

By: Pitts

H.B. No. 1847

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of air conditioning and refrigeration  
3 contractors; providing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1302.002, Occupations Code, is amended  
6 by adding Subdivision (11-a) to read as follows:

7 (11-a) "Executive director" means the executive director of  
8 the department.

9 SECTION 2. Section 1302.101, Occupations Code, is amended  
10 to read as follows:

11 Sec. 1302.101. GENERAL POWERS AND DUTIES OF EXECUTIVE  
12 DIRECTOR [~~COMMISSIONER~~]. [~~(a)~~] The executive director  
13 [~~commissioner~~] shall:

14 (1) adopt rules for the practice of air conditioning  
15 and refrigeration contracting that are at least as strict as the  
16 standards provided by:

17 (A) the Uniform Mechanical Code published  
18 jointly by the International Conference of Building Officials and  
19 the International Association of Plumbing and Mechanical  
20 Officials, as that code exists at the time the rules are adopted; or

21 (B) the Standard Mechanical Code published by the  
22 Southern Building Code Congress International, Inc., as that code  
23 exists at the time the rules are adopted;

24 (2) prescribe the design of an original and a renewal

1 license; and

2 (3) maintain a record of the department's  
3 ~~[commissioner's]~~ proceedings under this chapter.

4 ~~[(b) The commissioner may authorize disbursements necessary~~  
5 ~~to implement this chapter, including disbursements for office~~  
6 ~~expenses, equipment costs, and other necessary facilities.]~~

7 SECTION 3. Section 1302.102, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive  
10 director ~~[commissioner]~~ shall set insurance requirements for a  
11 license holder under this chapter.

12 (b) The executive director ~~[commissioner]~~ may waive the  
13 insurance requirements for a license holder who does not engage in  
14 air conditioning and refrigeration contracting for the public.

15 SECTION 4. Section 1302.103, Occupations Code, is amended  
16 to read as follows:

17 Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.  
18 The executive director ~~[commissioner]~~, with the advice of the  
19 advisory board, shall adopt rules relating to the use, display, and  
20 advertisement of a license.

21 SECTION 5. Section 1302.105, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1302.105. PERSONNEL; EXAMINERS. ~~[(a)]~~ The department  
24 may employ personnel necessary to administer this chapter.

25 ~~[(b) The department shall employ at least two full-time air~~  
26 ~~conditioning and refrigeration contractors to serve as examiners.]~~

27 SECTION 6. Section 1302.107(a), Occupations Code, is

1 amended to read as follows:

2 (a) The executive director [~~commissioner~~] may recognize,  
3 prepare, or administer continuing education programs for license  
4 holders.

5 SECTION 7. Section 1302.151, Occupations Code, is amended  
6 to read as follows:

7 Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The  
8 executive director [~~commissioner~~] shall prepare information of  
9 consumer interest describing:

10 (1) the functions performed by the executive director  
11 [~~commissioner~~] under this chapter; and

12 (2) the rights of a consumer affected by this chapter.

13 (b) The information must describe the procedure by which a  
14 consumer complaint is filed with and resolved by the executive  
15 director [~~commissioner~~].

16 (c) The executive director [~~commissioner~~] shall make the  
17 information available to the public.

18 SECTION 8. Section 1302.152, Occupations Code, is amended  
19 to read as follows:

20 Sec. 1302.152. COMPLAINT INVESTIGATION. (a) The executive  
21 director [~~commissioner~~] shall investigate a consumer complaint  
22 filed with the executive director [~~commissioner~~].

23 (b) The executive director [~~commissioner~~] may take  
24 appropriate action under Section 51.353 if the executive director  
25 [~~commissioner~~] determines after an investigation that a license  
26 holder violated this chapter or a rule adopted under this chapter.

27 SECTION 9. Section 1302.203, Occupations Code, is amended

1 to read as follows:

2           Sec. 1302.203. EX OFFICIO MEMBERS. The executive director  
3 serves [~~commissioner and the chief administrator of this chapter~~  
4 ~~serve~~] as an ex officio, nonvoting member [~~members~~] of the advisory  
5 board.

6           SECTION 10. Section 1302.204, Occupations Code, is amended  
7 to read as follows:

8           Sec. 1302.204. ADVISORY BOARD DUTIES. [~~(a)~~] The advisory  
9 board shall advise the executive director [~~commissioner~~] in:

- 10                   (1) adopting rules;  
11                   (2) [~~and in~~] administering and enforcing this chapter;  
12 and  
13                   (3) [~~-~~

14 [~~(b) The advisory board shall advise the commission in~~  
15 setting fees under this chapter.

16           SECTION 11. Section 1302.253(a), Occupations Code, is  
17 amended to read as follows:

18           (a) The executive director [~~commissioner~~] shall issue a  
19 Class A or Class B air conditioning and refrigeration contractor  
20 license.

21           SECTION 12. Section 1302.255, Occupations Code, is amended  
22 to read as follows:

23           Sec. 1302.255. ELIGIBILITY REQUIREMENTS. (a) An applicant  
24 for a license under this chapter must:

- 25                   (1) be at least 18 years old; and  
26                   (2) have at least 36 months of practical experience in  
27 the field of air conditioning and refrigeration [~~with the tools of~~

1 ~~the trade~~] in the preceding five years.

2 (b) For purposes of determining an applicant's practical  
3 experience under Subsection (a)(2), a degree or diploma in air  
4 conditioning engineering, refrigeration engineering, or mechanical  
5 engineering is equivalent to two years of practical experience if[+

6 [~~(1)~~] the degree or diploma is from an institution of  
7 higher education[~~+~~ and

8 [~~(2) the institution's program is approved by the~~  
9 ~~Texas Board of Professional Engineers for the purpose of licensing~~  
10 ~~engineers~~].

11 SECTION 13. Sections 1302.256(a) and (c), Occupations Code,  
12 are amended to read as follows:

13 (a) An applicant for a license must submit an [~~a verified~~]  
14 application on a form prescribed by the executive director  
15 [~~commissioner~~].

16 (c) The application must be accompanied by:

17 (1) a statement containing evidence satisfactory to  
18 the executive director [~~commissioner~~] of the applicant's practical  
19 experience required by Section 1302.255(a)(2); and

20 (2) the examination fee.

21 SECTION 14. Section 1302.257, Occupations Code, is amended  
22 to read as follows:

23 Sec. 1302.257. EXAMINATIONS. (a) The executive director  
24 [~~commissioner~~] shall prescribe:

25 (1) a separate examination for each class of license;  
26 and

27 (2) within each class of license, a separate

1 examination for:

2 (A) an environmental air conditioning  
3 endorsement; and

4 (B) a commercial refrigeration and process  
5 cooling or heating endorsement.

6 (b) The executive director [~~commissioner~~] shall prescribe  
7 the method and content of an examination administered under this  
8 chapter and shall set compliance requirements for the examination.  
9 To obtain an endorsement, an applicant must pass the examination  
10 for the endorsement.

11 (c) The examination shall be offered on a monthly basis or  
12 more frequently as determined by the executive director  
13 [~~commissioner~~].

14 (d) The examination shall be offered at locations within the  
15 state as determined by the executive director [~~commissioner~~]. The  
16 examination may be offered by computer at locations within the  
17 state as determined by the executive director [~~commissioner~~].

18 SECTION 15. Sections 1302.258(a), (b), and (c), Occupations  
19 Code, are amended to read as follows:

20 (a) The executive director [~~commissioner~~] shall notify each  
21 examinee of the results of an examination not later than the 30th  
22 day after the date the examination is administered. If an  
23 examination is graded or reviewed by a national testing service,  
24 the executive director [~~commissioner~~] shall notify each examinee of  
25 the results of the examination not later than the 14th day after the  
26 date the executive director [~~commissioner~~] receives the results  
27 from the testing service.

1 (b) If the notice of the results of an examination graded or  
2 reviewed by a national testing service will be delayed for more than  
3 90 days after the examination date, the executive director  
4 [~~commissioner~~] shall notify each examinee of the reason for the  
5 delay before the 90th day.

6 (c) If requested in writing by a person who fails the  
7 examination, the executive director [~~commissioner~~] shall provide  
8 to the person an analysis of the person's performance on the  
9 examination.

10 SECTION 16. Section 1302.259, Occupations Code, is amended  
11 to read as follows:

12 Sec. 1302.259. WAIVER OF LICENSE REQUIREMENT. The  
13 executive director [~~commissioner~~] may waive any license  
14 requirement for an applicant who holds a license issued by another  
15 state that has a reciprocity agreement with this state.

16 SECTION 17. Section 1302.260(a), Occupations Code, is  
17 amended to read as follows:

18 (a) On payment of the license fee, the executive director  
19 [~~commissioner~~] shall issue an air conditioning and refrigeration  
20 contractor license to an applicant who:

21 (1) meets the requirements of this subchapter;

22 (2) provides evidence of insurance coverage required  
23 by the executive director [~~commissioner~~] in accordance with this  
24 chapter; and

25 (3) passes the applicable examination.

26 SECTION 18. Section 1302.261, Occupations Code, is amended  
27 to read as follows:

1           Sec. 1302.261. TEMPORARY LICENSE. The executive director  
2 [~~commissioner~~] by rule may provide for the issuance of a temporary  
3 air conditioning and refrigeration contracting license to an  
4 applicant who:

5           (1) submits to the executive director [~~commissioner~~]  
6 an application on a form prescribed by the executive director  
7 [~~commissioner~~]; and

8           (2) pays the required fees.

9           SECTION 19. Section 1302.262(a), Occupations Code, is  
10 amended to read as follows:

11           (a) A person who obtains a license under this subchapter  
12 shall provide a notice to the municipal authority that enforces air  
13 conditioning and refrigeration contracting regulations in each  
14 [~~the~~] municipality in which the person engages in air conditioning  
15 and refrigeration contracting.

16           SECTION 20. Section 1302.303(b), Occupations Code, is  
17 amended to read as follows:

18           (b) The municipality shall report a violation of the  
19 ordinance to the executive director [~~commissioner~~] not later than  
20 the 10th day after the date the municipality acts to enforce the  
21 ordinance.

22           SECTION 21. Section 1302.354(b), Occupations Code, is  
23 amended to read as follows:

24           (b) The executive director [~~commissioner~~] by rule shall  
25 adopt requirements governing the registration and issuance of a  
26 certificate of registration.

27           SECTION 22. Section 1302.355(c), Occupations Code, is



1 amended to read as follows:

2 (c) The executive director [~~commissioner~~] by rule shall  
3 establish requirements for evidence that satisfies this section.

4 SECTION 23. Section 1302.401(a), Occupations Code, is  
5 amended to read as follows:

6 (a) A person is subject to the denial of an application,  
7 [~~or~~] disciplinary action under Section 51.353, or the imposition of  
8 an administrative penalty under Subchapter F, Chapter 51, if the  
9 person:

10 (1) violates this chapter or a rule adopted under this  
11 chapter; or

12 (2) is convicted of an offense under a municipal  
13 ordinance adopted under Section 1302.303.

14 SECTION 24. Section 1302.451, Occupations Code, is amended  
15 to read as follows:

16 Sec. 1302.451. EMERGENCY ORDERS; [~~AND~~] CEASE AND DESIST  
17 ORDERS. (a) The executive director [~~commissioner~~] may issue an  
18 emergency order as necessary to enforce this chapter if the  
19 executive director [~~commissioner~~] determines from evidence  
20 presented to the executive director that an emergency exists that  
21 constitutes a clear, imminent, or continuing threat to a person's  
22 physical health or well-being [~~requiring immediate action to~~  
23 ~~protect the public health and safety~~].

24 (b) The executive director [~~commissioner~~] may issue the  
25 emergency order without notice and hearing or with any notice and  
26 hearing the executive director [~~commissioner~~] considers  
27 practicable under the circumstances. The executive director

1 ~~[commissioner]~~ shall set the time and place for a hearing to affirm,  
2 modify, or set aside an emergency order that was issued without a  
3 hearing. The hearing must be scheduled for a date not later than  
4 the 15th day after the date on which the emergency order is issued.

5 (c) The executive director ~~[commissioner]~~ may issue a cease  
6 and desist order.

7 SECTION 25. Section 1302.453(b), Occupations Code, is  
8 amended to read as follows:

9 (b) An offense under this section is a Class A ~~[C]~~  
10 misdemeanor.

11 SECTION 26. Section 1302.002(8), Occupations Code, is  
12 repealed.

13 SECTION 27. (a) The change in law made to Section 1302.453,  
14 Occupations Code, by this Act applies only to the punishment for an  
15 offense committed on or after the effective date of this Act. For  
16 purposes of this section, an offense is committed before the  
17 effective date of this Act if any element of the offense occurs  
18 before the effective date.

19 (b) An offense committed before the effective date of this  
20 Act is governed by the law in effect on the date that the offense was  
21 committed, and this former law is continued in effect for this  
22 purpose.

23 SECTION 28. Section 1302.255, Occupations Code, as amended  
24 by this Act, applies only to a license application filed with the  
25 Texas Department of Licensing and Regulation on or after the  
26 effective date of this Act.

27 SECTION 29. This Act takes effect September 1, 2003.