

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 63

Short Title: Refrigeration Contracting Revisions/AB.

(Public)

Sponsors: Representatives Hill; Sutton, Church, and Wilkins.

Referred to: Business and Labor.

January 30, 1995

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A SPECIALTY LICENSE FOR TRANSPORT REFRIGERATION CONTRACTORS, TO CHANGE THE COMPOSITION OF THE LICENSING BOARD, TO INCREASE THE RENEWAL FEE, AND TO AMEND OTHER PROVISIONS OF THE LAW GOVERNING REFRIGERATION CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-52 reads as rewritten:

"§ 87-52. State Board of Refrigeration Examiners; appointment; term of office.

For the purpose of carrying out the provisions of this Article, the State Board of Refrigeration Examiners is created, consisting of seven members appointed by the Governor to serve seven- year staggered terms. The Board shall consist of one member who is a wholesaler or a manufacturer of refrigeration equipment; one member from an engineering school of The ~~Greater~~ University of North Carolina, one member from the Division of Public Health of The ~~Greater~~ University of North Carolina, two licensed refrigeration contractors, ~~and two members who have~~ one member who has no ties with the construction industry to represent the interest of the public at ~~large~~ large, and one member with an engineering background in refrigeration. The term of office of one member shall expire each year. Vacancies occurring during a term shall be filled by appointment of the Governor for the unexpired term. Whenever the term 'Board' is used

1 in this Article, it means the State Board of Refrigeration Examiners. No Board member
2 shall serve more than one complete consecutive term."

3 Sec. 2. G.S. 87-58 reads as rewritten:

4 **"§ 87-58. Definitions; contractors licensed by Board; examinations.**

5 (a) As applied in this Article, 'refrigeration trade or business' is defined to include
6 all persons, firms or corporations engaged in the installation, maintenance, servicing and
7 repairing of refrigerating machinery, equipment, devices and components relating thereto
8 and within limits as set forth in the codes, laws and regulations governing refrigeration
9 installation, maintenance, service and repairs within the State of North Carolina or any of
10 its political subdivisions, provided however, that this Article shall not apply to the
11 replacement of lamps and fuses and to the installation and servicing of ~~appliances and~~
12 ~~equipment—domestic household refrigerators and freezers or domestic ice-making~~
13 appliances connected by means of attachment plug-in devices to suitable receptacles
14 which have been permanently installed, ~~'or devices using gas as a fuel, or ice using or storing~~
15 ~~equipment';~~ and provided, further, that the provisions of this Article shall not repeal any
16 wording, phrase, or paragraph as set forth in North Carolina General Statutes, Chapter 87,
17 Article 2; and provided, further, that this Article shall not apply to employees of persons,
18 firms, or corporations or persons, firms or corporations, not engaged in refrigeration
19 contracting as herein defined, that install, maintain and service their own refrigerating
20 machinery, equipment and devices. The provisions of this Article shall not apply to any
21 person, firm or corporation engaged in the business of selling, repairing and installing
22 any air-conditioning units, devices or systems for the purpose of cooling offices,
23 buildings, houses, works, manufacturing plants, or any machinery, manufactured article
24 or processing of material.

25 (b) The ~~phrase term~~ 'refrigeration contractor' ~~is hereby defined to be~~ means a person,
26 firm or corporation engaged in the business of refrigeration contracting. The term
27 'transport refrigeration contractor' means a person, firm, or corporation engaged in the
28 business of transport refrigeration.

29 (c) Any person, firm or corporation who for valuable consideration engages in the
30 refrigeration business or trade as herein defined shall be deemed and held to be in the
31 business of refrigeration contracting.

32 (d) In order to protect the public health, comfort and safety, the Board shall
33 prescribe the standard of experience to be required of an applicant for license and shall
34 give an examination designed to ascertain the technical and practical knowledge of the
35 applicant concerning the analysis of plans and specifications, estimating cost,
36 fundamentals of installation and design as ~~same—they~~ pertain to refrigeration; and as a
37 result of ~~such—the~~ examination, the Board shall issue a certificate of license in
38 refrigeration to applicants who pass the required examination and a license shall be
39 obtained in accordance with the provisions of this Article, before any person, firm or
40 corporation shall engage in, or offer to engage in the business of refrigeration contracting
41 as herein defined. Each application for examination shall be accompanied by a check,
42 post-office money order or cash in the amount of the annual license fee required by this
43 Article. Regular examinations shall be given in the months of April and October of each

1 year and additional examinations may be given at ~~such other times as the Board may deem~~
2 deems wise and necessary. Any person may demand in writing a special examination
3 and upon payment by the applicant of the cost of holding ~~such the~~ examination and the
4 deposit of the amount of the annual license fee, the Board in its discretion will fix a time
5 and place for ~~such the~~ examination. A person who fails to pass any examination shall not
6 be reexamined until the next regular examination.

7 (e) Repealed by Session Laws 1979, c. 843, s. 1.

8 (f) Licenses Granted without an Examination. – Persons who had an established
9 place of business prior to July 1, 1979, and who produce satisfactory evidence that they
10 are engaged in the refrigeration business as herein defined in any city, town or other area
11 in which Article 5 of Chapter 87 of the General Statutes did not previously apply shall be
12 granted a certificate of license, without examination, upon application to the Board and
13 payment of the license fee, provided ~~such~~ completed applications shall be made prior to
14 June 30, 1981.

15 (g) The current license issued in accordance with the provisions of this Article
16 shall be posted in the business location of the licensee, and its number shall appear on all
17 proposals or contracts and requests for permits issued by municipalities.

18 (h) A person having an established place of business doing transport refrigeration
19 prior to October 1, 1995, shall be granted a specialty license in transport refrigeration,
20 without examination, if the person produces satisfactory evidence the person is engaged
21 in transport refrigeration, pays the required license fee, and applies to the Board prior to
22 January 1, 1996. The current specialty license shall be posted in accordance with
23 subsection (g) of this section.

24 (i) Nothing in this Article shall relieve the holder of a license issued under this
25 section from complying with the building or electrical codes, statutes, or ordinances of
26 the State or of any county or municipality or from responsibility or liability for negligent
27 acts in connection with refrigeration contracting work. The Board shall not be liable in
28 damages, or otherwise, for the negligent acts of licensees."

29 Sec. 3. G.S. 87-59 reads as rewritten:

30 "**§ 87-59. Revocation or suspension of license for cause.**

31 (a) The Board shall have power to revoke or suspend the license of any
32 refrigeration contractor who is guilty of any fraud or deceit in obtaining a license, or who
33 fails to comply with any provision or requirement of this Article, or for gross negligence,
34 incompetency, or misconduct, in the practice of or in carrying on the business of a
35 refrigeration contractor as defined in this Article. Any person may prefer charges of ~~such~~
36 fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any
37 provision or requirement of this Article, against any refrigeration contractor who is
38 licensed under the provisions of this Article. All ~~of such~~ charges shall be in writing and
39 verified by the complainant, and ~~such charges~~ shall be heard and determined by the Board
40 in accordance with the provisions of Chapter 150B of the General Statutes.

41 (b) The Board shall adopt and publish guidelines, consistent with the provisions of
42 this Article, governing the suspension and revocation of licenses.

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

5 (d) In a case in which the Board is entitled to convene a hearing to consider a
6 charge under this section, the Board may accept an offer to compromise of the charge,
7 whereby the accused shall pay to the Board a penalty not to exceed one thousand dollars
8 (\$1,000).

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

14 Sec. 4. G.S. 87-61 reads as rewritten:

15 "**§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

16 Any person, firm or corporation who shall engage in or offer to engage in, or carry on
17 the business of refrigeration contracting as defined in this Article, without first having
18 been licensed to engage in ~~such~~ the business, or businesses, as required by the provisions
19 of this Article; or any person, firm or corporation holding a refrigeration license under the
20 provisions of this Article who shall practice or offer to practice or carry on any type of
21 refrigeration contracting not authorized by ~~said~~ the license; or any person, firm or
22 corporation who shall give false or forged evidence of any kind to the Board, or any
23 member thereof, in obtaining a license, or who shall falsely impersonate any other
24 practitioner of like or different name, or who shall use an expired or revoked license, or
25 who shall violate any of the provisions of this Article, shall be guilty of a Class 2
26 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and
27 expenses, legal or otherwise, in the prosecution of any violation of this Article.
28 Employees, while working under the supervision and jurisdiction of a person, firm or
29 corporation licensed in accordance with the provisions of this Article, shall not be
30 construed to have engaged in the business of refrigeration contracting."

31 Sec. 5. G.S. 87-64 reads as rewritten:

32 "**§ 87-64. Examination and license fees; annual renewal.**

33 Each applicant for a license by examination shall pay to the Board of Refrigeration
34 Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty
35 dollars (\$40.00). In the event the applicant successfully passes ~~said~~ the examination, the
36 examination fee ~~so~~ paid shall be applied to the license fee required of licensees for the
37 current year in which the examination was taken and passed.

38 The license of every person licensed under the provisions of this statute shall be
39 annually renewed. On or before November 1 of each year the Board shall cause to be
40 mailed an application for renewal of license to every person who has received from the
41 Board a license to engage in the refrigeration business, as heretofore defined. On or
42 before January 1 of each year every licensed person who desires to continue in the
43 refrigeration business shall forward to the Board a renewal fee in an amount not to

1 exceed ~~forty dollars (\$40.00)~~ seventy-five dollars (\$75.00) together with the application for
2 renewal. Upon receipt of the application and renewal fee the Board shall issue a renewal
3 certificate for the current year. Failure to renew the license annually shall automatically
4 result in a forfeiture of the right to engage in the refrigeration business. Any licensee
5 who allows his license to lapse may be reinstated by the Board upon ~~payment of a fee not~~
6 ~~to exceed forty-five dollars (\$45.00); provided any person who fails to renew his license for two~~
7 ~~consecutive years shall be required to take and pass the examination prescribed by the Board for~~
8 ~~new applicants before being licensed to engage further in the refrigeration business.~~ receipt of
9 the unpaid renewal fee and a late payment of ten dollars (\$10.00) for each month or part
10 of a month after December 31 of the preceding year. After a lapse of two years, no
11 renewal shall be effected and the applicant shall fulfill all requirements of a new
12 applicant as set forth in this section."

13 Sec. 6. This act becomes effective October 1, 1995, and applies to hearings
14 convened on or after that date and to applications for renewal of licenses beginning
15 January 1, 1996. The term of the public member of the Board that is currently scheduled
16 to expire first shall expire on October 1, 1995, and the initial member with the
17 engineering background in refrigeration appointed pursuant to this act shall serve from
18 the date of appointment to January 1, 2001.