

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003

A Bill

SENATE BILL 241

4
5 By: Senator Critcher
6 By: Representatives Petrus, L. Evans

For An Act To Be Entitled

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9
10 AN ACT TO AMEND THE ARKANSAS WATER WELL
11 CONSTRUCTION ACT; TO INCLUDE AN APPRENTICESHIP
12 PROGRAM; TO INCREASE CIVIL AND CRIMINAL
13 PENALTIES; AND FOR OTHER PURPOSES.

Subtitle

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15
16 AN ACT TO AMEND THE ARKANSAS WATER WELL
17 CONSTRUCTION ACT.

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19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code § 17-50-103 is amended to read as follows:
23 17-50-103. Definitions.

24 As used in this chapter, unless the context otherwise requires:

25 (1) "Abandoned water well" means a well whose use has been permanently
26 discontinued or which is in such a state of disrepair that continued use for
27 the purpose of obtaining ground water is impractical;

28 (2) "Apprentice" means a natural person who under the supervision of a
29 registered pump installer or registered water well driller is obtaining the
30 knowledge, skills, and abilities necessary to obtain a certificate of
31 registration as a pump installer or water well driller;

32 (3) "Apprenticeship Program" means a program developed by the
33 commission pursuant to § 17-50-312 to develop certain minimum knowledge,
34 skills or abilities in those natural persons desiring registration as pump
35 installers or water well drillers;

36 ~~(2)~~(4) "Commission" means the Commission on Water Well Construction,



1 as created by § 17-50-201;

2 (5) “Continuing Education” means a program approved by the commission
 3 designed to provide certificate or license holders further knowledge, skills,
 4 or abilities in water well construction, pump installation, or related
 5 activities;

6 ~~(3)(6)~~ “Heat pump circulating pipe” means pipes that circulate fluid
 7 in heat pump wells and are a part of heat pump well construction, but are not
 8 considered pumping equipment;

9 ~~(4)(7)(A)~~ “Heat pump wells” means any excavation that is drilled,
 10 redrilled, cored, bored, washed, driven, dug, jetted, or otherwise
 11 artificially constructed for the purpose of obtaining or exchanging
 12 geothermal energy for use with ground water source air conditioning or heat
 13 pump systems.

14 (B) The excavation may have pipes installed inside the
 15 excavation to circulate or discharge various fluids for the use and purpose
 16 set out in this subdivision ~~(4)(7)~~, and the well may or may not be backfilled
 17 after excavation;

18 ~~(5)(8)~~ “Person” includes any natural person, partnership, association,
 19 business trust, and public or private corporation;

20 (9) “Pitless adapter” means an underground or above ground discharge
 21 assembly that attaches directly to the well casing and extends the casing
 22 above the ground surface, providing a watertight subsurface connection for
 23 conducting water from the well, sealing out contaminants, protecting the
 24 water from temperature extremes, and providing access to the pump or other
 25 systems within the well;

26 ~~(6)(A)(10)~~ “Pump installer” means any natural person, ~~whether or not~~
 27 ~~connected with a firm, partnership, corporation, or public or private~~
 28 ~~association,~~ who engages for compensation in pump installation or repair and
 29 who is authorized to plug abandoned water wells and to install pitless
 30 adapters-;

31 ~~(B) Registered pump installers who have demonstrated, in a~~
 32 ~~manner set forth in the commission’s rules, a knowledge of the applicable~~
 33 ~~rules and required skills which are authorized to plug abandoned water wells;~~

34 ~~(7)(11)(A)~~ “Pumping equipment” means all machinery and parts of pumps
 35 such as deep well turbine pumps with right angle gear drive, vertical hollow
 36 shaft motors, jet pumps and motors, submersible pumps and motors, and other

1 parts and fittings installed or attached to the well. ~~but~~

2 (B) "Pumping equipment" shall exclude cooling units,
 3 horizontal electric motors, heat pump circulating pipe, and stationary diesel
 4 or gas engines;

5 ~~(8)(12)~~ "Repair" means any action which results in a breaking,
 6 opening, or replacement of a well seal or cap;

7 ~~(9)(13)~~ "Rig" means ~~the machinery~~ any power driven, percussion,
 8 rotary, digging, jetting, direct push, vibrating, hydrofracturing, or
 9 auguring machine used in the construction, alteration, ~~or~~ repair, or
 10 abandonment of water wells, or ~~the installation or repair of pumping~~
 11 ~~equipment, which has a lift or pulling capacity of greater than one thousand~~
 12 ~~pounds (1,000 lbs.);~~ any hoist or machine used in installing or removing
 13 pumps from wells with a lifting capacity of one thousand pounds (1,000 lbs.)
 14 or more;

15 ~~(10)(14)~~(A) "Water well" means any excavation that is drilled,
 16 redrilled, cored, bored, washed, driven, dug, jetted, or otherwise
 17 artificially constructed for the purpose of locating, acquiring, diverting,
 18 or artificially recharging ground water.

19 (B)(i) ~~This term~~ "Water well" shall also include excavations
 20 made for the purpose of exchanging the geothermal energy found in the earth
 21 as defined in the heat pump well subdivision ~~(8)(7)~~ of this section ~~as heat~~
 22 ~~pump wells. but~~

23 (ii) "Water well" shall not include an excavation made for
 24 the purpose of obtaining or prospecting for oil, natural gas, minerals, or
 25 products of mining or quarrying, or for inserting media to repressure oil or
 26 natural gas-bearing formations, or for storing petroleum, natural gas, or
 27 other products;

28 ~~(11)(15)~~ "Water well contractor" means any person who engages in the
 29 business of well construction or pump installation or repair, exclusive of
 30 surveying or other acts preparatory to the construction of a water well;

31 ~~(12)(16)~~ "Water well driller" means any natural person, ~~whether or not~~
 32 ~~connected with a firm, partnership, corporation, or other public or private~~
 33 ~~association,~~ who engages for compensation in well construction in this state;
 34 and

35 ~~(13)(17)~~ "Well construction" means the act of setting up the rig for
 36 and engaging in the excavation of a water well, the modification of the

borehole, and the setting or removal of ~~easing~~, casing up to the point of installing or repairing pump equipment, and plugging abandoned water wells.

SECTION 2. Arkansas Code § 17-50-104(a)(1), concerning unlawful water well construction, is amended to read as follows:

(1) Any person to engage in well construction or pump installation, unless the work is performed under the supervision of an individual ~~licensed or~~ certified by the Commission on Water Well Construction in the type of work done;

SECTION 3. Arkansas Code § 17-50-105 is amended to read as follows:
17-50-105. Criminal penalties.

(a) Any person who shall violate § 17-50-104 shall be guilty of a Class A misdemeanor ~~and punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for not less than one (1) month nor more than six (6) months, or by both.~~

(b) Any person who violates any other provision of this chapter, regulations issued ~~hereunder~~ under this chapter, or order pursuant ~~hereto~~ to this chapter shall be guilty of a Class B misdemeanor ~~and subject to a penalty not to exceed one hundred dollars (\$100).~~

(c) Every day, or any part ~~thereof~~ of a day, in which the violation occurs shall constitute a separate offense.

(d) Any person found guilty of a Class A or B misdemeanor for violation of any provision of this chapter who continues to engage in the behavior or activity giving rise to violation shall be guilty of a Class D felony for the second or any subsequent offense.

~~(e)~~(e) Persons described in ~~subsections (a) and (b)~~ of this section may be arrested by any sheriff, constable, chief of police, or other law enforcement officer of this state or any political subdivision ~~thereof~~ of this state.

SECTION 4. Arkansas Code § 17-50-106(e), concerning civil penalties assessed by the Commission on Water Well Construction, is amended to read as follows:

(e) The commission shall ~~have no authority~~ not assess ~~any~~ a civil

1 penalty in excess of ~~five hundred dollars (\$500)~~ two thousand five hundred
2 dollars (\$2,500) per offense.

3
4 SECTION 5. Arkansas Code § 17-50-109 (3), concerning service of
5 process for the Commission on Water Well Construction, is amended to read as
6 follows:

7 (3) The notice shall be served in the manner required by law for
8 the service of process upon a person in a civil action or by an employee of
9 the commission and may be accompanied by an order of the commission requiring
10 described remedial action which, if taken within the time specified in the
11 order, will effect compliance with the requirements of this chapter and
12 regulations issued hereunder;

13
14 SECTION 6. Arkansas Code § 17-50-301 is amended to read as follows:
15 17-50-301. Certificate - Applicant qualifications.

16 (a) Upon proper application to the Commission on Water Well
17 Construction, any person shall be entitled to be registered and to be issued
18 a certificate of registration as a certified water well driller or certified
19 pump installer who shall furnish to the commission proof that he or she:

- 20 (1) Is not less than eighteen (18) years of age;
- 21 (2) Is of good moral character;
- 22 (3) Has knowledge of the rules and regulations adopted
23 under this chapter; and

24 (4)~~(A)~~ Has had no ~~fewer~~ less than two (2) ~~years~~² years of
25 experience as defined by the commission's rules in the work for which he or
26 she is applying for a certificate of registration.

27 ~~(B) However, applicants for pump installer certification~~
28 ~~may substitute forty (40) hours of instruction approved by the commission for~~
29 ~~the experience requirement.~~

30 (b) The commission shall provide examinations and a course of
31 instruction, when required, which each applicant must pass in order to
32 qualify for the certificate of registration.

33 ~~(c) Any person engaged in the business of pump installation shall be~~
34 ~~registered and issued a certificate of registration after passing an~~
35 ~~examination if:~~

36 ~~(1) The applicant has been engaged for a period of at least two~~

1 ~~(2) years in the business of pump installation for domestic wells and wells~~
2 ~~which produce less than fifty thousand (50,000) gallons per day; and~~

3 ~~(2) The applicant makes application and pays the required fees~~
4 ~~for registration.~~

5 (c) Beginning July 1, 2005, any person applying to be registered as a
6 certified water well driller or certified pump installer shall have:

7 (1) Completed the apprenticeship program;

8 (2) In the past ten (10) years, held a valid certificate of
9 registration from the commission of the type and class for which the
10 applicant is applying; or

11 (3) A valid certificate from another state of a type and class
12 substantially similar to the type and class for which the person is applying
13 for a period of years that equals the apprenticeship program requirement.

14
15 SECTION 7. Arkansas Code § 17-50-302 is amended to read as follows:
16 17-50-302. Certificate - Reciprocity.

17 Upon application for a certificate, ~~and~~ the payment of the proper
18 registration and testing fees, and upon passage of the applicable test, the
19 Commission on Water Well Construction may issue a certificate of registration
20 to any person who holds a certificate of qualification or registration issued
21 to him or her by proper authority in any state, territory, or possession of
22 the United States or of any other country, if:

23 (1) The registration standard under which the certificate was
24 issued is of a standard not lower than that specified by the provisions of
25 this chapter and the rules of the commission promulgated pursuant to the
26 provisions hereof; and

27 (2) That particular state, territory, or possession of the
28 United States or other country extends similar privileges to the persons
29 registered under the provisions of this chapter.

30
31 SECTION 8. Arkansas Code § 17-50-303 is amended to read as follows:
32 17-50-303. Certificate - Expiration and renewal.

33 (a) Certificates of registration issued pursuant to this chapter are
34 not transferable and shall expire on July 31 of each year.

35 (b) A certificate of registration may be renewed without examination
36 by making application for a certificate and paying the applicable fee.

1 (c) As a condition for renewal of certificates of registration, the
2 commission may require the person holding the certificate to complete a
3 program of continuing education.

4 ~~(e)(d)~~ If any person issued a ~~water well driller~~ certificate of
5 registration under this chapter shall fail to make application for renewal
6 thereof within one (1) year after the expiration of the certificate of
7 registration, the certificate of registration of the person shall be renewed
8 only upon application, examination, and payment of the applicable fee plus a
9 penalty of twenty-five dollars (\$25.00).

10
11 SECTION 9. Arkansas Code § 17-50-305(a), concerning rules for
12 application for and issuance of water well contractor licenses, is amended to
13 read as follows:

14 (a)(1) The Commission on Water Well Construction may adopt, and from
15 time to time amend or repeal, rules and regulations governing applications
16 for water well contractor licenses.

17 (2) The commission shall license as a water well contractor any
18 person properly making application ~~therefor~~ on a form prepared and furnished
19 by the commission.

20
21 SECTION 10. Arkansas Code § 17-50-307 is amended to read as follows:
22 17-50-307. License - Expiration and renewal.

23 (a) Licenses issued pursuant to this subchapter are not transferable
24 and shall expire on July 31 of each year.

25 (b) As a condition for license renewal the commission may require the
26 licensee or its agent to complete a program of continuing education.

27 ~~(b)(1)(c)(1)(A) A license may be renewed for an ensuing year by making~~
28 ~~application not~~ The contractor shall renew the license annually by applying
29 no later than thirty (30) days after the expiration date and paying the
30 applicable fee.

31 ~~(B) The application shall have the effect of extending~~
32 When the contractor submits the renewal materials and fee, the commission
33 shall extend the validity of the current license until a the contractor
34 receives the new license ~~is received~~ or the applicant is notified by the
35 Commission on Water Well Construction that it has refused to renew ~~his or her~~
36 the license.

1 (2) After August 31 of each year, a license will be renewed only
 2 upon application and payment of the applicable fee plus a penalty of ~~twenty-~~
 3 ~~five dollars (\$25.00)~~ fifty dollars (\$50.00).

4
 5 SECTION 11. Arkansas Code § 17-50-308 is amended to read as follows:
 6 17-50-308. License - Suspension and revocation.

7 (a) Whenever the Commission on Water Well Construction, after notice
 8 and hearing, determines that the holder of a license issued pursuant to this
 9 subchapter has violated any provision of this chapter, or any rule or
 10 regulation adopted pursuant to it, the commission is authorized to suspend or
 11 revoke the license.

12 (b) ~~Any~~ The commission shall serve any order issued pursuant to this
 13 section ~~shall be served~~ upon the licensee by certified mail with return
 14 receipt requested or by personal service.

15 (c) Any such order shall become effective upon return of receipt to
 16 the commission.

17 (d) Any person aggrieved by any order issued after the hearing may
 18 appeal within thirty (30) days ~~appeal therefrom~~ to the circuit court of the
 19 county ~~wherein~~ where that person resides or to the Pulaski County Circuit
 20 Court.

21
 22 SECTION 12. Arkansas Code § 17-50-309(c), concerning bonds for water
 23 well contractors, is amended to read as follows:

24 (c) In no instance shall this bond be less than ~~two (\$2,000)~~ ten
 25 thousand dollars (\$10,000) unless exempted by other provisions of this
 26 chapter.

27
 28 SECTION 13. Arkansas Code § 17-50-310 is amended to read as follows:
 29 17-50-310. Rig permits.

30 (a) (1) The Commission on Water Well Construction shall issue rig
 31 permits ~~where the applicant therefor~~ if the contractor has a valid license,
 32 has made proper application for a rig permit, and has paid the required fee.

33 ~~(b)(2)~~ Rig permits shall not be transferable and shall expire
 34 July 31 of each year.

35 ~~(e)(1)(b)(1)(A)~~ A rig permit may be renewed for an ensuing year by
 36 making application not The contractor must renew the rig permit annually by

1 applying no later than thirty (30) days after the expiration date and paying
2 the required fee.

3 (B) ~~The application shall have the effect of extending~~
4 After receiving the renewal materials and fee, the commission shall extend
5 the validity of the current rig permit until a the contractor receives the
6 new rig permit is received or the applicant is notified by the commission
7 that it or until the contractor receives notice that the commission has
8 refused to renew the rig permit.

9 (2) After August 31 of each year, the commission shall only renew a
10 rig permit will be renewed only upon application and payment of the
11 applicable fee plus a penalty of ~~ten dollars (\$10.00)~~ twenty-five dollars
12 (\$25.00).

13 ~~(d)(c)(1)~~ No water well contractor shall operate a rig or permit ~~a rig~~
14 ~~owned by him or her to be operated by an employee to operate a rig unless he~~
15 ~~or she the contractor holds a valid rig permit to operate the rig issued by~~
16 ~~the commission under this chapter.~~

17 (2) A The contractor shall obtain a separate permit shall
18 be obtained for each rig operated by a ~~licensed~~ the contractor during the
19 permit year.

20 ~~(e)(d)(1)~~ Each rig permit shall be made The commission shall issue
21 permits composed of weatherproof material, ~~and shall be~~

22 (2) The contractor shall firmly and conspicuously ~~attached~~
23 attach the permit to the rig for which it was issued.

24
25 SECTION 14. Arkansas Code § 17-50-311(b), concerning fee reductions
26 for licenses and rig permits, is amended to read as follows:

27 (b) ~~Such fees shall not be reduced~~ The commission shall not reduce
28 fees for any license or rig permit even though it may be valid for less than
29 a full license or permit year.

30
31 SECTION 15. Arkansas Code Title 17, Chapter 50, Subchapter 3 is
32 amended to add an additional section to read as follows:

33 17-50-312. Apprenticeship program.

34 (a) The commission shall develop an apprenticeship program to assist
35 persons applying for registration and having a minimum level of knowledge,
36 skills, and abilities for the type or class of registration for which they

1 are applying.

2 (b)(1) The program shall include the following:

3 (A) Registration and issuance of a certificate of
4 apprenticeship for the type or class of registration for which the apprentice
5 will be applying; and

6 (B) Supervision of the apprentice by a person holding a
7 valid certificate or certificates of registration of the type or class for
8 which the apprentice will be applying.

9 (2) The supervising certificate holder shall report to the
10 commission at the time of certificate of apprenticeship registration renewal
11 that the apprentice is successfully obtaining the necessary knowledge,
12 skills, and abilities for the type or class of certificate for which the
13 apprentice will be applying.

14 (3) The apprenticeship program requirement shall not exceed four
15 (4) years.

16
17 SECTION 16. EMERGENCY CLAUSE. It is found and determined by the
18 General Assembly of the State of Arkansas that water wells are currently
19 being improperly drilled in a manner that poses an imminent threat to the
20 water supply in this state; and that the protections included in this act
21 must be implemented immediately to prevent injury to the public. Therefore,
22 an emergency is declared to exist and this act being necessary for the
23 preservation of the public peace, health, and safety shall become effective
24 on July 1, 2003.