ASSEMBLY, No. 2694

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1997

By Assemblymen GIBSON and ASSELTA

AN ACT concerning heating, ventilating and air conditioning contracting and amending and supplementing P.L.1968, c.362.

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

1. (New section) Sections 1 through 19 of this act shall be known and may be cited as "The State Heating, Ventilating and Air Conditioning Contracting License Law."

2. (New section) As used in this act:

"Apprentice HVAC tradesman" means any person other than an HVAC contractor or journeyman HVAC tradesman who as his principal occupation is engaged in learning and assisting in the installation of HVAC.

"Bona fide representative" means a licensed HVAC contractor.

"Heating, ventilating and air conditioning" or "HVAC" means the process of treating and protecting the environment by the responsible handling, dispensing, collecting and cleaning of chlorofluorocarbons and other refrigerants, and controlling the temperature, humidity and cleanliness of air by using the "wet," "dry," "radiant," "conduction," "convection," "direct," or "indirect" method or combination of methods, including those which utilize solar energy, to meet the environmental requirements of a designated area. "HVAC" shall also mean the installation, maintenance and repair of: power boiler systems, hot water and steam heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, furnaces and space heaters, and appurtenances utilizing electric, fossil fuel or solar energy other than for the use of heating potable water; warm air heating or refrigeration and evaporative cooling systems, ventilation and exhaust systems, dust collectors, air handling equipment, heating or cooling coils, air or refrigerant compressors, chillers, cooling towers, evaporators, condensers, plenums, fans, blowers, air cleaners, mechanical ventilation for radon mitigation, humidifiers, filters, louvers, mixing

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

Matter underlined <u>thus</u> is new matter.

boxes and appurtenances; steam, hot water and chilled water pipe, condensate piping, valves, fittings, fuel oil storage tanks, burners and piping, expansion tanks, pumps, gauges, humidity and thermostatic controls; supply water piping to equipment being served from an existing dedicated source connected downstream from an approved backflow preventer; and the maintaining, installing or connecting of: pneumatic, electrical, electronic controls and control piping, for the control of air, liquid, or gas temperatures, radiators, convectors, unit cabinet heaters, fan coil units, flues, or patented chimneys; and pneumatic, electrical, electronic controls and control piping, of automatic oil, gas or coal burning equipment, mechanical refrigeration equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size of an existing electrical distribution board; and the testing and balancing of air and hydronic systems, but does not include the design or preparation of specifications for equipment or systems to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L.1938, c.342 (C.45:8-28).

"Heating, ventilating and air conditioning contracting" means undertaking or advertising to undertake, for a fixed price, fee, commission, or gain of whatever nature, the design, installation, construction, maintenance, service, repair, alteration or modification to any portion of any system, product or equipment or appurtenances used for the environmental needs or control of any heating, ventilating and air conditioning system.

"Heating, ventilating and air conditioning contractor" or "HVAC contractor" means any person, firm, partnership, corporation or other legal entity licensed according to the provisions of this act which obtains a pressure seal pursuant to section 16 of this act and which advertises, undertakes or offers to undertake for another the planning, laying out, supervising, installing, or repairing of HVAC systems, apparatus or equipment. In order to act as an HVAC contractor, a licensed HVAC contractor shall be the holder of not less than 10% of the issued and outstanding shares of stock in the corporation, or not less than 10% of the capital of the partnership, or not less than 10% of the ownership of any other firm or legal entity engaging in the business of HVAC contracting in the State and shall employ either journeymen or apprentice HVAC tradesmen.

"Journeyman HVAC tradesman" means any person other than an HVAC contractor or apprentice HVAC tradesman who installs, alters, repairs and renovates HVAC systems in accordance with standards, rules and regulations established by the State Board of Examiners of Master Plumbers and who works under the supervision of an HVAC contractor.

3. (New section) Any person desiring to obtain an HVAC contractor's license shall make application for licensure to the State board and shall pay all the fees required in connection with the application, and be examined as required by this act.

4. (New section) On or after the effective date of this act, a municipality, local board of health or any other agency shall not issue or renew any HVAC contractor's license.

5. (New section) a. A person shall not work as an HVAC contractor or use the title or designation of HVAC contractor unless licensed pursuant to the provisions of this act.

b. A person, firm, partnership, corporation or other legal entity shall not engage in the business of HVAC contracting or advertise in any manner as an HVAC contractor or use the title or designation of HVAC contractor unless authorized to act as an HVAC contractor pursuant to the provisions of this act.

6. (New section) Nothing in this act shall be construed to prevent the practice of engineering by a holder of a license to practice that profession in this State, but no engineer shall use the designation "licensed HVAC contractor" unless licensed as an HVAC contractor under the provisions of this act.

7. (New section) The provisions of this act shall not apply to a single family home owner who personally occupies his own dwelling and who solely performs HVAC contracting work on his own dwelling, upon receipt of all required permits and upon receipt of an affidavit notarized by that home owner stating that he intends to continue to personally occupy that dwelling for a period of not less than two years from the date of the receipt, except that any HVAC work involving chlorofluorocarbons (CFC's) or hydrochlorofluorocarbons (HCFC's) shall be done by an HVAC contractor.

8. (New section) The provisions of this act shall not apply to any public utility company regulated by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes that performs emergency repair services to prevent an imminent threat to the health and safety of life or property, which repair services include, but are not limited to, turning off, disconnecting, shutting down or disabling any equipment or condition or the provision of any products.

9. (New section) The provisions of this act shall not deny to any municipality the power to inspect HVAC work or equipment or the power to enforce the standards and manner in which HVAC work shall

be done, but no municipality, local board of health or other agency shall require any HVAC contractor licensed under this act, or authorized to engage in the business of HVAC contracting under this act, to obtain any additional license, apply for or take any examination, or pay any licensing fee.

10. (New section) a. Not less than 30 days and no more than 60 days prior to the date set for the examination for an HVAC contractor's State license, every person, except as provided in this act, desiring to apply for a State license, who meets the qualifications as set forth by this act, shall deliver to the State board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount, together with such written application as shall be required by the State board, completed as described in the application, and together with proof of qualifications as described in this act.

b. (1) Except as provided in paragraph (2) of this subsection, the qualifications for eligibility to be licensed as an HVAC contractor shall be as follows: The person shall be 21 or more years of age, shall be a citizen of the United States, shall have been engaged or employed in the HVAC contracting business for a period of five years next preceding the date of his application for a State license, which shall have been spent while engaged or employed as a journeyman HVAC tradesman, and shall successfully pass the State HVAC contractor's license examination. In lieu of the above requirements a person shall have been awarded a bachelor's degree in mechanical engineering from an accredited college or university in the United States which the State board finds acceptable and in addition shall have been engaged or employed in the practical work of installing HVAC systems for three years as an apprentice or journeyman HVAC tradesman.

Proof of compliance with the qualifications or those in lieu thereof shall be submitted to the board in writing, sworn to by the applicant, and the written proof shall be accompanied by two recent photographs of the applicant.

(2) Except for the requirement of passing the State HVAC contractor's licensing examination, any master plumber licensed by the State board shall be exempt from the requirements of paragraph (1) of subsection a. of this section, and shall be eligible to take the HVAC examination upon submission to the State board of the prescribed application fees for licensure.

11. (New section) a. Every HVAC contractor's license examination shall be substantially uniform and shall be designed so as to establish the competence and qualifications of the applicant to perform the type of work and business as described in this act. The

examination may be theoretical or practical in nature, or both.

b. The examination shall be held at least four times a year, at Trenton or such other place as the State board shall deem necessary. Public notice of the time and place of the examination shall be given.

c. No person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of the examination failed by that person.

d. All applicants for HVAC contractor's licenses, renewals or reexaminations shall pay a fee for each license issuance or renewal, or reexamination which shall be determined by the State board.

Any licensed HVAC contractor, however, who serves as an inspector of applicable jurisdiction pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and who presents satisfactory evidence to the State board indicating same, shall not be required to pay the HVAC contractor's license renewal fee, except that this license shall be invalid during the licensee's period of service as an inspector. Upon termination of service as an inspector, the licensee shall present satisfactory evidence to the State board indicating same, whereupon the HVAC contractor's license shall become valid, subject to other requirements of this act.

12. (New section) Licenses shall be renewed biennially by the State board upon written application of the holder and payment of the prescribed fee and renewal of the required bond. The license may be renewed without the holder having to be reexamined, provided the application for renewal is made within 30 days next preceding or following the scheduled expiration date. Any applicant for renewal making application at any time subsequent to the 30 days next following the scheduled expiration date may be required by the State board to be reexamined, and the person shall not continue to act as a State licensed HVAC contractor, as described in this act, and no firm, corporation or other legal entity for which the person is the bona fide representative shall operate under a license in the HVAC business, as described in this act, until a valid license has been secured or is held by a bona fide representative.

Any State license expiring while the holder is outside the continental limits of the United States in connection with any project undertaken by the government of the United States, or while in the services of the Armed Forces of the United States, shall be renewed without the holder being required to be reexamined, upon payment of the prescribed fee at any time within four months after the person's return to the United States or discharge from the armed forces, whichever is later.

13. (New section) The State board may in its discretion grant licenses without examination to applicants so licensed by other states;

provided that equal reciprocity is provided for New Jersey HVAC contractors by the law of the applicant's domiciliary state and provided further that the state's standards are equal to or comparable to those of this State.

14. (New section) No firm, corporation or other legal entity operating under and by virtue of this act, shall be denied the privilege of conducting and continuing the business of HVAC contracting, by reason of the death, illness or other substantial disability of the bona fide representative of the firm, corporation or other entity, provided (a) the firm, corporation or other entity has complied with the other provisions of this act, and (b) that the firm, corporation or other entity maintains a place of business within this State, and (c) another bona fide representative of the entity obtains a license in this State within 12 months from the date of the death, illness or disability. The State 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 having a bona fide representative.

15. (New section) In addition to any other bonds as may be required pursuant to contract, no HVAC contractor who is the holder of a license under the provisions of this act shall undertake to do any HVAC work in the State of New Jersey unless and until he shall have first entered into a bond in favor of the State of New Jersey in the sum of $3,000 executed by a surety company authorized to transact business in the State of New Jersey, approved by the Department of Banking and Insurance and to be conditioned on the faithful performance of the provisions of this act. No municipality shall require any similar bond from any HVAC contractor licensed under this act. The board shall by rule and regulation provide who shall be eligible to receive the financial protection afforded by the bond required to be filed by this section. The bond shall be for the term of 24 months and shall be renewed at each expiration for a similar period.

16. (New section) To be eligible to obtain and retain a pressure seal, an HVAC contractor shall:

a. Secure, maintain and file with the State board a certificate of general liability insurance from an insurance company authorized and licensed to do business in this State covering the HVAC contracting done by that HVAC contractor. The minimum amount of general liability insurance shall be $300,000 for the combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence; and

b. File with the State board its Federal Tax Identification number.

Every certificate of insurance required to be filed with the State

board pursuant to this section shall provide that cancellation of the insurance shall not be effective unless and until at least 10 days' notice of intention to cancel has been received in writing by the State board.

17. (New section) a. The State board shall provide a pressure seal to an HVAC contractor at the time of the issuance of a license or as soon thereafter as deemed appropriate by the State board. No pressure seal shall be provided by the State board or retained by an HVAC contractor unless the HVAC contractor complies with the provisions of section 15 of this act. The HVAC contractor shall pay the cost of the pressure seal, but the seal shall remain the property of the State board. The HVAC contractor shall immediately surrender the seal upon the suspension, revocation or expiration of the license.

b. An HVAC contractor shall impress his pressure seal upon all applications for HVAC permits from the appropriate duly licensed State inspection agency.

c. A pressure seal shall be used exclusively by an HVAC contractor in the conduct of the HVAC contractor's practice. An HVAC contractor shall not willfully or negligently allow any person who is not licensed as an HVAC contractor to use his pressure seal.

18. (New section) Notwithstanding any other provision of this act to the contrary, the State board shall, upon application to it and the payment of the prescribed fee, issue an HVAC contractor's license without examination to any licensed master plumber who applies for an HVAC contractor's license within six months following the effective date of this act.

19. (New section) Nothing in this act shall be construed to prevent licensed master plumbers from engaging in the installation, maintenance and repair of: power boiler systems, hot water and steam heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, space heaters, and appurtenances utilizing electricity, fossil fuel or solar energy other than for the use of heating potable water; steam, hot water and chilled water pipe, valves, fittings, fuel oil storage tanks, burners and piping, expansion tanks, pumps, gauges, and thermostatic controls; or natural or manufactured gas piping; and the installation, maintenance or connection of: pneumatic, electronic or electric controls and control piping for the control of water or steam temperatures, radiators, convectors, unit cabinet heaters, fan coil units, mechanical ventilation for radon mitigation, flues and patented chimneys; or of pneumatic, electrical, electronic controls and control piping, of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and the lighting in connection therewith to a supply of adequate size of an existing electrical distribution board, and the testing and balancing of hydronic

systems, provided that they do not hold themselves out to the public by any title or designation stating or implying that they are licensed HVAC contractors.

20. Section 3 of P.L.1968, c.362 (C.45:14C-3) is amended to read as follows:

3. There is created hereunder a State Board of Examiners of Master Plumbers in the Department of Law and Public Safety, consisting of **[**7**]** 11 citizens to be appointed by the Governor, without regard to political affiliation, and except as to members first appointed, for terms of 4 years and until the appointment of their successors. Of the members first appointed 2 shall be appointed for terms of 1 year, 2 for 2 years, 2 for 3 years and one for 4 years. Three members shall be master plumbers of at least 10 years experience, two members shall be practicing HVAC contractors of at least 10 years experience, one shall be an electrical inspector of at least 10 years experience, one shall be a local plumbing inspector who has held such appointment for at least 10 years, one shall be a journeyman plumber of at least 10 years experience and 2 shall be representatives of the public having no association with the plumbing or HVAC industry and one shall be the Commissioner of Labor appointed pursuant to the provisions of subsection c. of section 2, P.L.1971, c.60 (C.45:1-2.2). The initial HVAC contractor and electrical inspector appointments shall each be for a term of two years.

No member shall be eligible for appointment for more than 2 terms. Appointments to fill vacancies on the board shall be made for the remainder of the unexpired term.

Members of the board shall be subject to removal by the Governor for cause.

(cf: P.L.1968, c.362, s.3)

21. This act shall take effect immediately, except that section 5 of the act shall take effect on the 360th day following enactment.

STATEMENT

This bill establishes licensing requirements for persons engaged in the business of heating, ventilating and air conditioning contracting and involving the responsible collection and disbursement of chlorofluorocarbons and other refrigerants to protect the environment. The bill increases the membership of the State Board of Examiners of Master Plumbers to eleven, by providing that two members shall be heating, ventilating and air conditioning contractors with at least 10 years experience, that one member shall be an electrical inspector with at least 10 years experience and that one member shall be a State

executive department member from the Department of Labor.

The bill also requires heating, ventilating and air conditioning (HVAC) firms to carry general liability insurance and to file their Federal Tax Identification number with the State Board of Examiners of Master Plumbers. Additionally, it regulates the possession and use of a pressure seal by an HVAC contractor.

The bill establishes standards of eligibility for licensure for HVAC contractors. It requires that to be eligible a person must be 21 or more years of age; shall be a citizen of the United States; shall have been engaged or employed in the HVAC industry for a period of five years next preceding the date of his application for a State license, which shall have been spent while engaged or employed as a journeyman HVAC tradesman; and shall successfully pass the State HVAC contractor's license examination. In lieu of these requirements, the board may accept as satisfactory a background including a bachelor's degree in mechanical engineering and work experience installing HVAC systems for three years as an apprentice or journeyman HVAC tradesman.

Furthermore, the bill provides for a biennial license renewal for HVAC contractors.

Also, the bill enumerates specific practices in which a licensed master plumber may be engaged, provided that he does not hold himself out to the public as a licensed HVAC contractor. The bill further provides that nothing in this bill shall be construed to prevent the practice of engineering by any person who holds an engineering license and also states that no engineer shall use the designation of licensed HVAC contractor unless so licensed in accordance with the provisions of this bill. The bill also stipulates that its provisions shall not apply to any public utility company regulated by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes that performs emergency repair services to prevent an imminent threat to the health and safety of life or property, which repair services include, but are not limited to, turning off, disconnecting, shutting down or disabling any equipment or condition or the provision of any products.

In addition, the bill permits a licensed master plumber who applies for an HVAC contractor's license within six months following the effective date of this act to receive the HVAC contractor's license, without examination, upon application to the board and the payment of a prescribed fee.

Licenses heating, ventilating and air conditioning contractors.