

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3118

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JUNE 18, 2019

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Assemblywoman HOLLY T. SCHEPISI

District 39 (Bergen and Passaic)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

Senator SAMUEL D. THOMPSON

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Establishes licensure for master hearth specialists.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.



(Sponsorship Updated As Of: 6/28/2019)

1 AN ACT concerning the licensure of master hearth specialists and
2 amending and supplementing P.L.2007, c.211.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.2007, c.211 (C.45:16A-2) is amended to
8 read as follows:

9 As used in this act:

10 "Board" means the State Board of Examiners of Heating,
11 Ventilating, Air Conditioning and Refrigeration Contractors
12 **[created by section 3 of this act]** established pursuant to P.L.2007,
13 c.211 (C.45:16A-1 et seq.).

14 "Bona fide representative" means, except as otherwise provided
15 herein, a Master HVACR contractor who has not less than one
16 percent ownership of the issued and outstanding shares of stock in a
17 corporation, or not less than one percent ownership of the capital of
18 a partnership, or not less than one percent ownership of any other
19 firm or legal entity engaged in HVACR contracting in this State. A
20 "bona fide representative" means, with respect to a corporation,
21 partnership, or other firm or legal entity engaged in HVACR
22 contracting in this State which generates more than 65 percent of its
23 gross revenue from sources other than HVACR contracting, or with
24 respect to a publicly-traded corporation, including its wholly-owned
25 subsidiaries, whose principal business in this State is HVACR
26 contracting; in the case of a sole proprietorship, the owner; in the
27 case of a partnership, a partner; in the case of a limited liability
28 company, a manager; or in the case of a corporation, an executive
29 officer.

30 "Director" means the Director of the Division of Consumer
31 Affairs in the Department of Law and Public Safety.

32 "Heating, ventilating, air conditioning and refrigeration" or
33 "HVACR" means the process of treating and protecting the
34 environment by the responsible handling, dispensing, collecting and
35 cleaning of chlorofluorocarbons and other refrigerants in stationary
36 sources, and controlling the temperature, humidity and cleanliness
37 of air by using the "wet," "dry," "radiant," "conduction,"
38 "convection," "direct," or "indirect" method or combination of
39 methods, including those which utilize solar energy, to meet the
40 environmental requirements of a designated area. "HVACR" also
41 means the installation, servicing, connecting, maintenance or repair
42 of the following:

43 power boiler systems, hydronic heating systems, fire tube and
44 water tube boilers, pressure steam and hot water boilers, furnaces
45 and space heaters, and appurtenances utilizing electric, fossil fuel,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 wood pellets or solar energy, other than those appurtenances
2 utilized solely for the purpose of heating potable water;

3 warm air heating or refrigeration and evaporative cooling
4 systems, ventilation and exhaust systems, dust collectors, air
5 handling equipment, heating or cooling coils, air or refrigerant
6 compressors, chillers, cooling towers, evaporators, condensers,
7 plenums, fans, blowers, air cleaners, mechanical ventilation for
8 radon mitigation, humidifiers, filters, louvers, mixing boxes and
9 appurtenances; hydronic heating and chilled water pipe, condensate
10 piping not discharged into a sanitary sewer, valves, fittings, burners
11 and piping, hydronic heating, expansion tanks, pumps, gauges,
12 humidity and thermostatic controls;

13 natural or manufactured gas piping on the load side of a meter;
14 supply water piping to equipment being served from an existing
15 dedicated source connected downstream from an approved
16 backflow preventer, except in replacement cases, the installation of
17 the required approved backflow device downstream from a pre-
18 existing valve; and pneumatic controls and control piping, for the
19 control of air, liquid, or gas temperatures, radiators, convectors, unit
20 cabinet heaters, or fan coil units; and pneumatic controls and
21 control piping, of automatic oil, gas or coal burning equipment,
22 mechanical refrigeration equipment, gasoline or diesel oil
23 dispensing equipment and in replacement cases only, the connection
24 thereof of the wiring from an electrical service disconnect box of
25 adequate size to accommodate the equipment and controls and
26 previously dedicated to that equipment, and the testing and
27 balancing of air and hydronic systems, but does not include the
28 design or preparation of specifications for equipment or systems to
29 be installed that are within the practice of professional engineering
30 as defined in subsection (b) of section 2 of P.L.1938, c.342 (C.45:8-
31 28).

32 "HVACR apprentice" means a person who is enrolled in an
33 HVACR apprenticeship or other training program, including, but
34 not limited to steamfitter, pipefitter or sheet metal apprenticeship
35 programs, approved by the United States Department of Labor and
36 who engages in the installation, alteration, repair, service, or
37 renovation of HVACR systems under the supervision of a Master
38 HVACR contractor as part of that apprenticeship or other training
39 program and who has studied and performed the majority of
40 "HVACR" as defined in this section.

41 "Heating, ventilating, air conditioning and refrigeration
42 contracting" means undertaking or advertising to undertake, for a
43 fixed price, fee, commission, or gain of whatever nature, the
44 planning, laying out, installation, construction, maintenance,
45 service, repair, alteration or modification to any portion of any
46 system, product or equipment or appurtenances used for the
47 environmental needs or control of any heating, ventilating, air
48 conditioning and refrigeration system.

1 "Master heating, ventilating, air conditioning and refrigeration
2 contractor" means any person, firm, partnership, corporation or
3 other legal entity licensed according to the provisions of **[this act]**
4 P.L.2007, c.211 (C.45:16A-1 et seq.), which obtains a pressure seal
5 pursuant to sections 24 and 25 of **[this act]** P.L.2007, c.211
6 (C.45:16A-24 and C.45:16A-25) and which advertises, undertakes
7 or offers to undertake for another the planning, laying out,
8 supervising, installing, servicing or repairing of HVACR systems,
9 apparatus or equipment. In order to act as a "Master HVACR
10 contractor," an individual shall be a bona fide representative of the
11 legal entity licensed pursuant to the provisions of this act, and shall
12 have studied and performed the majority of "HVACR" as defined in
13 this section.

14 "HVACR journeyman" means any person who installs, alters,
15 repairs, services or renovates HVACR systems in accordance with
16 standards, rules and regulations established by the board, who
17 works under the supervision of a Master HVACR contractor, and
18 who has studied and performed the majority of "HVACR" as
19 defined in this section.

20 "One percent ownership" means that a bona fide representative is
21 entitled to one percent of any net profits from a business, owns one
22 percent equity in a Master HVACR contractor, and is entitled to one
23 percent of the net proceeds from the sale of a business in the event
24 of the sale of the business. If the Master HVACR contractor is a
25 corporation, the bona fide representative owns stock equaling one
26 percent equity interest, and, if there is more than one class of stock,
27 the stock owned by the bona fide representative is the highest level
28 stock with full voting rights.

29 "Retrofit" means a change in design, construction or equipment
30 already in operation in order to incorporate later improvements.

31 "Replacement" means a change of equipment with the same type
32 or similar equipment.

33 "Undertake or offer to undertake for another" means a contractor
34 who is listed in a public bid as the proposed subcontractor by the
35 contractor placing the bid for an HVACR contract.

36 "Barbecue appliance" means an appliance that cooks food by
37 applying heat as a result of burning solid fuel, gas fuel, natural gas,
38 propane gas, wood fuel, or pellet fuel.

39 "Hearth product appliance" means a fireplace, fireplace insert,
40 stove, or log set that offers a decorative view of flames and may be
41 fueled by solid fuel, gas fuel, natural gas, propane gas, wood fuel,
42 or pellet fuel, and may include a passive or powered air vent heated
43 by flames, a convection chamber for the purpose of heating the
44 room air by the means of gravity, or a manufacturer approved or
45 supplied fan.

46 "Hearth professional work" means the installation, replacement,
47 connection, venting, inspection, repair, maintenance, or servicing of
48 hearth product appliances, barbecue appliances, outdoor patio

1 appliances, and decorative space heater appliances, and shall
2 include the installation, inspection, repair, or servicing of vents,
3 vent connectors, masonry, metal and factory built chimney and vent
4 systems, and natural or manufactured gas piping on the load side of
5 the meter.

6 “Licensed Master Hearth Specialist” means a person who holds a
7 current, valid license to engage in hearth professional work
8 pursuant to P.L. , c. (C.) (pending before the Legislature as
9 this bill).

10 “Outdoor patio appliance” means an appliance that is located
11 outdoors and may be fueled by solid fuel, gas fuel, natural gas,
12 propane gas, wood fuel, or pellet fuel, including free standing,
13 mounted, or built-in appliances, stoves, fireplaces, fire pits, inserts,
14 and gas logs.

15 “Decorative Space heater appliance” means an appliance that
16 offers a decorative view of flames and provides heat to the
17 immediate area by the means of thermal radiation or convection,
18 and includes free standing, mounted, or built-in appliances, stoves,
19 fireplaces, inserts, and gas logs, and may be fueled by solid fuel,
20 gas fuel, natural gas, propane gas, wood fuel, or pellet fuel.

21 (cf: P.L.2018, c.125, s.1)

22
23 2. (New section) a. There is established within the Division of
24 Consumer Affairs in the Department of Law and Public Safety,
25 under the State Board of Examiners of Heating, Ventilating, Air
26 Conditioning and Refrigeration Contractors, a “Licensed Master
27 Hearth Specialist Advisory Committee.” The committee shall
28 consist of seven members who are residents of this State appointed
29 by the Governor without regard to political affiliation as follows:

30 (1) Three members shall have been engaged or employed in
31 hearth professional work for a period of five consecutive years and
32 shall hold a certification as a Master Hearth Professional, as issued
33 by the National Fireplace Institute immediately preceding their
34 appointments, and, except for the first members appointed, shall be
35 licensed under the provisions of P.L. , c. (C.) (pending
36 before the Legislature as this bill);

37 (2) One member shall be a licensee of the State Board of
38 Examiners of Heating, Ventilating, Air Conditioning and
39 Refrigeration Contractors Board, established pursuant to P.L.2007,
40 c.211 (C.45:16A-1 et seq.);

41 (3) One member shall be a licensee of the State Board of
42 Examiners of Master Plumbers, established pursuant to P.L.1968,
43 c.362 (C.45:14C-1 et seq.);

44 (4) One member shall be from a department in the Executive
45 Branch of State Government who shall serve without compensation
46 at the pleasure of the Governor; and

1 (5) One member shall be a public member who meets the
2 requirements pertaining to public members set forth in subsection b.
3 of section 2 of P.L.1971, c.60 (C.45:1-2.2).

4 b. A majority of the appointed members of the committee shall
5 constitute a quorum thereof and no action of the committee shall be
6 taken except upon the affirmative vote of a majority of the
7 appointed members of the committee.

8 c. The Governor shall appoint each member for a term of three
9 years, except that of the members first appointed, four shall serve
10 for terms of three years, two shall serve for a term of two years, and
11 one shall serve for a term of one year.

12 d. Any vacancy in the membership of the committee shall be
13 filled for the unexpired term in the manner provided for the original
14 appointment. No member may serve more than two successive
15 terms in addition to any unexpired term to which the members has
16 been appointed.

17 e. The committee shall annually elect from among its members
18 a chair and vice-chair. The committee shall meet at least twice a
19 year and may hold additional meetings as necessary to discharge its
20 duties.

21
22 3. (New section) Notwithstanding any law, rule, or regulation
23 to the contrary, the board shall have the following powers and
24 duties, or may delegate them to the committee:

25 a. set standards and approve certifications for applicants for a
26 master hearth specialist license, and issue a license to each qualified
27 applicant;

28 b. determine the form and contents of applications for
29 licensure, issuance of license, and identification cards;

30 c. adopt a code of ethics for licensed master hearth specialists;

31 d. issue and renew licenses and identification cards;

32 e. set the amount of fees for master hearth specialist licenses,
33 license renewals applications, examinations, and other services
34 provided by the committee within the limits provided in subsection
35 b. of section 8 of P.L. , c. (C.) (pending before the
36 Legislature as this bill);

37 f. refuse to issue or suspend, revoke, or fail to renew the
38 license of a master hearth specialist pursuant to the provisions of
39 P.L.1978, c.73 (C.45:1-14 et seq.);

40 g. maintain a record of all applicants for a license;

41 h. maintain and annually publish a record of the name, place of
42 business, and license date and number for every licensed master
43 hearth specialist;

44 i. take disciplinary action in accordance with P.L.1978, c.73
45 (C.45:1-14 et seq.) against a licensed master hearth specialist who
46 violates any provision of this act or any rule or regulation
47 promulgated pursuant to P.L. , c. (C.) (pending before the
48 Legislature as this bill);

1 j. adopt standards and requirements for and approve
2 continuing education programs and courses of study for master
3 hearth specialists and their employees;

4 k. review advertising by licensed master hearth specialists; and

5 l. perform other duties as may be necessary to effectuate the
6 purposes of P.L. , c. (C.) (pending before the Legislature as
7 this bill).

8
9 4. (New section) Any person desiring to obtain a master hearth
10 specialist license shall make application to the board and shall pay
11 all the fees required in connection with the application.

12
13 5. (New section) A person shall not work as a master hearth
14 specialist or use the title or designation of "licensed master hearth
15 specialist" or "master hearth specialist" unless issued a license
16 pursuant to the provisions of P.L. , c. (C.) (pending before
17 the Legislature as this bill).

18
19 6. (New section) No person shall install, improve, repair, or
20 maintain gas piping associated with barbecue appliances, hearth
21 product appliances, outdoor patio appliances, decorative space
22 heater appliances, or hearth professional work unless licensed by
23 the board as a master hearth specialist in accordance with the
24 provisions of P.L. , c. (C.) (pending before the Legislature as
25 this bill).

26
27 7. (New section) No person shall provide instruction regarding
28 the installation, improvement, repair, or maintenance of gas piping
29 associated with barbecue, hearth products or hearth professional
30 work unless licensed by the board as a master hearth specialist in
31 accordance with the provisions of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33
34 8. (New section) a. A person, firm, partnership, corporation,
35 or other legal entity shall not engage in the business of hearth
36 professional work contracting or advertise in any manner as a
37 master hearth specialist contractor or use the title or designation of
38 "licensed master hearth specialist contractor" unless authorized to
39 act as a licensed master hearth specialist contractor pursuant to the
40 provisions of P.L. , c. (C.) (pending before the Legislature as
41 this bill).

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

47 c. No firm, corporation, or other legal entity for which the
48 person is the bona fide representative shall perform hearth

1 professional work without a valid license held by a bona fide
2 representative.

3 d. No firm, corporation, or other legal entity performing hearth
4 professional work act shall be denied the privilege of conducting
5 and continuing the business of master hearth specialist contracting,
6 by reason of death, termination of employment, illness or a
7 substantial disability of the bona fide representative of the firm,
8 corporation, or other entity, provided that: the firm, corporation, or
9 other entity has complied with the other provisions of P.L. , c.
10 (C.) (pending before the Legislature as this bill) the firm,
11 corporation or other entity maintains a place of business within this
12 State; and another bona fide representative of the entity obtains a
13 license within six months from the date of the death, termination of
14 employment, illness, or disability. The board may promulgate
15 additional regulations governing the management and operation of
16 an entity during that period of time when the entity shall be in
17 operation without a bona fide representative.

18 e. As used in this section, “bona fide representative” means,
19 except as otherwise provided herein, a master hearth specialist
20 contractor who has not less than one percent ownership of the
21 issued and outstanding shares of stock in a corporation, or not less
22 than one percent ownership of any other firm or legal entity
23 engaged in Master Hearth Specialist contracting in this State. A
24 bona fide representative means, with respect to a corporation,
25 partnership or other firm or legal entity engaged in Master Hearth
26 Specialist contracting in this State which generates more than 65
27 percent of its gross revenue from sources other than master hearth
28 specialist contracting, or with respect to a publicly traded
29 corporation, including its wholly owned subsidiaries, whose
30 principal business in this State is Master Hearth Professional
31 contracting: in the case of a sole proprietorship, the owner, in the
32 case of partnership, the partner; in the case of a limited liability
33 company, a manager; or in the case of a corporation, an executive
34 officer.

35
36 9. (New Section) Nothing in P.L. , c. (C.) (pending
37 before the Legislature as this bill) shall be construed to prevent any
38 person licensed by the State, including, but not limited to,
39 architects, professional engineers, electrical contractors, master
40 plumbers, propane gas suppliers or marketers, or any chimney
41 service professional registered as a home improvement contractor
42 with the Division of Consumer Affairs, from acting within the
43 scope of practice of the respective profession or occupation, but no
44 person shall use the designation “licensed master hearth specialist”
45 or “master hearth specialist” unless licensed as a master hearth
46 specialist under the provisions of P.L. , c. (C.) (pending
47 before the Legislature as this bill).

1 10. (New section) a. The provisions of P.L. , c. (C.)
2 (pending before the Legislature as this bill) shall not deny to any
3 municipality the power to inspect hearth professional work or the
4 equipment of a master hearth specialist, or the power to enforce the
5 standards and manner in which hearth professional work shall be
6 done, but no municipality, local board of health, or other agency
7 shall require any master hearth specialist under P.L. , c. (C.)
8 (pending before the legislature as this bill) to obtain any additional
9 license, apply for or take any examination, or pay any licensing fee.

10 b. The board shall ensure that licensed master hearth specialists
11 comply with all applicable requirements of building codes, gas
12 codes, and any other industry standards deemed appropriate by the
13 board.

14

15 11. (New section) Every person desiring to apply for a master
16 hearth specialist license who shall meet the qualifications as set
17 forth herein, shall deliver to the board, personally or by certified
18 mail, return receipt requested, postage prepaid, a certified check or
19 money order payable to the Treasurer of the State of New Jersey in
20 the required amount, together with the written application required
21 by the board, completed as described in the application, and
22 together with proof of qualification as described herein.

23 The qualifications for a Master Hearth Specialist's license shall
24 be as follows:

25 a. the person shall be 21 or more years of age;

26 b. the person shall be a citizen or legal resident of the United
27 States;

28 c. the person shall possess a valid certification as a Master
29 Hearth Professional, issued by the National Fireplace Institute, or
30 an equivalent authority approved by the board; and

31 d. the person shall have been engaged or employed in hearth
32 professional work for a period of five years preceding the date of
33 the person's application for licensure.

34 Proof of compliance with the qualifications shall be submitted to
35 the board in writing, sworn to by the applicant, and the written
36 proof shall be accompanied by two recent photographs of the
37 applicant.

38

39 12. (New section) Every license issued pursuant to P.L. , c.
40 (C.) (pending before the Legislature as this bill) shall
41 automatically expire on June 30 following the date of its issuance.
42 Licenses may be renewed biennially by the board upon written
43 application of the holder and payment of the prescribed fee.

44

45 13. (New section) a. The board shall require each master hearth
46 specialist, as a condition of license renewal, to complete any
47 continuing education requirements imposed by the board pursuant
48 to subsection b. of this section.

1 b. The board shall establish standards for the continuing
2 education of master hearth specialists, including the subject matter
3 and content of courses of study, the selection of instructors, and the
4 number and type of continuing education credits required of a
5 master hearth specialist as a condition of license renewal.

6 c. During the biennial renewal period beginning July 1, 2021
7 and ending on June 30, 2022 and every biennial period thereafter,
8 sponsors of continuing education courses selected by the board shall
9 include one hour of education in propane services, including
10 substantially the same information covered in either the
11 Fundamentals of LP manual, 2007 edition, or the Gas Installation
12 for United Association Journeyworkers and Apprentices manual,
13 2003 edition.

14 d. After completion of the education in propane services
15 required subsection c. of this section, sponsors of continuing
16 education courses shall administer a competency evaluation
17 examination, that tests a master hearth specialist's understanding of
18 the information provided on propane services.

19 e. The board shall not require completion of continuing master
20 hearth specialist education credits for the initial licensure period.

21
22 14. (New section) The provisions of P.L. , c. (C.)
23 (pending before the Legislature as this bill) shall not apply to a
24 single-family homeowner who performs hearth professional work
25 on the person's own dwelling. Nothing in P.L.1968, c.362
26 (C.45:14C-1 et seq.) or P.L.2007, c.211 (C.45:16A-1 et seq.) shall
27 be construed to prevent licensed electrical contractors from
28 engaging in the installation, maintenance, and repair of natural or
29 manufactured gas piping while installing or repairing electric
30 generators, provided they have demonstrated as a part of licensure
31 continuing education in the installation of gas piping relevant to
32 installing or repairing electric generators.

33
34 15. Section 2 of this act shall take effect immediately and the
35 remainder of this act shall take effect on the 120th day next
36 following the date of enactment, but the board may take such
37 anticipatory administrative action in advance as shall be necessary
38 for the implementation of this act.