



— Senate Committee on Labor and Industry —

Senator Kim L. Ward
Chairman

Senate Box 203039 • Harrisburg, PA 17120-3039 • (717) 787-6063

Senate Bill 183 Printer's No. 173

Prime Sponsor: McGarrigle
Committee: Labor and Industry

SYNOPSIS:

Establishes the Plumbing Contractors Licensure Act. The Act establishes the State Board of Plumbing Contractors within the Department of Labor and Industry (Department) and grants to the Board the authority to regulate the licensing of individuals involved in providing plumbing services. The Act also provides that no individual may hold him or herself out as an Apprentice plumber, a Journeyman plumber, or a Master plumber unless licensed by the Board.

SUMMARY:

Section 102 - Definitions

The Act provides definitions for several terms including "Apprentice plumber," "Journeyman plumber," "Master plumber," and "Plumbing services."

Section 301 - Board

The Act establishes the State Board of Plumbing Contractors within the Department. The Board is to be comprised of:

- The Secretary of Labor and Industry (or a designee);
- Two public members; and
- Six professional members who have been actively providing plumbing services in the Commonwealth for at least 10 years immediately preceding appointment as follows:
 - Two must reside and be licensed as master plumbers (one a signatory and one a nonsignatory) in a county of the first class;
 - Two must reside in and be licensed as master plumbers (one a signatory and one a nonsignatory) in a county of the second class;
 - Two must reside in different counties of the third class and be licensed as master plumbers (one a signatory and one a nonsignatory).

Professional and public members shall be appointed by the Governor with the advice and consent of the Senate and shall have terms of 4 years (and shall serve no more than 2 consecutive terms). The Act provides for the staggering of the terms of the initial professional and public members.

The Board is required to meet within 30 days after the appointment of its first members. Thereafter, the Board shall meet at least four times a year in the City of Harrisburg and at such additional times as may be necessary to conduct the business of the Board. A quorum shall be considered a majority of the members physically in attendance at a meeting. Members with three or more consecutive, unexcused absences shall forfeit their seat. With the exception of the Secretary of Labor and Industry, each member of the Board shall receive a \$60 per diem when attending to the work of the Board, as well as the amount of reasonable traveling, lodging, and other necessary expenditures incurred by the member while serving on the Board.

Section 302 - Powers and Duties of the Board

The Act grants to the Board various powers and duties among which are:

1. Providing for and regulating the licensing of individuals engaged in providing plumbing services.
2. Issuing, renewing, reinstating, failing to renew, suspending, and revoking licenses.
3. Administration and enforcement of the provisions of the Act.
4. Approving professional testing organizations to administer examinations.
5. Investigating applications for licensure and determining eligibility of applicants for licensure.
6. Promulgating and enforcing regulations to include the setting of fees.
7. Keeping minutes and records of all proceedings.
8. Keeping and maintaining a public registry of individuals licensed by the Board.
9. Submitting annually to the Department an estimate of the financial requirements of the Board.
10. Submitting to the Consumer Protection and Professional Licensure Committee of the Senate and the Professional Licensure Committee of the House of Representatives an annual report regarding complaints and their resolution.
11. Submitting a copy of the budget request for the upcoming fiscal year to the Appropriations Committees of the Senate and the House of Representatives, 15 days after the Governor has submitted a budget to the General Assembly.

The board may not actively solicit a municipality or other public entity to require a plumbing license for those performing plumbing services in their jurisdiction. The board or board members may provide information and advice to the public or municipalities about this act, plumbing or plumbing licensure.

Section 501 - Licensure

An individual may not hold himself out as an apprentice plumber, journeyman plumber, or master plumber unless licensed by the Board. Moreover, no individual, corporation, partnership, firm, or other entity shall use the term "licensed plumbing contractor" unless at least one employee or the owner of the entity is licensed as a master plumber. Licensed plumbing contractors, in turn, are responsible for ensuring conformance with all safety standards and applicable plumbing codes.

Counties of the First Class and Second Class are permitted to impose licensure requirements in addition to the requirements of the Act.

Section 502 - Qualifications

Master Plumber

- Be at least 18 years of age.
- Submit proof of five years' experience as a plumber consistent with the type of experience specified in the Act.
- Pay the fee set by the Board.
- Pass the examination provided by the Board.*
- Provide a current certificate of liability insurance in the amount of \$500,000.

Journeyman Plumber

- Be of good moral character.
- Be at least 18 years of age.
- Submit proof that the applicant has provided plumbing services for not less than four years as either a Journeyman or an Apprentice plumber or satisfied certain education and experience requirements specified in the Act.
- Pay the fee set by the Board.
- Pass the examination provided by the Board.*

*Applicants for licensure as both a master plumber and as a journeyman plumber (i) may have the requirement for an examination waived under certain, limited circumstances, and (ii) must pass examinations in the first or second class counties if they are working or intend to work in those counties.

Apprentice Plumber

- Be at least 16 years of age.
- Register with the Department as set forth in the Apprenticeship and Training Act and submit proof of current registration to the Board.
- Pay the fee set by the Board.

The Board may not issue a license to an individual who has been convicted of a felony under the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act (Act 64 of 1972) or a felony relating to a controlled substance in another jurisdiction unless certain conditions have been met.

Section 503 - Continuing Education

Individuals licensed as master or journeyman plumbers shall be required to obtain 10 hours of continuing education during the two calendar years immediately preceding the application for renewal. The Board shall adopt, promulgate and enforce rules and regulations establishing continuing education requirements.

Section 504 - Plumbing Contractors in Other States

The Board may issue a license without examination to an individual who is licensed as a master plumber or journeyman plumber in any other state if the individual:

- meets the requirements as to character and age;
- pays the required fee;
- meets the appropriate experience requirements; and
- has passed an examination in another jurisdiction demonstrating knowledge of a plumbing code.

In addition, the other state must be one which provides a substantially similar opportunity for reciprocal licensure.

Section 505 - Duration of License

A license issued pursuant to this act shall be on a biennial basis. Licensed individuals may request an application for inactive status without fee.

Section 506 – Reporting of Multiple Licenses

A licensee who is also licensed to perform plumbing services in another state, municipality, territory or possession of the United States must report that information to the Board on the biennial registration. Any disciplinary action in another jurisdiction must be reported to the Board within 90 days. The Board shall report discipline in the Commonwealth to other jurisdictions as appropriate.

Section 507 - Prohibition

This act shall not prohibit the installation, modification or replacement of propane-related systems or appliances by the owner, principal or employee of a propane distributor if the propane distributor is registered with the department under the Propane and Liquefied Petroleum Gas Act (Act 61 of 2002), and with the Attorney General under the Home Improvement Consumer Protection Act (Act 132 of 2008).

Section 701 - Fees, Fines, and Civil Penalties

All fees required under the Act shall be fixed by the Board by regulation and shall be placed in a newly created restricted account known as the Plumbing Contractors Licensure Account. If the revenues raised by the fees, fines, and civil penalties imposed under this Act are not sufficient to meet expenditures and minimum enforcement efforts over a two-year period, the Board shall increase those fees so that projected revenues will meet or exceed expenditures.

Section 702 - Violations

A violation of the Act or of a regulation of the Board, shall be a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment of not more than six months for the first violation, and a fine of not more than \$2,000 or imprisonment of six months to a year for a second or subsequent violation.

In addition to any other penalty, after affording the accused party the opportunity for a hearing, the Board may levy (by majority vote) a civil penalty of up to \$10,000. The civil penalty may be levied against:

- A licensee who violates a provision of this act.

- An individual or firm that identifies as an apprentice plumber, journeyman plumber, master plumber, or licensed plumbing contractor without being properly licensed.
- The responsible officers or employees of a corporation, partnership, firm or other entity violating the Act.

Section 703 - Refusal, Suspension, or Revocation of a License

The Board may refuse to issue, suspend or revoke a license when the Board finds:

- The licensee is or has been negligent or incompetent in the performance of plumbing services.
- The licensee is or has been unable to perform plumbing services with reasonable skill and safety under certain specified circumstances.
- The licensee has violated any of the provisions of this Act or a regulation of the Board.
- The licensee has committed fraud or deceit in the performance of plumbing services or securing licensure.
- Individuals convicted of a felony relating to a controlled substance unless certain exceptions are met.
- The licensee has had their license suspended, revoked, or has received other disciplinary action by a proper licensing authority in another state.
- A master plumber that failed to properly direct and supervise a journeyman or apprentice plumber, or failed to ensure compliance with safety standards and applicable plumbing codes.
- The licensee falsely advertised or made misleading, deceptive, untrue or fraudulent material representations regarding licensure or in the performance of plumbing services.
- The licensee failed to satisfy the necessary continuing education requirements.

Section 704 - Suspensions and Revocations

A suspension or revocation shall be made only in accordance with the regulations of the Board and only by majority vote of the members of the Board after a full and fair hearing. The Board may also reissue a license which has been suspended by a majority vote.

Section 705 - Temporary and Automatic Suspensions

A license may be temporarily suspended, without a hearing, under circumstances determined by the Board to be an immediate and clear danger to public health, safety, or property. However, the Board shall thereafter conduct a hearing where the individual may be represented by legal counsel, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings. A preliminary hearing must be conducting within 30 days to establish a prima facie case supporting the suspension. A temporary suspension shall remain in effect until vacated by the board, but in no event longer than 180 days.

A license issued under this act shall automatically be suspended upon the legal commitment of a licensee to an institution because of mental incompetency, upon the conviction of a felony under the Controlled Substance Act, or upon the conviction of a comparable offense under the laws of another jurisdiction.

Section 706 - Reinstatement of License

Unless ordered to do so by the Commonwealth Court or an appeal therefrom, the Board shall not reinstate the license of an individual which has been revoked. An individual whose license has been revoked may reapply for a license, after a period of at least five years, but must meet all of the licensing requirements of the Act.

Section 707 – Surrender of suspended or revoked license

An individual whose license has been suspended or revoked must return the license in a manner the Board directs. Failure to do so shall be a misdemeanor of the third degree.

Section 708 - Injunction

Whenever, in the judgment of the Board, an individual has engaged (or is about to engage) in an act or practice which constitutes or will constitute a violation of the Act, the Board may seek an injunction or restraining order in addition to any other civil or criminal penalties.

Section 709 - Subpoenas and Oaths

The Board shall have the authority to issue subpoenas, administer oaths, examine witnesses and take testimony or compel the production of books, papers and documents as deemed necessary or proper.

Section 901 - Municipalities

Licensure under the Act shall be acceptable to a municipality or public entity in the Commonwealth, except for Counties of the First Class and Second Class, as proof of competence to perform plumbing services. First and Second Class Counties may require individuals licensed under the Act to obtain an additional license to perform plumbing services.

Nothing in the Act prevents a municipality from:

- Inspecting plumbing services or regulating the manner in which plumbing services are performed in compliance with Commonwealth or municipal plumbing code.
- Levying lawful taxes and fees.
- Requiring purchase of a business privilege license.
- Denying or revoking local permits for failure to comply with ordinances.

Nothing in the Act authorizes the Board or a municipality to adopt plumbing construction standards except within the relevant provisions of the Pennsylvania Construction Code Act.

Section 902 - Appropriation

The sum of \$85,000, or as much thereof as may be necessary, will be appropriated to the Department of Labor and Industry for the payment of costs associated with processing licenses and renewing licenses, for the operation of the Board and for other costs associated with the Act. The appropriation shall be repaid by the Department within three years of the beginning of issuance of licenses by the Board.

Section 903 - Regulations

The Board shall begin to promulgate regulations to carry out the Act within 18 months of the effective date of this section.

Effective Dates: Section 501 shall take effect in one year. The remainder of the Act shall take effect in 60 days.

BILL HISTORY:

Introduced 1-25-17

The bill (SB 703 of 2015) passed the Senate in 2016 by a vote of 45-5.

Prepared by: Kratz 5/23/2017