

*As Engrossed: 1/31/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

**A BILL ACT 277 OF 1991**  
**HOUSE BILL 1135**

4 **By:**  
5 **Reps. Flanagin, Mitchell, Gilbert, McCuiston, Wingfield, Mullenix, Watts, Sanson,**  
6 **Wooldridge, Blair, Dietz, Northcutt, McGinnis, and Henry**

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8  
9 **For An Act To Be Entitled**

10 "AN ACT TO ESTABLISH THE ARKANSAS HEATING, VENTILATION,  
11 AIR CONDITIONING, AND REFRIGERATION LICENSING BOARD; TO  
12 PROVIDE ADMINISTRATION OF THE LICENSING LAW THROUGH THE  
13 ARKANSAS DEPARTMENT OF HEALTH; AND FOR OTHER PURPOSES."

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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 SECTION 1. Definitions. As used in this act:

18 (1) "Board" means the Arkansas Heating, Ventilation, Air Conditioning  
19 and Refrigeration Licensing Board;

20 (2) "BTUH" means British Thermal Unit per hour of heat;

21 (3) "Department" means the Arkansas Department of Health;

22 (4) "Director" means the Director of the Arkansas Department of Health;

23 (5) "Heating and air conditioning" means the process of treating air to  
24 control temperature, humidity, cleanliness, ventilation, or circulation to  
25 meet human comfort requirements;

26 (6) "Heating, Ventilation, Air Conditioning and Refrigeration" or  
27 "HVACR" means the design, installation, construction, maintenance, service,  
28 repair, alteration, or modification of a product or of equipment in heating  
29 and air conditioning, refrigeration, ventilation, or process cooling or  
30 heating systems;

31 (7) "Horsepower" means the equivalent to 746 watts;

32 (8) "HVACR Gas Fitting Work" means gas fitting work for the purpose of  
33 supplying a HVACR system and shall be limited to installing six (6) feet or  
34 less final of gas piping connection to a heating unit from an existing,  
35 accessible manual safety shutoff gas cock, installing flue gas vents and  
36 combustion air for the HVACR system;

1           (9) "HVACR Licensing Fund" means a fund established under this act to  
2 be used exclusively to fund all activities covered under this act;

3           (10) "HVACR Maintenance Work" means repair, modification, service and  
4 all other work required for the normal continued performance of a HVACR  
5 system. This term does not include the installation or total replacement of a  
6 system, or the installation of boiler or pressure vessels that must be  
7 installed by persons licensed under Arkansas Code Title 20, Chapter 23;

8           (11) "Licensee" means the holder of a license issued pursuant to this  
9 act;

10          (12) "One Ton" means 12,000 BTUH;

11          (13) "Persons" means any individual, firm, partnership, co-partnership,  
12 corporation, association, cooperative or any other association or combination  
13 thereof;

14          (14) "Public Entity" means any agency of the State of Arkansas or any  
15 political subdivision of the state;

16          (15) "Refrigeration" means the use of mechanical or absorption equipment  
17 to control temperature, humidity, or both in order to satisfy the intended use  
18 of a specific space other than for human comfort;

19          (16) "Registrant" means a person who does not hold a Class A, B, or C  
20 HVACR license and who can only perform work for an HVACR licensee and who  
21 holds a current HVACR registration;

22          (17) "Repair" means the reconstruction or replacement of any part of an  
23 existing HVACR system for the purpose of its maintenance;

24          (18) "Subcontractor" means a person who performs a portion of the HVACR  
25 installation;

26          (19) "Ventilation" means the process of supplying or removing air by  
27 natural or mechanical means to or from any space.

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29           SECTION 2. Board Composition. (a) There is hereby created the HVACR  
30 Licensing Board to be composed of nine (9) members appointed by the Governor  
31 of the State of Arkansas and confirmed by the Senate. The Board shall be  
32 composed of the following members who shall be residents of the State of  
33 Arkansas:

34                   (1) The Secretary of the Board shall be a representative of the  
35 Arkansas Department of Health;

36                   (2) Two (2) members of the board shall be a Class A license

1 holders whose business is located in the state of Arkansas;

2           (3) Two (2) members of the board shall be Class B license holders  
3 whose business is located in the state of Arkansas;

4           (4) One (1) member of the board shall be a mechanical engineer  
5 registered in the state of Arkansas who is directly associated with HVACR  
6 design;

7           (5) One (1) member of the board shall be a representative of a  
8 city of county HVACR Inspection Program;

9           (6) One (1) member of the board shall be a consumer with no  
10 personal or financial interest in the HVACR industry; and

11           (7) One (1) member of the board shall be a member of the  
12 Mechanical Contractors' Association of Arkansas who holds a current state  
13 contractor's license.

14           (b) For the initial board appointed under this act, members who are  
15 appointed to a position requiring an HVACR license shall obtain the license  
16 within ninety (90) days after appointment, or shall be ineligible to hold the  
17 position and the position shall be deemed vacant and shall be filled by a  
18 qualified individual.

19           (c) The Secretary of the Board who shall be an employee of the Arkansas  
20 Department of Health shall serve at the pleasure of the Governor, and all  
21 other members shall serve four (4) year terms, except that the members  
22 appointed to the board shall serve staggered terms as determined by the  
23 drawing of lots with two (2) members' terms expiring each year.

24           (d) No member shall serve more than two (2) successive terms on the  
25 board, or until he ceases to be qualified as required by this act.

26           (e) A member shall serve until he is replaced by a successor.

27           (f) Persons appointed to the Air Conditioning and Heating Board under  
28 Act 704 of 1987 may be appointed under this act.

29           (g) The board shall receive reimbursement for expenses incurred while  
30 attending board meetings and authorized board functions in accordance with the  
31 current travel policies and procedures established by the department and fifty  
32 dollars (\$50.00) per diem.

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34           SECTION 3. Powers and Duties of the Board. The board may:

35           (1) Adopt certain rules and regulations to insure the proper  
36 administration and enforcement of this act;

1           (2) Adopt a mechanical code and standards for the conduct of HVACR  
2 work;

3           (3) Assist and advise the department on all matters related to  
4 licensing of HVACR maintenance work;

5           (4) Conduct hearings on all matters related to the licensing and  
6 inspection of HVACR work;

7           (5) Establish HVACR code inspection programs;

8           (6) Conduct investigations into the qualifications of applicants for  
9 licensure at the request of the department;

10          (7) Review applications for examination for a Class A, Class B, and  
11 Class C license;

12          (8) Assist and advise the department in other such matters as is  
13 requested thereby; and

14          (9) Establish fees for the proper administration of the requirements of  
15 this act.

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17           SECTION 4. Administrative Procedures. For the purpose of this act all  
18 hearings conducted by the board and all appeals taken from the decisions of  
19 the board shall be pursuant to the Administrative Procedures Act, Arkansas  
20 Code 25-15-201 et seq.

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22           SECTION 5. License Requirement. (a) Beginning July 1, 1992, it is  
23 unlawful for any person to engage in HVACR work without the appropriate  
24 license or registration provided by this act, unless exempted pursuant to this  
25 act.

26           (b) It is unlawful for any licensee to allow a non-licensed person to  
27 use his Arkansas HVACR license number for any purpose.

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29           SECTION 6. Exemptions. (a) This act shall not apply to:

30                   (1) Household appliances;

31                   (2) American Gas Association (AGA) approved unvented space  
32 heaters;

33                   (3) Factory assembled air cooled, self-contained refrigeration  
34 equipment of 1.5 H.P. or less and which have no refrigerant lines extending  
35 beyond the cabinet enclosure;

36                   (4) Factory assembled air cooled, self-contained window-type air

1 conditioning units of 36,000 BTUH or less not connected to ducts;

2 (5) Window, attic, ceiling and wall fans in residences; or

3 (6) Poultry operations whether engaged in hatching, primary  
4 processing or further processing of chicken, turkey or other fowl.

5 (b) This act shall not apply to a person who:

6 (1) Performs HVACR work in an existing building or structure  
7 owned and occupied by him as his home;

8 (2) Performs HVACR work in an existing building or structure  
9 owned or occupied by him on his farm;

10 (3) Performs work for public utilities on construction,  
11 maintenance, and development work, which is incidental to their business;

12 (4) Performs work on motor vehicles;

13 (5) Is an architect or registered engineer who designs HVACR  
14 systems for design criteria only;

15 (6) Is an employee of a hospital and who performs HVACR work  
16 which is incidental to the hospital's operation;

17 (7) Installs or does maintenance work on a gas fired floor  
18 furnace, wall furnace or unit heater, if the person is licensed pursuant to  
19 Arkansas Code 17-31-301 et seq., and the work is performed within the  
20 limitations of the person's license;

21 (8) Is a pipefitter, welder, well driller, or plumber working  
22 under a Class A or Class B licensee and who is enrolled in or has  
23 satisfactorily completed an apprenticeship training program, approved by the  
24 State of Arkansas, in his respective trade; and the work is performed within  
25 the limitations of the person's license; or

26 (9) Is a HVACR subcontractor who performs HVACR work for a  
27 current HVACR Class A or Class B licensee.

28 (c) The provisions of this act shall not apply to a person or public  
29 entity serving or repairing its own HVACR system by its own personnel  
30 specifically trained for such service or repair.

31 (d) Any person exempt under this section is required to conform to  
32 regulations on the performance of HVACR work as well as obtaining local  
33 permits and inspections as may be required by local ordinance.

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35 SECTION 7. Classes of License. (a) Except as otherwise provided in this  
36 act, every individual who designs, installs, constructs, maintains, services,

1 repairs, alters or modifies any HVACR system or any portion of an HVACR system  
2 in the state of Arkansas shall obtain one of the following classes of licenses  
3 and pay the fees prescribed by the board:

4           (1) Class A - Entitles the licensee to perform HVACR work without  
5 limitation to BTUH or horsepower capacities;

6           (2) Class B - Entitles the licensee to perform HVACR work on air  
7 conditioning systems that develop a total of not more than 15 tons cooling  
8 capacity per unit or 1 million BTUH heating input per unit and refrigeration  
9 systems of 15 H.P. or less per unit; or

10           (3) Class C - Entitles the licensee, who is in the business of  
11 servicing and repairing heating, ventilation, air conditioning or  
12 refrigeration equipment for the public to service, repair or replace  
13 components of HVACR equipment and to perform HVACR work on air conditioning  
14 systems that develop a total of not more than 15 tons cooling capacity per  
15 unit or 1 million BTUH heating input per unit and refrigeration systems of  
16 15 horsepower or less per unit. A Class C license holder shall not install  
17 any original HVACR equipment or replace any existing HVACR equipment.

18           (b) An individual may perform HVACR work under a Class A, B, or C HVACR  
19 license holder by registering with the department. The registrant shall pay  
20 an annual registration fee as required by the board. All licensees are  
21 responsible for insuring that all HVACR employees hold a current HVACR  
22 registration or HVACR license.

23

24           SECTION 8. Qualifications for Licensure. (a) An applicant for a HVACR  
25 license must meet the following minimum requirements:

26           (1) The applicant must be an individual of at least eighteen (18)  
27 years of age;

28           (2) The applicant must make application to the department on  
29 forms prescribed by the board;

30           (3) The applicant must specify the class of license desired;

31           (4) The applicant must meet all requirements specified by rule  
32 and regulation promulgated by the board;

33           (5) The applicant must pay the appropriate examination and  
34 license fees required by the board; and

35           (6) The applicant must pass the appropriate examinations  
36 specified by the board. An applicant who fails an examination will be

1 eligible for re-examination after thirty (30) days.

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3 SECTION 9. Denial of license. All applicants who meet the requirements  
4 for licensure or registration shall be issued the appropriate license or  
5 registration except that the board may deny a license if applicant has:

6 (1) Committed any act, which if committed by a licensee or  
7 registrant, would be grounds for suspension or revocation of the license or  
8 registration;

9 (2) Previously been denied a license or registration under this  
10 act for cause or previously had a license or registration revoked for cause;  
11 or

12 (3) Knowingly made any false statement or misrepresentation on  
13 the application.

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15 SECTION 10. Grandfather Clause. Upon application to the board, every  
16 individual who has engaged in the performance of HVACR work as an *employer* or  
17 *employee* for at least two (2) years prior to July 1, 1991, shall be entitled  
18 to obtain the appropriate license upon paying the appropriate fees. The  
19 application for licensure under this provision must be made before July 1,  
20 1992.

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22 SECTION 11. Fees. (a) The board shall adopt a fee schedule by rule and  
23 regulation. The fee schedule may include, but is not limited to, testing  
24 fees, license fees, civil penalty fees, registration fees, inspection fees,  
25 fees for code books, late renewal fees, late penalty fees. The board may  
26 provide for a reduction in the fees of a person or partnership who holds one  
27 (1) or more licenses determined by the board to be HVACR related and for which  
28 the board determines a reduction in fees should be allowed.

29 (b) Until a fee schedule is established by the board, the licensure and  
30 registration fees shall be as follows:

31	Class A License .....	\$200.00
32	Class B License .....	\$150.00
33	Class C License .....	\$100.00
34	Registration Fee .....	\$ 25.00

35 (c) *The fees established by the board for licensure and registration*  
36 *shall not exceed the amounts provided for in subsection (b) of this section.*

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SECTION 12. Expiration and Renewal of License or Registration. All licenses or registrations issued under this act shall expire one (1) year after the date of issuance or at a time specified by the board. To renew a license or registration, the licensee must submit to the department, before the expiration date on a form prescribed by the department, the appropriate license or registration fees required by this act.

SECTION 13. HVACR Gas Fitting Work. Any individual licensed or registered to perform HVACR work may perform HVACR gas fitting work without obtaining any other license to perform the work. HVACR gas fitting work shall be performed in accordance with the appropriate standards for gas fitting work.

SECTION 14. Local Permits and Licensing. Any individual who is licensed or registered under this act shall not be required to obtain a license from any city or county to perform HVACR work. However, the work performed shall be subject to local permits and inspections if required.

SECTION 15. Display of License Number. Every individual licensed under this act shall display his HVACR license number on all his business vehicles and in all forms of advertising, in a manner prescribed by the rules and regulations promulgated by the board.

SECTION 16. Grounds for Suspension or Revocation. The board, on its own motion, may make investigations and conduct hearings and, on its own motion or upon complaint in writing signed and verified by the complainant, suspend or revoke any license or registration if it finds that the holder of the license or registrant has:

- (1) Made a material misstatement in the application for license or registration or renewal thereof;
- (2) Demonstrated incompetency to act as a license holder or registrant according to rules and standards promulgated by the board; or
- (3) Has violated any provisions of this act or any rule, regulation, or order prescribed by the board.

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SECTION 17. Procedure for Suspension or Revocation. (a) A copy of the complaint shall be served on the person complained against. Any answer thereto shall be filed within twenty (20) days of the receipt of the complaint by the licensee.

(b) No order suspending or revoking a license or registration shall be made until after a public hearing set by the board not less than sixty (60) days after the serving of a complaint on the licensee. The hearing shall be held at the place designated by the board. The individual 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.

(c) An appeal may be had from the hearing pursuant to the Administrative Procedure Act, §25-15-201 et seq.

(d) Any member of the board or a representative designated by the board shall have the authority to administer oaths for the taking of testimony.

(e) One (1) year after the date of the revocation, an application may be made for a new license or registration.

SECTION 18. Penalties. Any person who violates any provision of this act or violates any rule, regulation, or order of the board or any permit, license or certification may:

(1) In accordance with the regulations issued by the board, be assessed a civil penalty by the board. The penalty shall not exceed *two hundred fifty dollars (\$250.00)* for each violation and each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. However, no civil penalty may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

(2) In any civil action instituted by the department under this act, be assessed a civil penalty by the court. The penalty shall not exceed *two hundred fifty dollars (\$250.00)* for each violation. Each day a continuing violation may be deemed a separate violation for the purpose of penalty assessments.

SECTION 19. Collections of Funds. Beginning July 1, 1991, all fees or

1 payments of any type collected by the board under this act shall be deposited  
2 in the State Treasury as special revenues, and the State Treasurer shall  
3 credit the same to the "HVACR Licensing Fund" which is hereby created. All  
4 funds deposited in the HVACR Licensing Fund shall be used for the maintenance,  
5 operation and improvement of the HVACR Licensing and Inspection Program of the  
6 Arkansas Department of Health. The Chief Fiscal Officer of the State is  
7 hereby authorized, from time to time, to make transfers of monies from the  
8 Budget Revolving Fund as loans to the HVACR Licensing Fund to be used for  
9 maintenance and operation of the HVACR Licensing and HVACR Inspection Program  
10 of the Arkansas Department of Health; provided that any such monies loaned  
11 from the Budget Revolving Fund to the HVACR Licensing Fund shall be repaid  
12 from fees derived from the HVACR Licensing and HVACR Inspection Program on or  
13 before the last day of the fiscal year in which the loan of the funds is made.  
14 Subject to such rules and regulations as may be implemented by the Chief  
15 Fiscal Officer of the State, the Disbursing Officer for the Department of  
16 Health is hereby authorized to transfer all unexpended funds relative to the  
17 HVACR Licensing and Inspection Program that pertain to fees collected, as  
18 certified by the Chief Fiscal Officer of the State, to be carried forward and  
19 made available for expenditures for the same purpose for any following fiscal  
20 year.

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22 SECTION 20. Any monies received from the sale or trade of motor  
23 vehicles and other capital equipment purchased with HVACR licensing funds,  
24 shall be credited to the HVACR Licensing Fund.

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26 SECTION 21. Nothing in this act shall be construed as allowing an HVACR  
27 licensee to perform electrical work without complying with applicable local,  
28 city, or state electrical licensing requirements and any applicable local  
29 code, city code, state code or national code pertaining to electrical work.

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31 SECTION 22. All provisions of this act of a general and permanent  
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
33 Code Revision Commission shall incorporate the same in the Code.

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35 SECTION 23. If any provision of this act or the application thereof to

1 any person or circumstance is held invalid, such invalidity shall not other  
2 provisions or applications of the act which can be given effect without the  
3 invalid provision or application, and to this end the provisions of this act  
4 are declared to be severable.

5

6 SECTION 24. Repealer. Act 704 of 1987 and all other laws and parts of  
7 laws in conflict with this Act are hereby repealed.

8

9 SECTION 25. Emergency Clause. It is hereby found and determined by the  
10 General Assembly that the lack of a present HVACR Licensing Law allows for  
11 poorly installed or improperly serviced or maintained heating, ventilation,  
12 air conditioning and refrigeration systems. The lack of a law does not allow  
13 for consumer or public health protection to the citizens of the State of  
14 Arkansas. Therefore, an emergency is hereby declared to exist and this act  
15 being necessary for the preservation of the public health and safety shall be  
16 in full force and effect from and after its passage and approval.

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18 /s/ Pat Flanagan et al

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20 APPROVED: 2-28-91

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