

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3118

STATE OF NEW JERSEY

DATED: JUNE 18, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3118.

This substitute bill establishes a Master Hearth Specialist Advisory Committee (committee) under the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors (board) to provide for the licensure of master hearth specialists. To be eligible for licensure as a master hearth specialist, an applicant must be at least 21 years of age, be a United States citizen or legal resident, possess a valid certification as a Master Hearth Professional from a nationally recognized body, and have at least five years of experience in hearth professional work.

“Hearth professional work” is defined in the bill as the installation, replacement, connection, venting, inspection, repair, maintenance, or servicing of hearth product appliances, barbecue appliances, outdoor patio appliances, and decorative space heater appliances, and shall include the installation, inspection, repair, or servicing of vents, vent connectors, masonry, metal and factory built chimney and vent systems, and natural or manufactured gas piping on the loan side of the meter. Hearth professional work must comply with all applicable requirements of building codes, gas codes, and any other industry standards deemed appropriate by the committee.

The bill provides that no person is permitted to work as a master hearth specialist or use the title or designation of “licensed master hearth specialist” or “master hearth specialist contractor” unless a license is issued pursuant to the provisions of the bill.

Furthermore, the bill does not prohibit a municipality from inspecting hearth professional work or the equipment of a master hearth specialist, or from enforcing the standards and manner that hearth professional work may be done. However, no municipality, local board of health or other agency is permitted to require a master hearth specialist licensed under the bill to obtain any additional license, apply for or take any examination, or pay any licensing fee.

The bill requires each master hearth specialist, as a condition of license renewal, to complete any continuing education requirements imposed by the board. The board will establish standards for continuing master hearth specialist education, including the subject matter and content of courses of study, the selection of instructors, and

the number and type of continuing education credits required of a master hearth specialist as a condition of license renewal.

The provisions of the bill do not apply to a single-family homeowner who performs hearth professional work on the person's own dwelling.

Lastly, nothing in the bill shall be construed to prevent any person licensed by the State, including, but not limited to, architects, professional engineers, electrical contractors, master plumbers, propane gas suppliers or marketers, or any chimney service professional registered as a home improvement contractor with the Division of Consumer Affairs, from acting within the scope of practice of the respective profession or occupation.

This substitute bill differs from the legislation as referred to the committee as follows:

(1) vests responsibility for the licensure of master hearth specialists in the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors rather than the State Board of Examiners of Master Plumbers;

(2) provides that no person shall install, improve, repair, or maintain gas piping associated with barbecue appliances, hearth product appliances, outdoor patio appliances, decorative space heater appliances, or hearth professional work unless licensed by the board as a master hearth specialist;

(3) provides that no person shall provide instruction regarding the installation, improvement, repair, or maintenance of gas piping associated with barbecue, hearth products, or hearth professional work unless licensed by the board as a master hearth specialist;

(4) provides that nothing in the bill shall be construed to prevent any person licensed by the State, including, but not limited to, architects, professional engineers, electrical contractors, master plumbers, propane gas suppliers or marketers, or any chimney service professional registered as a home improvement contractor with the Division of Consumer Affairs, from acting within the scope of practice of the respective profession or occupation;

(5) defines "bona fide representative," with respect to master hearth specialists, to mean, except as otherwise provided, a master hearth specialist contractor who has not less than one percent ownership of the issued and outstanding shares of stock in a corporation, or not less than one percent ownership of any other firm or legal entity engaged in Master Hearth Specialist contracting in this State. A bona fide representative means, with respect to a corporation, partnership or other firm or legal entity engaged in Master Hearth Specialist contracting in this State which generates more than 65 percent of its gross revenue from sources other than master hearth specialist contracting, or with respect to a publicly traded corporation, including its wholly owned subsidiaries, whose principal business in this State is master hearth professional contracting: in the case of a sole proprietorship, the owner, in the case of partnership, the partner;

in the case of a limited liability company, a manager; or in the case of a corporation, an executive officer; and

(6) a person, firm, partnership, corporation, or other legal entity shall not engage in the business of hearth professional work contracting or advertise in any manner as a master hearth specialist contractor or use the title or designation of "licensed master hearth specialist contractor" unless authorized to act as a licensed master hearth specialist contractor pursuant to the provisions of the bill.

In addition to any penalty authorized pursuant to the provisions of section 12 of P.L.1978, c.73 (C.45:1-25), any person, firm, partnership, corporation, or other legal entity that knowingly violates any provision of this section shall be guilty of a crime of the fourth degree and shall have his or her license revoked.

No firm, corporation, or other legal entity for which the person is the bona fide representative shall perform hearth professional work without a valid license held by a bona fide representative.

No firm, corporation, or other legal entity performing hearth professional work act shall be denied the privilege of conducting and continuing the business of master hearth specialist contracting, by reason of death, termination of employment, illness or a substantial disability of the bona fide representative of the firm, corporation, or other entity, provided that: the firm, corporation, or other entity has complied with the other provisions of this act; the firm, corporation or other entity maintains a place of business within this State; and another bona fide representative of the entity obtains a license within six months from the date of the death, termination of employment, illness, or disability. The board may promulgate additional regulations governing the management and operation of an entity during that period of time when the entity shall be in operation without a bona fide representative.

FISCAL IMPACT:

The Office of Legislative Services (OLS) anticipates that this bill will increase annual State expenditures and revenues by indeterminate amounts. The OLS cannot assess the direction of the net effect of the two increases given the absence of information on the future cost of regulating master hearth specialist and on future license fee and penalty collections.

The State will incur an indeterminate annual increase in operating expenditures associated with the licensure and regulation of master hearth specialist, including the cost of establishing and operating the new Licensed Master Hearth Specialist Advisory Committee.

Additional annual State revenue will accrue from indeterminate fee payments for the new master hearth specialist licenses and indeterminate fine and penalty payments from violators of statutory and regulatory requirements applicable to the newly licensed profession.