

BILL ANALYSIS

Senate Research Center

S.B. 229
By: Carona
International Relations, Trade, & Technology
1-27-97
As Filed

DIGEST

The Air Conditioning and Refrigeration Contractor License Law (Article 8861, V.T.C.S.) requires those persons engaging in environmental air conditioning, commercial refrigeration, or process heating or cooling to be examined and licensed by the State of Texas. S.B. 229 sets forth regulations and penalties pertaining to air conditioning and refrigeration contracting that are related to the need for establishing certain license practices and enforcing contracts.

PURPOSE

As proposed, S.B. 229 sets forth regulations and penalties pertaining to air conditioning and refrigeration contracting.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Texas Commissioner of Licensing and Regulation in SECTION 5 (Sec. 3c, Article 8861, V.T.C.S.).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 2(7) and (9), Article 8861, V.T.C.S., (Air Conditioning and Refrigeration Contractor License Law) to redefine "air conditioning and refrigeration maintenance work" and "air conditioning and refrigeration contracting."

SECTION 2. Amends Section 3(e), Article 8861, V.T.C.S., to requires the examinations to be offered on a quarterly basis at locations designated by the Texas Commissioner of Licensing and Regulation (commissioner).

SECTION 3. Amends Section 3A, Article 8861, V.T.C.S., by adding Subsection (i), to provide that Section 8, Article 6252-33, V.T.C.S., does not apply to the Air Conditioning and Refrigeration Contractors Advisory Board (advisory board).

SECTION 4. Amends Section 3B, Article 8861, V.T.C.S., as follows:

Sec. 3B. New heading: LICENSE REQUIRED; CITATION. Authorizes a representative of the Department of Licensing and Regulation (department) or a municipal official to issue a citation to a person who performs air conditioning and refrigeration contracting without a license issued under this Act. Provides that the municipal court has concurrent jurisdiction with a justice court of a precinct in which the municipality is located in a case arising from a citation issued under this subsection to the extent authorized by Chapter 29, Government Code. Makes a conforming change.

SECTION 5. Amends Article 8861, V.T.C.S., by adding Section 3C, as follows:

Sec. 3C. ENFORCEMENT OF CONTRACTS. Prohibits a person who performs air conditioning and refrigeration contracting without holding the appropriate license from collecting a fee or otherwise enforcing a contract for the services performed. Requires a person to present proof that the person holds license at the time the contract is signed and the work performed in order to enforce a contract. Requires the commissioner to adopt rules

relating to the manner in which proof may be presented under this section.

SECTION 6. Amends Section 4(f) and (g), Article 8861, V.T.C.S., to delete text requiring an application to be accompanied by evidence of the insurance coverage required under this Act. Requires the commissioner to issue an air conditioning and refrigeration contractor licence to a person who furnishes evidence of the insurance coverage and performs certain activities required under this Act. Makes conforming and nonsubstantive changes.

SECTION 7. REPORTING REQUIREMENT. Amends Section 7, Article 8861, V.T.C.S., to require each air conditioning and refrigeration contractor, rather than person, to notify the corresponding municipal authority that the person has obtained a state license. Authorizes the amount of a fee imposed on a contractor to be set by the municipality only in the amount reasonable and necessary to implement this section. Makes conforming changes.

SECTION 8. Amends Section 8, Article 8861, V.T.C.S., to provide that a person commits a Class A, rather than Class B, misdemeanor if the person knowingly and intentionally engages in air conditioning and refrigeration contracting without a license.

SECTION 9. Amends Section 9, Article 8861, V.T.C.S., to provide that a license issued by a municipality of this state that complies with the requirements of this section is valid under the terms of the license within that municipality. Requires an applicant for a municipal license to pass an examination and meet specific experience requirements. Makes a conforming change.

SECTION 10. Amends Section 23(c), Article 6573a, V.T.C.S., (The Real Estate License Act) by adding Subdivision (4), to require a business entity that inspects certain systems as part of a real estate inspection to employ a person who holds the appropriate air conditioning and refrigeration contractor licenses and endorsements under Article 8861, V.T.C.S. Authorizes an employee who does not hold a license or endorsement to perform the inspection under the direction of the license holder. Defines "inspection."

SECTION 11. Amends Section 25, Article 6573b, V.T.C.S., (Residential Service Company Act) to provide that any person who performs air conditioning refrigeration in compliance with the Air Conditioning and Refrigeration Contractor License Law, Article 8861, V.T.C.S., is exempt from the provisions of this Act. Makes a conforming change.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Provides that the change in law made to SECTION 9, Article 8861, V.T.C.S., except as provided by Subsection (b), prospective. Requires a municipality to adopt examination requirements in compliance with this section not later than January 1, 1998. Requires a person who holds a municipal license to satisfy the examination requirements imposed under Section 9(b), Article 8861, V.T.C.S., not later than June 1, 1998.

SECTION 14. (a) Effective date: September 1, 1997.

(b) Requires the commissioner of licensing and regulation to adopt rules as required by Section 3C, Article 8861, V.T.C.S., not later than December 31, 1997.

(c) and (d) Make application of this Act prospective.

SECTION 15. Emergency clause.