

SUBJECT: Air conditioning and refrigeration contractor licensing, penalties

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Wilson, Kubiak, Goolsby, Pickett, Torres, Yarbrough

0 nays

3 absent — Brimer, Dear, D. Jones

WITNESSES: For — Fred E. Kahn, TACCA

Against — None

DIGEST: *(Rep. Carona said he would offer a floor substitute incorporating the provisions of several other bills. See NOTES.)*

CSHB 796 would expand and amend the Air Conditioning and Refrigeration Contractor License Law and raise the penalties for performing without a license. Unlicensed persons would be prohibited from collecting a fee or enforcing a contract for the performance of air conditioning and refrigeration contracting. A person would be required to present evidence of licensed status, in the manner to be prescribed by the board by December 31, 1995, at the time of contract formation.

The bill would also allow a Texas Department of Licensing and Regulation (TDLR) representative or a municipal official to issue citations for unlicensed air conditioning and refrigeration contracting. The municipal court and the justice court of a precinct in which the municipality is located would have concurrent jurisdiction to hear a citation case.

"Air conditioning and refrigeration maintenance work" would not include the repair of boilers, and air conditioning licensure would not be required for boiler installers and repairers. The bill would also clarify that "air conditioning and refrigeration contracting" includes cleaning equipment and duct materials as required for the proper operation of a system.

The offense of knowingly engaging in air conditioning and refrigeration contracting without a license would be changed from a Class B misdemeanor (maximum penalty of 180 days in jail and a \$2,000 fine) to a Class A misdemeanor (maximum penalty of one year in jail and a \$4,000 fine).

The bill would exempt the Air Conditioning and Refrigerator Contractors Advisory Board from requirements in VACS art. 6252-23 for the automatic abolition of advisory boards on the fourth anniversary of their creation.

The bill would delete language requiring evidence of insurance coverage to be furnished with the license application and would add language requiring the evidence of insurance coverage to be furnished before licensure by the commissioner. The bill would also allow the commissioner to offer examinations administered under the act in locations other than Travis County.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

CSHB 796 would provide for more effective enforcement of the Air Conditioning and Refrigeration Contractor License Law as well as clarify the kind of work covered and provide for better administration. Most importantly, the bill would prevent unlicensed contractors from collecting money due for air conditioning or refrigeration work, thereby encouraging competent unlicensed air conditioning and refrigeration contractors to become licensed. The fiscal note projects a gain to general revenue from license fees as a result of the unlicensed becoming licensed.

The bill would provide a deterrent and protect the public from those who are unqualified to perform this specialized type of work. It is likely that the estimated 4,000 or 5,000 unlicensed air conditioning and refrigeration contractors are responsible for the majority of faulty load calculations and faulty wiring of air conditioners that can cause fires and even explosions. Raising the penalty for unlicensed contracting work from a Class B misdemeanor to a Class A misdemeanor would also give local prosecutors more incentive to prosecute this violation.

CSHB 796 would allow representatives of TDLR and municipal officials to issue citations to persons who perform air conditioning and refrigeration contracting without a license. Allowing municipal officials to issue citations is necessary because of the limited resources available to TDLR to enforce these licensing laws. TDLR now has only one or two people in the state working on license enforcement. As an added benefit, the municipalities would have an incentive to enforce the licensing laws in that they would be able to keep the fines generated by the citations.

The bill would also clarify what kind of work requires licensure. It would make clear that a person allowed to do air conditioning and refrigeration maintenance without a license would not also be allowed to perform boiler or pressure vessel repair because of its dangerous and precise nature. The bill would delete language indicating that boiler installation and repair requires licensure. Boiler installers and maintenance people already are subject to stringent regulation and must be registered with the American Society of Mechanical Engineers. Air conditioning and refrigeration maintenance workers are not qualified to do repair on boilers, and this bill would merely clarify that status.

The bill also clarifies that duct cleaning is a part of air conditioning and refrigerator contracting. Even though an effective cleaning requires that duct cleaners take apart and cut holes in the ducts, many of them still contend that they do not need a license to clean. This bill would require duct cleaners to become licensed in the interest of protecting the public from an ineffective or poorly executed cleaning. Licensure is especially important since duct cleaners are becoming involved in the complicated process of diagnosing and treating "sick buildings" that create health problems involving the air supply.

The rest of the provisions would allow for easier administration of the licensing laws. The bill would allow examinations to be in counties other than Travis so applicants would not have to travel to take the exam. The bill would also exempt the advisory board, which TDLR needs because of the technical nature of the field, from the automatic abolishment requirement. Lastly, the bill would require proof of insurance to be furnished for licensure rather than upon application, since a person who is merely applying to take the test would not yet need the insurance, and the

insurance premiums would certainly be wasted if the person did not pass the test.

**OPPONENTS
SAY:**

CSHB 796 would cause duct-cleaning rates to rise since only licensed air conditioning and refrigeration contractors could do the cleaning. This is unfortunate since a complete understanding of air conditioning and refrigeration is not necessary to do a proper cleaning.

NOTES:

Rep. Carona said he would offer a floor substitute to incorporate provisions of the following bills that have been reported favorably by the Licensing and Administrative Procedure Committee:

- HB 798 by Carona, exempting nonprofit organizations involved in air conditioning training from proprietary school requirements;
- HB 799 by Carona, exempting air conditioning licensees from the Residential Service Company Act;
- HB 800 by Carona, municipal requirements for regulating air conditioning contractors.
- HB 801 by Carona, authorized inspectors of air conditioning systems in real estate transactions.

The original version of HB 796 would have allowed the commissioner more advisory board duties and would have required the TDLR to regulate the sale of certain equipment. It also included the duct cleaning language in a different subsection.