R) contractors, and for certification of HVAC/R mechanics and various specialty mechanics.
- Directs the Department of Labor and Industries to administer and enforce HVAC/R-related registration and certification requirements.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Crouse, 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.

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 Substitute Bill:

Provisions governing the heating, ventilating, air conditioning, and refrigeration (HVAC/R) industry are enacted. Requirements for registration of HVAC/R contractors and certification of HVAC/R mechanics and various specialty mechanics are established. These requirements are to be administered by the Department of Labor and Industries (Department).

Definitions

Numerous terms are defined including HVAC/R work, HVAC work, refrigeration work, and gas piping work.

"HVAC/R work" means all HVAC work, refrigeration work, and gas piping work that is not exempt from regulation.

"HVAC work" means to design, fabricate, construct, install, replace, service, test, or adjust and balance HVAC equipment and systems. "HVAC equipment and systems" do not include solid fuel burning devices (e.g., wood stoves and coal stoves), gas company service piping, gas piping other than that necessary to deliver fuel, or boilers.

"Refrigeration work" means to design, fabricate, construct, install, replace, or service refrigeration systems.

"Gas piping work" means to design, fabricate, construct, install, replace, or service gas piping and venting related to gas piping. "Gas piping" does not include gas company service piping or any gas piping used directly in the generation of electricity by an electric utility or a commercial-scale non-utility generator of electricity.

HVAC/R Board

A 13-member HVAC/R Board (Board) is established. Members of the Board consist of four mechanics, four contractors, one public member familiar with HVAC/R work, one building operator representing the commercial property management industry, one member from the stationary operating engineers, one member from a technical college or an apprenticeship training program, and one building official familiar with enforcement of HVAC/R work.

The Board must conduct proceedings for denying applications, suspending or revoking certificates, and imposing penalties. The Board also must approve expenditures, and advise the Department on HVAC/R matters.

Contractor Registration

On and after July 1, 2009, persons may not engage in business as HVAC/R contractors without being registered as contractors under the Contractor Registration Act and as HVAC/R contractors. On and after July 1, 2010, persons may not employ persons to perform HVAC/R work who are not certified to do so.

There are three exemptions from the HVAC/R contractor registration requirement. This requirement does not apply to: (1) persons contracting for HVAC/R work on their own residences; (2) property management companies whose employees perform only HVAC/R work that is exempt from the mechanic certification requirement; and (3) persons who are exempt from contractor registration under the Contractor Registration Act.

Mechanic Certification

On and after July 1, 2010, persons may not perform HVAC/R work without being issued an HVAC/R mechanic certificate, a specialty certificate, a temporary certificate, or a trainee certificate by the Department. The types of certificates and their scopes of work are as follows:

- HVAC/R Mechanics. A Mechanic I may perform gas piping, refrigeration, and HVAC work performed by a specialty mechanic I. A Mechanic II may perform gas piping work performed by a specialty mechanic I, and refrigeration and HVAC work performed by a specialty mechanic II. A Mechanic III may perform gas piping, refrigeration, and HVAC work performed by a specialty mechanic III.
- Gas Piping Specialty Mechanics. A Mechanic I/II may perform gas piping work on fuel burning appliances and systems with a maximum capacity of 500,000 British thermal units

per hour (BTUH). A Mechanic III may perform all gas piping work on any fuel burning appliances and systems.

- Refrigeration Specialty Mechanics. A Mechanic I may perform refrigeration work on refrigeration systems with one or more compressors not exceeding 90,000 BTUH per compressor using class A1 refrigerants. A Mechanic II may perform refrigeration work performed by a Mechanic I, installation or replacement of self-contained refrigeration systems up to 300,000 BTUH, and except for installation or replacement, refrigeration work on refrigeration systems with one or more compressors not exceeding 300,000 BTUH per compressor using class A1 refrigerants. A Mechanic III may perform refrigeration work on any refrigeration systems using any refrigerants.

- HVAC Specialty Mechanics. A Mechanic I may perform HVAC work on HVAC equipment and systems of 7.5 tons or less or 3,375 cubic feet per minute (CFM) or less. A Mechanic II may perform HVAC work performed by a Mechanic I, and HVAC work on HVAC equipment and systems of 20 tons or less or 9,000 CFM or less. A Mechanic III may perform all HVAC work on HVAC equipment and systems.

There are 11 exemptions from the HVAC/R mechanic certification requirement. This requirement does not apply to persons who are: (1) cleaning or performing certain routine maintenance work on HVAC/R equipment and systems; (2) performing HVAC/R work on HVAC/R equipment or systems that contain small amounts of refrigerant and are actuated by small motors or engines, or that are absorption systems with low ratings of refrigeration effect; (3) setting oil tanks and related piping to furnaces; (4) setting propane tanks and related piping outside of buildings; (5) performing gas piping work on certain fuel burning appliances and systems pursuant to valid plumbing certificates; (6) performing HVAC/R work on their own property, unless on new buildings intended for rent, sale, or lease; (7) performing HVAC/R work on their own property or regularly employed persons working on their employers' premises, unless on new buildings intended for rent, sale, or lease; (8) performing work for gas companies that is incidental to natural gas deliveries or pursuant to a tariff on file with the Utilities and Transportation Commission; (9) licensed architects, engineers, and land surveyor who are designing HVAC/R equipment or systems; (10) replacing household appliances; and (11) installing wood or pellet stoves, including directly related venting.

Operator Certification

HVAC/R operating engineers may apply for and take examinations to obtain HVAC/R operator certificates. The scope of work is cleaning or performing certain routine maintenance work on HVAC/R equipment and systems, and performing minor repairs on HVAC/R equipment and systems and HVAC/R work on sealed HVAC/R equipment and systems. Persons licensed by the City of Seattle as refrigeration operating engineers are not required to meet additional requirements to be issued HVAC/R operator certificates.

Certification With Examination

Examinations for HVAC/R mechanic certificates must contain distinct portions that assess competency in gas piping, refrigeration, and HVAC work. Applicants who pass all portions

are entitled to be issued HVAC/R mechanic certificates. Those who pass some portions are entitled to be issued specialty mechanic certificates for those portions. The qualifications required to take examinations are as follows:

- HVAC/R Mechanic I. A person must have: (1) performed 1,000 hours of HVAC/R work, all of which must be supervised; (2) performed 2,000 hours of HVAC/R work, 75 percent of which must be supervised; or (3) completed an appropriate apprenticeship program.
- HVAC/R Mechanic II. A person must have: (1) performed 4,000 hours of HVAC/R work, 75 percent of which must be supervised; or (2) completed an appropriate apprenticeship program.
- HVAC/R Mechanic III. A person must have: (1) performed 4,000 hours of HVAC/R work, 75 percent of which must be supervised, plus an additional 2,000 hours, all of which must be supervised; (2) performed 8,000 hours of HVAC/R work, 75 percent of which must be supervised; or (3) completed an appropriate apprenticeship program.

Hours of a technical college program may be substituted for hours of work experience. Similarly, hours of armed forces work experience may be substituted for hours of work experience.

Examinations for HVAC/R operators must be comparable to the City of Seattle's test to obtain refrigeration operating engineer licenses.

Certification Without Examination; "Grandfather" Clause

From July 1, 2009, to June 30, 2010, persons who have performed HVAC/R work may apply for HVAC/R mechanic certificates without examination. Applications must include evidence of hours of HVAC/R work performed since January 1, 1988. The qualifications required to become certified without examination are as follows:

- HVAC/R Mechanics. For Mechanic I, a person must have performed at least 2,000 hours of HVAC/R work. For Mechanic II, a person must have performed at least 4,000 hours of HVAC/R work. For Mechanic III, a person must have performed at least 8,000 hours of HVAC/R work, or completed an appropriate apprenticeship program.
- Gas Piping Specialty Mechanics. For Mechanic I/II, a person must have performed at least 1,000 hours of gas piping work or hold a local license to perform gas piping work on fuel burning appliances and systems with a maximum capacity of 500,000 BTUH. For Mechanic III, a person must hold a local license to perform all gas piping work on any fuel burning appliances and systems.
- Refrigeration Specialty Mechanics. For Mechanic III, a person must hold a City of Seattle journey refrigeration mechanic license.
- HVAC Specialty Mechanics. For Mechanic III, a person must hold a City of Seattle journey refrigeration mechanic license.

Certification Without Examination; Reciprocity Provision

The Department may enter into reciprocity agreements with other states whose certification requirements are equal to Washington's standards. The agreements must provide for acceptance of Washington and the other state's certification program by Washington and the other states.

Supervision Requirements

Mechanics may supervise two trainees not in a technical college program or four trainees in a technical college program. When the ratio of mechanics to trainees on a job site is one mechanic to one or two trainees, mechanics must be on the same job site as trainees at least 75 percent of each working day. When the ratio is one mechanic to three or four trainees, mechanics must directly supervise and instruct trainees and may not directly make or engage in HVAC/R work. They also must be on the same job site as trainees all of each working day.

There are exceptions to the supervision requirements for persons who have performed certain hours of work and passed certain portions of examinations. These persons may perform, unsupervised, the remaining hours required for certification.

Other

Various provisions address enforcement activities, including investigations, notices of infraction, and civil and criminal penalties.

Other provisions require mechanics to complete 24 hours of continuing education and trainees to complete 60 hours of related supplemental instruction or equivalent training.

With certain exceptions, nothing in state HVAC/R laws shall be construed to: (1) modify state plumbing or electrical laws; (2) prohibit or restrict certified plumbers or electricians from engaging in their trades; or (3) regulate or include electrical or plumbing work. These exceptions include provisions relating to concurrent registration and certification, as well as concurrent work experience, examination, and continuing education.

Substitute Bill Compared to Original Bill:

Various definitions are modified. Language is added to the definition of "gas company service piping" to specify that "point of contact" means the outlet of the meter or the connection to the customer's gas piping, whichever is farther downstream. "Gas piping" does not include gas piping used directly in the generation of electricity by an electric utility or a commercial-scale non-utility generator of electricity. "HVAC equipment and systems" does not include gas company service piping.

Several exemptions are added and one is modified. The HVAC/R contractor registration requirements do not apply to a person who is exempt under the Contractor Registration Act from contractor registration requirements. The mechanic certification requirements do not apply to a person performing gas piping work on a fuel burning appliance with a maximum capacity of 500,000 BTUH while holding a journeyman or specialty plumber certificate. They

also do not apply to a person performing HVAC/R work for a gas company when such work is performed pursuant to a tariff on file with the Utilities and Transportation Commission. The exemption for a person installing wood or pellet stoves also includes a person installing directly related venting such as a chimney or flue.

Various dates are set or adjusted. Contractor registration is required on and after July 1, 2009. Mechanic certification is required on and after July 1, 2010 (instead of January 1, 2010). Applications for certification without examination are permitted from July 1, 2009, to June 30, 2010 (instead of from January 1, 2009, to December 31, 2009). Single registration/licensing documents must be established by July 1, 2011. The effective date is July 1, 2008 (instead of January 1, 2009).

Other miscellaneous changes are made. "Gas piping specialty mechanic I" is changed to "gas piping specialty mechanic I/II." A temporary certificate is valid for 90 days from the date of issuance (instead of 90 days from the date of application). A trainee certificate is valid for two years from the date of issuance (instead of the trainee's birthday). The Department of Labor and Industries is authorized (instead of required) to adopt policies and procedures to make examinations available in alternative languages or formats.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2008.

Staff Summary of Public Testimony:

(In support) The current structure is piecemeal. Contractors must have multiple licenses, and mechanics must have multiple certificates. This structure works for union and non-union shops. The hours of work experience are consistent and concurrent with the hours of work experience required for electricians. Exemptions for the hearth and refrigeration industries should not be adopted.

There are consumer protection issues in this industry. Training requirements will improve the quality of the work and provide for better consumer protection. Some dates need to be added to the bill.

The HVAC/R industry deals with gas, propane, refrigerants, and other concerns. Although the Underwriters' Laboratories inspects equipment, it does not guarantee safe installation.

Plumbers and electricians have been certified for many years. Before those laws passed, there were different licenses in many different jurisdictions; now, they are consolidated.

Certification is and will continue to be required to perform electrical work involved in HVAC/R work.

There has been electrician licensing since 1973. Originally, there was only one general, journey-level license for electricians. Since then, various specialties have been recognized. This bill recognizes specialties in the HVAC/R industry up front. Certain requirements, e.g., related to supervision, are equivalent to requirements in the electrical industry.

Operating engineers and property managers are pleased with the outcome of negotiations. Our concerns have been addressed.

(With concerns) There are concerns about the overlap between the plumbing and the HVAC/R scopes of work. They are parallel in some respects, but not others. It is not clear that plumbers will be exempt from these requirements.

(Opposed) Mechanics would need to master the entire field of HVAC/R work to perform parts of that work. Requiring five years of work experience is punitive. There may be conflicts with disability laws.

The Department of Labor and Industries laid out five tests to judge HVAC/R legislation. The bill fails all tests. For example, the exclusions for boilers result in an unlevel playing field. It also strands the capital of workers.

The bill results in two licenses, not one license for everything. When talking about complaints, the number and type of complaints in the HVAC/R industry should be compared with those in other industries. This industry is not on the Better Business Bureau's radar screen.

For a second-generation HVAC/R contractor, this bill is discouraging. It creates unnecessary bureaucracy. The industry is already adequately regulated for safety and competency.

Consumers will be encouraged to seek less expansive ways of getting work done, most of which will be under the radar. The consumer will save half the cost of the repair, the company will not be taxed, the workers will not be covered for purposes of workers' compensation, and the work will not be inspected and may be less safe.

This bill will limit employment opportunities in the industry. These workers cannot afford to go back to earning low trainee wages.

As a 20-year employee, the HVAC/R industry has allowed me to build a career and earn great wages and benefits. This bill would limit opportunities for true mechanics.

The grandfathering provision is problematic. Eighty percent of mechanics are not licensed in one of the jurisdictions that currently requires licensure.

The small businesses will be impacted most. Seventy-three percent of the industry is made up of small to medium-sized businesses.

The HVAC/R licenses is massive. It is not what they want or what they need to do the work.

With respect to food product refrigeration, there should be an exemption for food product refrigeration that uses A1 refrigerants instead of ammonia-based refrigerants. Reasons for the

exemption include no ducting, low pressure, no contaminants, and alarms. In addition, business-to-business consumers are affected, not individuals. There have been no complaints involving this segment of the industry. New regulations in 2010 will change the refrigeration standards.

Cost is the biggest concern. The vast number of consumer protection complaints have to do with billing. There are already training standards in place to ensure that workers are prepared to set equipment.

Costs for consumers, especially those in rural areas, would increase. These consumers are already strapped for cash. The costs of tank installation would increase \$225.

HVAC/R contractors and HVAC/R customers oppose this legislation. Certification will not solve any problems, and will only increase costs.

Persons Testifying: (In support) Helen Blyton, Northwest HVAC/R Association; Kathleen Collins, Sheet Metal and Air Conditioning Contractors; Pete Crow, Washington State Association of Plumbers and Pipe Fitters; Tracy Prezeau, International Brotherhood of Electrical Workers Local 76; Christian Dube, International Union of Operating Engineers 286; and Cody Arledge, Sheet Metal Workers Local 66.

(With concerns) Charly Mitchel, Plumbing-Heating-Cooling Contractors of Washington.

(Opposed) Jim King and Mike Frickberg, Washington State HVAC/R Association; Dennis Davis; Curt Anderson and David Price, Air Systems Engineering, Inc.; Scott Leibowitz; Jan Gee, Washington Food Industry; James Curry, Northwest Propane Dealers Association; John Weigel, Northwest Propane Gas Association; Gary Smith, Independent Business Association; and Tom Pugh and Carolyn Logue, Northwest Hearth Patio & Barbecue Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 19 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Cody, Conway, Darneille, Ericks, Fromhold, Green, Haigh, Hunt, Kagi, Kenney, Linville, McIntire, Morrell, Pettigrew, Schual-Berke, Seaquist and Sullivan.

Minority Report: Do not pass. Signed by 14 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Chandler, Grant, Hinkle, Kessler, Kretz, McDonald, Priest, Ross, Schmick and Walsh.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

A null and void clause was added, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Requested on sub February 7, 2008.

Effective Date of Second Substitute Bill: This act takes effect July 1, 2008. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The fiscal impact of this bill will be paid from fees to mechanics who are certified by the Department of Labor and Industries. This program is designed to be self-sustaining. This is a reasonably priced program that will provide safety to workers and the public. In some cities HVAC mechanics are required to have three separate licenses; this should be a money saver for licensees. This bill is supported by a diverse coalition.

(Opposed) The Washington food industry opposes this bill as it applies to food product refrigeration; there have been no safety problems in the past. This bill provides for a 17 percent increase in license fees; the cost will be passed on to consumers. The hearth products industry is opposed to this bill as it includes hearth stoves, and propane and natural gas appliances; these are appliances, not systems. This is work that is already regulated, and it may force consumers to take on installation themselves because of increased costs. Consumers are not asking for this bill, the industry is. This bill will not simplify the licensing of HVAC mechanics, and will work against affordable housing, and green construction, as well as increasing the costs of public construction.

Persons Testifying: (In support) Kathleen Collins, Sheet Metal and Air Conditioning Contractors; David Westberg, Stationary Operating Engineers AFL-CIO; and Cody Anledge, Sheet Metal Workers Local 66.

(Opposed) Carolyn Logue, Northwest Hearth Patio and Barbecue; Gary Smith, Independent Business Association; and James Curry, Association of Builders and Contractors and Northwest Propane Gas Association.

Persons Signed In To Testify But Not Testifying: None.