



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 26, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 224, an Act relating to the licensing and regulation of plumbers, mechanical professionals, and contractors, and including an applicability provision.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 224

AN ACT

RELATING TO THE LICENSING AND REGULATION OF PLUMBERS,
MECHANICAL PROFESSIONALS, AND CONTRACTORS, AND INCLUDING
AN APPLICABILITY PROVISION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 105.1, Code 2009, is amended to read as follows:

105.1 TITLE.

This chapter may be known and cited as the "Iowa Plumber, and Mechanical Professional, and Contractor Licensing Act".

Sec. 2. Section 105.2, subsections 2, 7, and 8, Code 2009, are amended to read as follows:

2. "Board" means the plumbing and mechanical systems examining board as established pursuant to section 105.3.

7. "HVAC" means heating, ventilation, and air conditioning in, and ducted systems. "HVAC" includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

8. "Hydronic" means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any comfort heating or comfort cooling system or appliance using a liquid, water, or steam as the heating or cooling media. "Hydronic" includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system.

Sec. 3. Section 105.2, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 17. "Routine maintenance" means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, HVAC, refrigeration, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers, or water, gas, or steam piping permanent repairs except for traps or strainers. Routine maintenance shall include emergency repairs, and the board shall define the term emergency repairs to include the repair of water pipes to prevent imminent damage to property. "Routine maintenance" does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than one hundred gallons in size.

Sec. 4. Section 105.3, subsections 1, 6, and 7, Code 2009, are amended to read as follows:

1. A plumbing and mechanical systems ~~examining~~ board is created within the Iowa department of public health.

6. Members of the board shall receive actual expenses for their duties as a member of the ~~examining~~ board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

7. The board may maintain a membership in any national organization of state ~~examining~~ boards for the professions of plumbing, HVAC, refrigeration, or hydronic professionals, with all membership fees to be paid from funds appropriated to the board.

Sec. 5. Section 105.3, subsection 2, paragraph a, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The ~~examining~~ board shall be comprised of eleven members, appointed by the governor, as follows:

Sec. 6. Section 105.4, Code 2009, is amended to read as follows:

105.4 RULES.

1. The board shall establish by rule a plumbing installation code governing the installation of plumbing in this state.

2. The board shall adopt all rules necessary to carry out the licensing and other provisions of this chapter.

Sec. 7. Section 105.5, Code 2009, is amended to read as follows:

105.5 APPLICATIONS-FOR EXAMINATIONS.

1. Any person desiring to take an examination for a license issued pursuant to this chapter shall make application to the board at least fifteen days before the examination, on a form provided by the board. The application shall be accompanied by the examination fee and such documents and affidavits as are necessary to show the eligibility of the candidate to take the examination. All applications shall be in accordance with the rules of the department and the board and shall be signed by the applicant. The board may require that a recent photograph of the applicant be attached to the application.

2. Applicants who fail to pass an examination shall be allowed to retake the examination at a future scheduled time.

3. The board shall adopt rules relating to all of the following:

a. The qualifications required for applicants seeking to take examinations, which qualifications shall include a requirement that an applicant who is a contractor shall be required to provide the contractor's state contractor registration number.

b. The denial of applicants seeking to take examinations.

Sec. 8. Section 105.9, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Commencing July 2009 and every biennium thereafter, the board shall review its revenue, including amounts generated from license fees set pursuant to this chapter, and its expenses for purposes of reevaluating its fee structures. The board shall establish a reduced rate for combined licenses.

Sec. 9. Section 105.10, subsection 1, Code 2009, is amended to read as follows:

1. Except as provided in section 105.11, a person shall not operate as a contractor or install or repair plumbing, HVAC, refrigeration, or hydronic systems without obtaining a license issued by the board, or install or repair medical gas piping systems without obtaining a valid certification approved by the board.

Sec. 10. Section 105.10, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 4. The board shall adopt rules to allow a grace period for a contractor to operate a business described in subsection 2 without employing a licensed master.

NEW SUBSECTION. 5. The board shall by rule provide for the issuance of a license for installers of geothermal heat pump systems that shall require certification pursuant to industry accredited installer certification standards recognized by the United States department of energy.

Sec. 11. Section 105.11, subsection 3, Code 2009, is amended to read as follows:

3. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public use buildings or facilities, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption. ~~The provisions of this chapter shall also not be construed to prohibit an owner or operator of a health care facility licensed pursuant to chapter 135C7, assisted living center licensed pursuant to chapter 231C7, hospital licensed pursuant to chapter 135B7, adult day care center licensed~~

~~pursuant to chapter 231D, or a retirement facility certified pursuant to chapter 523D from performing work on the facility or require such owner or operator to be licensed under this chapter.~~

Sec. 12. Section 105.11, subsection 9, Code 2009, is amended to read as follows:

9. Apply to an employee of any unit of state or local government, including but not limited to cities, counties, or school corporations, performing ~~routine-maintenance~~ work on a mechanical system or plumbing system, which serves a ~~state-owned~~ government-owned or government-leased facility while acting within the scope of the ~~state~~ government employee's employment.

Sec. 13. Section 105.11, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Prohibit an owner or operator of a health care facility licensed pursuant to chapter 135C, assisted living center licensed pursuant to chapter 231C, hospital licensed pursuant to chapter 135B, adult day care center licensed pursuant to chapter 231D, or a retirement facility certified pursuant to chapter 523D from performing work on the facility or requiring such owner or operator to be licensed under this chapter; except for projects that exceed the dollar amount specified as the competitive bid threshold in section 26.3.

NEW SUBSECTION. 12. Apply to a person who performs the laying of pipe that originates or connects to pipe in the public right-of-way or property that is intended to become public right-of-way, even if such pipe extends under the property and up to the building. However, the person shall not make any interior pipe connections within a building under this exemption. This exemption does not restrict local jurisdictions from requiring licensure under this chapter if required by local ordinance, resolution, or by bidding specification.

NEW SUBSECTION. 13. Prohibit a rental property owner or employee of such an owner from performing routine maintenance on the rental property.

Sec. 14. Section 105.12, Code 2009, is amended to read as follows:

105.12 FORM OF LICENSE.

1. A contracting, plumbing, HVAC, refrigeration, or hydronic license shall be in the form of a certificate under the seal of the department, signed by the director of public health, and shall be issued in the name of the board. The license number of-the-book-and-page-of-the-registry-containing the-entry-of-the-license-in-the-office-of-the-department shall be noted on the face of the license.

2. In addition to the certificate, the department board shall provide each licensee with a wallet-sized licensing identification card.

Sec. 15. Section 105.14, Code 2009, is amended to read as follows:

105.14 DISPLAY OF MASTER CONTRACTOR LICENSE.

A person holding a master contractor license under this chapter shall keep the current license certificate publicly displayed in the primary place in which the person practices.

Sec. 16. Section 105.15, Code 2009, is amended to read as follows:

105.15 REGISTRY OF LICENSES.

The name, location, and-number-of-years-of-practice license number, and date of issuance of the license of the each person to whom the a license has been issued, the-number-of-the certificate, and-the-date-of-registration-thereof shall be entered in a registry kept in the office of the department to be known as the plumbing, HVAC, refrigeration, or hydronic registry. The registry may be electronic and shall be open to public inspection; however, the licensee's home address of-the licensee, home telephone number, and other personal information as determined by rule shall be confidential.

Sec. 17. Section 105.16, Code 2009, is amended to read as follows:

105.16 CHANGE OF RESIDENCE.

If a person licensed to practice as a contractor or a plumbing, HVAC, refrigeration, or hydronic professional under this chapter changes their the person's residence or place of practice, the person shall so notify the department board.

Sec. 18. Section 105.17, subsection 1, Code 2009, is amended to read as follows:

1. The provisions of this chapter regarding the licensing of plumbing, HVAC, refrigeration, and hydronic professionals and contractors shall supersede and preempt all plumbing, HVAC, refrigeration, ~~or hydronic,~~ and contracting licensing provisions of all governmental subdivisions.

a. A governmental subdivision that issues licenses on July 1, 2008, shall continue to issue licenses until June 30, 2009. On July 1, 2009, all plumbing and mechanical licensing provisions promulgated by any governmental subdivision shall be null and void, except reciprocal licenses as provided in section 105.21, and of no further force and effect.

b. On and after July 1, 2008, a governmental subdivision shall not prohibit a contractor or a plumbing, HVAC, refrigeration, or hydronic professional licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any plumbing and mechanical licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

Sec. 19. Section 105.18, Code 2009, is amended to read as follows:

105.18 QUALIFICATIONS AND TYPES OF LICENSES ISSUED.

1. GENERAL QUALIFICATIONS. The board shall adopt, by rule, general qualifications for licensure. The board may consider the past felony record of an applicant only if the felony conviction relates ~~directly~~ to the practice of the profession for which the applicant requests to be licensed. ~~Character-references~~ References may be required as part of the licensing process, ~~but shall not be obtained from licensed members of the plumbing or mechanical profession.~~

2. PLUMBING, HVAC, REFRIGERATION, AND HYDRONIC LICENSES AND CONTRACTOR LICENSES. The board shall issue separate licenses for plumbing, HVAC, refrigeration, and hydronic professionals and for contractors as follows:

a. Apprentice license. In order to be licensed by the ~~department~~ board as an apprentice, a person shall do all of the following:

(1) File an application, which application shall establish that the person meets the minimum requirements adopted by the board.

(2) Certify that the person will work under the supervision of a licensed journeyman or master in the applicable discipline.

(3) Be enrolled in an applicable apprentice program which is registered with the United States department of labor office of apprenticeship.

b. Journeyman license. In order to be licensed by the ~~department~~ board as a journeyman in the applicable discipline, a person shall do all of the following:

(1) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.

(2) Pass the state journeyman licensing examination in the applicable discipline.

(3) Provide the board with evidence of having completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this subparagraph must be an apprenticeship training program registered by the ~~bureau-of-apprenticeship-and-training-of-the~~ United States department of labor office of apprenticeship.

A person may simultaneously hold an active journeyman license and an inactive master license.

c. Master license. In order to be licensed by the ~~department~~ board as a master, a person shall do all of the following:

(1) File an application and pay application fees as established by the board, which application shall establish that the person meets the minimum educational and experience requirements adopted by the board.

(2) Pass the state master licensing examination for the applicable discipline.

(3) Provide evidence to the ~~examining~~ board that the person has previously been a licensed journeyman or master in the applicable discipline ~~or-satisfies-all-requirements-for-licensure-as-a-journeyman-in-the-applicable-discipline.~~

~~(4)--Provide-evidence-of-public-liability-insurance-pursuant-to-section-105-19-~~

d. Contractor license. In order to be licensed by the board as a contractor, a person shall do all of the following:

(1) File an application and pay application fees as established by the board, which application shall provide the person's state contractor registration number and establish that the person meets the minimum requirements adopted by the board.

(2) Maintain a permanent place of business.

(3) Hold a master license or employ at least one person holding a master license under this chapter.

3. COMBINED LICENSES, RESTRICTED LICENSES.

a. The department board may issue single or combined licenses to persons who qualify as a contractor, master, journeyman, or apprentice under any of the disciplines.

b. Special, restricted license. The board may by rule provide for the issuance of special plumbing and mechanical professional licenses authorizing the licensee to engage in a limited class or classes of plumbing or mechanical professional work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class for which the person is licensed. The board shall designate each special, restricted license to be a sublicense of either a plumbing, HVAC, refrigeration, or hydronic license. An individual holding a master or journeyman, plumbing, HVAC, refrigeration, or hydronic license shall not be required to obtain any special, restricted license which is a sublicense of the license that the individual holds. Special plumbing and mechanical professional licenses shall be issued to employees of a rate-regulated gas or electric public utility who conduct the repair of appliances. "Repair of appliances" means the repair or replacement of mechanical connections between the appliance shutoff valve and the appliance and repair of or replacement of parts to the appliance. Such special, restricted license shall require certification pursuant to industry-accredited certification standards.

c. The board shall establish a special, restricted license fee at a reduced rate, consistent with any other special, restricted license fees.

4. WAIVER. Notwithstanding section 17A.9A, the board shall through December 31, 2009, waive the written examination requirements ~~set-forth-in-this-section~~ and prior experience requirements in subsection 2, paragraph "b", subparagraph (3), and subsection 2, paragraph "c", subparagraph (3), for a journey person or master license if the applicant meets either of the following requirements:

a. The applicant meets both of the following requirements:

(1) The applicant has previously passed a written examination which the board deems to be substantially similar to the licensing examination otherwise required by the board to obtain the applicable license.

(2) The applicant has completed at least eight classroom hours of continuing education in courses or seminars approved by the board within the two-year period immediately preceding the date of the applicant's license application.

b. The applicant can demonstrate to the satisfaction of the board that the applicant has five or more years of experience prior to July 1, 2008, in the plumbing, HVAC, refrigeration, or hydronic business, as applicable, which experience is of a nature that the board deems to be sufficient to demonstrate continuous professional competency consistent with that expected of an individual who passes the applicable licensing examination which the applicant would otherwise be required to pass.

Sec. 20. Section 105.19, subsections 1 and 3, Code 2009, are amended to read as follows:

1. An applicant for a ~~master~~ contractor license or renewal of an active ~~master~~ contractor license shall provide evidence of a public liability insurance policy and surety bond in an amount determined sufficient by the board by rule.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensed ~~master~~ contractor shall maintain on file with the ~~department~~ board a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving fifteen days written notice to the ~~department~~ board.

Sec. 21. Section 105.20, Code 2009, is amended to read as follows:

105.20 RENEWAL AND REINSTATEMENT OF LICENSES -- FEES AND PENALTIES -- CONTINUING EDUCATION.

1. ~~A license issued pursuant to this chapter shall be issued for a term of two years.~~ Licenses issued by the board shall expire in intervals as determined by the board.

2. A license issued under this chapter may be renewed as provided by rule adopted by the board upon application by the licensee, without examination. Applications for renewal shall be made ~~in writing~~ to the ~~department~~ board, accompanied by the required renewal licensing fee, at least thirty days prior to the expiration date of the license.

~~3. A renewal license shall be displayed in connection with the original license.~~

~~4.~~ 3. The ~~department~~ board shall notify each licensee by mail at least sixty days prior to the expiration of a license.

~~5.~~ 4. Failure to renew a license within a reasonable time after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as adopted by rule, in addition to the license renewal fee, to allow reinstatement of the license.

~~6. A licensee who allows a license to lapse for a period of one month or less may reinstate and renew the license without examination upon the recommendation of the board and upon payment of the applicable renewal and reinstatement fees.~~

~~7.~~ 5. The board shall, by rule, establish a reinstatement process for a licensee who allows a license to lapse ~~for a period greater than one month~~, including reasonable penalties.

~~8.~~ 6. The board shall establish continuing education requirements pursuant to section 272C.2. The basic continuing education requirement for renewal of a license shall be the completion, during the immediately preceding license term, of the number of classroom hours of instruction required by the board in courses or seminars which have been approved by the board. The board shall require at least eight classroom hours of instruction during each ~~two-year~~ licensing term.

Sec. 22. Section 105.21, Code 2009, is amended to read as follows:

105.21 RECIPROCAL LICENSES.

The board may license without examination a nonresident applicant who is licensed under plumbing, HVAC, refrigeration,

or hydronic professional licensing statutes of another state having similar licensing requirements as those set forth in this chapter and the rules adopted under this chapter if the other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained Iowa plumbing or mechanical professional licenses under this chapter. The ~~department-and-the~~ board shall adopt the necessary rules, not inconsistent with the law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

Sec. 23. Section 105.22, unnumbered paragraph 1, Code 2009, is amended to read as follows:

A license to practice as a contractor or as a plumbing, HVAC, refrigeration, or hydronic professional may be revoked or suspended, or an application for licensure may be denied pursuant to procedures established pursuant to chapter 272C by the board, or the licensee may be otherwise disciplined in accordance with that chapter, when the licensee commits any of the following acts or offenses:

Sec. 24. Section 105.23, Code 2009, is amended to read as follows:

105.23 JURISDICTION OF REVOCATION AND SUSPENSION PROCEEDINGS.

The board shall have exclusive jurisdiction of all proceedings to revoke or suspend a license issued pursuant to this chapter. The board may initiate proceedings under this chapter or chapter 272C, following procedures set out in section 272C.6, either on its own motion or on the complaint of any person. ~~Before-scheduling-a-hearing,-the-board-may request-the-department-to-conduct-an-investigation-into-the charges-to-be-addressed-at-the-board-hearing.--The-department shall-report-its-findings-to-the-board-~~ The board, in connection with a proceeding under this chapter, may issue subpoenas to compel attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

Sec. 25. Section 105.25, subsections 1, 3, and 4, Code 2009, are amended to read as follows:

1. Only a person who is duly licensed pursuant to this chapter may advertise the fact that the person is licensed as

a contractor or as a plumbing, HVAC, refrigeration, or hydronic professional by the state of Iowa.

3. A person who fraudulently claims to be a licensed contractor or a licensed plumbing, HVAC, refrigeration, or hydronic professional pursuant to this chapter, either in writing, cards, signs, circulars, advertisements, or other communications, is guilty of a simple misdemeanor.

4. A person who fraudulently lists a contractor or a master plumbing, HVAC, refrigeration, or hydronic license number in connection with that person's advertising or falsely displays a contractor or a master plumbing, HVAC, refrigeration, or hydronic professional license number is guilty of a simple misdemeanor. In order to be entitled to use a license number of a master plumbing, HVAC, refrigeration, or hydronic professional, the master plumbing, HVAC, refrigeration, or hydronic professional must be employed by the person in whose name the business of designing, installing, or repairing plumbing or mechanical systems is being conducted.

Sec. 26. Section 105.27, subsection 1, Code 2009, is amended to read as follows:

1. In addition to any other penalties provided for in this chapter, the board may, by order, impose a civil penalty, not to exceed five thousand dollars per offense, upon a person violating any provision of this chapter. Each day of a continued violation constitutes a separate offense, except that offenses resulting from the same or common facts or circumstances shall be considered a single offense. Before issuing an order under this section, the board shall provide the person written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice.

Sec. 27. Section 105.28, Code 2009, is amended to read as follows:

105.28 ENFORCEMENT.

The department board shall enforce the provisions of this chapter ~~and-for-that-purpose-may-request-the-department-of-inspections-and-appeals-to-make-necessary-investigations.~~ Every licensee and member of the board shall furnish the ~~department-or-the-department-of-inspections-and-appeals~~ board

such evidence as the licensee or member may have relative to any alleged violation which is being investigated.

Sec. 28. Section 105.29, Code 2009, is amended to read as follows:

105.29 REPORT OF VIOLATORS.

Every licensee and every member of the board shall report to the ~~department~~ board the name of every person who is practicing as a contractor or as a plumber or mechanical professional without a license issued pursuant to this chapter pursuant to the knowledge or reasonable belief of the person making the report. The opening of an office or place of business for the purpose of providing any services for which a license is required by this chapter, the announcing to the public in any way the intention to provide any such service, the use of any professional designation, or the use of any sign, card, circular, device, vehicle, or advertisement, as a provider of any such services shall be prima facie evidence of engaging in the practice of a contractor or a plumber or mechanical professional.

Sec. 29. Section 105.30, Code 2009, is amended to read as follows:

105.30 ATTORNEY GENERAL.

Upon request of the ~~department~~ board, the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this chapter.

Sec. 30. Section 135.11, subsection 5, Code 2009, is amended by striking the subsection.

Sec. 31. Section 272C.1, subsection 6, paragraph ae, Code 2009, is amended to read as follows:

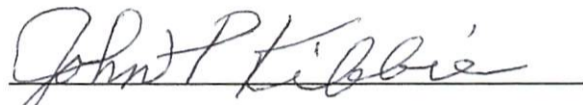
ae. The plumbing and mechanical systems ~~examining~~ board, created pursuant to chapter 105.

Sec. 32. Sections 105.6, 105.7, and 105.8, Code 2009, are repealed.

Sec. 33. STUDY OF STATEWIDE INSPECTION PROGRAM IMPLEMENTATION. The plumbing and mechanical systems board, in conjunction with the electrical examining board and city and county building officials, shall conduct a study to determine the most appropriate and feasible manner to implement a statewide inspection program for work performed by the

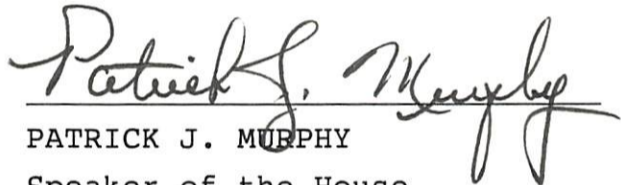
respective licensees of both boards. By January 1, 2011, the boards shall submit a recommendation to the general assembly for the implementation of a statewide inspection program.

Sec. 34. APPLICABILITY -- PRIOR ACTIONS VOID. Sections 105.22 through 105.30, Code 2009, as amended by this Act, shall be applicable only on and after July 1, 2009, and any actions taken under those sections prior to July 1, 2009, shall be void.



JOHN P. KIBBIE

President of the Senate



PATRICK J. MURPHY

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 224, Eighty-third General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved May 26th, 2009



CHESTER J. CULVER

Governor