

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

2

HOUSE BILL 63  
Committee Substitute Favorable 3/8/95

Short Title: Refrigeration Contracting Revisions/AB.

(Public)

---

Sponsors:

---

Referred to:

---

January 30, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR A SPECIALTY LICENSE FOR TRANSPORT  
2 REFRIGERATION CONTRACTORS, TO CHANGE THE COMPOSITION OF  
3 THE LICENSING BOARD, TO INCREASE THE RENEWAL FEE, AND TO  
4 AMEND OTHER PROVISIONS OF THE LAW GOVERNING REFRIGERATION  
5 CONTRACTORS.  
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 87-52. State Board of Refrigeration Examiners; appointment; term of office.**

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

1 appointment of the Governor for the unexpired term. Whenever the term 'Board' is used  
2 in this Article, it means the State Board of Refrigeration Examiners. No Board member  
3 shall serve more than one complete consecutive term."

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

5 **"§ 87-58. Definitions; contractors licensed by Board; examinations.**

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

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

28 (b1) The term 'transport refrigeration contractor' means a person, firm, or  
29 corporation engaged in the business of installation, maintenance, servicing, and repairing  
30 of transport refrigeration.

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

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

1 post-office money order or cash in the amount of the annual license fee required by this  
2 Article. Regular examinations shall be given in the months of April and October of each  
3 year and additional examinations may be given at ~~such other times as the Board may deem~~  
4 deems wise and necessary. Any person may demand in writing a special examination  
5 and upon payment by the applicant of the cost of holding ~~such the~~ examination and the  
6 deposit of the amount of the annual license fee, the Board in its discretion will fix a time  
7 and place for ~~such the~~ examination. A person who fails to pass any examination shall not  
8 be reexamined until the next regular examination.

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

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

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

20 (h) A transport refrigeration contractor having an established place of business  
21 doing transport refrigeration contracting prior to October 1, 1995, shall be granted a  
22 transport refrigeration contracting specialty license, without examination, if the person  
23 produces satisfactory evidence the person is engaged in transport refrigeration  
24 contracting, pays the required license fee, and applies to the Board prior to January 1,  
25 1996. The current specialty license shall be posted in accordance with subsection (g) of  
26 this section.

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

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

33 **"§ 87-59. Revocation or suspension of license for cause.**

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

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

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

7 (d) In a case in which the Board is entitled to convene a hearing to consider a  
8 charge under this section, the Board may accept an offer to compromise the charge,  
9 whereby the accused shall pay to the Board a penalty not to exceed one thousand dollars  
10 (\$1,000).

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

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

17 "**§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

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

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

34 "**§ 87-64. Examination and license fees; annual renewal.**

35 Each applicant for a license by examination shall pay to the Board of Refrigeration  
36 Examiners a nonrefundable examination fee in an amount not to exceed the sum of ~~forty~~  
37 ~~dollars (\$40.00).~~seventy-five dollars (\$75.00). In the event the applicant successfully  
38 passes ~~said~~the examination, the examination fee ~~so~~ paid shall be applied to the license fee  
39 required of licensees for the current year in which the examination was taken and passed.

40 The license of every person licensed under the provisions of this statute shall be  
41 annually renewed. On or before November 1 of each year the Board shall cause to be  
42 mailed an application for renewal of license to every person who has received from the  
43 Board a license to engage in the refrigeration business, as heretofore defined. On or

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

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