

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 506**

SENATORS SWOPE, SMITH, BOSO, AND CLINE, *original*

*sponsors*

[Passed March 9, 2018; in effect 90 days from passage]



1 AN ACT to amend §21-16-2, §21-16-3, and §21-16-5 of the Code of West Virginia, 1931, as  
2 amended, all relating to regulating persons who perform work on heating, ventilating, and  
3 cooling systems and fire dampers; providing definitions; creating new license for work on  
4 certain residential heating, ventilating, and cooling systems; renaming existing license;  
5 amending exemptions from license requirement; providing rule-making authority regarding  
6 licensure requirements, development of examination, and scope of work of certain  
7 persons who perform work on heating, ventilating, and cooling systems; and providing  
8 emergency rule-making authority.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.**

**§21-16-2. Definitions.**

1 As used in this article and the legislative rules promulgated pursuant to this article:

2 (a) "Perform work on a heating, ventilating, and cooling system" means to install, maintain,  
3 alter, remodel, or repair one or more components of a heating, ventilating, and cooling system.

4 (b) "Heating, ventilating, and cooling system" means equipment to heat, cool, or ventilate  
5 residential or commercial structures, comprised of one or more of the following components:

6 (1) "Heating system" means a system in which heat is transmitted by radiation, conduction,  
7 or convection, or a combination of any of these methods, to the air, surrounding surfaces, or both,  
8 and includes a forced air system that uses air being moved by mechanical means to transmit  
9 heat, but does not include a fireplace or wood-burning stove not incorporated into or used as a  
10 primary heating system;

11 (2) "Ventilating system" means the natural or mechanical process of supplying air to, or  
12 removing air from, any space whether the air is conditioned or not conditioned, at a rate of airflow  
13 of more than 250 cubic feet per minute; and

14           (3) “Cooling system” means a system in which heat is removed from air, surrounding  
15 surfaces, or both, and includes an air-conditioning system.

16           (c) “HVAC Technician” means a person licensed to install, test, maintain, and repair both  
17 residential and nonresidential heating, ventilating and cooling systems.

18           (d) “HVAC Residential Technician” means a person licensed to install, test, maintain, and  
19 repair residential heating, ventilating, and cooling systems: *Provided*, That such persons may  
20 perform work on nonresidential heating, ventilating, and cooling systems subject to rules  
21 promulgated by the commissioner pursuant to §21-16-3 of this code.

22           (e) “Residential heating, ventilating, and cooling system” means a system of no more than  
23 four separate heating, ventilating, and cooling units each with a combined capacity of five tons –  
24 130,000 BTUs for: (1) A single or dual family structure; or (2) a commercial location of no more  
25 than 5,000 square feet in size where no fire damper is required. Such term shall not apply to  
26 heating, ventilating, and cooling systems that include any packaged rooftop units.

27           (f) “HVAC technician in training” means a person with interest in and an aptitude for  
28 performing installation, maintenance, and repair work to a heating, ventilating, and cooling system  
29 as defined in this article, but who alone is not capable or authorized to perform heating, ventilating,  
30 and cooling system work unless directly supervised by a HVAC technician or an HVAC residential  
31 technician.

32           (g) “HVAC residential technician license” means a valid and current license issued by the  
33 Commissioner of Labor in accordance with the provisions of this article to perform work as an  
34 HVAC residential technician.

35           (h) “HVAC technician license” means a valid and current license issued by the  
36 Commissioner of Labor in accordance with the provisions of this article to perform work as an  
37 HVAC technician.

38           (i) “Routine maintenance” means work performed on a routine schedule that includes  
39 cleaning and/or replacing filters, greasing or lubricating motor bearings, adjusting and/or replacing

40 belts, checking system temperature, checking gas temperature, adjusting gas pressure as  
41 required, and checking voltage and amperage draw on heating, ventilating, and cooling systems.

42 (j) "Single family dwelling" means a building that is occupied as, or designed or intended  
43 for occupancy as, a single residence for one or more persons.

**§21-16-3. License required; exemptions.**

1 (a) On and after January 1, 2016, a person performing or offering to perform work on a  
2 heating, ventilating, and cooling system in this state shall have a license issued by the  
3 Commissioner of Labor, in accordance with the provisions of this article and the legislative rules  
4 promulgated pursuant hereto: *Provided*, That the commissioner shall issue HVAC residential  
5 technician licenses to qualified applicants without examination who present satisfactory evidence  
6 no later than December 31, 2019, of having at least 2,000 hours of experience and/or training  
7 working on heating, ventilating, and cooling systems: *Provided, however*, That if a license issued  
8 under the authority of this subsection subsequently lapses, the applicant is subject to all licensure  
9 requirements, including the examination.

10 (b) A person licensed under this article shall carry a copy of the license on any job in which  
11 heating, ventilating, and cooling work is being performed.

12 (c) This article does not apply to:

13 (1) A person who personally performs work on a heating, ventilating, and cooling system  
14 in a single family dwelling owned by that person or by a member of that person's immediate family;

15 (2) A person who performs work on a heating, ventilating, and cooling system at a  
16 manufacturing plant or other industrial establishment as an employee of the person, firm, or  
17 corporation operating the plant or establishment;

18 (3) A person who performs only electrical or plumbing work on a heating, ventilating, and  
19 cooling system, so long as the work is within the scope of practice which the person is otherwise  
20 licensed or authorized to perform; or

21 (4) A person who performs routine maintenance on any heating, ventilating, and cooling  
22 system.

**§21-16-5. Rule-making authority.**

1 (a) The Commissioner of Labor shall propose rules for legislative approval, in accordance  
2 with the provisions of §21-16-5 *et seq.* of this code, for the implementation and enforcement of  
3 the provisions of this article, which shall provide:

4 (1) Standards and procedures for issuing and renewing licenses, applications,  
5 examinations, and qualifications;

6 (2) Provisions for the granting of HVAC technician licenses, without examination, to  
7 applicants who present satisfactory evidence no later than July 1, 2016, of having at least 2,000  
8 hours of experience and/or training working on heating, ventilating, and cooling systems and at  
9 least 6,000 hours of experience and/or training in heating, ventilating, and cooling or related work,  
10 to include other sheet metal industry tasks: *Provided*, That if a license issued under the authority  
11 of this subsection subsequently lapses, the applicant is subject to all licensure requirements,  
12 including the examination;

13 (3) Reciprocity provisions;

14 (4) Procedures for investigating complaints and revoking or suspending licenses, including  
15 appeal procedures;

16 (5) Fees for issuance and renewal of licenses and other costs necessary to administer the  
17 provisions of this article;

18 (6) Enforcement procedures; and

19 (7) Any other rules necessary to effectuate the purposes of this article.

20 (b) The commissioner may promulgate emergency rules pursuant to the provisions of  
21 §29A-3-15 of this code for the purpose of describing:

22 (1) Provisions for the granting of HVAC residential technician licenses without examination  
23 to qualified applicants who present satisfactory evidence no later than December 31, 2019, of

24 having at least 2,000 hours of experience and/or training working on heating, ventilating, and  
25 cooling systems: *Provided*, That if a license issued under the authority of this subsection  
26 subsequently lapses, the applicant is subject to all licensure requirements, including the  
27 examination;

28 (2) Provisions for developing an examination required to obtain an HVAC residential  
29 technician license commensurate with the scope of practice for HVAC residential technicians as  
30 described in §21-16-2(d) of this code: *Provided*, That applicants for such license examination  
31 must provide satisfactory evidence of having at least 2,000 hours of experience and/or training  
32 working on heating, ventilating, and cooling systems: *Provided, however*, That the rules proposed  
33 by the commissioner shall provide that the HVAC residential license examination will be  
34 developed in consultation with HVAC industry representatives; and

35 (3) Provisions for allowing HVAC residential technicians to perform work on nonresidential  
36 heating, ventilating, and cooling systems subject to rules promulgated by the commissioner.





The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2018.

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*Governor*