

SUBJECT: Amending air conditioning and refrigeration licensing requirements

COMMITTEE: Licensing and Administrative Procedures — favorable, with amendments

VOTE: *(After recommitted)*
9 ayes — Wilson, Kubiak, Goolsby, Haggerty, Hamric, D. Jones, Pickett, Torres, Yarbrough

0 nays

SENATE VOTE: On final passage, February 13 — 31-0

WITNESSES: For — Tom Romberg, Action Mechanical Services Inc. / Texas Air Conditioning Contractors Association

Against — None

On — Pauline Denson, Texas Department of Licensing and Regulation

DIGEST: SB 229, as amended, would specify additional licensing requirements and exemptions under the Air Conditioning and Refrigeration Contractor License Law. The bill would exempt from licensing requirements persons performing air conditioning and refrigeration maintenance work on residential evaporative coolers up to 6,500 cubic feet per minute.

Also exempted would be bona fide employees of a company that had a license holder exercising direct personal supervision over them. A company would have to employ a licensed individual in each permanent office.

The Texas Department of Licensing and Regulation (TDLR) or a municipality could issue a citation to persons performing work without a license. Municipal courts would have concurrent jurisdiction with justice courts regarding issuance of citations.

The notice fee levied by municipalities on contractors under their jurisdiction would have to be set in an amount that was “reasonable and necessary” to implement reporting requirements. Municipalities issuing licenses would have to require applicants to pass an exam covering the same

subjects required by TDLR for a similar license and meet experience requirements at least as strict as those required for state licensing. Municipalities would have to adopt the examination requirements by January 1, 1998; persons holding a municipal air conditioning and refrigeration contractor license as of the effective date of the bill would have to satisfy the exam requirements by June 1, 1998.

State licensing examinations would be offered on a quarterly basis at location designated by the TDLR commissioner, rather than only in Travis County.

Persons performing air conditioning and refrigeration work without holding the appropriate license could not collect a fee or otherwise enforce a contract for the services performed. To enforce a contract, the person performing the services would have to present proof of holding a license at the time the contract was signed and the work performed.

The penalty for knowingly or intentionally violating the licensing requirement would be increased from a Class B misdemeanor, punishable by up to 180 days in jail and a \$2,000 fine, to a Class A misdemeanor, with a maximum penalty of one year in jail and a \$4,000 fine.

SB 229 would also amend the Texas Real Estate Act to require business entities inspecting environmental air conditioning, commercial refrigeration, or process cooling and heating systems as part of a real estate inspection to employ a person holding the appropriate licenses and endorsements. An unlicensed employee could perform the inspection under the direction of a license holder. Such inspection would be defined as involving the use of electronic instruments, gauges, thermometers, mechanical instruments, or other meters requiring direct in-line connection to the refrigeration system.

The bill would take effect September 1, 1997.

**SUPPORTERS
SAY:**

SB 229 would enhance regulation of air conditioning and refrigeration contractors by providing more specific definitions of terms, clarifying when and where a license is required, and establishing complementary licensing requirements in municipalities. The bill also would facilitate the exam process by allowing municipalities to conduct exams and authorizing the

TDLR to schedule state exams in areas other than just Travis County. It would also give teeth to the licensing laws by disallowing contracts executed by unlicensed contractors and upping the penalty for knowing violations. Innocent contractors who genuinely were unaware of the law would not be liable for any penalties.

OPPONENTS
SAY:

Existing penalties for violating the license laws are already tough enough; there is no need to double the punishment.

NOTES:

The committee amendments would define certain air conditioning equipment, entities, and terms; add the provision exempting from licensing requirements persons under the direct supervision of a license holder and requiring a company to employ a license holder in each permanent office; and delete reference to equipment and duct cleaning as part of air conditioning and refrigeration contracting.

SB 229 was considered by the House on May 20 and recommitted on a point of order. The committee amendments for SB 229 after recommittal are the same as when the bill was originally reported.

HB 1391 by Torres, which would set continuing education requirements for air conditioning and refrigeration contractors, passed the House on April 18 and reported favorably by the Senate International Relations Trade and Technology Committee on May 17.

HB 930 by Pickett, which will allow air conditioning and refrigeration contractor licensing exams to be offered outside of Travis County and by computer, passed both houses and has been signed by the governor; the bill takes effect September 1, 1997.