

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1438 By: Newberry of the Senate
3 and
4 Echols of the House
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7 An Act relating to the Oklahoma Mechanical Licensing
8 Act; amending 59 O.S. 2011, Section 1850.10, which
9 relates to application of licensing; providing
certain exceptions; providing an effective date; and
declaring an emergency.

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12 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

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"An Act relating to professions and occupations;
amending 59 O.S. 2011, Section 1000.4, as last
15 amended by Section 4, Chapter 332, O.S.L. 2013 (59
O.S. Supp. 2013, Section 1000.4), which relates to
16 the Construction Industries Board Act; removing
certain prohibition; amending 59 O.S. 2011, Section
17 1850.10, which relates to the Oklahoma Mechanical
Licensing Act; providing certain exceptions;
18 providing an effective date; and declaring an
emergency.

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

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SECTION 1. AMENDATORY 59 O.S. 2011, Section 1000.4, as

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last amended by Section 4, Chapter 332, O.S.L. 2013 (59 O.S. Supp.

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2013, Section 1000.4), is amended to read as follows:

1 Section 1000.4 A. 1. Pursuant to and in compliance with
2 Article I of the Administrative Procedures Act, the Construction
3 Industries Board shall have the power to adopt, amend, repeal, and
4 promulgate rules as may be necessary to regulate the plumbing,
5 electrical and mechanical trades, building and construction
6 inspectors and home inspectors. All rules promulgated by the Board
7 shall be reviewed and approved as provided in subsection ~~F~~ E of
8 Section 308 of Title 75 of the Oklahoma Statutes.

9 2. The Board shall have the power to enforce the provisions of
10 the Construction Industries Board Act, The Plumbing License Law of
11 1955, the Oklahoma Inspectors Act, the Electrical License Act, the
12 Mechanical Licensing Act, the Home Inspection Licensing Act, and the
13 Roofing Contractor Registration Act, as provided in the respective
14 acts.

15 B. The Board shall have the following powers:

16 1. Exercise all incidental powers and duties which are
17 necessary to effectuate the provisions of The Plumbing License Law
18 of 1955, the Oklahoma Inspectors Act, the Electrical License Act,
19 the Mechanical Licensing Act, and the Home Inspection Licensing Act;

20 2. Serve as a code variance and appeals board for the trades
21 and industries it regulates which do not have statutory code
22 variance and appeals boards;

23 3. Order or subpoena the attendance of witnesses, the
24 inspection of records and premises, and the production of relevant

1 books and papers for the investigation of matters that may come
2 before the Board;

3 4. Initiate disciplinary proceedings, request prosecution of
4 and initiate injunctive proceedings against any person who violates
5 any of the provisions of the Plumbing License Law of 1955, the
6 Oklahoma Inspectors Act, the Electrical License Act, the Mechanical
7 Licensing Act, and the Home Inspection Licensing Act;

8 5. Maintain an administrative staff including, but not limited
9 to, a Construction Industries Administrator whose appointment shall
10 be made as provided in Section 1000.6 of this title;

11 6. Establish and levy administrative fines for violations of
12 law or rule in the trades and industries the Board licenses or
13 regulates or against any person or entity denying the Board or its
14 representatives access to a job site for purposes of enforcing any
15 of the provisions of the Plumbing License Law of 1955, the Oklahoma
16 Inspectors Act, the Electrical License Act, and the Mechanical
17 Licensing Act, or the Roofing Contractor Registration Act; ~~provided,~~
18 ~~however, the Board is not authorized to inspect or issue~~
19 ~~administrative violations or fines for public utilities, public~~
20 ~~service corporations, intrastate gas pipeline companies, gas~~
21 ~~gathering pipeline companies, gas processing companies, rural~~
22 ~~electric associations, municipal utilities or their subsidiaries,~~
23 ~~chemical plants, gas processing plants or petroleum refineries where~~

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1 ~~the entity uses their employees or contractors to work on their own~~
2 ~~facilities or equipment;~~

3 7. Direct such other expenditures as may be necessary in the
4 performance of its duties including, but not limited to,
5 expenditures for office space, equipment, furnishings and contracts
6 for legal services. All expenditures shall be made pursuant to the
7 Oklahoma Central Purchasing Act; and

8 8. Enforce provisions of the plumbing, electrical and
9 mechanical codes as adopted by the Oklahoma Uniform Building Code
10 Commission pursuant to the Oklahoma Uniform Building Code Commission
11 Act.

12 C. The Board shall account for all receipts and expenditures of
13 the monies of the Board, including annually preparing and publishing
14 a statement of receipts and expenditures of the Board for each
15 fiscal year. The Board's annual statement of receipts and
16 expenditures shall be audited by the State Auditor and Inspector or
17 an independent accounting firm in accordance with the provisions of
18 subsection B of Section 212 of Title 74 of the Oklahoma Statutes,
19 and the audit report shall be certified to the Governor of this
20 state to be true and correct, under oath, by the chair and vice-
21 chair of the Board. A copy of such certified report shall be
22 delivered to the chairs of the respective Senate and House of
23 Representatives Committees having authority over matters relating to

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1 business, labor and construction industry licensing or regulation
2 not later than February 1 each year.

3 D. The Board shall account for all fines, penalties and fees
4 assessed and collected pursuant to the Administrative Procedures Act
5 or any rule promulgated for regulation of any industry and trade
6 under the authority of the Construction Industries Board. All
7 fines, penalties and fees assessed for any violation of law or rule
8 shall be automatically reviewed and brought before the entire Board
9 for consideration and vote not later than the last day of the
10 monthly quarter in which it was imposed. The Construction
11 Industries Administrator shall present to the Board a written
12 recommendation and summary for each case in which an assessment of a
13 fine, penalty or fee was imposed after administrative proceedings.
14 The Board shall consider the recommendations for each case at the
15 next meeting date and at such meeting shall either vote to affirm
16 the recommendations or vote to deny the recommendations and remand
17 the case for further administrative hearing, with or without
18 instructions. No administrative case shall be delayed or continued
19 by the Board after being placed on an agenda for final Board review,
20 except with the consent of all parties. The licensee or persons
21 affected by the imposition of an administrative fine, penalty or fee
22 on final review by the Board shall have all rights of appeal
23 preserved pursuant to the Administrative Procedures Act until final
24 action by the Board.

1 E. The Construction Industries Board shall hear all appeals
2 timely made from an administrative ruling relating to an industry
3 and trade regulated by the Board; however, this appeal authority
4 shall not be in addition to the appeal process authorized by the
5 Administrative Procedures Act. Any ruling by the Board from an
6 administrative hearing may be further appealed to the district court
7 of Oklahoma County. The district court, upon conclusion of an
8 appeal from a Board ruling, shall be authorized to award reasonable
9 legal fees to the prevailing party.

10 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1850.10, is
11 amended to read as follows:

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

16 2. No person shall install, replace or repair floor furnaces or
17 wall heaters unless such person is licensed under the Mechanical
18 Licensing Act or is licensed as a plumbing contractor or journeyman
19 plumber pursuant to the laws of this state.

20 3. No person shall install, replace or repair any radiant-floor
21 heating systems unless such person is licensed under the Mechanical
22 Licensing Act or is licensed as a plumbing contractor or journeyman
23 plumber pursuant to the laws of this state.

24 B. The Mechanical Licensing Act shall not apply to:

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

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

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

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

19 5. The service, repair and installation of boilers, pressure
20 vessels and welded steam lines which are subject to the jurisdiction
21 of the Commissioner of Labor pursuant to the provisions of Sections
22 141.1 through 141.18 of Title 40 of the Oklahoma Statutes; or

23 6. Employees of state-owned institutions doing maintenance to
24 state-owned facilities which does not violate manufacturer

1 specifications nor compromise health or safety standards and
2 practices.

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

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

20 E. The licensing requirements of the Mechanical Licensing Act
21 shall not apply to employees of research facilities during work on
22 their own facilities or during the performance of operational
23 inspections, mechanical work, maintenance, or repairs on their own
24 equipment used solely for research purposes when such items of

