

House File 640 - Introduced

HOUSE FILE 640

BY LOHSE

A BILL FOR

1 An Act modifying provisions applicable to individuals licensed
2 by the plumbing and mechanical systems board, providing for
3 state inspections of certain plumbing and mechanical system
4 installations, and making penalties applicable.

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

1 Section 1. Section 105.2, subsection 17, Code 2021, is
2 amended to read as follows:

3 17. "Routine maintenance" means the maintenance, repair,
4 or replacement of existing fixtures or parts of plumbing,
5 mechanical, HVAC, refrigeration, sheet metal, or hydronic
6 systems in which no changes in original design are made.
7 Fixtures or parts do not include smoke and fire dampers, or
8 water, gas, or steam piping permanent repairs except for traps
9 or strainers. ~~"Routine maintenance" shall include emergency~~
10 ~~repairs, and the board shall define the term "emergency repairs"~~
11 ~~to include the repair of water pipes to prevent imminent~~
12 ~~damage to property. "Routine maintenance" does not include the~~
13 ~~replacement of furnaces, boilers, cooling appliances, or water~~
14 ~~heaters more than one hundred gallons in size.~~

15 Sec. 2. Section 105.9, subsection 5, paragraph a, Code 2021,
16 is amended by striking the paragraph.

17 Sec. 3. Section 105.18, subsection 2, paragraph a,
18 subparagraph (1), Code 2021, is amended to read as follows:

19 (1) File an application, which application shall establish
20 that the person meets the minimum requirements adopted by the
21 board, including the receipt of a high school diploma or its
22 equivalent.

23 Sec. 4. Section 105.18, subsection 2, paragraph b,
24 subparagraph (1), subparagraph division (c), Code 2021, is
25 amended to read as follows:

26 (c) Provide the board with evidence of having completed
27 at least four years of practical experience as an apprentice.
28 Commencing January 1, 2010, the four years of practical
29 experience required by this subparagraph division must be the
30 completion of an apprenticeship training program registered by
31 the United States department of labor office of apprenticeship,
32 as evidenced by a certificate of completion from the department
33 of labor.

34 Sec. 5. NEW SECTION. 105.33 State inspection —
35 applicability.

1 1. The inspection and enforcement provisions of this
2 chapter shall apply to the following:

3 a. All new installations of plumbing or mechanical
4 systems for commercial or industrial applications, including
5 installations both inside and outside of a building.

6 b. All new installations of plumbing or mechanical systems
7 that serve government-owned or government-leased facilities by
8 a person who is not an employee of any unit of state or local
9 government.

10 c. All new installations of plumbing or mechanical
11 systems for multi-family residential applications, including
12 installations for an apartment or building as those terms are
13 defined in section 499B.2.

14 d. All new installations of plumbing or mechanical systems
15 for single-family residential applications requiring new
16 plumbing or mechanical systems service equipment.

17 e. Existing installations of plumbing or mechanical systems
18 observed during inspection which constitute a hazard to the
19 property owner. Existing installations shall not be deemed
20 to constitute a hazard if the installation when originally
21 installed was installed in accordance with the applicable state
22 plumbing code or state mechanical code in force at the time of
23 installation and has been maintained in that condition.

24 f. All installations of plumbing or mechanical systems
25 performed at the request of a property owner.

26 2. The inspection and enforcement provisions of this
27 chapter shall not apply to routine maintenance.

28 Sec. 6. NEW SECTION. 105.34 Plumbing or mechanical
29 inspectors.

30 1. The board shall establish by rule standards for the
31 certification and decertification of plumbing and mechanical
32 inspectors appointed by the state or a political subdivision to
33 enforce this chapter or any applicable resolution or ordinance
34 within the inspector's jurisdiction, and for certified plumbing
35 or mechanical inspector continuing education requirements. The

1 standards established by the board shall conform to one of the
2 following:

3 *a.* The standards applicable to a person seeking to be
4 licensed by the board as a master pursuant to section 105.18 in
5 the category being inspected.

6 *b.* The standards applicable to a person seeking to be
7 licensed by the board as a journeyperson pursuant to section
8 105.18 in the category being inspected.

9 *c.* The standards applicable to a plumbing or mechanical
10 inspector in the category being inspected who was appointed by
11 a political subdivision on or before January 1, 2020.

12 2. On and after January 1, 2022, a person appointed to
13 act as a plumbing or mechanical inspector for a political
14 subdivision shall obtain an inspector's certificate of
15 qualification based on the standards established pursuant to
16 subsection 1 within one year of such appointment and shall
17 maintain the certificate thereafter for the duration of the
18 inspector's service as a plumbing or mechanical inspector.

19 Sec. 7. NEW SECTION. 105.35 **Request for permit and**
20 **inspection — fees.**

21 1. At or before commencement of any installation required
22 to be inspected by the board, the licensed contractor or
23 property owner making such installation shall submit to the
24 board a request for a permit and inspection. The board shall
25 prescribe the methods by which the request may be submitted,
26 which shall include an electronic submission option or through
27 a form prescribed by the board that can be submitted either
28 through the mail or by a fax transmission. The board shall
29 also prescribe methods by which the permit and inspection fees
30 established pursuant to section 105.40 can be paid, which shall
31 include electronic methods of payment. If the board becomes
32 aware that a person has failed to file a necessary request for
33 inspection, the board shall send a written notification by
34 certified mail that the request must be filed within fourteen
35 days. Any person filing a late request for inspection shall

1 pay a delinquency fee in an amount to be determined by the
2 board. A person who fails to file a late request within
3 fourteen days from receipt of the notification shall be subject
4 to a civil penalty to be determined by the board by rule.

5 2. Notwithstanding subsection 1, the board may by rule
6 provide for the issuance of a single permit to a licensed
7 contractor or property owner to request multiple inspections.
8 The permit authorizes the licensed contractor or property owner
9 to perform new plumbing or mechanical system installations
10 specified in the permit. The board shall prescribe the methods
11 by which the request for multiple inspections may be submitted,
12 which shall include electronic submission or through a form
13 prescribed by the board that can be submitted either through
14 the mail or by a fax transmission. The board shall also
15 prescribe methods by which the permit and inspection fees
16 established pursuant to section 105.40 can be paid, which
17 shall include electronic methods of payment. The board may
18 perform inspections of each new plumbing or mechanical system
19 installation or any portion of the total number of new plumbing
20 or mechanical system installations made under each permit. The
21 board shall establish fees for such permits as provided in
22 section 105.40, which shall not exceed the total inspection
23 fees that would be required if each new installation performed
24 under the request for multiple inspections had been performed
25 under individual requests for inspections as provided in
26 subsection 1.

27 **Sec. 8. NEW SECTION. 105.36 Approval of installation upon**
28 **inspection — opportunity to correct noncompliance.**

29 1. If an inspector determines that an installation subject
30 to inspection under this chapter is in compliance with accepted
31 standards of construction for health safety and property
32 safety, based upon minimum standards established by the board
33 pursuant to section 105.39, subsection 3, the inspector shall
34 approve the installation.

35 2. If an inspector finds that any installation or portion of

1 an installation is not in compliance with accepted standards of
2 construction for health safety and property safety, based upon
3 minimum standards established by the board, the inspector shall
4 issue a correction order. A correction order made pursuant to
5 this section shall be served personally or by United States
6 mail only upon the licensed contractor or property owner
7 making the installation. The correction order shall order the
8 licensed contractor or property owner to make the installation
9 comply with the standards, noting specifically what changes
10 are required. The order shall specify a date, not more than
11 seventeen calendar days from the date of the order, when a new
12 inspection shall be made. When the installation is brought
13 into compliance to the satisfaction of the inspector, the
14 inspector shall approve the installation.

15 Sec. 9. NEW SECTION. 105.37 **Inspections not required.**

16 1. Nothing in this chapter shall be construed to require
17 the work of employees of municipal utilities, railroads, or
18 rural water associations or districts to be inspected while the
19 employees are acting within the scope of their employment.

20 2. The board may by rule exempt specified types of new
21 plumbing or mechanical system installations from state
22 inspection which are not described in section 105.33,
23 subsection 1, provided that a political subdivision conducting
24 inspections pursuant to section 105.38, subsection 1, shall not
25 be prohibited from requiring inspection of any new plumbing
26 or mechanical system installation exempt by rule from state
27 inspection pursuant to this subsection.

28 Sec. 10. NEW SECTION. 105.38 **Inspection by political**
29 **subdivisions.**

30 1. State inspection shall not apply within the jurisdiction
31 of any political subdivision which provides plumbing or
32 mechanical system inspection services for the inspection
33 of installations described in section 105.33, subsection
34 1, as established in a resolution or ordinance adopted by
35 the political subdivision. The political subdivision shall

1 provide a copy of the resolution or ordinance establishing
2 such inspection services to the board. Inspection services
3 by political subdivisions shall be provided pursuant to the
4 current state plumbing code or state mechanical code, as
5 applicable. A political subdivision providing inspection
6 services pursuant to this subsection may require the inspection
7 of plumbing or mechanical system installations which are not
8 described in section 105.33, subsection 1, in addition to the
9 installations described in section 105.33, subsection 1.

10 2. A political subdivision may choose to discontinue
11 performing its own inspections and permit the board to have
12 jurisdiction over inspections in the political subdivision.
13 If a political subdivision seeks to discontinue its own
14 inspections, the political subdivision shall notify the board.

15 3. If a two-thirds vote of the board finds that a political
16 subdivision's inspections are inadequate by reason of
17 misfeasance, malfeasance, or nonfeasance, the board may suspend
18 or revoke the political subdivision's authority to perform its
19 own inspections, subject to appeal according to section 105.41
20 and judicial review pursuant to section 17A.19.

21 4. A political subdivision that performs inspections may
22 set appropriate permit fees to pay for such inspections. A
23 political subdivision shall not require any person holding
24 a license from the board to pay any license fee or take any
25 examination if the person holds a current license issued by the
26 board which is of a classification equal to or greater than
27 the classification needed to do the work proposed. Any such
28 political subdivision shall provide a requirement that each
29 person doing plumbing or mechanical system work within the
30 jurisdiction of such political subdivision have on file with
31 the political subdivision a copy of the current license issued
32 by the board or such other evidence of such license as may be
33 provided by the board.

34 5. A person appointed as an inspector for a political
35 subdivision shall report to the board the name of every person

1 who is practicing as a plumbing or mechanical professional
2 without a license issued pursuant to this chapter pursuant to
3 the knowledge or reasonable belief of the person appointed as
4 an inspector for a political subdivision making the report.

5 Sec. 11. NEW SECTION. 105.39 State inspection —
6 **procedures.**

7 1. An inspection shall be made within three business days
8 of the submission of a request for an inspection as provided
9 in section 105.35. When necessary, plumbing and mechanical
10 systems may be connected by the licensed installer prior to
11 inspection but the installation shall remain subject to any
12 appropriate restrictions or limitations as determined by the
13 board.

14 2. Where plumbing or mechanical systems or parts are
15 to be concealed, the inspector must be notified within a
16 reasonable time, as determined by the board, to complete
17 rough-in inspections prior to concealment, exclusive of
18 Saturdays, Sundays, and holidays. If plumbing or mechanical
19 systems or parts are concealed before rough-in inspections
20 without adequate notice having been given to the inspector,
21 as determined by the board, the person responsible for having
22 enclosed the system or part shall be responsible for all costs
23 resulting from uncovering and replacing the cover material.

24 3. State inspection procedures and policies shall be
25 established by the board in accordance with the provisions of
26 the state plumbing code and state mechanical code adopted by
27 the board.

28 4. Except when an inspection reveals that an installation or
29 portion of an installation is not in compliance with accepted
30 standards of construction for health safety and property
31 safety, based upon minimum standards established by the board,
32 an inspector shall not add to, modify, or amend a construction
33 plan as originally approved by the board in the course of
34 conducting an inspection.

35 5. Management and supervision of inspectors, including

1 hiring decisions, disciplinary action, promotions, and work
2 schedules are the responsibility of the board acting in
3 accordance with applicable law and pursuant to any applicable
4 collective bargaining agreement. The board shall determine
5 work territories, regions, or districts for inspectors
6 and continuing education and ongoing training requirements
7 applicable to inspectors. An inspector subject to disciplinary
8 action pursuant to this subsection shall be entitled to an
9 appeal pursuant to section 105.41 and judicial review pursuant
10 to section 17A.19.

11 6. The board shall establish an internet-based licensure
12 verification database for access by a state or local inspector
13 for verification of licensee status. The database shall
14 include the name of every person licensed under this chapter
15 and a corresponding licensure number. Inspectors shall be
16 authorized to request the name and license number of any person
17 working at a job site subject to inspection for verification
18 of licensee status. Licensees under this chapter shall be
19 required to carry a copy of their current license and photo
20 identification at all times when employed on a job site for
21 compliance with this subsection.

22 Sec. 12. NEW SECTION. 105.40 State permits and inspections
23 — fees.

24 1. All state plumbing and mechanical system inspection fees
25 shall be due and payable to the board at or before commencement
26 of the installation and shall be forwarded with the request for
27 inspection. Inspection fees provided in this section shall
28 not apply within the jurisdiction of any political subdivision
29 if the political subdivision has adopted an ordinance or
30 resolution pursuant to section 105.38, subsection 1.

31 2. The board shall establish the fees for permits and
32 inspections required under this chapter.

33 Sec. 13. NEW SECTION. 105.41 State inspection — complaints
34 — appeals.

35 1. Any person may file a complaint with the board alleging

1 a violation of this chapter or rules adopted by the board. The
2 name of a person who files a complaint with the board shall
3 remain confidential and shall not be subject to discovery,
4 subpoena, or other means of legal compulsion for its release
5 to a person other than board employees or agents involved in
6 the investigation of the complaint. The board shall establish
7 procedures for the disposition of complaints received in
8 accordance with this subsection.

9 2. a. Any person aggrieved by an order of an inspector or
10 the board may appeal the order by filing a written notice of
11 appeal with the board within ten days after the date the order
12 was served upon the aggrieved person.

13 b. Upon receipt of a notice of appeal filed pursuant to
14 subsection 1, the board shall notify all interested parties
15 who may join in the hearing and give testimony on their own
16 behalf. The board shall set the hearing date not more than
17 fourteen days after receipt of the notice of appeal unless
18 otherwise agreed by the interested parties and the board. The
19 chairperson or executive secretary of the board may designate a
20 hearing officer from among the board members to hear the appeal
21 or may set the matter for hearing before the full board at its
22 next regular meeting. A majority of the board shall make the
23 decision on appeals.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill modifies provisions in Code chapter 105, which
28 provides for the licensure and regulation of plumbers,
29 mechanical professionals, and contractors by the plumbing and
30 mechanical systems board.

31 The bill modifies the definition of "routine maintenance"
32 to remove a provision stating that the term includes emergency
33 repairs. Additionally, the bill modifies the definition of
34 "routine maintenance" to provide that the term does not include
35 the replacement of furnaces, boilers, cooling appliances, or

1 water heaters, regardless of size.

2 The bill strikes Code section 105.9, subsection 5, paragraph
3 "a", which requires the plumbing and mechanical systems board
4 to submit a report including certain financial information to
5 the general assembly within 60 days of the end of a fiscal year
6 and potentially adjust its fee schedules based on the financial
7 information in the report.

8 Current law provides that in order to be licensed by the
9 board as an apprentice, a person shall file an application that
10 establishes that the person meets the minimum requirements
11 adopted by the board. The bill provides that such minimum
12 requirements to be established in an application include the
13 receipt of a high school diploma or its equivalent.

14 Current law provides that in order to be licensed by the
15 board as a journeyman, a person shall provide evidence
16 of completing at least four years of practical experience
17 as an apprentice through an apprenticeship training program
18 registered by the United States department of labor. The
19 bill provides that such requirement must be evidenced by a
20 certificate of completion from the department of labor.

21 The bill adds provisions in Code chapter 105 which provide
22 for state inspection of certain plumbing or mechanical system
23 installations described in new Code section 105.33. The bill
24 provides that state inspection shall not apply to routine
25 maintenance.

26 The bill requires the board to establish standards for the
27 certification and decertification of plumbing and mechanical
28 inspectors appointed by the state or a political subdivision
29 to enforce the inspection provisions of the bill. The bill
30 provides that those standards shall conform to the standards
31 applicable to a person seeking to be licensed as a master or
32 a journeyman, or the standards applicable to a plumbing or
33 mechanical inspector appointed by a political subdivision.

34 The bill establishes procedural requirements for a licensed
35 contractor or property owner making an installation to request

1 a permit and an inspection and allows the board to adopt rules
2 providing for the issuance of permits to a licensed contractor
3 or property owner for multiple inspections, as described in the
4 bill.

5 The bill provides that if an inspector determines that
6 an installation is in compliance with the accepted standards
7 of construction for health safety and property safety, based
8 on minimum standards established by the board, the inspector
9 shall approve the installation. If an inspector finds that an
10 inspection or portion thereof is not in compliance with such
11 standards, the inspector shall issue a correction order which
12 orders the licensed contractor or property owner to make the
13 installation comply with the standards and provides a date
14 when a new inspection shall be made. When the installation
15 is brought into compliance, the inspector shall approve the
16 installation.

17 The bill specifies that nothing in the bill shall be
18 construed to require the work of employees of municipal
19 utilities, railroads, or rural water associations or districts
20 to be inspected while acting within the scope of their
21 employment. The board may by rule exempt specified types of
22 new installations from the state inspection requirements,
23 provided that a political subdivision conducting inspections
24 shall not be prohibited from requiring inspection of such
25 installations.

26 The bill provides that state inspection shall not apply
27 within the jurisdiction of any political subdivision which
28 provides inspection services for installations subject to state
29 inspection, as established in a resolution or ordinance adopted
30 by the political subdivision. The political subdivision
31 shall provide a copy of such resolution or ordinance to the
32 board, and such inspections shall be provided pursuant to
33 the current state plumbing code or state mechanical code, as
34 applicable. A political subdivision may require inspections
35 of installations not subject to state inspection, in addition

1 to installations subject to state inspection. Code section
2 105.38 also includes provisions regarding the discontinuance
3 of inspections by political subdivisions, the suspension or
4 revocation of inspections by political subdivisions, and
5 permit fees established by political subdivisions to pay for
6 inspections. Additionally, the bill requires that a person
7 appointed as an inspector for a political subdivision shall
8 report to the board the name of every person who is practicing
9 as a plumbing or mechanical professional without a license.

10 The bill establishes certain state inspection procedural
11 requirements, including provisions relating to inspection
12 timing, installation concealment, state inspection procedures
13 and policies, construction plan modification, inspector
14 supervision, and the licensure verification database, as
15 described in the bill.

16 The bill requires the board to establish fees for permits and
17 inspections. Inspection fees are to be paid to the board at
18 or before the commencement of an inspection and included with
19 the request for inspection. Inspection fees shall not apply
20 to inspections within political subdivisions which provide for
21 inspections.

22 The bill authorizes any person to file a confidential
23 complaint with the board alleging a violation of the bill or
24 any rule adopted by the board and allows any person aggrieved
25 by an order of an inspector or the board to appeal the order by
26 filing a written notice of appeal with the board within 10 days
27 after the order was served. The bill also provides certain
28 procedural requirements for such an appeal, as described in the
29 bill.

30 Pursuant to current law, the board may impose a civil penalty
31 up to \$5,000 per offense upon a person who violates the bill,
32 following notice and an opportunity for a hearing.