

# SENATE BILL REPORT

## SB 5875

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As of February 13, 2007

**Title:** An act relating to the regulation of the HVAC/R profession.

**Brief Description:** Changing the regulation of plumbing to also include HVAC/R.

**Sponsors:** Senators Rasmussen, Clements and Franklin.

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 2/12/07.

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Staff:** Jennifer Strus (786-7316)

**Background:** Heating, ventilation, air conditioning and refrigeration (HVAC/R) systems control the temperature and humidity of air in a building. An HVAC/R technician works on equipment such as boilers, heat pumps, air conditioning units, and furnaces. Generally, the work of an HVAC/R technician involves work in several trades including sheet metal, plumbing, and electrical.

Six Washington cities require licenses for gas and mechanical work, refrigeration, and oil work; however, the state only regulates the electrical work of HVAC/R. The Department of Labor & Industries (L&I) licenses the electrical work. L&I is advised on electrical regulation by the Electrical Board, a 15-member advisory body whose membership is set in statute. Specialty electricians, such as HVAC/R, account for about 40 percent of regulated electricians but are not formally represented on the board.

A person currently engaged in the HVAC/R business can be required to obtain licensure or certification in four regulatory areas: a general or specialty contractor under RCW 18.27; an electrical contractor; and electrical administrator; or a journeyman electrician or licensure in one of the two HVAC/R specialties. All of these license or certifications are fee based.

In 2005, the Joint Legislative Audit and Review Committee conducted a study of the HVAC/R licensing and testing requirements in Washington. In their report published in September of 2005, they made several recommendations including that L&I should examine scenarios that would certify aspects of HVAC/R work. In this regard, they suggested three options: (1) create a separate, comprehensive HVAC/R certificate; (2) administer an HVAC/R certificate through the Electrical Board or create a sub-board of the Electrical Board that certifies that a trainee performing both electrical and mechanical work has HVAC/R knowledge and skills in both electrical and non-electrical aspects; and (3) create a model where the state administers

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an exam that is acceptable to cities that require additional certification for skills beyond the specialty electrical license.

**Summary of Bill:** Regulation of the HCAV/R profession is added to the statutes governing the plumbing trade, RCW 18.106.

**HVAC/R CONTRACTOR:** After December 31, 2007, no person may do or offer to do HVAC/R contractor work unless the person is an HVAC/R contractor or is employed for an HVAC/R contractor. An HVAC/R contractor is defined as a contractor currently registered under RCW 18.27 who has notified L&I in writing that he or she will engage in or offer to install, maintain, repair or service HVAC/R equipment, and who has designated an HVAC/R administrator. Individuals doing HVAC/R work for an HVAC/R contractor are not required to be certified to do HVAC/R work.

**ADMINISTRATOR'S CERTIFICATE:** Any person desiring to be issued an HVAC/R administrator's certificate must pass an HVAC/R administrator exam. To obtain an administrator's certificate without exam, a person must provide evidence to L&I that before January 1, 2008, he or she had been an HVAC/R contractor or doing the work of such a contractor for not less than 8000 hours in the most recent six years.

A contractor doing or offering to do the work of an HVAC/R contractor must designate a supervisory employee or member of the firm to take the required master electrician's or administrator's exam. Starting January 1, 2008, a supervisory employee designated as the HVAC/R administrator will be the full-time supervisory employee and will be designated the administrator under the contractor's registration. No person can qualify as administrator for more than one contractor.

The administrator's responsibility is to: (1) be a member of the firm or a supervisory employee and be available during working hours; (2) ensure that all HVAC work complies with the HVAC installation; (3) ensure proper permits are obtained and inspections made; (4) ensure compliance with corrective notices; and (5) notify L&I within ten days if the administrator relationship is terminated with the HVAC/R contractor.

**WRITTEN EXAM:** L&I in consultation with the advisory board, must administer a written exam for HVAC/R administrators' certificate holders. The exams must reasonably ensure that certificate holders are competent to engage in and supervise the HVAC/R mechanical work. L&I may recognize a certification issued by a nationally recognized organization engaged in testing and issuing certifications in the HVAC/R industry.

**PLUMBING AND HVAC/R ADVISORY BOARD:** The advisory board is composed of 14 members appointed by the Governor. In addition to the seven members currently on the plumbers' advisory board, seven members are added as follows: three members must be journeyman HVAC/R mechanics or journeyman residential HVAC/R mechanics, one of which must be from eastern Washington; three must be persons conducting an HVAC/R business, one of which must be from eastern Washington; and one member from the general public who is familiar with the HVAC/R trade and business.

The board, with a 2/3 majority vote, can organize itself into two sub boards. One sub board is to address issues related to the plumbing trade and the other sub board to address the issues of the HVAC/R contractor trade. All decisions of either sub board are deemed a decision of the

advisory board as a whole unless the decision is rejected within 90 days by a 2/3 majority vote of the full board.

**EXEMPTIONS:** No person conducting HVAC/R work at his or her residence, farm, place of business, or on other property owned by him or her need be an HVAC/R contractor to do that work. A current certificate of competency is not needed for a person performing HVAC/R work on a farm.

**INFRACTIONS:** L&I may issue a notice of infraction to any person doing or offering to do the work of an HVAC/R contractor who does not meet the requirements of being an HVAC/R contractor.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on January 1, 2008.

**Staff Summary of Public Testimony:** PRO: A task force met for a number of months to try to hammer out some recommendations for HVAC regulation; this bill represents one of those recommendations. If additional regulations are needed, legislators need to ask how they will benefit consumers. Most states do not regulate HVAC work, but if the state decides to regulate, the administrator approach is the less bureaucratic way to go. This bill does not create any new advisory boards. Consumers are not asking for additional regulations, so this bill is the more streamlined approach.

CON: This bill is unnecessary and doesn't address consumer protection or safety at all. This bill regulates only the person administering the work and not the person actually doing the work. That provides no protection to the consumer at all. This bill creates unnecessary regulations for contractors that already assume full liability for work they perform. The bill creates yet another administrative license for the HVAC/R industry suggesting this is the solution needed to increase public safety and consumer protection. Creating a new administrator certification program cannot occur; people in the industry already have two administrator licenses.

**Persons Testifying:** PRO: Karen Peacey, Mike Frickberg, Washington State HVAC/R Association; Bill Pinkey, Barron Heating; Harold Hays, Merit Mechanical.

CON: Tena Risley, HVAC Training Center; John Thompson, International Union of Operating Engineers (IUOE)-236; Rod Kauffman, Building Owners and Managers Association (BOMA); Pete Crow, Washington State Association of Plumbers and Pipefitters; James Burnson, WW Stationary Engineers.

**Signed in, Unable to Testify & Submitted Written Testimony:** PRO: Scott Leibowitz, All Weather HVAC/R; James Curry, Associated Builders & Contractors, Northwest Propane Gas Association; Gary Smith, Independent Business Association.

CON: Larry Stevens, Mechanical Contractors, Electrical Contractors; Heone Blyton, HVAC Training Center; Terry Swanson, Swanson Refrigeration; Mark Gjurasic, HVAC Training and BOMA; Kevin Cashmore, DuMore Home Solution.

OTHER: Jim King, North American Technical Excellence; Christian Duke, IUOE-286; David Westberg, WW Stationary Engineers.