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SENATE BILL DRS45015-NBf-20

Short Title: Licensing Certain Fire Safety Equip. Work. (Public)

Sponsors: Senators Burgin, Sawyer, and Ford (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE LICENSING AND PERMITTING FOR INDIVIDUALS AND FIRMS
3 THAT INSTALL AND SERVICE PORTABLE FIRE EXTINGUISHERS AND FIRE
4 SUPPRESSION SYSTEMS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 58 of the General Statutes is amended by adding a new article
7 to read:

8 "Article 82B.

9 "Licensing and Permitting for the Installation and Servicing of Portable Fire Extinguishers and
10 Fire Suppression Systems.

11 "**§ 58-82B-1. Definitions.**

12 The following definitions apply in this Article:

- 13 (1) Commissioner. – The North Carolina Commissioner of Insurance.
14 (2) Engineered special hazard fire suppression system. – A fire suppression
15 system having pipe lengths, number of fittings, number and types of nozzles,
16 suppression agent flow rates, and nozzle pressures calculated based on
17 appropriate standards of the National Fire Protection Association. An
18 engineered fire suppression system may include other components, including,
19 but not limited to, detection devices, alarm devices, and control devices as
20 tested and approved by a nationally recognized testing laboratory, where the
21 component's manufacturer determines the component is compatible with the
22 fire suppression system.
23 (3) Fire suppression system. – Any fire-fighting system employing a suppression
24 agent with the purpose of controlling, suppressing, or extinguishing a fire in a
25 specific hazard, including pre-engineered kitchen fire suppression systems,
26 pre-engineered industrial fire suppression systems, and engineered special
27 hazard fire suppression systems.
28 (4) Industrial fire suppression system. – A pre-engineered automatic fire
29 extinguishing system provided for the protection of property or equipment as
30 described by the manufacturer other than those systems covered under the
31 definition of kitchen fire suppression system.
32 (5) Kitchen fire suppression system. – An automatic fire extinguishing system
33 provided for the protection of grease removal devices, hoods, duct systems,
34 and cooking equipment. This term also includes "restaurant fire suppression
35 system."



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- 1 (6) Suppression agent. – A currently recognized agent or water additive required
2 to control, suppress, or extinguish a fire.
- 3 (7) Firm. – Any business, person, partnership, organization, association,
4 corporation, contractor, subcontractor, or individual.
- 5 (8) License. – The document issued by the Commissioner which authorizes a firm
6 to engage in the business of installation, repair, recharging, inspection,
7 service, or testing of fire suppression systems or portable fire extinguishers.
- 8 (9) Permit. – The document issued by the Commissioner which authorizes an
9 individual to install, inspect, repair, recharge, service, or test fire suppression
10 systems or portable fire extinguishers.
- 11 (10) Portable fire extinguisher. – A portable device containing an extinguishing
12 agent that can be expelled under pressure for the purpose of suppressing or
13 extinguishing a fire.
- 14 (11) Pre-engineered fire suppression system. – Any system having predetermined
15 flow rates, nozzle pressures, and quantities of an extinguishing agent.

16 **"§ 58-82B-2. Commissioner of Insurance to administer Article; rules and regulations.**

17 (a) The Commissioner of Insurance, through the Office of the State Fire Marshal, shall
18 have full power and authority to administer the provisions of this Article, including adopting
19 rules to enforce the purposes and provisions of this Article.

20 (b) The Commissioner of Insurance shall establish rules for the following:

- 21 (1) Proper installation, inspection, recharging, repairing, servicing, or testing of
22 fire suppression systems or portable fire extinguishers.
- 23 (2) Required specifications as to the number, type, size, shape, color, and
24 information and data contained thereon of service tags to be attached to all
25 portable fire extinguishers and fire suppression systems covered by this
26 Article when they are installed, inspected, recharged, repaired, serviced, or
27 tested.

28 (c) The Commissioner may adopt by rule the applicable standards of the National Fire
29 Protection Association or another nationally recognized organization, if the standards are judged
30 by the Commissioner to be suitable for the enforcement of this Article. All fire suppression
31 systems and portable fire extinguishers covered by G.S. 58-82B-3 shall be installed, inspected,
32 recharged, repaired, serviced, or tested in compliance with this Article and with the
33 Commissioner's rules.

34 (d) The Commissioner may adopt rules to require an applicant for a license or permit to
35 take an examination as to the applicant's competence to be licensed or permitted under this
36 Article. If required, the applicant must take and pass the examination according to requirements
37 prescribed by the Commissioner.

38 (e) The Commissioner is authorized to apply for and receive grants for the administration
39 of this Article from parties interested in upgrading and improving the quality of fire protection
40 provided by portable fire extinguishers or fire suppression systems.

41 **"§ 58-82B-3. Compliance with this article; license and permit requirement.**

42 (a) Except as otherwise provided by this Article, no firm may install, inspect, repair,
43 service, or test any of the following fire suppression systems or portable fire extinguishers that
44 are required by the Commissioner's rules or by other State or local fire safety rules, unless the
45 firm is licensed under the provisions of this Article:

- 46 (1) Portable fire extinguishers.
- 47 (2) Pre-engineered kitchen fire suppression systems.
- 48 (3) Pre-engineered industrial fire suppression systems.
- 49 (4) Engineered special hazard fire suppression systems.

50 (b) Except as otherwise provided by this Article, no individual may install, inspect,
51 repair, recharge, service, or test any of the following fire suppression systems or portable fire

1 extinguishers that are required by the Commissioner's rules or by other State or local fire safety
2 rules, unless the individual is permitted under the provisions of this Article:

- 3 (1) Portable fire extinguishers.
- 4 (2) Pre-engineered kitchen fire suppression systems.
- 5 (3) Pre-engineered industrial fire suppression systems.
- 6 (4) Engineered special hazard fire suppression systems.

7 (c) It shall be unlawful for an individual to install, inspect, recharge, repair, service, or
8 test any portable fire extinguisher or fire suppression system without attaching the required tag
9 or tags completed in detail, including the actual month, day, and year the work was performed,
10 or to use a tag not meeting the specifications set forth by the Commissioner.

11 (d) The permit established by subsection (b) of this section shall not be required for any
12 individual employed by any firm or governmental entity that engages only in installing,
13 inspecting, recharging, repairing, servicing, or testing of portable fire extinguishers or fire
14 suppression systems owned by the firm and installed on property under the control of the firm.
15 These individuals shall remain subject to the rules and regulations adopted pursuant to this
16 Article.

17 (e) The provisions of this Article do not apply to any of the following:

- 18 (1) Fire chiefs, fire marshals, fire inspectors, or insurance company inspectors
19 with regard to the routine visual inspection of pre-engineered fire suppression
20 systems or portable fire extinguishers.
- 21 (2) Any firm that engages only in the routine visual inspection of fire suppression
22 systems or portable fire extinguishers owned by the firm and installed on
23 property under the control of the firm.

24 **"§ 58-82B-4. License and permit fees.**

25 (a) A nonrefundable license fee of two hundred fifty dollars (\$250.00) shall be paid to
26 the Commissioner with each application for the issuance of a license under this Article.

27 (b) A nonrefundable permit fee of one hundred dollars (\$100.00) shall be paid to the
28 Commissioner with each application for the issuance of a permit under this Article.

29 (c) The fees required by this Article shall not apply to employees of federal, State, or
30 local governments or to a member of a legally organized fire department while acting in the
31 member's official capacity.

32 **"§ 58-82B-5. Requirements for issuance of license.**

33 (a) Before approving a license for a firm pursuant to G.S. 58-82B-3, the Commissioner
34 shall find that the firm has:

- 35 (1) Submitted a completed application pursuant to G.S. 58-82B-8.
- 36 (2) Submitted to the Commissioner evidence of registration as a North Carolina
37 corporation.
- 38 (3) Not committed any act that is a ground for denial, suspension, probation,
39 revocation, or nonrenewal set forth in G.S. 58-82B-11.
- 40 (4) Satisfied all requirements of this Article.
- 41 (5) Been determined, by inspection of the Commissioner, to possess the
42 equipment required for the activities the applicant requests to be licensed to
43 perform. If the applicant includes in the request the high-pressure hydrostatic
44 testing of equipment, the applicant must submit a copy of its United States
45 Department of Transportation approval and renewals.
- 46 (6) Submitted to the Commissioner proof of a valid comprehensive liability
47 insurance policy purchased from an insurer authorized to do business in North
48 Carolina. The coverage must include bodily injury and property damage,
49 products liability, completed operations, and contractual liability. The proof
50 of insurance must also be provided before any license can be renewed. The
51 minimum amount of the coverage shall be one million dollars (\$1,000,000) or

1 any other amount as specified by the Commissioner. An insurer which
2 provides this coverage shall notify the Commissioner of any change in
3 coverage.

4 (7) Paid the applicable fees set forth in G.S. 58-82B-4.

5 (8) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing
6 an application for an examination, if the Commissioner requires an
7 examination pursuant to this Article.

8 (9) Successfully passed any examination, if the Commissioner requires an
9 examination pursuant to this Article.

10 (b) Before approving a permit for an individual pursuant to G.S. 58-82B-3, the
11 Commissioner shall find that the individual has:

12 (1) Submitted a completed application pursuant to G.S. 58-82B-8.

13 (2) Not committed any act that is a ground for denial, suspension, probation,
14 revocation, or nonrenewal set forth in G.S. 58-82B-11.

15 (3) Satisfied all requirements of this Article.

16 (4) Paid the applicable fees set forth in G.S. 58-82B-4.

17 (5) Paid a nonrefundable filing fee fixed by rule of the Commissioner when filing
18 an application for an examination, if the Commissioner requires an
19 examination pursuant to this Article.

20 (6) Successfully passed any examination, if the Commissioner requires an
21 examination pursuant to this Article.

22 **"§ 58-82B-6. Production of license or permit on demand.**

23 (a) Every permittee must have a valid permit upon his person at all times while engaging
24 in the installing, inspection, recharging, repairing, servicing, or testing of fire suppression
25 systems or portable fire extinguishers.

26 (b) Every licensee or permittee must be able to produce a valid license or valid permit, as
27 appropriate, upon demand by the Commissioner or his representatives or by any local authority
28 having jurisdiction for fire protection or prevention or by any individual for whom the licensee
29 or permittee solicits to perform any of the activities covered by this Article.

30 **"§ 58-82B-7. Reciprocity.**

31 The Commissioner may issue a license or permit under this Article to an individual who holds
32 a comparable valid permit, license, or certification issued by another state, provided the minimum
33 requirements of that state are at least equal to the minimum requirements under this Article for
34 the specific license or permit issued and the individual or firm pays the application and filing fees
35 required under this Article.

36 **"§ 58-82B-8. Forms of licenses, permits, and applications; information required.**

37 (a) An individual applying for a license or permit under this Article shall apply on a form
38 prescribed by the Commissioner and declare under penalty of denial, suspension, or revocation
39 of the license that the statements made in the application are true, correct, and complete to the
40 best of the individual's knowledge and belief.

41 (b) Permit applications shall include the name of the licensee employing the applicant or
42 the name of the firm or governmental entity pursuant to the exemptions found in G.S. 58-82B-3.

43 (c) Each license or permit issued by the Commissioner under this Article shall clearly
44 state the activity or activities for which the licensee or permittee has been issued the license or
45 permit to perform. The licensee or permittee shall not perform any activity not noted on a license
46 or permit issued by the Commissioner.

47 (d) A licensee or permittee shall notify the Commissioner within 30 days of any change
48 to the information provided to the Commissioner on the license or permit application.

49 (e) The Commissioner shall give an applicant 60 days to correct any deficiencies
50 discovered by inspection.

51 **"§ 58-82B-9. Terms of licenses and permits; failure to renew.**

1 (a) The licenses and permits required by this Article shall be issued by the Commissioner
2 for each license year, beginning January 1 and expiring the following December 31.

3 (b) The failure to renew a license or permit by December 31 will cause the license or
4 permit to become inoperative. A license or permit which is inoperative because of the failure to
5 renew the license or permit shall be restored upon payment of the applicable fee, plus a penalty
6 equal to the applicable fee, if the fees are paid within 90 days of expiration. After 90 days, the
7 former licensees and former permittees must apply for new licenses and permits as required for
8 an initial license or permit.

9 **"§ 58-82B-10. License or permit sanction and denial procedures.**

10 (a) The suspension, placing on probation, revocation, denial, or refusal to renew any
11 license or permit under this Article shall be in accordance with the provisions of Chapter 150B
12 of the General Statutes.

13 (b) Whenever the Commissioner denies an initial application or an application for a
14 reissuance of a license or permit under this Article, the Commissioner shall notify the applicant
15 and advise, in writing, the applicant of the reasons for the denial of the license. The applicant
16 may also be denied for any reasons for which a license may be suspended or revoked or not
17 renewed under G.S. 58-82B-11.

18 (c) In order for an applicant to be entitled to a review of the Commissioner's action to
19 determine the reasonableness of the action, the applicant must make a written demand upon the
20 Commissioner for a review no later than 30 days after service of the notification upon the
21 applicant. The review shall be completed without undue delay, and the applicant shall be notified
22 promptly in writing of the outcome of the review.

23 (d) In order for an applicant who disagrees with the outcome of the review to be entitled
24 to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make
25 a written demand upon the Commissioner for a hearing no later than 30 days after service upon
26 the applicant of the notification of the outcome.

27 (e) A licensee or permittee whose license or permit is suspended, revoked, or not renewed
28 shall surrender the license or permit to the Commissioner within 30 days of the suspension,
29 revocation, or nonrenewal.

30 (f) During the suspension or revocation of any license or permit, the licensee or permittee
31 whose license or permit has been suspended or revoked shall not engage in or attempt or profess
32 to engage in any transaction or business for which a license or permit is required under this
33 Article or directly or indirectly own, control, or be employed in any manner by any firm, business,
34 or corporation for which a license or permit under this Article is required.

35 (g) If, during the period between the beginning of proceedings and the entry of an order
36 of suspension or revocation by the Commissioner, a new license or permit has been issued to the
37 individual or firm charged, the order of suspension or revocation shall operate to suspend or
38 revoke, as the case may be, the new license or permit held by the individual or firm.

39 (h) The Commissioner shall not, so long as the revocation or suspension remains in effect,
40 issue any new license or permit for the establishment of any new firm, business, or corporation
41 of any individual or applicant that has or will have the same or similar management, ownership,
42 control, employees, permittees, or licensees or will use the same or a similar name as the revoked
43 or suspended firm, business, corporation, individual, or applicant.

44 **"§ 58-82B-11. Grounds for denial, suspension, probation, revocation, or nonrenewal of**
45 **licenses.**

46 The Commissioner may deny, suspend, place on probation, revoke, or refuse to renew any
47 license or permit under this Article, in accordance with the provisions of Article 3A of Chapter
48 150B of the General Statutes, for any one or more of the following reasons:

- 49 (1) Performing any action for which a license or permit is required under this
50 Article without having first obtained such license or permit.

- 1 (2) Improperly installing, recharging, repairing, servicing, inspecting, or testing a
2 portable fire extinguisher or fire suppression system.
- 3 (3) Rendering inoperative a portable fire extinguisher or pre-engineered or
4 engineered fire suppression system covered by this Article, except during the
5 time the extinguisher or system is being inspected, recharged, repaired,
6 serviced, or tested or except pursuant to court order.
- 7 (4) Material misstatement, misrepresentation, or fraud in obtaining a license or
8 permit under this Article.
- 9 (5) Failing to provide proof of or maintain the minimum comprehensive liability
10 insurance coverage as set forth in G.S. 58-82B-5.
- 11 (6) Failing to notify the Commissioner, in writing, within 30 days after a change
12 of any information required on applications under G.S. 58-82B-8.
- 13 (7) Cheating on an examination for a license or permit, if an examination is
14 required by the Commissioner pursuant to this Article.
- 15 (8) Having any professional license denied, suspended, or revoked in this State or
16 any other jurisdiction for causes substantially similar to those listed in this
17 subsection.
- 18 (9) Failing or refusing to comply with a cease and desist order or any other notice
19 or order to correct a violation related to conduct governed by this Article.
- 20 (10) Retaining an officer, director, stockholder, owner, or individual who has a
21 direct or indirect interest that has had his or her license or permit suspended
22 or revoked under this Article.
- 23 (11) Serving or previously serving as an officer, director, stockholder, or owner of
24 a firm, business, or corporation whose license or permit has been suspended
25 or revoked under this Article, or who has or had a direct or indirect interest in
26 a firm, business, or corporation whose license or permit has been suspended
27 or revoked under this Article.
- 28 (12) While holding a permit or license, using a license or permit or license number
29 or permit number other than his or her own valid license or permit or license
30 number or permit number.
- 31 (13) Using credentials, methods, means, or practices to impersonate a
32 representative of the Commissioner or the State Fire Marshal or any local fire
33 chief, fire marshal, or other fire authority having jurisdiction.
- 34 (14) Any cause for which the issuance of the license or permit could have been
35 denied had it been known to the Commissioner at the time of issuance.
- 36 (15) Failing to obtain, retain, or maintain one or more of the qualifications for a
37 license or permit required by this Article.
- 38 (16) Knowingly aiding or abetting others to evade or violate the provisions of this
39 Article.
- 40 (17) Failing to comply with an administrative or court order imposing a child
41 support obligation, after entry of a final judgment or order finding the
42 violation to have been willful.
- 43 (18) Failing to pay State income tax or comply with any administrative or court
44 order directing payment of State income tax, after entry of a final judgment or
45 order finding the violation to have been willful.
- 46 (19) Conviction of a crime involving dishonesty, a breach of trust, or moral
47 turpitude.
- 48 (20) Violating any other provision of this Article or any rule or regulation adopted
49 and promulgated pursuant to this Article.
- 50 (21) Any cause sufficient to deny, suspend, or revoke the license or permit under
51 any other provision of this Article.

"§ 58-82B-12. Cease and desist orders; period of revocation.

(a) Whenever the Commissioner shall have reason to believe that any individual or firm is or has been violating any provisions of this Article, the Commissioner may issue and deliver to the individual or firm an order to cease and desist the violation.

(b) Any order issued by the Commissioner under this section shall contain or be accompanied by a notice of opportunity for hearing which may provide that a hearing will be held if and only if an individual subject to the order requests a hearing within 30 days of receipt of the order and notice. The order and notice shall be served by hand delivery by the Commissioner or by registered or certified mail.

(c) Failure to comply with a cease and desist order is cause for revocation of any or all permits and licenses issued by the Commissioner for a period of not less than six months and not to exceed five years. If a new permit or license has been issued to the individual or firm, the order of revocation shall operate effectively with respect to the new permits and licenses held by the individual or firm.

(d) In the case of an applicant for a license or permit, violation of any provision of this title may constitute grounds for refusal of the application.

"§ 58-82B-13. Civil penalty; injunction.

(a) Any individual or firm who violates any provision of this Article or any rule or order issued by the Commissioner under this Article shall be subject to a civil penalty imposed by the Commissioner of not more than one thousand dollars (\$1,000) for a first offense, not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for a second offense, and not less than two thousand dollars (\$2,000) or more than five thousand dollars (\$5,000) for a third or subsequent offense.

(b) Prior to subjecting any individual or firm to a fine under this subsection, the Commissioner shall give written notice to the individual or firm by hand delivery or by registered or certified mail of the existence of the violations. After a reasonable period of time after notice is given, an order may be issued based on this section. The order must be delivered in accordance with the provisions of subsection G.S. 58-82B-12(b) and must notify the individual or firm of the right to a hearing with respect to the order.

(c) In addition to other powers granted to the Commissioner under this Article, the Commissioner may bring a civil action to enjoin a violation of any provision of this Article or of any rule or order issued by the Commissioner under this Article.

"§ 58-82B-14. Criminal penalty.

(a) Any individual or firm that willfully or intentionally violates any provision of this Article or any order or rule of the Commissioner shall be guilty of a Class 1 misdemeanor.

(b) It shall also constitute a Class 1 misdemeanor to willfully or intentionally do any of the following:

- (1) Obliterate the serial number on a fire suppression system or portable fire extinguisher for the purposes of falsifying service records.
- (2) Improperly install a fire suppression system or improperly recharge, repair, service, or test any fire suppression system or portable fire extinguisher.
- (3) While holding a permit or license, allow another individual to use the permit or license or permit number or license number or to use a license or permit or license number or permit number other than his own valid license or permit or license number or permit number.
- (4) Use or permit the use of any license by an individual or firm other than the one to whom the license is issued.
- (5) Use any credential, method, means, or practice to impersonate a representative of the Commissioner or the State Fire Marshal or any local fire chief, fire marshal, or other fire authority having jurisdiction.

1 (6) Engage in the business of installing, inspecting, recharging, repairing,
2 servicing, or testing portable fire extinguishers or fire suppression systems
3 except in conformity with the provisions of this Article and the applicable
4 rules and regulations of the Commissioner.

5 (7) Fail to comply with a cease and desist order under G.S. 58-82B-12.

6 **"§ 58-82B-15. Power of the State and local governments to regulate not limited.**

7 (a) Nothing in this Article limits the power of the State or a unit of local government to
8 require the submission and approval of plans and specifications or to regulate the quality and
9 character of work performed by contractors for the protection of the public health and safety.

10 (b) No unit of local government shall impose any other requirements on individuals
11 licensed or permitted by the Commissioner as set forth in this Article to prove competency to
12 conduct any activity covered by the license or permit."

13 **SECTION 2.** The Department of Insurance may adopt temporary rules to implement
14 the provisions of this Article. Any temporary rules adopted in accordance with this section shall
15 remain in effect until permanent rules that replace the temporary rules become effective.

16 **SECTION 3.** This act becomes effective January 1, 2022.