

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1046

By: Maddux

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 1991, Sections 1850.2, as last amended by Section 8, Chapter 293, O.S.L. 1994, 1850.6, 1850.7, 1850.8, as last amended by Section 12, Chapter 293, O.S.L. 1994, 1850.11, as amended by Section 8, Chapter 236, O.S.L. 1993 and 1850.14, as amended by Section 3, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1994, Sections 1850.2, 1850.8, 1850.11 and 1850.14), which relate to the Mechanical Licensing Act; creating mechanical tradesman classification in the Mechanical Licensing Act; defining term; providing for examinations of mechanical tradesmen; clarifying language; prohibiting certain acts of mechanical tradesmen without certain license; authorizing issuance of certain license; requiring payment of certain fee; specifying such fee; removing archaic language; specifying qualifications and limitations of mechanical tradesmen; prohibiting certain acts; providing penalties; authorizing certain acts of the Mechanical Hearing Board concerning mechanical tradesmen, and providing procedures related thereto; authorizing state inspectors to work with mechanical tradesmen under certain conditions;

providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1850.2, as last amended by Section 8, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1850.2), is amended to read as follows:

Section 1850.2 As used in the Mechanical Licensing Act:

1. "Air conditioning system" means the process of treating air by controlling its temperature, humidity, and cleanliness, to meet the requirements of a designated area;
2. "Board" means the State Board of Health;
3. "Committee" means the Committee of Mechanical Examiners;
4. "Department" means the Oklahoma State Department of Health;
5. "Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a natural gas meter, regulator, or other source of supply;
6. "Heating systems" means and includes systems consisting of air heating appliances from which the heated air is distributed and shall include any accessory apparatus and equipment installed in connection therewith;
7. "Mechanical contractor" or "contractor" means any person engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for mechanical work;
8. "Mechanical journeyman" or "journeyman" means any person other than a contractor or apprentice who engages in mechanical work;

9. "Mechanical tradesman" or "tradesman" means any person other than a contractor, journeyman or apprentice who engages in limited mechanical work;

10. "Mechanical apprentice" or "apprentice" means any person sixteen (16) years of age or older whose principal occupation is learning mechanical work on the job under the direct supervision of a journeyman or contractor;

~~10.~~ 11. "Mechanical firm" means any corporation, partnership, association, proprietorship or other business entity which plans or engages, or offers to engage, in mechanical work for another within this state;

~~11.~~ 12. "Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor repairs to such systems are excluded;

~~12.~~ 13. "Refrigeration system" means the erection, installation, repairing and servicing of a system employing a fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process;

~~13.~~ 14. "Sheet metal" means the erection, installation and repairing of all ferrous or nonferrous duct work and all other materials used in all air conditioning; and

~~14.~~ 15. "Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1850.6, is amended to read as follows:

Section 1850.6 A. Examinations for licenses as mechanical contractors ~~or~~, mechanical journeymen or mechanical tradesmen shall be uniform and practical in nature for each respective license and shall be sufficiently strict to test the qualifications and fitness of the applicants for licenses. Examinations shall be in whole or in part in writing. The Committee shall conduct examinations quarterly and at such other times as it deems necessary.

B. Any applicant initially failing to pass the examination shall not be permitted to take another examination for a period of thirty (30) days. Any applicant subsequently failing to pass the examination shall not be permitted to take another examination for a period of ninety (90) days.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1850.7, is amended to read as follows:

Section 1850.7 ~~After January 1, 1988, no~~ No person, on behalf of ~~himself~~ such person or of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work as a tradesman, journeyman or contractor who does not possess a valid and appropriate license from the Department. No business entity shall act as a mechanical firm unless a contractor is associated with and responsible for all mechanical work of such entity. It shall not be required for a mechanical tradesman licensed pursuant to this act to be supervised by a contractor.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1850.8, as last amended by Section 12, Chapter 293, O.S.L. 1994 (59 O.S. Supp. 1994, Section 1850.8), is amended to read as follows:

Section 1850.8 A. Except as authorized by the provisions of subsection B of this section, the Department shall issue a license as a mechanical tradesman, mechanical journeyman or mechanical contractor to any person who:

1. Has been certified by the Committee as having successfully passed the appropriate examination; and

2. Has paid the license fee and has otherwise complied with the provisions of the Mechanical Licensing Act. The license fees shall be annually as follows:

- a. mechanical contractor Fifty Dollars (\$50.00),
- b. mechanical journeyman Twenty-five Dollars (\$25.00),
and
- c. mechanical tradesman Fifteen Dollars (\$15.00), and
- d. apprentice registration Ten Dollars (\$10.00).

B. ~~The~~ Except for those persons seeking to qualify as mechanical tradesmen, as defined in Section 1 of this act, the Department shall license without examination any person, who can demonstrate to the Committee that such person has been actually engaged in mechanical work for at least one (1) year during the five (5) years preceding January 1, 1988. This license shall be issued at the same level of competency and for the same category of mechanical work in which the person was previously occupied.

C. All licenses shall be nontransferable. No license shall be issued for longer than one (1) year and all licenses shall expire on June 30 of each year. Licenses may be renewed upon application and payment of the required fees and payment of any penalty for late renewal, as shall be established by the Board. Licenses, issued without state examination, that have not been renewed by June 30 of the year following expiration, shall not be renewed until the applicant passes the appropriate examination. ~~Any person issued a mechanical license pursuant to subsection B of this section which expired June 30, 1993, and was not renewed by December 31, 1993, may renew the license without examination through July 30, 1994.~~ Persons who are licensed under this act may have their license placed on inactive status by paying the annual renewal fee and eliminating the bonding and insurance requirements. No late fee shall be charged to renew a license which expired while the

applicant was in military service if application is made within one (1) year of discharge from the military service.

D. The Department is authorized to establish, upon approval by the Board, and issue, subject to the provisions of the Mechanical Licensing Act, limited licenses in each area of mechanical work based on the experience, ability, examination scores and the education of the applicant. The limited licenses shall authorize the licensee to engage in only those activities and within the limits specified in the license.

E. Any person may qualify as a mechanical tradesman if such person has successfully passed a mechanical examination in only those areas in which the applicant intends to perform unsupervised mechanical work and has worked in such areas for at least one (1) year. A mechanical tradesman may only work in those areas in which the tradesman has passed the applicable examination. The establishment of the mechanical tradesman classification shall not waive the three-year experience requirement or the examination requirement for apprentices or any other qualified persons seeking to become journeymen or contractors.

F. No mechanical licenses shall be issued pursuant to subsection B of this section after July 1, 1993.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1850.11, as amended by Section 8, Chapter 236, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1850.11), is amended to read as follows:

Section 1850.11 A. Any mechanical contractor, mechanical journeyman, mechanical tradesman, mechanical apprentice or mechanical firm who violates any of the provisions of the Mechanical Licensing Act in addition to suspension or revocation of a license, upon conviction, shall be guilty of a misdemeanor and punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment together with the costs of prosecution.

B. In addition to other penalties provided by law, if after a hearing in accordance with the provisions of Section 1850.14 of this title, the Mechanical Hearing Board shall find any mechanical contractor, mechanical journeyman, mechanical tradesman, mechanical apprentice or mechanical firm to be in violation of any of the provisions of this act, such person or firm may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person or firm is in violation of this act may constitute a separate violation. The maximum fine will not exceed One Thousand Dollars (\$1,000.00). All administrative fines collected pursuant to the provisions of this subsection shall be deposited in the Oklahoma Mechanical Licensing Revolving Fund. Administrative fines imposed pursuant to this subsection shall be enforceable in the district courts of this state.

C. The Mechanical Hearing Board may make application to the appropriate court for an order enjoining the acts or practices prohibited by this act, and upon a showing by the Mechanical Hearing Board that the person or firm has engaged in any of the prohibited acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1850.14, as amended by Section 3, Chapter 251, O.S.L. 1993 (59 O.S. Supp. 1994, Section 1850.14), is amended to read as follows:

Section 1850.14 A. The Department and the Committee shall act as the Mechanical 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 Mechanical Hearing Board may, upon its own motion, and shall, upon written complaint filed by any person, investigate the business transactions of any mechanical contractor, mechanical journeyman, mechanical tradesman, mechanical apprentice or mechanical firm. The department shall suspend or revoke or may

refuse to issue or renew any license or registration under the Mechanical Licensing Act 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. Obtain any license or registration by false or fraudulent representation;

3. Loaning or allowing the use of such license by any other person or illegally using a license;

4. Demonstrating incompetence to act as a mechanical tradesman, mechanical journeyman or mechanical contractor;

5. Violating any provisions of the Mechanical Licensing Act, or any rule, ~~regulation~~ or order prescribed by the Board pursuant to the provisions of the Mechanical Licensing Act; or

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

C. Any person whose license or registration has been revoked by the Mechanical 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 mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work shall have jurisdiction over the interpretation of said code and the installation of all mechanical 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. Provided, a state inspector may work directly with a mechanical contractor, mechanical journeyman, mechanical tradesman, mechanical apprentice or mechanical firm 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 mechanical work in any political subdivision of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work, the 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 1850.1 et seq. of this title shall install, modify or alter mechanical systems in any incorporated area of this state which has not adopted a nationally recognized mechanical code and appointed an inspector pursuant to Section 1850.12 or Section 1031 et seq. of this title for such work without providing notice of such mechanical work to the 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 minor repair or maintenance performed according to the mechanical equipment manufacturer's instructions or of any petroleum refinery or its research facilities.

3. Enforcement of this subsection is authorized pursuant to Section 1850.1 et seq. of this title, or under authority granted to the Commissioner of Health.

SECTION 7. This act shall become effective July 1, 1995.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

