

By: Carona
(Hamilton)

S.B. No. 1244

Substitute the following for S.B. No. 1244:

By: Kuempel

C.S.S.B. No. 1244

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing and regulation of air conditioning and
3 refrigeration contractors and contracting companies; providing
4 penalties.

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

6 SECTION 1. Section 1302.002, Occupations Code, is amended
7 by amending Subdivision (5-b) and adding Subdivision (5-c) to read
8 as follows:

9 (5-b) "Apprenticeship program" means an air
10 conditioning and refrigeration training program that is:

11 (A) recognized by the Texas Workforce Commission
12 or the Texas Higher Education Coordinating Board;

13 (B) registered with the United States Department
14 of Labor; or

15 (C) a competency-based standardized craft
16 training program that meets the standards of the United States
17 Department of Labor Office of Apprenticeship.

18 (5-c) "Certified technician" means a registered
19 technician who has completed a certification examination.

20 SECTION 2. Subchapter C, Chapter 1302, Occupations Code, is
21 amended by adding Section 1302.1011 to read as follows:

22 Sec. 1302.1011. RULES. The commission shall adopt rules:

23 (1) providing for the licensing and registration of
24 persons under this chapter, including requirements for the issuance

1 and renewal of a contractor license and a technician registration;
2 (2) establishing fees necessary for the
3 administration of this chapter, including fees for issuance and
4 renewal of a contractor license and a technician registration; and
5 (3) implementing the requirements of this chapter as
6 applicable to persons, entities, and activities regulated under
7 this chapter.

8 SECTION 3. Subsection (a), Section 1302.102, Occupations
9 Code, is amended to read as follows:

10 (a) The commission by rule [~~executive director~~] shall set
11 insurance requirements for a license holder under this chapter.

12 SECTION 4. Section 1302.105, Occupations Code, is amended
13 to read as follows:

14 Sec. 1302.105. PERSONNEL [~~, EXAMINERS~~]. [(a)] The
15 department may employ personnel necessary to administer this
16 chapter.

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

19 SECTION 5. Section 1302.202, Occupations Code, is amended
20 to read as follows:

21 Sec. 1302.202. APPOINTED MEMBERS. (a) Except for the
22 public member, each [~~Each~~] appointed advisory board member must be
23 experienced in the design, installation, construction,
24 maintenance, service, repair, or modification of equipment used for
25 environmental air conditioning, commercial refrigeration, or
26 process cooling or heating. Other than the public member, of [~~of~~]
27 the appointed members:

1 (1) one must be an official of a municipality with a
2 population of more than 250,000;

3 (2) one must be an official of a municipality with a
4 population of not more than 250,000; and

5 (3) four must be full-time licensed air conditioning
6 and refrigeration contractors, as follows:

7 (A) one member who holds a Class A license and
8 practices in a municipality with a population of more than 250,000;

9 (B) one member who holds a Class B license and
10 practices in a municipality with a population of more than 250,000;

11 (C) one member who holds a Class A license and
12 practices in a municipality with a population of more than 25,000
13 but not more than 250,000; and

14 (D) one member who holds a Class B license and
15 practices in a municipality with a population of not more than
16 25,000.

17 (b) At least one ~~[appointed]~~ advisory board member
18 appointed under Subsection (a)(3) must be an air conditioning and
19 refrigeration contractor who employs organized labor ~~[and at least~~
20 ~~two appointed members must be air conditioning and refrigeration~~
21 ~~contractors who are licensed engineers]~~.

22 SECTION 6. The heading to Subchapter F, Chapter 1302,
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER F. AIR CONDITIONING AND REFRIGERATION CONTRACTORS
25 ~~[LICENSE REQUIREMENTS]~~

26 SECTION 7. Section 1302.251, Occupations Code, is amended
27 to read as follows:

1 Sec. 1302.251. LICENSE REQUIRED. (a) A person may not
2 engage in air conditioning and refrigeration contracting unless the
3 person holds an air conditioning and refrigeration contractor [~~a~~]
4 license under this subchapter or Subchapter G.

5 (b) An air conditioning and refrigeration contractor [~~A~~]
6 license issued under this subchapter is valid throughout the state.
7 A person who holds a license issued under this subchapter is not
8 required to hold a municipal license under Subchapter G to engage in
9 air conditioning and refrigeration contracting in any municipality
10 in this state.

11 (c) A person holding an air conditioning and refrigeration
12 contractor license may assign that license to only one permanent
13 office of one air conditioning and refrigeration contracting
14 company.

15 SECTION 8. Section 1302.255, Occupations Code, is amended
16 to read as follows:

17 Sec. 1302.255. ELIGIBILITY REQUIREMENTS. (a) An applicant
18 for a license under this subchapter [~~chapter~~] must:

19 (1) be at least 18 years old; and

20 (2) have at least 48 [~~36~~] months of practical
21 experience in air conditioning and refrigeration-related work
22 under the supervision of a licensed air conditioning and
23 refrigeration contractor [~~with the tools of the trade~~] in the
24 preceding 72 months [~~five years~~].

25 (a-1) An applicant who has equivalent experience in another
26 state or who held an equivalent license in another state may receive
27 credit for the experience as determined by the executive director.

1 (b) Notwithstanding the requirements of [~~For purposes of~~
2 ~~determining an applicant's practical experience under~~] Subsection
3 (a)(2), an applicant may satisfy a portion of the practical
4 experience requirement as provided by Subsection (c).

5 (c) An applicant who obtains a degree or diploma or
6 completes a certification program from an institution of higher
7 education that holds a certificate of authority issued by the Texas
8 Higher Education Coordinating Board, or an equivalent governing
9 body in another state as approved by the executive director, may
10 satisfy a portion of the practical experience requirement as
11 follows:

12 (1) completing a four-year degree or diploma in air
13 conditioning engineering or technology, refrigeration engineering
14 or technology, or mechanical engineering is equivalent to 24 months
15 [two years] of practical experience [if:

16 ~~[(1) the degree or diploma is from an institution of~~
17 ~~higher education]; [and]~~

18 (2) completing a two-year associate's degree, a
19 two-year diploma, or a two-year certification program primarily
20 focused on air conditioning and refrigeration-related work is
21 equivalent to 12 months of practical experience;

22 (3) completing a one-year certification program, or a
23 program of at least two semesters, in air conditioning and
24 refrigeration-related work is equivalent to six months of practical
25 experience; and

26 (4) completing a program resulting in another
27 applicable degree, diploma, or certification shall be equivalent to

1 the amount of practical experience determined by the department
2 under commission rule [~~the institution's program is approved by the~~
3 ~~Texas Board of Professional Engineers for the purpose of licensing~~
4 ~~engineers~~].

5 (d) Every 2,000 hours of on-the-job training in an
6 apprenticeship program is equivalent to 12 months of practical
7 experience under Subsection (a)(2).

8 (e) Notwithstanding the requirements of Subsection (a)(2),
9 each of the following qualifies as practical experience for
10 purposes of satisfying the 48-month requirement:

11 (1) verified military service in which the person was
12 trained in or performed air conditioning and refrigeration-related
13 work as part of the person's military occupational specialty; and

14 (2) experience performing air conditioning and
15 refrigeration-related work as described by Section 1302.055,
16 1302.056, or 1302.057 or while employed by a governmental entity.

17 SECTION 9. Subsections (a) and (c), Section 1302.256,
18 Occupations Code, are amended to read as follows:

19 (a) An applicant for an air conditioning and refrigeration
20 contractor [~~a~~] license must submit a verified application on a form
21 prescribed by the executive director.

22 (c) The application must be accompanied by:

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

26 (2) the required fees [~~examination fee~~].

27 SECTION 10. Subsection (b), Section 1302.257, Occupations

1 Code, is amended to read as follows:

2 (b) The executive director shall prescribe the method and
3 content of an examination administered under this subchapter
4 [~~chapter~~] and shall set compliance requirements for the
5 examination. To obtain an endorsement, an applicant must pass the
6 examination for the endorsement.

7 SECTION 11. Section 1302.260, Occupations Code, is amended
8 to read as follows:

9 Sec. 1302.260. ISSUANCE AND TERM OF LICENSE. (a) The
10 department [~~On payment of the license fee, the executive director~~]
11 shall issue an air conditioning and refrigeration contractor
12 license to an applicant who:

- 13 (1) submits a verified application;
- 14 (2) passes the applicable examination;
- 15 (3) meets the requirements of this chapter and rules
16 adopted under this chapter [~~subchapter~~];
- 17 (4) pays the required fees; and
- 18 (5) [~~(2)~~] provides evidence of insurance coverage
19 required by rule [~~the executive director~~] in accordance with this
20 chapter[, and
21 [~~(3) passes the applicable examination~~].

22 (b) A license issued under this chapter expires on the first
23 anniversary of the date of issuance [~~at the end of the license~~
24 ~~period set by the commission~~].

25 SECTION 12. Section 1302.263, Occupations Code, is amended
26 to read as follows:

27 Sec. 1302.263. LIMITATION ON LICENSE HOLDER [~~OR REGISTERED~~

1 ~~TECHNICIAN~~]. A person licensed as a contractor under this
2 subchapter [~~chapter~~] may not:

3 (1) perform or offer or attempt to perform an act,
4 service, or function that is:

5 (A) defined as the practice of engineering under
6 Chapter 1001, unless the person holds a license under that chapter;

7 (B) regulated under Chapter 113, Natural
8 Resources Code, unless the person holds a license or is exempt by
9 rule under that chapter; or

10 (C) defined as plumbing under Chapter 1301,
11 unless the person holds a license under that chapter; or

12 (2) use the services of a person who is not a
13 registered technician or a licensed air conditioning and
14 refrigeration contractor to assist in the performance of air
15 conditioning and refrigeration maintenance work.

16 SECTION 13. Subsection (a), Section 1302.453, Occupations
17 Code, is amended to read as follows:

18 (a) A person commits an offense if the person:

19 (1) knowingly engages in air conditioning and
20 refrigeration contracting without holding a license issued under
21 this chapter; [~~or~~]

22 (2) knowingly engages in air conditioning and
23 refrigeration maintenance work without holding a contractor
24 license or technician registration issued under this chapter; or

25 (3) purchases a refrigerant or equipment containing a
26 refrigerant in this state in violation of Section 1302.353,
27 1302.355, or 1302.356.

1 SECTION 14. Section 1302.501, Occupations Code, is amended
2 by amending Subsection (b) and adding Subsection (c) to read as
3 follows:

4 (b) An air conditioning and refrigeration technician [A]
5 registration is valid throughout the state.

6 (c) A person is not required to obtain an air conditioning
7 and refrigeration technician registration if the person only
8 assists a licensed contractor in performing:

9 (1) the total replacement of a system; or

10 (2) the installation or repair of a boiler or pressure
11 vessel that must be installed in accordance with rules adopted
12 under Chapter 755, Health and Safety Code.

13 SECTION 15. Subchapter K, Chapter 1302, Occupations Code,
14 is amended by adding Section 1302.5035 to read as follows:

15 Sec. 1302.5035. ELIGIBILITY REQUIREMENTS. (a) An
16 applicant for a technician registration under this subchapter must
17 be at least 18 years old.

18 (b) An applicant for a technician registration is not
19 required to have practical experience or to take an examination to
20 obtain the registration.

21 SECTION 16. Section 1302.504, Occupations Code, is amended
22 to read as follows:

23 Sec. 1302.504. APPLICATION; FEE. (a) An applicant for an
24 air conditioning and refrigeration technician registration must
25 submit a verified [~~an~~] application on a form prescribed by the
26 executive director [~~commission~~].

27 (b) The completed application must be accompanied by the

1 required fees [~~application fee~~].

2 SECTION 17. Section 1302.505, Occupations Code, is amended
3 to read as follows:

4 Sec. 1302.505. ISSUANCE AND TERM OF REGISTRATION. (a) The
5 department shall issue an air conditioning and refrigeration
6 technician registration to an applicant who:

7 (1) submits a verified application;

8 (2) meets the requirements of this chapter and rules
9 adopted under this chapter; and

10 (3) pays the required fees [~~On receipt of a completed~~
11 ~~application, the department shall register an applicant who meets~~
12 ~~the requirements of this subchapter].~~

13 (b) A registration issued under this subchapter is valid for
14 one year from the date of issuance.

15 SECTION 18. Subchapter K, Chapter 1302, Occupations Code,
16 is amended by adding Section 1302.509 to read as follows:

17 Sec. 1302.509. LIMITATIONS ON REGISTRANT. A person
18 registered under this subchapter may not:

19 (1) perform, offer to perform, or attempt to perform
20 an act that is:

21 (A) defined as the practice of engineering under
22 Chapter 1001, unless the person holds a license under that chapter;

23 (B) regulated under Chapter 113, Natural
24 Resources Code, unless the person holds a license under that
25 chapter or is exempt by a rule adopted under that chapter; or

26 (C) defined as plumbing under Chapter 1301,
27 unless the person holds a license under that chapter; or

1 (2) assist a person who is not a licensed air
2 conditioning and refrigeration contractor in the performance of air
3 conditioning and refrigeration maintenance work.

4 SECTION 19. The following sections of the Occupations Code
5 are repealed:

- 6 (1) Section 1302.062;
- 7 (2) Section 1302.106;
- 8 (3) Section 1302.209;
- 9 (4) Subsections (c) and (d), Section 1302.257;
- 10 (5) Section 1302.502; and
- 11 (6) Section 1302.507.

12 SECTION 20. (a) Not later than March 1, 2012, the Texas
13 Commission of Licensing and Regulation shall adopt rules to
14 implement Chapter 1302, Occupations Code, as amended by this Act.

15 (b) Section 1302.255, Occupations Code, as amended by this
16 Act, applies only to an application for a license or registration
17 under that section submitted to the Texas Department of Licensing
18 and Regulation on or after November 1, 2012. An application for a
19 license, registration, or certification submitted under that
20 section before that date is governed by the law in effect on the
21 date the application was submitted, and the former law is continued
22 in effect for that purpose.

23 SECTION 21. This Act takes effect September 1, 2011.