

By: Hamilton

H.B. No. 1020

Substitute the following for H.B. No. 1020:

By: Goolsby

C.S.H.B. No. 1020

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the regulation of certain fire protection sprinkler  
3 system journeymen and apprentices; providing a civil penalty.

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

5 SECTION 1. Section 1, Article 5.43-3, Insurance Code, is  
6 amended by amending Subdivisions (11) and (12) and adding  
7 Subdivisions (15) and (16) to read as follows:

8 (11) "Certificate of registration" means the document  
9 issued to:

10 (A) a fire protection sprinkler system  
11 contractor authorizing the contractor [~~same~~] to conduct business in  
12 this state; or

13 (B) an apprentice authorizing the apprentice to  
14 install, alter, maintain, service, or inspect fire protection  
15 sprinkler systems as an employee of a fire protection sprinkler  
16 system contractor.

17 (12) "License" means the document issued to a  
18 responsible managing employee or a fire protection sprinkler system  
19 contractor employee authorizing that employee [~~same~~] to engage in  
20 the fire protection sprinkler system business in this state.

21 (15) "Fire protection sprinkler system apprentice"  
22 means a person who:

23 (A) installs, alters, maintains, services, or  
24 inspects a fire protection sprinkler system or any part of the

1 system as an employee of a fire protection sprinkler system  
2 contractor; and

3 (B) has less than 8,000 hours of experience as an  
4 employee of a contractor.

5 (16) "Fire protection sprinkler system journeyman"  
6 means a person who:

7 (A) installs, alters, maintains, services, or  
8 inspects a fire protection sprinkler system or any part of the  
9 system as an employee of a fire protection sprinkler system  
10 contractor; and

11 (B) has at least 8,000 hours of experience as an  
12 employee of a contractor.

13 SECTION 2. Section 2(b), Article 5.43-3, Insurance Code, is  
14 amended to read as follows:

15 (b) This article does not apply to:

16 (1) an employee of the United States, this state, or  
17 any political subdivision of this state who acts as a fire  
18 protection sprinkler system contractor for the employing  
19 governmental entity;

20 (2) the plan, sale, installation, maintenance, or  
21 servicing of a fire protection sprinkler system in any property  
22 owned by the United States or this state;

23 (3) a person or organization acting under court order  
24 as authorization;

25 (4) a person or organization that sells or supplies  
26 products or materials to a registered fire protection sprinkler  
27 system contractor;

1           (5) an installation, maintenance, or service project  
2 for which the total contract price for labor, materials, and all  
3 other services is less than \$100, if:

4           (A) the project is not a part of a complete or  
5 more costly project, whether the complete project is to be  
6 undertaken by one or more fire protection sprinkler system  
7 contractors; or

8           (B) the project is not divided into contracts of  
9 less than \$100 for the purpose of evading this article;

10          (6) a registered professional engineer acting solely  
11 in such professional capacity;

12          (7) a regular employee of a registered fire protection  
13 sprinkler system contractor; ~~[or]~~

14          (8) an owner or lessee of property that installs a fire  
15 protection sprinkler system on the owned or leased property for its  
16 own use or for the use by family members and does not offer such  
17 property for sale or lease within one year after installation of a  
18 fire protection sprinkler system;

19          (9) the plan, sale, installation, maintenance, or  
20 servicing of a fire protection sprinkler system in a county with a  
21 population of less than 50,000; or

22          (10) the plan, sale, installation, maintenance, or  
23 servicing of a fire protection sprinkler system in a one- or  
24 two-family dwelling.

25          SECTION 3. Section 3(a), Article 5.43-3, Insurance Code, is  
26 amended to read as follows:

27          (a) The board shall administer this article and may issue

1 rules necessary to its administration through the State Fire  
2 Marshal. Under rules adopted under this subsection, the board  
3 shall operate [~~may create~~] a specialized licensing or registration  
4 program for fire protection sprinkler system contractors and for  
5 journeymen and apprentices of those contractors.

6 SECTION 4. Section 4, Article 5.43-3, Insurance Code, is  
7 amended by adding Subsections (c-1), (c-2), and (d-1) and amending  
8 Subsection (d) to read as follows:

9 (c-1) Each employee of a fire protection sprinkler system  
10 contractor who installs, alters, maintains, services, or inspects a  
11 fire protection sprinkler system and who has at least 8,000 hours of  
12 documented experience as a fire protection sprinkler system  
13 employee or apprentice shall obtain a journeyman license. The  
14 board shall issue the license conditioned on the successful  
15 completion of the examination requirement and other requirements  
16 prescribed by the rules adopted under this article. Each applicant  
17 for a journeyman license must submit with the application a  
18 nonrefundable examination fee in an amount not to exceed \$30.

19 (c-2) Each employee of a fire protection sprinkler system  
20 contractor who installs, alters, maintains, services, or inspects  
21 fire protection sprinkler systems and who has less than 8,000 hours  
22 of experience as an employee of a fire protection sprinkler system  
23 contractor must register with the board as an apprentice. To be  
24 eligible for registration, the applicant must:

25 (1) be enrolled in an apprenticeship program certified  
26 by this state or the United States;

27 (2) meet other requirements prescribed by the rules

1 adopted under this article; and

2 (3) submit a nonrefundable registration fee in an  
3 amount not to exceed \$15.

4 (d) An initial contractor [A] certificate of registration  
5 and an initial managing employee [a] license are valid for a period  
6 of one year from the date of issuance [~~issue~~] and are renewable  
7 [~~annually~~] on payment of the renewal [~~annual~~] fee [~~, provided,~~  
8 ~~however, that the initial certificates of registration or licenses~~  
9 ~~issued on or after September 1, 1983, may be issued for periods of~~  
10 ~~less than one year and the annual fee shall be prorated~~  
11 ~~proportionally~~].

12 (d-1) A journeyman license and an apprentice certificate of  
13 registration are valid for one year from the date of issuance and  
14 are renewable on the anniversary of the date of issuance on payment  
15 of the applicable renewal fee. The renewal fee for a journeyman  
16 license is \$30. The renewal fee for an apprentice certificate of  
17 registration is \$15.

18 SECTION 5. Sections 5(a) and (c), Article 5.43-3, Insurance  
19 Code, are amended to read as follows:

20 (a) The board shall not issue a contractor certificate of  
21 registration under this article unless the applicant files with the  
22 board evidence of a general liability insurance policy that  
23 includes products and completed operations coverage. The limits of  
24 insurance coverage required by this section shall be in an amount  
25 not less than \$100,000 combined single limits for bodily injury and  
26 property damage for each occurrence and not less than \$300,000  
27 aggregate for all occurrences per policy year, unless the board

1 increases or decreases the amounts under Section 7 of this article.  
2 The policy shall be conditioned to pay on behalf of the insured  
3 those amounts that the insured is legally obligated to pay as  
4 damages because of bodily injury and property damage caused by an  
5 occurrence involving the insured or the insured's servant, officer,  
6 agent, or employee in the conduct of any business registered under  
7 this article.

8 (c) Failure to maintain liability insurance required under  
9 this section constitutes grounds for the denial, suspension, or  
10 revocation of a contractor certificate of registration issued under  
11 this article after notice and opportunity for hearing.

12 SECTION 6. Section 5A(a), Article 5.43-3, Insurance Code,  
13 is amended to read as follows:

14 (a) Each renewal of a license or certificate of registration  
15 issued under this article is valid for a period of one year [~~two~~  
16 ~~years~~]. The managing employee license fee or contractor  
17 registration fee [~~for each year of the two-year period~~] is payable  
18 on renewal.

19 SECTION 7. Section 5B, Article 5.43-3, Insurance Code, is  
20 amended by adding Subsection (f) to read as follows:

21 (f) A person who fails the examination for a fire protection  
22 sprinkler system journeyman license may not retake the examination  
23 before the 90th day after the date of the initial examination.

24 SECTION 8. Section 5C, Article 5.43-3, Insurance Code, is  
25 amended to read as follows:

26 Sec. 5C. CONTINUING EDUCATION. (a) Except as provided by  
27 Subsection (b) of this section, the [~~The~~] board may adopt

1 procedures for certifying and may certify continuing education  
2 programs. Participation in the programs is voluntary.

3 (b) The board shall adopt procedures for certifying and  
4 shall certify continuing education programs for fire protection  
5 sprinkler system journeymen. A journeyman or an apprentice must  
6 successfully complete six hours of continuing education courses on  
7 the laws and codes governing fire protection sprinkler systems to  
8 be eligible to renew a license or certificate of registration under  
9 this article.

10 (c) The board annually shall approve individuals, business  
11 entities, or associations to provide continuing education courses.  
12 A course provider must offer classroom and correspondence  
13 instruction for each course offered as part of a continuing  
14 education program for renewal of a license or certificate of  
15 registration under this chapter.

16 (d) The board shall periodically publish a list of approved  
17 subjects for continuing education courses.

18 (e) A course provider shall:

19 (1) provide a uniquely numbered certificate of  
20 completion to a license or certificate holder only on completion of  
21 a continuing education course by the person; and

22 (2) notify the board, in an electronic format approved  
23 by the board, of a license or certificate holder's completion of a  
24 course within 48 hours of the time of completion.

25 (f) The board shall annually review the operation of each  
26 course provider to ensure that continuing education programs are  
27 provided equitably across this state.

1 SECTION 9. Section 8, Article 5.43-3, Insurance Code, is  
2 amended to read as follows:

3 Sec. 8. PROHIBITED ACTS. A person or organization may not:

4 (1) plan, sell, install, maintain, or service a fire  
5 protection sprinkler system without a valid certificate of  
6 registration as a fire protection sprinkler system contractor;

7 (2) act as a fire protection sprinkler system  
8 contractor under a certificate of registration without having at  
9 least one full-time employee who holds a valid responsible managing  
10 employee license; provided, however, that a person or organization  
11 with a current certificate of registration may act as a fire  
12 protection sprinkler system contractor for 30 days after the death  
13 or dissociation of its licensed responsible managing employee or  
14 for such longer period as may be approved by the board pursuant to  
15 the rules adopted hereunder;

16 (3) act as a responsible managing employee,  
17 journeyman, or apprentice for a fire protection sprinkler system  
18 contractor without a valid license or certificate of registration,  
19 as applicable;

20 (4) obtain or attempt to obtain a certificate of  
21 registration or license by fraudulent representation; [~~or~~]

22 (5) plan, sell, install, maintain, or service a fire  
23 protection sprinkler system in violation of this article or the  
24 rules adopted under this article;

25 (6) refuse to display a license or certificate of  
26 registration on request or fail to carry the license or certificate  
27 of registration while engaged in an activity regulated under this

1 article; or

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

7 SECTION 10. Article 5.43-3, Insurance Code, is amended by  
8 adding Section 10A to read as follows:

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

13 (b) In determining the amount of the civil penalty, the  
14 court shall consider the seriousness of the violation, including:

15 (1) the nature, circumstances, extent, and gravity of  
16 a prohibited act;

17 (2) the hazard or potential hazard to the health,  
18 safety, or economic welfare of the public created by the violation;

19 (3) the economic harm to property or the environment  
20 caused by the violation;

21 (4) the history of previous violations;

22 (5) the amount necessary to deter future violations;

23 (6) efforts made to correct the violation; and

24 (7) any other matter that justice may require.

25 (c) The attorney general or the appropriate district or  
26 county attorney, in the name of the state, may institute and conduct  
27 an action authorized by this section in a district court of Travis

1 County or of a county in which any part of the violation occurs.

2 (d) A penalty collected under this section by the attorney  
3 general shall be deposited to the credit of the general revenue  
4 fund. A penalty collected under this section by a district or  
5 county attorney shall be deposited to the credit of the general fund  
6 of the county in which the suit was heard.

7 SECTION 11. (a) Not later than January 1, 2006, the Texas  
8 Department of Insurance and the state fire marshal shall adopt  
9 rules and establish the procedures and examination requirements  
10 necessary to implement the licensing of fire protection sprinkler  
11 system journeymen and the registration of fire protection sprinkler  
12 system apprentices under Article 5.43-3, Insurance Code, as amended  
13 by this Act.

14 (b) A fire protection sprinkler system journeyman is not  
15 required to hold a license under Article 5.43-3, Insurance Code, as  
16 amended by this Act, before July 1, 2006.

17 (c) A fire protection sprinkler system apprentice is not  
18 required to register under Article 5.43-3, Insurance Code, as  
19 amended by this Act, before July 1, 2006.

20 (d) A fire protection sprinkler system employee who has at  
21 least 8,000 hours of experience on the effective date of this Act  
22 and who applies for a fire protection sprinkler system journeyman  
23 license within six months of the effective date of this Act is not  
24 required to pass a license examination under Article 5.43-3,  
25 Insurance Code, as amended by this Act, to receive a journeyman  
26 license.

27 SECTION 12. (a) The change in law made by Section 10A,

1 Article 5.43-3, Insurance Code, as added by this Act applies only to  
2 conduct occurring on or after the effective date of this Act.

3 (b) Conduct occurring before the effective date of this Act  
4 is covered by the law in effect when the conduct occurred, and the  
5 former law is continued in effect for that purpose.

6 SECTION 13. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2005.