

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

Senate Bill 506

BY SENATORS SWOPE, SMITH, BOSO, AND CLINE

[Originating in the Committee on the Workforce;

Reported on February 23, 2018]

1 A BILL 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 5 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 ~~(e)~~ (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 ~~(e)~~ "License" means a valid and current license issued by the Commissioner of Labor in
33 accordance with the provisions of this article.

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

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

40 (f) (i) "Routine maintenance" means work performed on a routine schedule that includes

41 cleaning and/or replacing filters, greasing or lubricating motor bearings, adjusting and/or replacing
42 belts, checking system temperature, checking gas temperature, adjusting gas pressure as
43 required, and checking voltage and amperage draw on heating, ventilating, and cooling systems.

44 ~~(g)~~ (i) "Single family dwelling" means a building ~~which~~ that is occupied as, or designed or
45 intended 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

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20 licensed or authorized to perform; or

21 (4) A person who performs routine maintenance on any heating, ventilating, and cooling
22 system ~~as a direct employee of the person, firm or corporation that owns or operates the facility~~
23 ~~where the heating, ventilating or cooling system equipment is located.~~

§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 relating 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 ~~(7)~~ (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 purposes set forth in the amendments to this article that were made
22 effective July 1, 2018, including, but not limited to:

23 (1) Provisions for the granting of HVAC residential technician licenses without examination
24 to qualified applicants without examination who present satisfactory evidence no later than
25 December 31, 2019, of having at least 2,000 hours of experience and/or training working on
26 heating, ventilating, and cooling systems: *Provided*, That if a license issued under the authority of
27 this subsection subsequently lapses, the applicant is subject to all licensure requirements,
28 including the examination;

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

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