

1 HB357
2 204711-1
3 By Representatives Kitchens, Isbell, Sullivan, Robertson,
4 Standridge and Rich
5 RFD: Boards, Agencies and Commissions
6 First Read: 27-FEB-20

8 SYNOPSIS: Under existing law, the Board of Heating,
9 Air Conditioning, and Refrigeration Contractors
10 defines an apprentice as a person other than a
11 certified heating, air conditioning, or
12 refrigeration contractor, who is engaged in
13 learning and assisting in the installation,
14 service, or repair of a heating, air conditioning,
15 or refrigeration system and working under the
16 direct supervision of a certified heating, air
17 conditioning, or refrigeration contractor, and who
18 has successfully fulfilled the voluntary
19 registration requirements of the board, and has
20 been registered by the board as an apprentice for
21 the current year.

22 This bill would allow the board to replace
23 the definition, qualifications, and registration
24 requirements for the positions of an apprentice
25 with a definition to include instructors.
26 Additionally, the bill would allow the board to
27 recognize credentials from another state to bypass

1 HVAC or refrigeration examination requirements in
2 Alabama.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to the Board of Heating, Air Conditioning,
9 and Refrigeration Contractors; to replace the definition,
10 qualifications, and registration requirements for the
11 positions of an apprentice with a definition to include
12 instructors; to allow the board to recognize credentials from
13 another state to bypass HVAC or refrigeration examination
14 requirements in Alabama.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 34-31-18, 34-31-24, 34-31-25,
17 34-31-28, and 34-31-29 of the Code of Alabama 1975, are
18 amended to read as follows:

19 "§34-31-18.

20 "For the purposes of this chapter, the following
21 terms shall have the meanings herein ascribed to them unless
22 the context clearly indicates otherwise:

23 "(1) ADMINISTRATIVE PROCEDURE LAW. Sections 41-22-1
24 through 41-22-27, and any subsequent amendment or supplement
25 thereto, and any rules or regulations ~~promulgated~~ adopted
26 thereto.

1 "(2) APPRENTICE. A person other than a certified
2 heating, air conditioning, or refrigeration contractor, who is
3 engaged in learning and assisting in the installation,
4 service, or repair of a residential heating, air conditioning,
5 or refrigeration system and working under the direct
6 supervision of a certified heating, air conditioning, or
7 refrigeration contractor or instructor, and who has
8 successfully fulfilled the voluntary registration requirements
9 of the board and has been duly registered by the board for the
10 current year.

11 "(3) BOARD. The State Board of Heating, Air
12 Conditioning, and Refrigeration Contractors, herein
13 established.

14 "(4) CERTIFICATION. The process of testing to
15 determine the knowledge and skill of an individual with
16 respect to heating, air conditioning, and refrigeration. This
17 term is used herein interchangeably with the term "license."

18 "(5) CERTIFIED HEATING AND AIR CONDITIONING
19 CONTRACTOR. Any and all legal entities engaged in the business
20 of heating and air conditioning contracting and installation
21 or service and repair.

22 "(6) CERTIFIED REFRIGERATION CONTRACTOR. Any and all
23 legal entities engaged in the business of refrigeration
24 contracting and servicing, installation, and repair.

25 "(7) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any
26 individual who engages in the practice of testing and
27 verifying duct air tightness in conjunction with the

1 installation, service, or repair of a heating and air
2 conditioning system.

3 "(8) HEATING AND AIR CONDITIONING SYSTEMS OR SYSTEM.
4 A heating and/or cooling apparatus consisting of an air
5 heating and/or cooling fixture from pipes, plenums, or blowers
6 including any accessory and equipment installed in connection
7 herewith; specifically excluding window units, automotive, or
8 farm implement type heating and/or air conditioning equipment.

9 "(9) INSTALLATION. The act of setting up or
10 installing a heating and air conditioning system or
11 refrigeration system for operation and use.

12 "(10) REFRIGERATION. The use of mechanical or
13 absorption equipment to control temperature, humidity, or
14 both, in order to satisfy the intended use of a specific
15 space, other than for human comfort.

16 "(11) REFRIGERATION TRADE OR BUSINESS. Includes any
17 and all legal entities engaged in the installation,
18 maintenance, servicing, and repairing of refrigerating
19 machinery, equipment, devices, and components.

20 "(12) REGULARLY EMPLOYED PERSON. A person who is an
21 actual employee of the business, not an independent
22 contractor. The person must work an average of 30 or more
23 hours per week for the heating, air conditioning, or
24 refrigeration business. A regularly employed person must not
25 be paid as an independent contractor and must receive a W-2
26 for all earnings.

1 "(13) RESPONSIBLE CHARGE. The direction of projects
2 involving the installation or service and repair of heating,
3 air conditioning, and refrigeration systems requiring
4 initiation, professional skills, technical knowledge, and
5 independent judgment.

6 "(14) SERVICE AND REPAIR. The act of maintaining for
7 operation a heating, air conditioning, or refrigeration system
8 which has previously been installed including parts
9 replacement within a piece of equipment.

10 "§34-31-24.

11 "(a) (1) No individual, partnership, or corporation
12 shall advertise, solicit, bid, obtain permit, do business, or
13 perform the function of a certified contractor unless the
14 person or persons in responsible charge, as defined in Section
15 34-31-18, are certified contractors.

16 "(2) Every contractor licensed under this chapter
17 shall display the contractor's certification number and the
18 company name on any and all documentation, forms of
19 advertising, and on all service and installation vehicles used
20 in conjunction with heating, air conditioning, and
21 refrigeration contracting.

22 "(3) A contractor licensed under this chapter may
23 not permit the use of his or her license by any other persons.

24 "(4) No official charged with the duty of issuing
25 licenses to any individual, partnership, or corporation to
26 operate a business as a certified contractor shall issue such
27 license unless there is presented for inspection a certificate

1 of qualification as provided for herein issued by the board to
2 the individual or to some person in responsible charge with
3 the partnership or corporation.

4 "(b) The following requirements apply to the
5 practice of testing or verifying duct air tightness:

6 "(1) Any individual who engages in the practice of
7 testing and verifying duct air tightness is required to
8 register with the board. Such individuals shall not be
9 required to become a certified heating and air conditioning
10 contractor, but shall complete training as set forth by this
11 subsection. The board shall maintain a list of individuals who
12 are registered duct envelope testing contractors in the
13 practice of testing and verifying duct air tightness and
14 leakage. The board may establish fees to be paid by
15 registrants. All fees must accompany the application for
16 registration and are nonrefundable. All registrations must be
17 renewed by December 31 of each year beginning in 2016. The
18 board may establish a late fee for those individuals failing
19 to renew December 31.

20 "(2) Any board certified heating and air
21 conditioning contractor or home builder licensed by the
22 Alabama Home Builders Licensure Board, seeking to register as
23 a duct tightness tester for the purposes of testing ducts on
24 his or her own project or on a third party basis for the
25 general public, must successfully complete the Residential
26 Energy Services Network Home Energy Rating Systems (HERS)
27 Rater training, the Building Performance Institute Building

1 Analyst (BPI) training, or the Home Builders Association of
2 Alabama Qualified Credentialed Air Tightness Verifier (QCATV)
3 training. Any applicant that is not a board certified
4 contractor or a licensed home builder seeking to register as a
5 duct tightness tester for the purposes of testing duct work on
6 a third party basis for the general public, must successfully
7 complete the Residential Energy Services Network Home Energy
8 Rating System (HERS) Rater training or the Building
9 Performance Institute Building Analyst (BPI) training. Each
10 applicant must submit verification that he or she has
11 successfully completed the training required by at least one
12 of the above listed programs to the board prior to receiving
13 the registration in order to be added to the list of
14 registered individuals. An applicant for reregistration shall
15 provide verification that he or she has completed any required
16 education set forth by the credential provider used to obtain
17 the initial registration. Each registrant must submit proof of
18 completion, approved by the Home Builders Association of
19 Alabama, prior to annual re-registration by the board.

20 "(3) The board may discipline any registrant who
21 fails to conduct air tightness testing to the standards set
22 forth by the board. Discipline for registrants may include any
23 and all penalties authorized by this chapter.

24 "§34-31-25.

25 "(a) (1) For the purpose of defraying the expense in
26 carrying out the provisions of this chapter, the board may fix
27 fees to be paid for the issuance, reissuance, and replacement

1 of certificates and for any other service provided by the
2 board, but in no event shall the charges fixed by the board
3 exceed two hundred fifty dollars (\$250). The inactive fees may
4 be waived for building officials or inspectors, as defined by
5 the International Code Council. All fees fixed by the board
6 must accompany the application, and no part of the fees shall
7 be refunded. The fees shall be received by the board and held
8 solely for the purpose of paying the expense of carrying out
9 the provisions of this chapter.

10 "(2) Renewal fees shall be established by the board
11 as to insure adequate funding to support the board. Fees shall
12 not exceed two hundred fifty dollars (\$250) per year. The
13 amount of these fees shall be established by the board on an
14 annual basis to provide adequate funding to support the board
15 and to pay the expenses incurred for applications,
16 examinations, and/or renewals of licenses.

17 "(b) Fees for apprentice registration and annual
18 renewal fees shall not exceed ~~fifty dollars (\$50)~~ one hundred
19 dollars (\$100).

20 "(c) All penalties collected by the board shall be
21 used in the same manner and for the same purpose as fees.

22 "(d) Fees for Duct Envelope Testing Contractors
23 application and annual renewal shall not exceed one hundred
24 dollars (\$100).

25 "§34-31-28.

26 "(a) All prospective certified contractors in this
27 state desiring to qualify in accordance with the provisions of

1 this chapter shall be required to stand for a written
2 examination before the board. Any applicant failing to pass
3 his or her first examination for a certificate shall be
4 entitled to take any subsequent examination, either written
5 or, upon request of the applicant, practical examination which
6 is equivalent to the written examination, to be held within
7 six months from the date of his or her first or latest
8 unsuccessful examination.

9 "(b) The board shall register every person who may
10 apply for an apprentice heating, air conditioning, or
11 refrigeration registration certificate upon forms provided by
12 the board and upon payment of all prescribed fees. Apprentices
13 may be required by the board to complete continuing education
14 prior to annual reregistration.

15 "(c) The board shall examine the character, fitness,
16 and qualifications of every person who applies for a certified
17 heating, air conditioning, or refrigeration contractor license
18 upon forms prescribed by the board and upon payment of all
19 prescribed fees.

20 "(d) An applicant for examination for a heating, air
21 conditioning, or refrigeration certified contractor license
22 shall be eligible to stand for the examination if the
23 applicant has held an apprentice registration, issued by this
24 board, for ~~two~~ one or more calendar ~~years~~ year; or has
25 completed ~~3,000~~ 5,000 hours of ~~coursework~~ or experience, as
26 defined by the board; or is a graduate of an approved heating,
27 air conditioning, or refrigeration curriculum.

1 "(e) All legal entities engaged in the refrigeration
2 business for a period of two years prior to May 13, 2009, may
3 apply to the board for a certified refrigeration contractor
4 license without standing for a written examination. The
5 applicant shall provide evidence of such experience to the
6 board as ~~promulgated~~ adopted in the rules of the board. An
7 applicant who does not apply for such certification by
8 December 31, 2011, must stand for the written examination.

9 "(f) Counties, municipalities, or other local
10 entities are hereby prohibited from requiring any further
11 local testing or other requirements of certified contractors,
12 subject to the payment of any applicable local privilege,
13 license, or business fees or charges.

14 "(g) Persons licensed by the Alabama Liquefied
15 Petroleum Gas Board are exempt from this chapter pertaining to
16 heating, air conditioning, and refrigeration when:

17 "(1) Engaged in the installation, repair, or
18 replacement of a liquefied petroleum gas appliance so long as
19 the appliance is not connected to a refrigeration system,
20 except that such persons may also engage in the replacement or
21 repair of a liquefied petroleum gas central heating unit when
22 it is combined with an air conditioning unit.

23 "(2) Engaged in the installation of a venting system
24 required for a vented-type liquefied petroleum gas appliance.

25 "(h) This chapter does not apply to:

26 "(1) An authorized employee of the United States,
27 the State of Alabama, or any municipality, county, or other

1 political subdivision, if the employee does not hold himself
2 or herself out for hire or otherwise engage in contracting
3 except in accordance with his or her employment.

4 "(2) Any mobile home or manufactured structure that
5 is installed, inspected, or regulated by the Alabama
6 Manufactured Housing Commission; however, the repair,
7 servicing of a heating and air conditioning system, or the
8 installation of a new heating and air conditioning system in a
9 previously inspected manufactured structure is subject to this
10 chapter.

11 "(3) Persons performing work on motor vehicles,
12 residential refrigerators, or ice machines.

13 "(4) Household appliances.

14 "(5) Farm equipment.

15 "(6) Poultry operations whether engaged in hatching,
16 primary processing, or further processing of chicken, turkey,
17 or other fowl."

18 "§34-31-29.

19 "(a) The board shall provide for examinations which
20 test the knowledge, skill, and proficiency of the applicants.

21 "(b) Examinations shall be held at such time and
22 place as may be fixed by the board at least once each
23 three-month period. Written notice of the place of
24 examinations shall be mailed to all persons who have filed
25 current applications for the examinations of the board.

26 "(c) The board may charge each applicant and
27 retesting applicants for examination a reasonable fee based on

1 the actual costs for administering the examinations.
2 Applicants must stand for the examination within one year from
3 the date the board receives the examination application and
4 fees, otherwise the applicant must resubmit an application and
5 appropriate fees.

6 "(d) The board may enter into reciprocity agreements
7 with other states to permit Alabama certified contractors to
8 engage in work in other states in exchange for that state's
9 contractors being permitted to perform work in Alabama. This
10 provision recognizes the status of the certified contractor as
11 having passed the examination; however, all certification fees
12 are required to be paid.

13 "(e) The board may accept credentials from
14 contractors who are licensed in other states to perform work
15 in this state only if the licensing requirements in that state
16 are deemed by the board comparable to those adopted pursuant
17 to the act adding this amendatory language. This subsection
18 recognizes the status of the certified contractor as having
19 passed the examination; however, all certification fees are
20 required to be paid."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.