

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

5

HOUSE BILL 63  
Committee Substitute Favorable 3/8/95  
Committee Substitute #2 Favorable 4/26/95  
Fourth Edition Engrossed 5/4/95  
Senate Commerce Committee Substitute Adopted 5/24/95

Short Title: Refrigeration Contracting Revisions/AB.

(Public)

---

Sponsors:

---

Referred to: Finance

---

January 30, 1995

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

6 The General Assembly of North Carolina enacts:

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

8 **"§ 87-52. State Board of Refrigeration Examiners; appointment; term of office.**

9 For the purpose of carrying out the provisions of this Article, the State Board of  
10 Refrigeration Examiners is created, consisting of seven members appointed by the  
11 Governor to serve seven-year staggered terms. The Board shall consist of one member  
12 who is a wholesaler or a manufacturer of refrigeration equipment; one member from an  
13 engineering school of The ~~Greater~~ University of North Carolina, one member from the  
14 Division of Public Health of The ~~Greater~~ University of North Carolina, two licensed  
15 refrigeration contractors, ~~and two members who have~~ one member who has no ties with the  
16 construction industry to represent the interest of the public at ~~large.~~ large, and one

1 member with an engineering background in refrigeration. The term of office of one  
2 member shall expire each year. Vacancies occurring during a term shall be filled by  
3 appointment of the Governor for the unexpired term. Whenever the term 'Board' is used  
4 in this Article, it means the State Board of Refrigeration Examiners. No Board member  
5 shall serve more than one complete consecutive term."

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

7 **"§ 87-58. Definitions; contractors licensed by Board; examinations.**

8 (a) As applied in this Article, 'refrigeration trade or business' is defined to include  
9 all persons, firms or corporations engaged in the installation, maintenance, servicing and  
10 repairing of refrigerating machinery, equipment, devices and components relating thereto  
11 and within limits as set forth in the codes, laws and regulations governing refrigeration  
12 installation, maintenance, service and repairs within the State of North Carolina or any of  
13 its political subdivisions, provided however, that this Article shall not apply to the  
14 replacement of lamps and fuses and to the installation and servicing of ~~appliances and~~  
15 ~~equipment~~ domestic household refrigerators and freezers or domestic ice-making  
16 appliances connected by means of attachment plug-in devices to suitable receptacles  
17 which have been permanently installed, ~~'or devices using gas as a fuel, or ice using or storing~~  
18 ~~equipment';~~ and provided, further, that the provisions of this Article shall not repeal any  
19 wording, phrase, or paragraph as set forth in North Carolina General Statutes, Chapter 87,  
20 Article 2; and provided, further, that this Article shall not apply to employees of persons,  
21 firms, or corporations or persons, firms or corporations, not engaged in refrigeration  
22 contracting as herein defined, that install, maintain and service their own refrigerating  
23 machinery, equipment and devices. The provisions of this Article shall not apply to any  
24 person, firm or corporation engaged in the business of selling, repairing and installing  
25 any air-conditioning units, devices or systems for the purpose of cooling offices,  
26 buildings, houses, works, manufacturing plants, or any machinery, manufactured article  
27 or processing of material.

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

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

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

36 (d) In order to protect the public health, comfort and safety, the Board shall  
37 prescribe the standard of experience to be required of an applicant for license and shall  
38 give an examination designed to ascertain the technical and practical knowledge of the  
39 applicant concerning the analysis of plans and specifications, estimating cost,  
40 fundamentals of installation and design as ~~same~~ they pertain to refrigeration; and as a  
41 result of ~~such~~ the examination, the Board shall issue a certificate of license in  
42 refrigeration to applicants who pass the required examination and a license shall be  
43 obtained in accordance with the provisions of this Article, before any person, firm or

1 corporation shall engage in, or offer to engage in the business of refrigeration ~~contracting~~  
2 ~~as herein defined. Each contracting.~~ The Board shall prescribe standards for and issue  
3 licenses for refrigeration contracting and for transport refrigeration contracting. A  
4 transport refrigeration contractor license is a specialty license that authorizes the licensee  
5 to engage only in transport refrigeration contracting. A refrigeration contractor licensee  
6 is authorized to engage in transport refrigeration and all other aspects of refrigeration  
7 contracting.

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

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

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

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

28 (h) A transport refrigeration contractor having an established place of business  
29 doing transport refrigeration contracting prior to October 1, 1995, shall be granted a  
30 transport refrigeration contracting specialty license, without examination, if the person  
31 produces satisfactory evidence the person is engaged in transport refrigeration  
32 contracting, pays the required license fee, and applies to the Board prior to January 1,  
33 1997. The current specialty license shall be posted in accordance with subsection (g) of  
34 this section.

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

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

41 "**§ 87-59. Revocation or suspension of license for cause.**

42 (a) The Board shall have power to revoke or suspend the license of any  
43 refrigeration contractor who is guilty of any fraud or deceit in obtaining a license, or who

1 fails to comply with any provision or requirement of this Article, or for gross negligence,  
2 incompetency, or misconduct, in the practice of or in carrying on the business of a  
3 refrigeration contractor as defined in this Article. Any person may prefer charges of ~~such~~  
4 fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any  
5 provision or requirement of this Article, against any refrigeration contractor who is  
6 licensed under the provisions of this Article. All ~~of such~~ charges shall be in writing and  
7 verified by the complainant, and ~~such charges~~ shall be heard and determined by the Board  
8 in accordance with the provisions of Chapter 150B of the General Statutes.

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

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

15 (d) In a case in which the Board is entitled to convene a hearing to consider a  
16 charge under this section, the Board may accept an offer to compromise the charge,  
17 whereby the accused shall pay to the Board a penalty not to exceed one thousand dollars  
18 (\$1,000). The funds derived from the penalty shall be deposited into the General Fund.

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

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

25 **"§ 87-61. Violations made misdemeanor; employees of licensees excepted.**

26 Any person, firm or corporation who shall engage in or offer to engage in, or carry on  
27 the business of refrigeration contracting as defined in this Article, without first having  
28 been licensed to engage in ~~such~~ the business, or businesses, as required by the provisions  
29 of this Article; or any person, firm or corporation holding a refrigeration license under the  
30 provisions of this Article who shall practice or offer to practice or carry on any type of  
31 refrigeration contracting not authorized by ~~said~~ the license; or any person, firm or  
32 corporation who shall give false or forged evidence of any kind to the Board, or any  
33 member thereof, in obtaining a license, or who shall falsely impersonate any other  
34 practitioner of like or different name, or who shall use an expired or revoked license, or  
35 who shall violate any of the provisions of this Article, shall be guilty of a Class 2  
36 misdemeanor. The Board may, in its discretion, use its funds to defray the costs and  
37 expenses, legal or otherwise, in the prosecution of any violation of this Article.  
38 Employees, while working under the supervision and jurisdiction of a person, firm or  
39 corporation licensed in accordance with the provisions of this Article, shall not be  
40 construed to have engaged in the business of refrigeration contracting."

41 Sec. 5. This act becomes effective October 1, 1995. G.S. 87-59(d), as enacted  
42 by this act, applies to hearings convened on or after the effective date. The term of the  
43 public member of the Board that is currently scheduled to expire first shall expire on

1 October 1, 1995, and the initial member with the engineering background in refrigeration  
2 appointed pursuant to this act shall serve from the date of appointment to January 1,  
3 2001.