

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 25

By: Long of the Senate

and

Fields and Satterfield of
the House

2ND 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, 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, 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; prohibiting issuance of citation for certain work; making certain weldments subject to certain codes; requiring persons performing certain work to be licensed under Mechanical Licensing Act or plumbing licensure laws; 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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1023.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

No state or municipal inspector may issue a citation for work which is exempt from the requirement for a permit under Section 106 of the International Plumbing Code, latest edition.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1634.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, weldments subject to the provisions of Section 1624 et seq. of Title 59 of the Oklahoma

Statutes and performed on and after the effective date of this act shall meet the standards of the following codes: American Society of Mechanical Engineers (ASME) Section 9 and American Petroleum Institute (API) 1104 and 1107.

SECTION 4. 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 5. 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 or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

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 6. 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 7. This act shall become effective November 1, 1997.

46-1-1651 JY