

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

2

HOUSE BILL 1105
Committee Substitute Favorable 5/6/09

Short Title: Amend Laws/Refrigeration Contractors.

(Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGULATING REFRIGERATION CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-58(a) reads as rewritten:

"(a) As applied in this Article, "refrigeration trade or business" is defined to include all persons, firms or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto and within limits as set forth in the codes, laws and regulations governing refrigeration installation, maintenance, service and repairs within the State of North Carolina or any of its political subdivisions. This Article shall not apply to the installation of self-contained commercial refrigeration units equipped with an Original Equipment Manufacturer (OEM) molded plug that does not require the opening of service valves or the replacement of lamps and fuses, lamps, fuses, and door gaskets and to the installation and servicing of domestic household ~~refrigerators and freezers or domestic ice-making appliances connected by means of attachment plug-in devices to suitable~~ self-contained refrigeration appliances equipped with an OEM molded plug connected to suitable receptacles which have been permanently installed and do not require the opening of service valves. The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of Chapter 87 of the General Statutes. This Article shall not apply to employees of persons, firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices. The provisions of this Article shall not apply to any person, firm or corporation engaged in the business of selling, repairing and installing any comfort cooling devices or systems."

SECTION 2. G.S. 87-58(d) reads as rewritten:

"(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for and issue licenses for refrigeration contracting and for transport refrigeration contracting. A transport refrigeration contractor license is a specialty license that authorizes the licensee to engage only in transport refrigeration contracting. A refrigeration contractor licensee is authorized to engage in transport refrigeration and all other aspects of refrigeration contracting.



* H 1 1 0 5 - V - 2 *

1 Each application for examination shall be accompanied by a check, post-office money order
2 or cash in the amount of the annual license fee required by this Article. Regular examinations
3 shall be given in the ~~months of April and October of each year and additional examinations~~
4 ~~may be given at times the Board deems wise and necessary. Any person may demand in writing~~
5 ~~a special examination and upon payment by the applicant of the cost of holding the~~
6 ~~examination and the deposit of the amount of the annual license fee, the Board in its discretion~~
7 ~~will fix a time and place for the examination.~~Board's office by appointment."

8 **SECTION 3.** G.S. 87-59 reads as rewritten:

9 **"§ 87-59. Revocation or suspension of license for cause.**

10 (a) The Board shall have power to revoke or suspend the license of any refrigeration
11 contractor who is guilty of any fraud or deceit in obtaining a license, or who fails to comply
12 with any provision or requirement of this Article, or for gross negligence, incompetency, or
13 misconduct, in the practice of or in carrying on the business of a refrigeration contractor as
14 defined in this Article. Any person may prefer charges of fraud, deceit, gross negligence,
15 incompetency, misconduct, or failure to comply with any provision or requirement of this
16 Article, against any refrigeration contractor who is licensed under the provisions of this Article.
17 All charges shall be in writing and verified by the complainant, and shall be heard and
18 determined by the Board in accordance with the provisions of Chapter 150B of the General
19 Statutes.

20 (b) The Board shall adopt and publish ~~guidelines, rules and regulations,~~ consistent with
21 the provisions of this ~~Article, Article and Chapter 150B of the General Statutes,~~ governing the
22 suspension and revocation of licenses.

23 (c) The Board shall establish and maintain a system whereby detailed records are kept
24 regarding complaints against each licensee. This record shall include, for each licensee, the date
25 and nature of each complaint, investigatory action taken by the Board, any findings of the
26 Board, and the disposition of the matter.

27 (d) In a case in which the Board is entitled to convene a hearing to consider a charge
28 under this section, the Board may accept an offer to compromise the charge, whereby the
29 accused shall pay to the Board a penalty not to exceed one thousand dollars (\$1,000). The funds
30 derived from the penalty shall be ~~deposited into the General Fund,~~remitted to the Civil Penalty
31 and Forfeiture Fund in accordance with G.S. 115C-457.2.

32 (e) All records, papers, and other documents containing information collected and
33 compiled by the Board, or its members or employees, as a result of investigations, inquiries, or
34 interviews conducted in connection with a licensing or disciplinary matter, shall not be
35 considered public records within the meaning of Chapter 132 of the General Statutes."

36 **SECTION 4.** G.S. 87-61 reads as rewritten:

37 **"§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

38 Any person, firm or corporation who shall engage in or offer to engage in, or carry on the
39 business of refrigeration contracting as defined in this Article, without first having been
40 licensed to engage in the business, or businesses, as required by the provisions of this Article;
41 or any person, firm or corporation holding a refrigeration license under the provisions of this
42 Article who shall practice or offer to practice or carry on any type of refrigeration contracting
43 not authorized by the license; or any person, firm or corporation who shall give false or forged
44 evidence of any kind to the Board, or any member thereof, in obtaining a license, or who shall
45 falsely impersonate any other practitioner of like or different name, or who shall use an expired
46 or revoked license, or who shall violate any of the provisions of this Article, shall be guilty of a
47 Class 2-3 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and
48 expenses, legal or otherwise, in the prosecution of any violation of this Article. Employees,
49 while working under the supervision and jurisdiction of a person, firm or corporation licensed
50 in accordance with the provisions of this Article, shall not be construed to have engaged in the
51 business of refrigeration contracting."

1 **SECTION 5.** G.S. 87-61.1 reads as rewritten:

2 "**§ 87-61.1. Board may seek injunctive relief; relief; retain counsel.**

3 (a) Whenever it appears to the Board that any person, firm or corporation is violating
4 any of the provisions of this Article or of the rules and regulations promulgated under this
5 Article, the Board may apply to the superior court for a restraining order and injunction to
6 restrain the violation; and the superior courts have jurisdiction to grant the requested relief,
7 irrespective of whether or not criminal prosecution has been instituted or administrative
8 sanctions imposed by reason of the violation.

9 (b) The Board may employ or retain legal counsel for matters and purposes the Board
10 deems fit and proper, subject to G.S. 114-2.3."

11 **SECTION 6.** Article 5 of Chapter 87 of the General Statutes is amended by adding
12 the following new section to read:

13 "**§ 87-63.1. Ownership of real property; equipment; liability insurance.**

14 (a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
15 otherwise deal with real property in the same manner as a private person or corporation, subject
16 only to the approval of the Governor and the Council of State. Collateral pledged by the Board
17 for an encumbrance is limited to the assets, income, and revenues of the Board.

18 (b) The Board may purchase or rent equipment and supplies and purchase liability
19 insurance or other insurance to cover the activities of the Board, its operations, or its
20 employees."

21 **SECTION 7.** G.S. 87-64 reads as rewritten:

22 "**§ 87-64. Examination and license fees; annual renewal.**

23 Each applicant for a license by examination shall pay to the Board of Refrigeration
24 Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars
25 (\$40.00). In the event the applicant successfully passes the examination, the examination fee
26 shall be applied to the license fee required of licensees for the current year in which the
27 examination was taken and passed.

28 The license of every person licensed under the provisions of this statute shall be annually
29 renewed. Effective January 1, 2012, the Board may require, as a prerequisite to the annual
30 renewal of a license, that licensees complete continuing education courses in subjects related to
31 refrigeration contracting to ensure the safe and proper installation of commercial and transport
32 refrigeration work and equipment. On or before November 1 of each year the Board shall cause
33 to be mailed an application for renewal of license to every person who has received from the
34 Board a license to engage in the refrigeration business, as heretofore defined. On or before
35 January 1 of each year every licensed person who desires to continue in the refrigeration
36 business shall forward to the Board a renewal fee in an amount not to exceed forty dollars
37 (\$40.00) together with the application for renewal. Upon receipt of the application and renewal
38 fee the Board shall issue a renewal certificate for the current year. Failure to renew the license
39 annually shall automatically result in a forfeiture of the right to engage in the refrigeration
40 business. Any licensee who allows the license to lapse may be reinstated by the Board upon
41 payment of a fee not to exceed seventy-five dollars (\$75.00). Any person who fails to renew a
42 license for two consecutive years shall be required to take and pass the examination prescribed
43 by the Board for new applicants before being licensed to engage further in the refrigeration
44 business."

45 **SECTION 8.** Sections 1, 2, 5, and 6 are effective when this act becomes law.
46 Section 3 becomes effective October 1, 2009. Section 4 becomes effective December 1, 2009,
47 and applies to offenses occurring on or after that date. Section 7 of this act becomes effective
48 January 1, 2012. The remainder of this act is effective when it becomes law.