

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

# **A Bill**

**HOUSE BILL 1135**

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

## **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."

14  
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16  
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

1 combustion air for the HVACR system;

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

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

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

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

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

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

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

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

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

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

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

29

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34

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

36          (1) Adopt certain rules and regulations to insure the proper

1 administration and enforcement of this act;

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

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

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

8 (5) Establish HVACR code inspection programs;

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

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

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

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

17

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

22

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

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

29

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

31 (1) Household appliances;

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

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

1           (4) Factory assembled air cooled, self-contained window-type air  
2 conditioning units of 36,000 BTUH or less not connected to ducts;

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

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

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

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

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

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

13           (4) Performs work on motor vehicles;

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

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

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

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

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

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

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

35

36           SECTION 7. Classes of License. (a) Except as otherwise provided in this

1 act, every individual who designs, installs, constructs, maintains, services,  
2 repairs, alters or modifies any HVACR system or any portion of an HVACR system  
3 in the state of Arkansas shall obtain one of the following classes of licenses  
4 and pay the fees prescribed by the board:

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

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

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

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

24

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

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

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

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

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

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

36           (6) The applicant must pass the appropriate examinations

1 specified by the board. An applicant who fails an examination will be  
2 eligible for re-examination after thirty (30) days.

3

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

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

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

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

15

16 SECTION 10. Grandfather Clause. Upon application to the board, every  
17 individual who has engaged in the performance of HVACR work as an *employer* or  
18 *employee* for at least two (2) years prior to July 1, 1991, shall be entitled  
19 to obtain the appropriate license upon paying the appropriate fees. The  
20 application for licensure under this provision must be made before July 1,  
21 1992.

22

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

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

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

36 (c) *The fees established by the board for licensure and registration*

1 shall not exceed the amounts provided for in subsection (b) of this section.

2

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

9

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

15

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

20

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

25

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

31 (1) Made a material misstatement in the application for license or  
32 registration or renewal thereof;

33 (2) Demonstrated incompetency to act as a license holder or registrant  
34 according to rules and standards promulgated by the board; or

35 (3) Has violated any provisions of this act or any rule, regulation, or

1 order prescribed by the board.

2

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

7 (b) No order suspending or revoking a license or registration shall be  
8 made until after a public hearing set by the board not less than sixty (60)  
9 days after the serving of a complaint on the licensee. The hearing shall be  
10 held at the place designated by the board. The individual complained against  
11 shall have the right to be represented by counsel and to introduce any  
12 evidence in his defense. The conduct of the hearing shall be in accordance  
13 with recognized rules of legal procedure.

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

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

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

20

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

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

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

35

1 SECTION 19. Collections of Funds. Beginning July 1, 1991, all fees or  
2 payments of any type collected by the board under this act shall be deposited  
3 in the State Treasury as special revenues, and the State Treasurer shall  
4 credit the same to the "HVACR Licensing Fund" which is hereby created. All  
5 funds deposited in the HVACR Licensing Fund shall be used for the maintenance,  
6 operation and improvement of the HVACR Licensing and Inspection Program of the  
7 Arkansas Department of Health. The Chief Fiscal Officer of the State is  
8 hereby authorized, from time to time, to make transfers of monies from the  
9 Budget Revolving Fund as loans to the HVACR Licensing Fund to be used for  
10 maintenance and operation of the HVACR Licensing and HVACR Inspection Program  
11 of the Arkansas Department of Health; provided that any such monies loaned  
12 from the Budget Revolving Fund to the HVACR Licensing Fund shall be repaid  
13 from fees derived from the HVACR Licensing and HVACR Inspection Program on or  
14 before the last day of the fiscal year in which the loan of the funds is made.  
15 Subject to such rules and regulations as may be implemented by the Chief  
16 Fiscal Officer of the State, the Disbursing Officer for the Department of  
17 Health is hereby authorized to transfer all unexpended funds relative to the  
18 HVACR Licensing and Inspection Program that pertain to fees collected, as  
19 certified by the Chief Fiscal Officer of the State, to be carried forward and  
20 made available for expenditures for the same purpose for any following fiscal  
21 year.

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

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

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

35



- 1
- 2
- 3
- 4
- 5
- 6