

BILL ANALYSIS

C.S.H.B. 1020
By: Hamilton
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texans are not protected to the fullest extent possible from fire -related tragedies. C.S.H.B. 1020 will ensure not only that the companies who provide fire protection sprinkler systems are properly licensed, but that all of their employees are also properly trained and educated to install, repair, inspect and maintain these systems. This not only protects patrons but also gives fire fighters a sense of safety when entering a burning building that a sprinkler system has been installed by licensed individual.

C.S.H.B. 1020 requires the State Board of Insurance to provide a specialized licensing or registration program for fire protection sprinkler system journeymen and apprentices, and require continuing education courses for journeymen and apprentices. C.S.H.B. 1020 provides for civil penalties for violators of this Article.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Insurance and the state fire marshal in SECTION 11 (Article 5.43-3, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 5.43-3, Insurance Code, by amending Subdivisions (11) and (12) and adding Subdivisions (15) and (16), as follows:

(11) Redefines "Certificate of registration".

(12) Redefines "License".

(15) Defines "Fire protection sprinkler system apprentice".

(16) Defines "Fire protection sprinkler system journeyman".

SECTION 2. Amends Section 2(b), Article 5.43-3, Insurance Code, by providing that this section does not apply to the plan, sale, installation, maintenance, or servicing of a fire protection sprinkler system in a county with a population of less than 50,000 or in a one- or two-family dwelling.

SECTION 3. Amends Section 3(a), Article 5.43-3, Insurance Code, by requiring the board to administer this article and authorizing the board to issue rules necessary to its administration through the State Fire Marshal. Requires the board, rather than authorizes, under rules adopted under this subsection, to operate a specialized licensing or registration program for fire protection sprinkler system contractors and for journeyman and apprentices of those contractors.

SECTION 4. Amends Section 4, Article 5.43-3, Insurance Code, by adding Subsections (c-1), (c-2), and (d-1) and amending Subsection (d), as follows:

(c-1) Requires that any employee of a fire protection sprinkler system contractor who installs, alters, maintains, services, or inspects a fire protection sprinkler system and who has at least 8,000 hours of documented experience as an employee or apprentice to obtain a journeyman

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license. Requires the board to issue the license on successful completion of the examination requirements and other requirements prescribed under this article. Requires each applicant for a journeyman license to submit with the application a nonrefundable examination fee not to exceed \$30.

(c-2) Requires each employee of a fire protection sprinkler system contractor who installs, alters, maintains, services, or inspects fire protection sprinkler systems and who has less than 8,000 hours of experience as an employee register with the board as an apprentice. Requires applicants to be enrolled in a certified apprenticeship program, meet the requirements prescribed by the rules adopted under this article, and submit a nonrefundable registration fee not to exceed \$15.

(d) Provides that contractor certificates of registration and managing employee licenses are valid for one year from the date of issuance and renewable upon payment of the renewal fee. Strikes language providing for prorated fees for certificates and licenses issued after September 1, 1983 for periods of less than one year.

(d-1) Provides that journeyman licenses and apprentice certificates of registration are valid for one year from the date of issuance and renewable on the anniversary of the date of issuance on payment of the applicable renewal fee. The renewal fee for a journeyman license is \$30. The renewal fee for an apprentice certificate of registration is \$15.

SECTION 5. Amends Sections 5(a) and (c), Article 5.43-3, Insurance Code, as follows:

(a) Prohibits the board from issuing a contractor certificate of registration under this article unless the applicant files with the board evidence of a general liability insurance policy that includes products and completed operations coverage. Requires the certain limits of insurance coverage.

(b) Provides that failure to maintain liability insurance constitutes grounds for denial, suspension, or revocation of a contractor certificate of registration after notice and opportunity for hearing.

SECTION 6. Amends Section 5A(a), Article 5.43-3, Insurance Code, providing that each renewal license or certificate of registration is valid for period of one year. Provides that the managing employee license fee or contractor registration fee is payable on renewal.

SECTION 7. Amends Section 5B, Article 5.43-3, Insurance Code, by adding Subsection (f), as follows:

(f) Prohibits a person who fails the examination for a fire protection sprinkler system journeyman license from retaking the examination before the 90th day after the date of the initial examination.

SECTION 8. Amends Section 5C, Article 5.43-3, Insurance Code, as follows:

(a) Provides that, except as provided by Subsection (b) of this section, the board is authorized to adopt procedures for certifying and is authorized to certify continuing education programs.

(b) Requires the board adopt procedures for and engage in certifying continuing education programs for fire protection sprinkler system journeymen. Requires that journeymen or apprentice complete six hours of continuing education courses on the laws and codes governing fire protection sprinkler systems to be eligible to renew a license or certificate of registration.

(c) Requires the board to approve individuals, business entities, or associations to provide continuing education courses. Requires a course provider to offer classroom and correspondence instruction for each course offered as part of a continuing education program for renewal of a license or certificate of registration under this chapter.

(d) Requires the board periodically publish a list of approved subjects for continuing education courses.

(e) Requires a course provider to provide uniquely numbered certificates and notify the board within 48 hours of a license or certificate holder's course completion.

(f) Requires the board to annually review the operation of each course provider to ensure that continuing education programs are provided equitably across the state.

SECTION 9. Amends Section 8, Article 5.43-3, Insurance Code, as follows:

Sec. 8. PROHIBITED ACTS. Prohibits a person or organization from:

(1) Plan, sell, install, maintain, or service a fire protection sprinkler system without a valid certificate of registration as a fire protection sprinkler system contractor.

(2) Makes no changes to this Subsection.

(3) Act as a responsible managing employee, journeyman, or apprentice for a fire protection sprinkler system contractor without a valid license or certificate of registration, as applicable.

(4) Makes no changes to this Subsection.

(5) Makes no changes to this Subsection.

(6) Refusing to display a license or certificate of registration on request or fail to carry the license or certificate or registration while engage is an activity regulated under this article.

(7) Entering into an agreement for the use of the person's license or certificate of registration with another person who is violating this article or is found to have violated this article or whose license or certificate is currently suspended or has been revoked in the preceding year.

SECTION 10. Amends Article 5.43-3, Insurance Code, by adding Section 10A, as follows:

Sec. 10A. CIVIL PENALTY. (a) Provides that a person who violates Section 8 of this article is liable for a civil penalty not to exceed \$5,000 for each violation. Provides that each day a violation occurs constitutes a separate violation.

(b) Requires the court, in determining the amount of the civil penalty, to consider the seriousness of the violation, including certain circumstances listed.

(c) Authorizes the attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action authorized by this section in a district court of Travis County or of a county in which any part of the violation occurs.

(d) Requires a penalty collected by the attorney general to be deposited to the credit of the general revenue fund. Requires a penalty collected by a district or county attorney to be deposited to the credit of the general fund of the county in which the suit was heard.

SECTION 11. (a) Requires the Texas Department of Insurance and the state fire marshal to adopt rules and establish the procedures and examination requirements necessary to implement the licensing of fire protection sprinkler system journeymen and the registration of fire protection sprinkler system journeymen and the registration of fire protection sprinkler system apprentices under Article 5.43-3, Insurance Code, as amended by this Act.

(b) Provides that a fire protection sprinkler system journeyman is not required to hold a license under this Act, before July 1, 2006.

(c) Provides that a fire protection sprinkler system apprentice is not required to hold a license under this Act, before July 1, 2006.

(d) Provides that a fire protection sprinkler system employee who has at least 8,000 hours of experience on the effective date of this Act who applies for a fire protection sprinkler system

journeyman license within six months of the effective date of this Act is not required to pass a license examination under this Act, to receive a journeyman license.

SECTION 12. (a) Provides that a change in law made by Section 10A, Article 5.43-3, Insurance Code, as added by this Act applies only to conduct occurring on or after the effective date of this Act.

(b) Provides that conduct occurring before the effective date of this Act is covered by the law in effect when the conduct occurred.

SECTION 13. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

EFFECTIVE DATE

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1020 modifies the original by providing that this section does not apply to the plan, sale, installation, maintenance, or servicing of a fire protection sprinkler system in a county with a population of less than 50,000 or in a one- or two-family dwelling.