

By: Hamilton

H.B. No. 1020

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain fire protection sprinkler system journeymen and apprentices.

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

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

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

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

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

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

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

(A) installs, alters, maintains, services, or 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 3(a), Article 5.43-3, Insurance Code, is
14 amended to read as follows:

15 (a) The board shall administer this article and may issue
16 rules necessary to its administration through the State Fire
17 Marshal. Under rules adopted under this subsection, the board
18 shall operate [~~may create~~] a specialized licensing or registration
19 program for fire protection sprinkler system contractors and for
20 journeymen and apprentices of those contractors.

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

24 (c-1) Each employee of a fire protection sprinkler system
25 contractor who installs, alters, maintains, services, or inspects a
26 fire protection sprinkler system and who has at least 8,000 hours of
27 documented experience as a fire protection sprinkler system

1 employee or apprentice shall obtain a journeyman license. The
2 board shall issue the license conditioned on the successful
3 completion of the examination requirement and other requirements
4 prescribed by the rules adopted under this article. Each applicant
5 for a journeyman license must submit with the application a
6 nonrefundable examination fee in an amount not to exceed \$30.

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

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

15 (2) meet other requirements prescribed by the rules
16 adopted under this article; and

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

19 (d) An initial contractor [A] certificate of registration
20 and an initial managing employee [a] license are valid for a period
21 of one year from the date of issuance [issue] and are renewable
22 [annually] on payment of the renewal [annual] fee[, provided,
23 however, that the initial certificates of registration or licenses
24 issued on or after September 1, 1983, may be issued for periods of
25 less than one year and the annual fee shall be prorated
26 proportionally].

27 (d-1) A journeyman license and an apprentice certificate of

1 registration are valid for one year from the date of issuance and
2 are renewable on the anniversary of the date of issuance on payment
3 of the applicable renewal fee. The renewal fee for a journeyman
4 license is \$30. The renewal fee for an apprentice certificate of
5 registration is \$15.

6 SECTION 4. Sections 5(a) and (c), Article 5.43-3, Insurance
7 Code, are amended to read as follows:

8 (a) The board shall not issue a contractor certificate of
9 registration under this article unless the applicant files with the
10 board evidence of a general liability insurance policy that
11 includes products and completed operations coverage. The limits of
12 insurance coverage required by this section shall be in an amount
13 not less than \$100,000 combined single limits for bodily injury and
14 property damage for each occurrence and not less than \$300,000
15 aggregate for all occurrences per policy year, unless the board
16 increases or decreases the amounts under Section 7 of this article.
17 The policy shall be conditioned to pay on behalf of the insured
18 those amounts that the insured is legally obligated to pay as
19 damages because of bodily injury and property damage caused by an
20 occurrence involving the insured or the insured's servant, officer,
21 agent, or employee in the conduct of any business registered under
22 this article.

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

27 SECTION 5. Section 5A(a), Article 5.43-3, Insurance Code,

1 is amended to read as follows:

2 (a) Each renewal of a license or certificate of registration
3 issued under this article is valid for a period of one year [~~two~~
4 ~~years~~]. The managing employee license fee or contractor
5 registration fee [~~for each year of the two-year period~~] is payable
6 on renewal.

7 SECTION 6. Section 5B, Article 5.43-3, Insurance Code, is
8 amended by adding Subsection (f) to read as follows:

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

12 SECTION 7. Section 5C, Article 5.43-3, Insurance Code, is
13 amended to read as follows:

14 Sec. 5C. CONTINUING EDUCATION. (a) Except as provided by
15 Subsection (b) of this section, the [~~The~~] board may adopt
16 procedures for certifying and may certify continuing education
17 programs. Participation in the programs is voluntary.

18 (b) The board shall adopt procedures for certifying and
19 shall certify continuing education programs for fire protection
20 sprinkler system journeymen. A journeyman or an apprentice must
21 successfully complete six hours of continuing education courses on
22 the laws and codes governing fire protection sprinkler systems to
23 be eligible to renew a license or certificate of registration under
24 this article.

25 (c) The board annually shall approve individuals, business
26 entities, or associations to provide continuing education courses.
27 A course provider must offer classroom and correspondence

1 instruction for each course offered as part of a continuing
2 education program for renewal of a license or certificate of
3 registration under this chapter.

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

6 (e) A course provider shall:

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

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

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

16 SECTION 8. Section 8, Article 5.43-3, Insurance Code, is
17 amended to read as follows:

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

19 (1) plan, sell, install, maintain, or service a fire
20 protection sprinkler system without a valid certificate of
21 registration as a fire protection sprinkler system contractor;

22 (2) act as a fire protection sprinkler system
23 contractor under a certificate of registration without having at
24 least one full-time employee who holds a valid responsible managing
25 employee license; provided, however, that a person or organization
26 with a current certificate of registration may act as a fire
27 protection sprinkler system contractor for 30 days after the death

1 or dissociation of its licensed responsible managing employee or
2 for such longer period as may be approved by the board pursuant to
3 the rules adopted hereunder;

4 (3) act as a responsible managing employee,
5 journeyman, or apprentice for a fire protection sprinkler system
6 contractor without a valid license or certificate of registration,
7 as applicable;

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

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

13 (6) refuse to display a license or certificate of
14 registration on request or fail to carry the license or certificate
15 of registration while engaged in an activity regulated under this
16 article; or

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

22 SECTION 9. Article 5.43-3, Insurance Code, is amended by
23 adding Section 10A to read as follows:

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

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

3 (1) the nature, circumstances, extent, and gravity of
4 a prohibited act;

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

7 (3) the economic harm to property or the environment
8 caused by the violation;

9 (4) the history of previous violations;

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

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

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

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

17 (d) A penalty collected under this section by the attorney
18 general shall be deposited to the credit of the general revenue
19 fund. A penalty collected under this section by a district or
20 county attorney shall be deposited to the credit of the general fund
21 of the county in which the suit was heard.

22 SECTION 10. (a) Not later than January 1, 2006, the Texas
23 Department of Insurance and the state fire marshal shall adopt
24 rules and establish the procedures and examination requirements
25 necessary to implement the licensing of fire protection sprinkler
26 system journeymen and the registration of fire protection sprinkler
27 system apprentices under Article 5.43-3, Insurance Code, as amended

1 by this Act.

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

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

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

15 SECTION 11. (a) The change in law made by Section 10A,
16 Article 5.43-3, Insurance Code, as added by this Act applies only to
17 conduct occurring on or after the effective date of this Act.

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

21 SECTION 12. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2005.