

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 1105
Committee Substitute Favorable 5/6/09
PROPOSED COMMITTEE SUBSTITUTE H1105-PCS50690-SVx-19

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. 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 the replacement of lamps and fuses 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 receptacles which have been permanently installed. 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 any of the following:

- (1) 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 replacement of lamps, fuses, and door gaskets.
- (2) The installation and servicing of domestic household 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.
- (3) employees-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.
- (4) The provisions of this Article shall not apply to any-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:



* H 1 1 0 5 - P C S 5 0 6 9 0 - S V X - 1 9 *

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

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

21 **SECTION 3.** G.S. 87-59(b) reads as rewritten:

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

25 **SECTION 4.** G.S. 87-59(d) reads as rewritten:

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

31 **SECTION 5.** G.S. 87-61 reads as rewritten:

32 "**§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

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

47 **SECTION 6.** G.S. 87-61.1 reads as rewritten:

48 "**§ 87-61.1. Board may seek injunctive ~~relief,~~ relief; retain counsel.**

49 (a) Whenever it appears to the Board that any person, firm or corporation is violating
50 any of the provisions of this Article or of the rules and regulations promulgated under this
51 Article, the Board may apply to the superior court for a restraining order and injunction to

1 restrain the violation; and the superior courts have jurisdiction to grant the requested relief,
2 irrespective of whether or not criminal prosecution has been instituted or administrative
3 sanctions imposed by reason of the violation.

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

6 **SECTION 7.** Article 5 of Chapter 87 of the General Statutes is amended by adding
7 the following new section to read:

8 **"§ 87-63.1. Ownership of real property; equipment; liability insurance.**

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

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

16 **SECTION 8.** G.S. 87-64 reads as rewritten:

17 **"§ 87-64. Examination and license fees; annual renewal.**

18 Each applicant for a license by examination shall pay to the Board of Refrigeration
19 Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars
20 (\$40.00). In the event the applicant successfully passes the examination, the examination fee
21 shall be applied to the license fee required of licensees for the current year in which the
22 examination was taken and passed.

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

40 **SECTION 9.** Section 3 of this act becomes effective October 1, 2009. Section 5 of
41 this act becomes effective December 1, 2009, and applies to offenses occurring on or after that
42 date. Section 8 of this act becomes effective January 1, 2012. The remainder of this act is
43 effective when it becomes law.