

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)
CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 305

By: Long of the Senate

and

Fields of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 1010, as amended by Section 1, Chapter 251, O.S.L. 1993, 1016, as amended by Section 1, Chapter 9, O.S.L. 1995, 1685, 1686, 1687, as amended by Section 4, Chapter 155, O.S.L. 1994, 1689, as last amended by Section 6, Chapter 293, O.S.L. 1994 and 1850.10, as amended by Section 2, Chapter 137, O.S.L. 1992 (59 O.S. Supp. 1996, Sections 1010, 1016, 1687, 1689 and 1850.10), which relate to licensure of the plumbing, electrical, and mechanical trades; requiring standard of clear and convincing evidence for certain disciplinary actions; requiring municipal plumbing inspectors be licensed as plumbing contractors; allowing certain certification to qualify person for electrician license; providing for temporary journeyman electrician license and related requirements, examination, fees, sanctions, and limitations; prohibiting issuance of apprentice registration to certain persons; setting certain fee; requiring persons performing certain work to be licensed under Mechanical Licensing Act; limiting inspection of plumbing and electrical work; repealing Section 1, Chapter 226, O.S.L. 1992, as last amended by Section 2, Chapter 318, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1022), which relates to certain plumbing standards; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1010, as amended by Section 1, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1996, Section 1010), is amended to read as follows:

Section 1010. A. The State Commissioner of Health, as ~~chairman~~ chair, and the members of the Oklahoma State Committee of Plumbing Examiners shall constitute a Plumbing Hearing Board, which may on its own motion make investigations and conduct

hearings and may, on its own motion or upon complaint in writing duly signed and verified by the complainant, and upon not less than ten (10) days' notice to the licensee, suspend any license issued under ~~this act~~ Section 1001 et seq. of this title, and may revoke such license in the manner hereinafter provided, if by clear and convincing evidence it ~~has reason to believe or~~ finds that the holder of the license has:

1. Made a material misstatement in the application for license or renewal thereof;
2. Loaned or illegally used his or her license;
3. Demonstrated incompetency to act as a journeyman plumber or plumbing contractor, as the case may be;
4. Violated any provision of ~~this act~~ Section 1001 et seq. of this title, or any rule, ~~regulation~~ or order prescribed by the Board, or any ordinance or regulation for the installation of plumbing made or enacted by a city, town, or sewer commission by authority of ~~this act~~ Section 1001 et seq. of this title; or
5. Willfully and unreasonably failed to perform his or her normal business obligations without justifiable cause.

B. A copy of the complaint with notice of the suspension of license, if ordered by the Plumbing Hearing Board, shall be served on the person complained against, and his or her answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the statutes of ~~the State of Oklahoma~~ this state.

C. No order revoking a license shall be made until after a public hearing set by the Plumbing Hearing Board which shall not be less than thirty (30) days and not more than sixty (60) days after the date of notice of ~~such~~ suspension. ~~Such~~ The hearing shall be ~~had~~ held at the place designated by the Plumbing Hearing Board. The person complained against shall have the right to be represented by counsel and to introduce any evidence in ~~his~~ defense. The conduct of the hearing shall be in accordance with recognized rules of legal procedure and any member of the Plumbing Hearing Board or a representative designated by the Plumbing

Hearing Board shall have authority to administer oaths and take testimony.

D. Any person whose license has been revoked may, after the expiration of one (1) year from the date of such revocation, but not before, apply for a new license.

E. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of ~~said~~ the code and the installation of all plumbing work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act, Section 1031 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title. Provided, a state inspector may work directly with a plumbing contractor or journeyman plumber in such a locality if a violation of the code creates an immediate threat to life or health.

F. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or plumbing in any political subdivision of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work, the State Commissioner of Health shall have jurisdiction over such matters.

G. 1. No individual, business, company, corporation, association or other entity subject to the provisions of Section 1001 et seq. of this title shall install, modify or alter plumbing in any incorporated area of this state which has not adopted a nationally recognized plumbing code and appointed an inspector pursuant to Section 1016 or Section 1031 et seq. of this title for such work without providing notice of such plumbing to the State Commissioner of Health. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the State Commissioner of Health upon request.

2. Notice to the State Commissioner of Health pursuant to this subsection shall not be required for plumbing maintenance or

replacement of an existing plumbing device or fixture, unless such device is gas fired, or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1001 et seq. of this title, or under authority granted to the State Commissioner of Health.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1016, as amended by Section 1, Chapter 9, O.S.L. 1995 (59 O.S. Supp. 1996, Section 1016), is amended to read as follows:

Section 1016. A. Each city or incorporated town with a population of two thousand (2,000) or more in the state, having a system of water supply or sewerage shall by ordinance, within ninety (90) days after the effective date of this act, create an office of plumbing inspector, whose duty it shall be to inspect all plumbing installed in the jurisdiction of such city or town, and shall furnish a certificate of same. Said plumbing inspector shall have had not less than three (3) years' practical experience at the plumbing business, shall be licensed as a plumbing contractor and shall not be interested, either directly or indirectly, in any firm or corporation engaged in the plumbing business.

B. 1. Any city or town in this state, with a population in excess of four thousand (4,000) but not exceeding thirty thousand (30,000), may create an office which combines the powers and duties of the plumbing inspector and the electrical inspector. Except as otherwise provided in this subsection, the holder of such office must have at least three (3) years' practical experience in the plumbing industry and be licensed as a plumbing contractor and three (3) years' practical experience in the electrical industry.

2. Any such city or town may, in its discretion, appoint some other person deemed qualified for such office if such person, within two (2) years after the date of appointment, successfully passes the examination for a license as a plumbing contractor, and the examinations for a license as a plumbing inspector and ~~the~~

~~examination~~ for a license as an electrical inspector conducted by a recognized national building code or standard service.

3. Cities or towns with a population of four thousand (4,000) or less may, in their discretion, appoint some other person deemed qualified for the office provided such person is a licensed plumbing contractor. The salary of said plumbing inspector is to be provided for by the respective city or town.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1685, is amended to read as follows:

Section 1685. A. The State Commissioner of Health shall issue a license as journeyman electrician or electrical contractor to any person who:

1. Has been certified by the Committee as either having successfully passed the appropriate examination or certification from a nationally recognized testing entity, or having a valid license issued by another governmental entity with licensing requirements similar to those provided in the Electrical License Act; and

2. Has paid the license fee and otherwise complied with the provisions of the Electrical License Act.

B. All licenses shall be nontransferable and it shall be a misdemeanor for any person licensed under the provisions of the Electrical License Act to loan or allow the use of such license by any other person, firm or corporation, except as specifically provided in the Electrical License Act.

C. Until October 1, 1982, the Commissioner shall, upon proper application and payment of fees, issue licenses without examinations to persons who prior to July 1, 1982, held unexpired licenses as journeyman electricians or electrical contractors issued by a city or incorporated town of this state, and who have otherwise complied with the requirements of the Electrical License Act. This license must be produced as a prerequisite to obtaining a state license if the applicant is a resident of a city or town having a licensing law.

D. The Commissioner may issue a temporary journeyman license to an applicant who:

1. Holds a current license in a state other than Oklahoma whose experience requirements for an electrician license are equivalent to or more stringent than the requirements under the Electrical License Act or the rules promulgated thereunder;

2. Has qualified and applied for either the electrical contractor or journeyman examination; and

3. Has paid the appropriate license fee and otherwise complied with provisions of the Electrical License Act.

E. 1. The temporary journeyman license shall be issued one time and shall expire sixty (60) days after issuance or upon failure to pass a second examination, whichever is earlier.

2. If the applicant passes the examination, the applicant shall receive a journeyman electrician license without further payment of fees. If the applicant fails the examination, the applicant may reapply for the next examination in accordance with subsection B of Section 1684 of this title provided another examination fee is submitted.

3. Failure to pass the second examination shall void the temporary journeyman license. The applicant shall not perform electrical work in this state until the applicant successfully completes an electrical licensing examination.

F. 1. Temporary journeyman licenses shall not count in the allowable ratio of electrical apprentices to licensed electricians where electrical work is performed. Not more than one temporary licensee shall be eligible to work under the direct supervision per Oklahoma licensed electrician.

2. Temporary journeyman licenses may be revoked or suspended as provided in Section 1689 of this title.

G. Failure to appear for a scheduled examination or canceling a scheduled examination shall void further use of the license.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1686, is amended to read as follows:

Section 1686. A. The State Commissioner of Health shall, upon proper application and payment of fee, register as an electrical apprentice and issue a certificate of such registration

to any person who furnishes satisfactory proof to the Commissioner that the applicant is:

1. Sixteen (16) years of age or over; and

2. Enrolled in a school or training course for electrical apprentices recognized by the Commissioner, or has arranged for employment as an electrical apprentice with a licensed electrical contractor.

B. All applications for examination, license or renewal of license shall be made in writing to the Commissioner on forms provided, if necessary, by the Commissioner. All applications shall be accompanied by the appropriate fee.

C. An apprentice registration shall not be issued to:

1. A previous holder of an Oklahoma temporary journeyman license;

2. Any person who has been licensed as an electrician in a state, including Oklahoma, whose license requirements are as stringent as the requirements of the Electrical License Act; or

3. Any person who has worked as a journeyman electrician in a state without journeyman licensing requirements, but who qualifies for a journeyman license examination under the authority of the Electrical License Act.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1687, as amended by Section 4, Chapter 155, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1687), is amended to read as follows:

Section 1687. The following shall be the fees charged under the Electrical License Act:

Electrical Contractor Examination	\$50.00
Journeyman Electrician Examination	\$25.00
Electrical Contractor License	\$50.00
Journeyman Electrician License	\$15.00
<u>Temporary Journeyman Electrician License</u>	<u>\$15.00</u>
Electrical Apprentice Registration Fee	\$5.00

License Renewal, if made within thirty (30) days after expiration:

Electrical Contractor License	\$50.00
Journeyman Electrician License	\$15.00
Electrical Apprentice Registration	\$5.00

Penalty for Late License Renewal:

Electrical Contractor License	\$10.00
Journeyman Electrician License	\$5.00
Electrical Apprentice Registration	\$2.50

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1689, as last amended by Section 6, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1996, Section 1689), is amended to read as follows:

Section 1689. A. The State Commissioner of Health and the Committee of Electrical Examiners shall act as the Electrical Hearing Board and shall comply with the provisions of Article II of the Administrative Procedures Act, Section 309 et seq. of Title 75 of the Oklahoma Statutes.

B. The Electrical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any electrical contractor, journeyman electrician or electrical apprentice. ~~The~~ Upon a finding by clear and convincing evidence, the Board shall suspend or revoke any license or registration obtained by false or fraudulent representation. ~~The~~ Upon a finding by clear and convincing evidence, the Board shall also suspend or revoke any license or registration for any of the following:

1. Making a material misstatement in the application for a license or registration, or the renewal of a license or registration;

2. Loaning or illegally using a license;

3. Demonstrating incompetence to act as a journeyman electrician or electrical contractor;

4. Violating any provisions of the Electrical License Act, or any rule, regulation or order prescribed by the Commission or any ordinance or regulation for the installation of electrical facilities made or enacted by a city or town by authority of the Electrical License Act; or

5. Willfully failing to perform normal business obligations without justifiable cause.

C. Any person whose license or registration has been revoked by the Electrical Hearing Board may apply for a new license one (1) year from the date of such revocation.

D. Notwithstanding any other provision of law, a political subdivision of this state that has adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of ~~said~~ the code and the installation of all electrical work done in that political subdivision, subject to the provisions of the Oklahoma Inspectors Act, Section 1031 et seq. of this title. Provided, a state inspector may work directly with an electrical contractor, journeyman electrician or electrical apprentice in such a locality if a violation of the code creates an immediate threat to life or health.

E. In the case of a complaint about, investigation of, or inspection of any license, registration, permit or electrical work in any political subdivision of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work, the State Commissioner of Health shall have jurisdiction over such matters.

F. 1. No individual, business, company, corporation, association or other entity subject to the provisions of Section 1680 et seq. of this title shall install, modify or alter electrical facilities in any incorporated area of this state which has not adopted a nationally recognized electrical code and appointed an inspector pursuant to the provisions of Section 1693 or Section 1031 et seq. of this title for such work without providing notice of such electrical work to the State Commissioner of Health. A notice form for reproduction by an individual or entity required to make such notice shall be provided by the Commissioner ~~of Health~~ upon request.

2. Notice to the Commissioner ~~of Health~~ pursuant to this subsection shall not be required for electrical maintenance or

replacement of existing electrical appliances or fixtures or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1680 et seq. of this title, or under authority granted to the Commissioner of Health.

SECTION 7. AMENDATORY 59 O.S. 1991, Section 1850.10, as amended by Section 2, Chapter 137, O.S.L. 1992 (59 O.S. Supp. 1996, Section 1850.10), is amended to read as follows:

Section 1850.10 A. 1. No person shall install, replace or repair gas piping unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

2. No person shall install, replace or repair floor furnaces or wall heaters unless such person is licensed under the Mechanical Licensing Act.

B. The Mechanical Licensing Act shall not apply to:

1. A person who is the property owner of record, or his or her authorized representative, when performing minor repair which shall include, but not be limited to, cleaning, adjusting, calibrating and repair of mechanical system parts and the replacement of fuses and room thermostats, and other minor repairs which shall not include any repair which could violate the safe operation of the equipment;

2. The installation of portable, self-contained, ductless air conditioners or heaters;

3. The setting or connecting of detached air conditioning units which utilize flexible ductwork on a manufactured home. The term manufactured home shall have the same definition as such term is defined in Section 1102 of Title 47 of the Oklahoma Statutes;

4. Any permanent employee of a manufacturing facility, whether owned or leased, while performing mechanical work on the premises of such facility. The performance of such mechanical work authorized by this paragraph shall not violate any manufacturer specification or compromise any health or safety standards and practices in accordance with state and federal regulations;

5. The service, repair and installation of boilers, pressure vessels and welded steam lines which are subject to the jurisdiction of the Commissioner of Labor pursuant to the provisions of Sections 141.1 through 141.18 of Title 40 of the Oklahoma Statutes; or

6. Employees of state-owned institutions doing maintenance to state-owned facilities which does not violate manufacturer specifications nor compromise health or safety standards and practices.

C. The licensing requirements of the Mechanical Licensing Act shall not apply to public utilities, public service corporations, intrastate gas pipeline companies, gas gathering pipeline companies, gas processing companies, rural electric associations, or municipal utilities and their subsidiaries during work on their own facilities or during the performance of energy audits, operational inspections, minor maintenance, or minor repairs for their customers or on their own equipment.

D. The licensing requirements of the Mechanical Licensing Act shall not apply to employees of chemical plants, gas processing plants, and petroleum refineries during work on their own facilities or during the performance of operational inspections, mechanical work, maintenance, or repairs on their own equipment, the performance of which does not violate any manufacturer specification or compromise any health or safety standards and practices in accordance with state and federal regulations.

E. The licensing requirements of the Mechanical Licensing Act shall not apply to employees of research facilities during work on their own facilities or during the performance of operational inspections, mechanical work, maintenance, or repairs on their own equipment used solely for research purposes when such items of equipment require one or more details of construction not covered by normally used national codes and standards or which involve destruction or reduce life of the equipment and systems.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1023 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, a state or municipal plumbing or building and construction inspector may only inspect plumbing work that is subject to the code endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) for plumbing work.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1698 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, a state or municipal electrical or building and construction inspector may only inspect electrical work that is subject to the National Electrical Code for electrical work.

SECTION 10. REPEALER Section 1, Chapter 226, O.S.L. 1992, as last amended by Section 2, Chapter 318, O.S.L. 1996 (59 O.S. Supp. 1996, Section 1022), is hereby repealed.

SECTION 11. This act shall become effective November 1, 1997.

46-1-1441 JY