

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 63
Committee Substitute Favorable 3/8/95
Committee Substitute #2 Favorable 4/26/95

Short Title: Refrigeration Contracting Revisions/AB.

(Public)

Sponsors:

Referred to:

January 30, 1995

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR A SPECIALTY LICENSE FOR TRANSPORT
REFRIGERATION CONTRACTORS, TO CHANGE THE COMPOSITION OF
THE LICENSING BOARD, AND TO AMEND OTHER PROVISIONS OF THE
LAW GOVERNING REFRIGERATION CONTRACTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-52 reads as rewritten:

"§ 87-52. State Board of Refrigeration Examiners; appointment; term of office.

For the purpose of carrying out the provisions of this Article, the State Board of Refrigeration Examiners is created, consisting of seven members appointed by the Governor to serve seven-year staggered terms. The Board shall consist of one member who is a wholesaler or a manufacturer of refrigeration equipment; one member from an engineering school of The ~~Greater~~ University of North Carolina, one member from the Division of Public Health of The ~~Greater~~ University of North Carolina, two licensed refrigeration contractors, ~~and two members who have~~ one member who has no ties with the construction industry to represent the interest of the public at large. ~~large, and one member with an engineering background in refrigeration.~~ The term of office of one member shall expire each year. Vacancies occurring during a term shall be filled by

1 appointment of the Governor for the unexpired term. Whenever the term 'Board' is used
2 in this Article, it means the State Board of Refrigeration Examiners. No Board member
3 shall serve more than one complete consecutive term."

4 Sec. 1.1. G.S. 87-53 reads as rewritten:

5 **"§ 87-53. Removal, qualifications and compensation of members; allowance for**
6 **expenses.**

7 The Governor may remove any member of the Board for misconduct, incompetency
8 or neglect of duty. Each member of the Board shall be a resident of this State at the time
9 of his appointment. ~~Payment of compensation and reimbursement of expenses of Board~~
10 ~~members shall be governed by G.S. 93B-5. receive the following compensation and~~
11 ~~reimbursement for expenses:~~

12 (1) A per diem not to exceed one hundred dollars (\$100.00) for each day
13 during which the member is engaged in the official business of the
14 Board.

15 (2) Reimbursement for necessary travel expenses as follows:

16 a. For travel by privately owned automobile, an amount that does
17 not exceed twenty-nine cents (29¢) a mile and the cost of tolls.

18 b. For travel by means other than a privately owned automobile, the
19 actual fare.

20 (3) Reimbursement for expenses incurred for subsistence not to exceed
21 seventy-one dollars (\$71.00) a day when traveling in-State and eighty-
22 three dollars (\$83.00) a day when traveling out-of-state.

23 (4) Convention registration fees not to exceed thirty dollars (\$30.00) per
24 convention."

25 Sec. 2. G.S. 87-58 reads as rewritten:

26 **"§ 87-58. Definitions; contractors licensed by Board; examinations.**

27 (a) As applied in this Article, 'refrigeration trade or business' is defined to include
28 all persons, firms or corporations engaged in the installation, maintenance, servicing and
29 repairing of refrigerating machinery, equipment, devices and components relating thereto
30 and within limits as set forth in the codes, laws and regulations governing refrigeration
31 installation, maintenance, service and repairs within the State of North Carolina or any of
32 its political subdivisions, provided however, that this Article shall not apply to the
33 replacement of lamps and fuses and to the installation and servicing of ~~appliances and~~
34 ~~equipment~~ domestic household refrigerators and freezers or domestic ice-making
35 appliances connected by means of attachment plug-in devices to suitable receptacles
36 which have been permanently installed, ~~or devices using gas as a fuel, or ice using or storing~~
37 ~~equipment~~; and provided, further, that the provisions of this Article shall not repeal any
38 wording, phrase, or paragraph as set forth in North Carolina General Statutes, Chapter 87,
39 Article 2; and provided, further, that this Article shall not apply to employees of persons,
40 firms, or corporations or persons, firms or corporations, not engaged in refrigeration
41 contracting as herein defined, that install, maintain and service their own refrigerating
42 machinery, equipment and devices. The provisions of this Article shall not apply to any
43 person, firm or corporation engaged in the business of selling, repairing and installing

1 any air-conditioning units, devices or systems for the purpose of cooling offices,
2 buildings, houses, works, manufacturing plants, or any machinery, manufactured article
3 or processing of material.

4 (b) The ~~phrase-term~~ 'refrigeration contractor' ~~is hereby defined to be~~ means a person,
5 firm or corporation engaged in the business of refrigeration contracting.

6 (b1) The term 'transport refrigeration contractor' means a person, firm, or
7 corporation engaged in the business of installation, maintenance, servicing, and repairing
8 of transport refrigeration.

9 (c) Any person, firm or corporation who for valuable consideration engages in the
10 refrigeration business or trade as herein defined shall be deemed and held to be in the
11 business of refrigeration contracting.

12 (d) In order to protect the public health, comfort and safety, the Board shall
13 prescribe the standard of experience to be required of an applicant for license and shall
14 give an examination designed to ascertain the technical and practical knowledge of the
15 applicant concerning the analysis of plans and specifications, estimating cost,
16 fundamentals of installation and design as ~~same-they~~ pertain to refrigeration; and as a
17 result of ~~such-the~~ examination, the Board shall issue a certificate of license in
18 refrigeration to applicants who pass the required examination and a license shall be
19 obtained in accordance with the provisions of this Article, before any person, firm or
20 corporation shall engage in, or offer to engage in the business of refrigeration ~~contracting~~
21 ~~as herein defined. Each contracting.~~ The Board shall prescribe standards for and issue
22 licenses for refrigeration contracting and for transport refrigeration contracting. A
23 transport refrigeration contractor license is a specialty license that authorizes the licensee
24 to engage only in transport refrigeration contracting. A refrigeration contractor licensee
25 is authorized to engage in transport refrigeration and all other aspects of refrigeration
26 contracting.

27 Each application for examination shall be accompanied by a check, post-office money
28 order or cash in the amount of the annual license fee required by this Article. Regular
29 examinations shall be given in the months of April and October of each year and
30 additional examinations may be given at ~~such-other-times as the Board may deem~~ deems
31 wise and necessary. Any person may demand in writing a special examination and upon
32 payment by the applicant of the cost of holding ~~such-the~~ examination and the deposit of
33 the amount of the annual license fee, the Board in its discretion will fix a time and place
34 for ~~such-the~~ examination. A person who fails to pass any examination shall not be
35 reexamined until the next regular examination.

36 (e) Repealed by Session Laws 1979, c. 843, s. 1.

37 (f) Licenses Granted without an Examination. – Persons who had an established
38 place of business prior to July 1, 1979, and who produce satisfactory evidence that they
39 are engaged in the refrigeration business as herein defined in any city, town or other area
40 in which Article 5 of Chapter 87 of the General Statutes did not previously apply shall be
41 granted a certificate of license, without examination, upon application to the Board and
42 payment of the license fee, provided ~~such-completed~~ applications shall be made prior to
43 June 30, 1981.

1 (g) The current license issued in accordance with the provisions of this Article
2 shall be posted in the business location of the licensee, and its number shall appear on all
3 proposals or contracts and requests for permits issued by municipalities.

4 (h) A transport refrigeration contractor having an established place of business
5 doing transport refrigeration contracting prior to October 1, 1995, shall be granted a
6 transport refrigeration contracting specialty license, without examination, if the person
7 produces satisfactory evidence the person is engaged in transport refrigeration
8 contracting, pays the required license fee, and applies to the Board prior to January 1,
9 1997. The current specialty license shall be posted in accordance with subsection (g) of
10 this section.

11 (i) Nothing in this Article shall relieve the holder of a license issued under this
12 section from complying with the building or electrical codes, statutes, or ordinances of
13 the State or of any county or municipality or from responsibility or liability for negligent
14 acts in connection with refrigeration contracting work. The Board shall not be liable in
15 damages, or otherwise, for the negligent acts of licensees."

16 Sec. 3. G.S. 87-59 reads as rewritten:

17 "**§ 87-59. Revocation or suspension of license for cause.**

18 (a) The Board shall have power to revoke or suspend the license of any
19 refrigeration contractor who is guilty of any fraud or deceit in obtaining a license, or who
20 fails to comply with any provision or requirement of this Article, or for gross negligence,
21 incompetency, or misconduct, in the practice of or in carrying on the business of a
22 refrigeration contractor as defined in this Article. Any person may prefer charges of ~~such~~
23 fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any
24 provision or requirement of this Article, against any refrigeration contractor who is
25 licensed under the provisions of this Article. All of ~~such~~ charges shall be in writing and
26 verified by the complainant, and ~~such charges~~ shall be heard and determined by the Board
27 in accordance with the provisions of Chapter 150B of the General Statutes.

28 (b) The Board shall adopt and publish guidelines, consistent with the provisions of
29 this Article, governing the suspension and revocation of licenses.

30 (c) The Board shall establish and maintain a system whereby detailed records are
31 kept regarding complaints against each licensee. This record shall include, for each
32 licensee, the date and nature of each complaint, investigatory action taken by the Board,
33 any findings of the Board, and the disposition of the matter.

34 (d) In a case in which the Board is entitled to convene a hearing to consider a
35 charge under this section, the Board may accept an offer to compromise the charge,
36 whereby the accused shall pay to the Board a penalty not to exceed one thousand dollars
37 (\$1,000).

38 (e) All records, papers, and other documents containing information collected and
39 compiled by the Board, or its members or employees, as a result of investigations,
40 inquiries, or interviews conducted in connection with a licensing or disciplinary matter,
41 shall not be considered public records within the meaning of Chapter 132 of the General
42 Statutes."

43 Sec. 4. G.S. 87-61 reads as rewritten:

1 **"§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

2 Any person, firm or corporation who shall engage in or offer to engage in, or carry on
3 the business of refrigeration contracting as defined in this Article, without first having
4 been licensed to engage in ~~such~~the business, or businesses, as required by the provisions
5 of this Article; or any person, firm or corporation holding a refrigeration license under the
6 provisions of this Article who shall practice or offer to practice or carry on any type of
7 refrigeration contracting not authorized by ~~said~~the license; or any person, firm or
8 corporation who shall give false or forged evidence of any kind to the Board, or any
9 member thereof, in obtaining a license, or who shall falsely impersonate any other
10 practitioner of like or different name, or who shall use an expired or revoked license, or
11 who shall violate any of the provisions of this Article, shall be guilty of a Class 2
12 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and
13 expenses, legal or otherwise, in the prosecution of any violation of this Article.
14 Employees, while working under the supervision and jurisdiction of a person, firm or
15 corporation licensed in accordance with the provisions of this Article, shall not be
16 construed to have engaged in the business of refrigeration contracting."

17 Sec. 5. This act becomes effective October 1, 1995. G.S. 87-59(d), as enacted
18 by this act, applies to hearings convened on or after the effective date. The term of the
19 public member of the Board that is currently scheduled to expire first shall expire on
20 October 1, 1995, and the initial member with the engineering background in refrigeration
21 appointed pursuant to this act shall serve from the date of appointment to January 1,
22 2001.