

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

87

By: Senator Dowd

For An Act To Be Entitled

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

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

SECTION 1. Definitions. As used in this Act:

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

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

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

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

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

(6) "Heating, ventilation, air conditioning and refrigeration" or "HVACR" means the design, installation, construction, maintenance, service, repair, alteration, or modification of a product or of equipment in heating and air conditioning, refrigeration, ventilation, or process cooling or heating systems;

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

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

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

(10) "HVACR Maintenance Work" means repair, modification, service and all

other work required for the normal continued performance of a HVACR system. This term does not include the installation or total replacement of a system, or the installation of boiler or pressure vessels that must be installed by persons licensed under Arkansas Code 20-23-401 et seq.;

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

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

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

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

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

(16) "Registrant" means a person who does not hold a Class A, B, or C HVACR License and who can only perform work for an HVACR Licensee and who holds a current HVACR Registration;

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

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

SECTION 2. Board Composition. (a) There is hereby created the HVACR Licensing Board to be composed of nine members appointed by the Governor of the State of Arkansas. The Board shall be composed of the following members who shall be residents of the State of Arkansas:

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

(2) Two members of the Board shall be Class A license holders whose business is located in the State of Arkansas.

(3) Two members of the Board shall be Class B license holders whose business is located in the State of Arkansas.

(4) One member of the Board shall be a mechanical engineer registered in the State of Arkansas who is directly associated with HVACR design;

(5) One member of the Board shall be a representative of a city or county HVACR Inspection Program;

(6) One member of the Board shall hold a Class C HVACR license; and

(7) One member of the Board shall be a consumer with no personal or financial interest in the HVACR industry.

(b) For the initial Board appointed under this Act, members who are appointed to a position requiring an HVACR license shall obtain the license within ninety (90) days after appointment.

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

(d) No member shall serve more than two successive terms on the Board.

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

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

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

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

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

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

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

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

(5) Establish HVACR code inspection programs;

(6) Conduct investigations into the qualifications of applicants for licensure at the request of the Department;

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

(8) Assist and advise the Department in other such matters as is

requested thereby; and

(9) Establish fees for the proper administration of the requirements of this Act.

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

SECTION 5. License Requirement. (a) Beginning July 1, 1990, it is unlawful for any person to engage in HVACR work without the appropriate license or registration provided by this Act, unless exempted pursuant to this Act.

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

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

- (1) Household appliances;
- (2) American Gas Association (AGA) approved unvented space heaters;
- (3) Factory assembled air cooled, self-contained refrigeration equipment of 1.5 H.P. or less and which have no refrigerant lines extending beyond the cabinet enclosure;
- (4) Factory assembled air cooled, self-contained window-type air conditioning units of 36,000 BTUH or less not connected to ducts; or
- (5) Window, attic, ceiling and wall fans in residences.

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

- (1) Performs HVACR work in an existing building or structure owned and occupied by him as his home;
- (2) Performs HVACR work in an existing building or structure owned or occupied by him on his farm;
- (3) Performs work for public utilities on construction, maintenance, and development work, which is incidental to their business;
- (4) Performs work on motor vehicles;
- (5) Is an architect or registered engineer who designs HVACR systems for design criteria only;

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

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

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

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

SECTION 7. Classes of License. (a) Except as otherwise provided in this Act, every individual who designs, installs, constructs, maintains, services, repairs, alters or modifies any HVACR system or any portion of a HVACR system in the State of Arkansas shall obtain one of the following classes of licenses and pay the fees prescribed by the board:

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

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

(3) Class C - Entitles the licensee, who is in the business of servicing and repairing air conditioning, heating, ventilation and refrigeration equipment for the public. A Class C license holder may service, repair or replace components of HVACR equipment but shall not install any original HVACR equipment or replace any existing HVACR equipment.

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

SECTION 8. Qualifications for Licensure. An applicant for a HVACR

license must meet the following minimum requirements:

- (1) The applicant must be an individual of at least 18 years of age;
- (2) The applicant must make application to the Department on forms prescribed by the Board;
- (3) The applicant must specify the class of license desired;
- (4) The applicant must meet all experience requirements specified by rule and regulation promulgated by the Board;
- (5) The applicant must pay the appropriate examination and license fees required by the Board; and
- (6) The applicant must pass the appropriate examinations specified by the Board. An applicant who fails an examination will be eligible for re-examination after thirty (30) days.

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

- (1) Committed an act, which if committed by a licensee or registrant, would be grounds for suspension or revocation of the license or registration;
- (2) Previously been denied a license or registration under this Act or previously had a license or registration revoked for cause; or
- (3) Knowingly made any false statement or misrepresentation on the application.

SECTION 10. Grandfather Clause. (a) Upon application to the Board, every individual who has engaged in the performance of HVACR work for at least two (2) years prior to July 1, 1989, shall be entitled to obtain the appropriate license upon paying the appropriate fees. The application for licensure under this provision must be made before July 1, 1990.

SECTION 11. Fees. (a) The Board shall adopt a fee schedule by rule and regulation. The fee schedule may include testing fees, license fees, registration fees, inspection fees, fees for code books, late renewal fees, late penalty fees, and any other fee the Board deems appropriate. The board may provide for a reduction in the fees of a person who holds one or more licenses determined by the Board to be HVACR related and for which the board determines a reduction in fees should be allowed.

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

Class A License	\$200.00
Class B License	\$150.00
Class C License	\$100.00
Registration Fee	\$ 25.00

SECTION 12. Expiration and Renewal of License or Registration. All licenses or registrations issued under this Act shall expire one 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. If a local inspection is required, it shall be conducted pursuant to the standards established by the Board.

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, and upon not less than ten (10) day's notice to the licensee, may suspend any license or

registration if the Board has reason to believe, and may revoke the 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;
- or
- (3) Has willfully violated any provisions of this Act or any rule, regulation, or order prescribed by the Board.

SECTION 17. Procedure for Suspension or Revocation. (a) A copy of the complaint with notice of the suspension of license or registration, if ordered by the Board, shall be served on the person complained against. His answer thereto shall be filed in the time allowed for the filing of answers in legal proceedings by the laws of the State of Arkansas.

(b) No order 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 notice of suspension on the person complained against. 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 revocation, an application may be made for a new license or registration.

SECTION 18. Penalties. Any violation of this Act shall constitute a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or jail sentence not to exceed thirty (30) days or both. Each day during which the violation continues shall constitute a separate offense.

SECTION 19. Collections of Funds. Beginning July 1, 1989, all fees or payments of any type collected by the Board under this Act shall be deposited in the State Treasury, and the State Treasurer shall credit the same to the

"HVACR Licensing Fund" which is hereby created. All funds deposited in the HVACR Licensing Fund shall be used for the maintenance, operation and improvement of the HVACR Licensing and Inspection Program of the Arkansas Department of Health. The Chief Fiscal Officer of the State is hereby authorized, from time to time, to make transfers of monies from the Budget Revolving Fund as loans to the HVACR Licensing Fund to be used for maintenance and operation of HVACR Licensing and HVACR Inspection Program of the Arkansas Department of Health; provided that any such monies loaned from the Budget Revolving Fund to the HVACR Licensing Fund shall be repaid from fees derived from the HVACR Licensing and HVACR Inspection Program on or before the last day of the fiscal year in which the loan of the funds is made.

SECTION 20. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 21. Repealer. Act 704 of 1987 and all other laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 22. Emergency Clause. It is hereby found and determined by the General Assembly that the lack of a present HVACR Licensing Law allows for poorly installed or improperly serviced or maintained heating, ventilation, air conditioning and refrigeration systems. The lack of a law does not allow for consumer or public health protection to the citizens of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public health and safety shall be in full force and effect from and after its passage and approval.

