

TO ESTABLISH LICENSING FOR HEATING, VENTILATION, AIR
CONDITIONING/REFRIGERATION CONTRACTORS.

_____ Session

Mr./Ms. _____

introduced the following, which was _____,

A BILL

TO ESTABLISH LICENSING FOR HEATING, VENTILATION, AIR
CONDITIONING/REFRIGERATION CONTRACTORS.

Be It Enacted by _____

That _____ of the _____ Code, be, and the
same is hereby amended to read as follows:

SECTION 1. SHORT TITLE.

This bill shall be known as “The Safety, Energy Efficiency and Quality in
HVAC/R Act of _____”

SECTION 2. PURPOSE.

This chapter is necessary to protect the life, property, safety and welfare of the people of _____, to improve conservation of the natural resources used to generate and consume energy, and to ensure the proper installation of all systems and/or equipment used for the purpose of all heating, cooling, air conditioning and refrigeration.

SECTION 3. DEFINITIONS. As used in this chapter,

(a) "Heating, ventilation, air conditioning/refrigeration contracting" or "HVAC/R contracting" means and includes the business, trade, practice, materials and fixtures used in the fabrication, design, construction, installation, maintenance, service, improvement, repair, extension and alteration of any and all warm air heating systems and heat pumps, complete with warm air appliances including, but not limited to, boilers, pool heaters, space heaters, gas and solid-fuel burning furnaces, and gas, propane, electric or oil-fired water heaters used to heat air; ventilating systems complete with blowers and plenum chambers; air conditioning systems complete with air conditioning units, or refrigeration units; and the ducts, registers, flues, humidity and thermostatic controls, air filters, piping, venting, appliances and appurtenances in connection with any heating, ventilation, air conditioning or refrigeration system or subsystems of such.

(b) "Heating, ventilation, air conditioning/refrigeration contractor" or "HVAC/R contractor" means any person, corporation, firm, association or partnership who, in exchange for payment or compensation in excess of \$50, contracts with customers to fabricate, design, construct, install, maintain,

service, improve, repair, extend or alter any and all warm air heating systems and heat pumps, complete with warm air appliances including, but not limited to, boilers, pool heaters, space heaters, gas and solid-fuel burning furnaces, and gas, propane, electric or oil-fired water heaters used to heat air; ventilating systems complete with blowers and plenum chambers; air conditioning systems complete with air conditioning units, or refrigeration units; and the ducts, registers, flues, humidity and thermostatic controls, air filters, piping, venting, appliances and appurtenances in connection with any heating, ventilation, air conditioning or refrigeration system or subsystems of such.

(c) "Heating, ventilation, air conditioning/refrigeration technician" or "HVAC/R technician" means any person who, in exchange for payment or compensation exceeding \$50, engages in HVAC/R contracting as an employee of a HVAC/R contractor or as a self-employed contractor or subcontractor.

(d) "Certified heating, ventilation, air conditioning/refrigeration technician" or "Certified HVAC/R technician" means any HVAC technician who is certified to perform HVAC/R contracting by the North American Technician Excellence (NATE) program or an equivalent certification program. In order to qualify, a certification program must:

i) constitute an industry certification standard, based on a uniform information base derived through industry consensus and widely recognized as a consensus standard within the HVAC/R industry,

ii) require continuing education and re-certification at reasonable intervals to ensure that certificate holders remain current with changing industry practices and technological developments, and

iii) allow any technician to apply for certification regardless of gender, race, age, length of time employed within the industry or affiliation with a specific association or labor union.

(e) "Heating, ventilation, air conditioning/refrigeration apprentice" or "HVAC/R apprentice" means any person who, as his or her principal occupation, is engaged in learning and assisting in HVAC/R contracting.

(f) "Heating, ventilation, air conditioning/refrigeration system" or "HVAC/R system" means any mechanical means of heating, venting, air conditioning, refrigeration system or subsystem, including ductwork and controls, in a residential, private, commercial, public or semipublic building or structure including.

(g) "The Board" means the HVAC/R Contractor Licensure Board which is created by this chapter to administer and enforce HVAC/R contractor licensing authorized herein.

SECTION 4. HVAC/R CONTRACTOR LICENSING PROVISIONS.

(a) No person, corporation, firm, association or partnership shall engage in business as a HVAC/R contractor for compensation, or advertise or seek to represent in any form that he or she is a licensed HVAC/R contractor, unless that person, or an officer or similarly authorized principal of such a contractor entity, possesses a valid HVAC/R Contractor License issued by the Board.

(b) Licensed HVAC/R contractors shall carry a valid license on his or her person at all times while so engaged, and shall affix his or her Contractor License number to any contract he or she executes or bids with any customer for his or her professional services and to any applicable permit required for the performance of HVAC/R contracting.

(c) Upon receipt of an application by an HVAC/R contractor applicant who demonstrates that he or she meets licensing requirements set forth in this

chapter, has successfully met any additional examination requirements or showings of proof as may be required by the Board, and has paid fees for the application and license as may be required by the Board, the Board shall issue an HVAC/R Contractor License to the applicant. The Contractor License shall specify information including the name of the person holding the license, the entity for whom the license is being held, the term of the license and that the holder is a licensed HVAC/R contractor.

(d) A licensed HVAC/R contractor must be bonded continuously for no less than three thousand dollars (\$3,000) and be prepared to provide evidence of such coverage by a corporate industry group bond acceptable to the Board at all times.

(e) A licensed HVAC/R contractor must either be a certified HVAC/R technician or employ continuously and on a full-time basis at least one (1) certified HVAC/R technician.

(f) A licensed HVAC/R contractor may employ HVAC/R apprentices and non-certified HVAC/R technicians to conduct HVAC/R contracting so long as all HVAC/R work performed by them is conducted under the direct supervision of the licensed HVAC/R contractor or a certified HVAC/R technician.

(g) Any officer or similarly authorized principal of a contractor business entity who serves as the sole holder of a HVAC/R Contractor License for the entity, or a full-time employee of a contractor business entity who serves as the sole holder of a HVAC/R Contractor License for the entity, shall represent the interests of only one (1) contractor business entity at any time. In the event that a contracting business entity's sole holder of a HVAC/R Contractor License ceases to be an officer or similarly authorized principal of a contractor business entity or to be a full-time employee, the contractor business entity shall provide written notice of the same to the Board no more than fourteen (14) days after the effective date of occurrence of the cessation. Any entity so affected shall provide written notice to

the Board specifying the licensed HVAC/R contractor who shall replace the departed licensed HVAC/R contractor, as applicable, no more than ninety (90) days after the effective date of occurrence of the cessation. The contractor business entity may continue to perform on contracts already executed at the time of the cessation.

(h) For a period not to exceed twelve (12) months after enactment of this chapter, the Board shall, without examination, upon payment of application and licensing fees that may be required by the Board, issue a HVAC/R Contractor License to any applicant who presents satisfactory evidence to the Board that he or she:

i) meets the requirements for bonding as provided in this chapter,

ii) employs continuously and on a full-time basis at least one (1) certified HVAC/R technician.

(i) Any person qualified to obtain a HVAC/R Contractor License under this chapter who is prevented from making an application pursuant to this chapter by reason of service in the armed forces of the United States during the twelve (12) month period following enactment of this chapter shall have three (3) months after discharge or release from active duty to make an application.

(j) HVAC/R Contractor Licenses shall expire twelve (12) months from the date of issue on the last day of the last month of the licensing period, unless renewed as provided in this chapter, or unless sooner revoked or suspended. Renewal of a license may be requested within sixty (60) days prior to the expiration date. Any license which has expired may be revived at any time within one (1) year from the first day of the final month of the license by payment of a fee to be determined by the Board and with proof that all outstanding fees have been paid.

(k) A resident of a single family domestic dwelling who intends to personally occupy the premises may, after approval by authorized building code authorities and upon receipt of permits otherwise required by law, perform HVAC/R work on the dwelling without first obtaining a license from the Board. The work must conform to the best installation practices of the trade as if performed by a certified HVAC/R technician. The exemption shall not apply if the dwelling is to be used as a place of business, apartment house, rental unit or is a house which is to be offered for sale within one (1) year of the commencement of the work.

(l) A person who conducts only ordinary maintenance on HVAC/R systems in the regular course of his or her full-time employment by the owner of the premises where such ordinary maintenance and repair occurs may do so without first obtaining a HVAC/R Contractor License.

(m) Any willful violation of this chapter is grounds for immediate revocation or suspension of a license by the Board.

(n) Any HVAC/R Contractor License holder whose license has been revoked may, after the expiration of one (1) year following the date of revocation, apply for a new license. The application must be accompanied with proof that all outstanding fees have been paid.

(o) All revocations, suspensions, civil fines and other penalties that may be levied by the Board are subject to appeal to the Board; results of appeals are subject to judicial review by _____ Court, which shall have the power to review or reverse the entire proceedings of any such action by the Board and to review all questions of law presented by the record.

(p) It shall be a misdemeanor for any person, firm, partnership, association or corporation by and through a member, representative or agent to conduct business as a HVAC/R contractor without a valid license or to violate any provision of this chapter or the rules issued by the Board; such a violation shall

be subject to a fine not to exceed five hundred dollars (\$500) for a first offense; subsequent offenses shall be subject to a fine not to exceed one thousand dollars (\$1,000) or to imprisonment not to exceed thirty (30) days, or both. Each day of such violation shall constitute a separate offense. A violation shall be considered a second or additional offense only if it occurs within one (1) year of the first violation. It is the duty of the office of the _____ to prosecute all entities violating any of the provisions of this chapter.

(q) Local building and related inspectors who are involved in day-to-day inspection shall be authorized to enforce this chapter and shall have authority to demand the production of the licenses required herein on any site where HVAC/R contracting is occurring, to investigate, and where appropriate, notify the Board of violations in cases where there is evidence to sustain a reasonable belief that violations have occurred.

(r) The Board has concurrent authority to enforce this chapter, and has the authority to demand the production of HVAC/R Contractor Licenses required by this chapter on any site where HVAC/R contracting is occurring, to investigate and where appropriate, and take punitive enforcement action as provided in this chapter and/or refer the information to the office of _____ for criminal prosecution.

(s) Applicants and licensed HVAC/R contractors must continue to meet all other pertinent registration and permit requirements provided in law notwithstanding their licensure status under this chapter.

SECTION 5. HVAC/R CONTRACTOR LICENSURE BOARD.

(a) The office of _____ is authorized to create the HVAC/R Contractor Licensure Board, hereinafter referred to as “the Board”.

(b) The purpose of the Board is to administer and enforce HVAC/R contractor licensing authorized by this chapter.

(c) The board shall consist of five (5) members to be appointed by the (state/county/city) _____ as follows:

(i) One member who is a HVAC/R contractor at the time of appointment, having at least five (5) years each in business as a HVAC/R contractor.

(ii) One member who has been employed as a HVAC/R technician for five 5 years.

(iii) One member who is the (state/county/city) _____ or his or her designee.

(iv) One member who is a building official or building code inspector.

(v) One public member who does not receive compensation from any interest represented in paragraphs (i) through (iv) of this section.

(d) Members shall be appointed to serve for three (3) years and their successors shall be appointed for three (3) years. A majority will constitute a quorum of the full board.

(e) On the expiration of the term of any member of the Board, the (state/county/city) _____ shall appoint for a term of three (3) years a new member having the qualifications required by this chapter to take the place of the member whose term has expired. No member may serve more than two consecutive terms.

(f) Any vacancy which occurs for any cause shall be filled by appointment by the (state/county/city) _____ for the remainder of the unexpired term.

(g) A member of board may be entitled to compensation and expenses to be determined by _____ or in accordance with _____.

(h) The board shall select one of its members as chairperson for such terms and with duties and powers necessary for the performance of the functions of such office as the board determines. The chairperson shall schedule and convene meetings of the Board.

(i) The Board shall meet at least once every three months at a place, day and hour to be determined by the Board. The Board shall also meet at other times and places specified by the call of its chairperson or of a majority of the members of the Board.

(j) The (state/county/city) _____ may remove a Board member for good cause. ' Good cause' for removal of a member includes, but is not limited to, three unexcused absences during any 12-month period from regularly scheduled Board meetings.

SECTION 6. POWERS AND DUTIES OF THE BOARD.

(a) The board is authorized to exercise such powers and duties as are reasonably necessary to carry out the provisions of this chapter. It shall, among other things:

i) Establish licensing criteria that HVAC/R contractors must meet in order to be issued a HVAC/R license in accordance with this chapter and promulgate rules and regulations administer and enforce contractor licensing. Licensing criteria may include, at the Board's discretion, an examination to be developed and administered by the Board to test whether applicants possess the requisite

skill, expertise, education, experience, training, and other qualifications to conduct professional operations as a licensed HVAC/R contractor.

ii) Hold public meetings and attend or be represented at such meetings, keep records, prepare and publish rules pertaining to this chapter, and furnish copies thereof to those engaged in HVAC/R and to the public upon request.

iii) Establish fees as it deems necessary to be charged for administering examinations, conducting investigations, issuing licenses pursuant to this chapter and to establish other fees as it deems necessary to conduct activities of the Board.

iv) Determine and implement penalties for violations of this chapter, including but not limited to revoking or suspending any license or implementing other penalties provided in this chapter, and hear appeals regarding the imposition of penalties for violations of this chapter and rules of the Board.

v) Appoint and compensate licensing inspectors to conduct investigations to ensure compliance with this chapter.

(b) At a minimum, licensing criteria shall require bonding by the applicant contractor of no less than three thousand dollars (\$3,000) or evidence of such coverage by a corporate industry group bond acceptable to the Board.

(c) At a minimum, licensing criteria shall require that a license applicant either be or employ at least one (1) certified HVAC/R technician as a full-time employee of the license applicant at the time of application.

(d) The powers and duties of the Board within the jurisdictional boundaries of local governments that have chosen to adopt and enforce mechanical codes shall be limited to those powers and duties needed to enforce the requirements governing HVAC/R contractor licensing.

(e) Except as otherwise provided, all moneys collected pursuant to this chapter are continuously appropriated to _____. The Board will arrange a division with the office of _____ to defray costs for carrying out the duties, functions and powers of the Board.

(f) The promulgation of discretionary Board policy is subject to the approval of the office of _____.
