

SENATE BILL 64

Unofficial Copy
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1999 Regular Session
9r0104

(PRE-FILED)

By: **Chairman, Economic and Environmental Affairs Committee**
(Departmental - Labor, Licensing and Regulation)

Requested: July 27, 1998
Introduced and read first time: January 13, 1999
Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 9, 1999

CHAPTER _____

1 AN ACT concerning

2 **Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors**

3 FOR the purpose of requiring certain persons to obtain a certain certificate before
4 providing heating, ventilation, air-conditioning and refrigeration services in the
5 State; requiring applicants for certain certificates to provide certain information
6 to the Board of Heating, Ventilation, Air-Conditioning, and Refrigeration
7 Contractors; prohibiting the Board from charging a fee for the issuance of a
8 certain certificate; providing for the renewal of certain certificates; providing
9 that the area from which a certain member of the Board is appointed includes
10 Baltimore City; defining certain terms; requiring the Board to charge a certain
11 late fee under certain circumstances; providing that certain certificates are not
12 transferable; adding to the grounds for which the Board may take certain
13 disciplinary action; requiring certain persons to display certain information in
14 certain places of business and on certain vehicles; clarifying the requirements
15 regarding certain insurance coverage; requiring that certain advertisements
16 contain certain information; increasing certain criminal penalties; imposing
17 certain criminal penalties; and generally relating to heating, ventilation,
18 air-conditioning, and refrigeration contractors.

19 BY repealing and reenacting, with amendments,
20 Article - Business Regulation
21 Section 9A-101, 9A-202(b), 9A-301, 9A-303, 9A-309, 9A-310, 9A-401,
22 9A-402, 9A-404, and 9A-505
23 Annotated Code of Maryland
24 (1998 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Business Regulation**

4 9A-101.

5 (a) In this title the following words have the meanings indicated.

6 (b) "Board" means the State Board of Heating, Ventilation, Air-Conditioning,
7 and Refrigeration Contractors.

8 (C) "CERTIFICATE" MEANS A DOCUMENT ISSUED BY THE BOARD THAT
9 AUTHORIZES A FIRM TO PROVIDE HEATING, VENTILATION, AIR-CONDITIONING, AND
10 REFRIGERATION SERVICES THROUGH AN INDIVIDUAL WHO HOLDS A:

11 (1) MASTER LICENSE;

12 (2) MASTER RESTRICTED LICENSE; OR

13 (3) LIMITED LICENSE.

14 [(c)] (D) "Contractor" means a heating, ventilation, air-conditioning, and
15 refrigeration contractor.

16 [(d)] (E) (1) "Cooling system" means a system in which heat is removed
17 from air, surrounding surfaces, or both.

18 (2) "Cooling system" includes an air-conditioning system.

19 (F) "FIRM" MEANS A CORPORATION, LIMITED LIABILITY COMPANY, LIMITED
20 LIABILITY PARTNERSHIP, JOINT VENTURE, PARTNERSHIP, OR LIMITED
21 PARTNERSHIP THROUGH WHICH AN INDIVIDUAL PROVIDES OR ASSISTS IN
22 PROVIDING HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION
23 SERVICES.

24 [(e)] (G) "Forced air system" means a heating system that uses air being
25 moved by mechanical means to transmit heat.

26 [(f)] (H) (1) "Heating system" means a system in which heat is transmitted
27 by radiation, conduction, or convection, or a combination of any of these methods, to
28 the air, surrounding surfaces, or both.

29 (2) "Heating system" does not include a fireplace or woodburning stove
30 not incorporated into or used as a primary heating system.

31 [(g)] (I) "Heating, ventilation, air-conditioning, and refrigeration contractor"
32 means an individual who provides heating, ventilation, air-conditioning, or
33 refrigeration services.

1 [(h)] (J) "Hydronic system" means a heating and cooling system using liquids
2 or steam to transmit or remove heat.

3 [(i)] (K) "Independent agency" means an office, commission, board,
4 department, or agency established as an independent unit of government that may
5 receive budgetary or administrative support from the federal, State, or local
6 government.

7 [(j)] (L) (1) "License" means, unless the context requires otherwise, a
8 license issued by the Board to provide or to assist in providing heating, ventilation,
9 air-conditioning, or refrigeration services.

10 (2) "License" includes, unless the context requires otherwise, a:

- 11 (i) master license;
- 12 (ii) master restricted license;
- 13 (iii) limited license;
- 14 (iv) journeyman license; and
- 15 (v) apprentice license.

16 [(k)] (M) "Licensed apprentice" means an individual who is licensed by the
17 Board to assist in providing heating, ventilation, air-conditioning, or refrigeration
18 services while:

- 19 (1) under the direction and control of a licensed contractor; and
- 20 (2) in training to become a journeyman.

21 [(l)] (N) "Licensed contractor" means a contractor who is licensed by the
22 Board to provide heating, ventilation, air-conditioning, or refrigeration services, but
23 does not include a licensed apprentice or licensed journeyman.

24 [(m)] (O) "Licensed journeyman" means an individual who is licensed by the
25 Board to provide heating, ventilation, air-conditioning, or refrigeration services while
26 under the direction and control of a licensed contractor.

27 [(n)] (P) "Limited license" means a license issued by the Board exclusively to
28 maintain or repair one or more of the following: heating systems, cooling systems,
29 refrigeration systems, ventilation systems, or hydronic systems.

30 [(o)] (Q) "Master license" means a license issued by the Board to provide
31 heating, ventilation, air-conditioning, or refrigeration services.

32 [(p)] (R) "Master restricted license" means a license issued by the Board to
33 provide services in only one of the following areas:

- 34 (1) heating - forced air systems;

- 1 (2) heating - hydronic systems;
- 2 (3) ventilation;
- 3 (4) air-conditioning; or
- 4 (5) refrigeration.

5 [(q)] (S) "Provide heating, ventilation, air-conditioning, or refrigeration
6 services" means to install, maintain, alter, remodel, or repair heating systems, cooling
7 systems, refrigeration systems, ventilation systems, or hydronic systems.

8 [(r)] (T) "Refrigeration system" means a system used to cool a surface or area
9 below 55 degrees Fahrenheit or 12.9 degrees Celsius.

10 [(s)] (U) "Subdivision of the State" means any of the 23 counties in Maryland,
11 the City of Baltimore, and any municipal corporation.

12 [(t)] (V) "Ventilation system" means the natural or mechanical process of
13 supplying air to, or removing air from, any space:

- 14 (1) whether the air is conditioned or is not conditioned; and
- 15 (2) at a rate of airflow of more than 250 cubic feet per minute.

16 9A-202.

17 (b) Except for the initial members of the Board, of the members appointed
18 under subsection (a)(2)(i), (ii), and (iii) of this section:

19 (1) 1 shall be from the area that consists of Caroline, Dorchester, Kent,
20 Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties;

21 (2) 1 shall be from the area that consists of BALTIMORE CITY AND
22 Baltimore, Cecil, and Harford Counties;

23 (3) 1 shall be from the area that consists of Anne Arundel, Calvert,
24 Charles, and St. Mary's Counties;

25 (4) 1 shall be from the area that consists of Howard, Montgomery, and
26 Prince George's Counties; and

27 (5) 1 shall be from the area that consists of Allegany, Carroll, Frederick,
28 Garrett, and Washington Counties.

29 9A-301.

30 (A) Except as otherwise provided in this title, an individual shall be licensed
31 by the Board before the individual provides or assists in providing heating,
32 ventilation, air-conditioning, or refrigeration services in the State.

1 (B) A FIRM SHALL OBTAIN A CERTIFICATE FROM THE BOARD BEFORE THE
2 FIRM PROVIDES OR ASSISTS IN PROVIDING HEATING, VENTILATION,
3 AIR-CONDITIONING, OR REFRIGERATION SERVICES IN THE STATE.

4 9A-303.

5 (A) An applicant for a license shall:

6 (1) submit an application to the Board in the form that the Board
7 provides; and

8 (2) pay to the Board or the Board's designee an examination fee
9 established by the Board in an amount not to exceed the cost of the examination.

10 (B) (1) AN APPLICANT FOR A CERTIFICATE SHALL SUBMIT AN APPLICATION
11 TO THE BOARD IN THE FORM THAT THE BOARD PROVIDES.

12 (2) THE BOARD MAY NOT CHARGE A FEE FOR THE ISSUANCE OF A
13 CERTIFICATE.

14 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE
15 BOARD, THE FORM SHALL REQUIRE:

16 (I) FOR AN INDIVIDUAL, THE NAME AND ADDRESS OF THE
17 INDIVIDUAL;

18 (II) FOR A CORPORATION, LIMITED LIABILITY COMPANY, OR
19 LIMITED LIABILITY PARTNERSHIP, THE NAME AND ADDRESS OF EACH OFFICER,
20 SHAREHOLDER, OR MEMBER UNIT OWNER WHO MAY PROVIDE OR ASSIST IN THE
21 PROVISION OF HEATING, VENTILATION, AIR-CONDITIONING, OR REFRIGERATION
22 SERVICES;

23 (III) FOR A PARTNERSHIP OR LIMITED PARTNERSHIP, THE NAME
24 AND ADDRESS OF EACH PARTNER OR LIMITED PARTNER;

25 (IV) FOR A JOINT VENTURE APPLICANT, THE NAME AND ADDRESS
26 OF EACH PARTY TO THE JOINT VENTURE;

27 (V) FOR AN APPLICANT THAT ACTS AS A CONTRACTOR THROUGH A
28 FIRM, THE NAME AND ADDRESS OF THE RESIDENT AGENT OF THE FIRM IN THE
29 STATE;

30 (VI) A ~~COMPLETE~~ DESCRIPTION OF THE NATURE OF THE BUSINESS
31 OF THE APPLICANT; AND

32 (VII) THE TRADE NAME OR FIRM NAME OF THE APPLICANT.

33 (4) TO EVALUATE THE QUALIFICATIONS OF AN APPLICANT FOR A
34 CERTIFICATE, THE BOARD MAY ASK THE APPLICANT FOR:

1 (I) INFORMATION ABOUT WHETHER THE APPLICANT HAS EVER
2 HELD A PROFESSIONAL OR VOCATIONAL LICENSE IN THIS OR ANY OTHER STATE;

3 (II) INFORMATION ABOUT WHETHER THE APPLICANT HAS EVER
4 HAD A PROFESSIONAL OR VOCATIONAL LICENSE DENIED, SUSPENDED, OR REVOKED;

5 (III) A RECORD OF THE APPLICANT'S EXPERIENCE IN THE FIELDS OF
6 HEATING, VENTILATION, AIR-CONDITIONING, AND REFRIGERATION, INCLUDING
7 DATES WHEN AND ADDRESSES WHERE THE APPLICANT HAS RESIDED OR DONE
8 BUSINESS; AND

9 (IV) ANY OTHER INFORMATION REQUESTED BY THE BOARD.

10 9A-309.

11 (a) Unless the license is renewed for a 2-year term as provided in this section,
12 a license expires on the first October 1 that comes:

13 (1) after the effective date of the license; and

14 (2) in an odd-numbered year.

15 (b) Before the license expires, the licensee may renew it for an additional
16 2-year term, if the licensee:

17 (1) otherwise is entitled to be granted a license;

18 (2) pays to the Board a renewal fee established by the Board; and

19 (3) submits:

20 (i) proof of insurance as provided by § 9A-402 of this title; and

21 (ii) a renewal application in the form that the Board provides.

22 (C) (1) UNLESS A CERTIFICATE IS RENEWED FOR A 2-YEAR TERM AS
23 PROVIDED IN THIS SECTION, A CERTIFICATE EXPIRES ON THE FIRST OCTOBER 1
24 THAT COMES:

25 (I) AFTER THE EFFECTIVE DATE OF THE CERTIFICATE; AND

26 (II) IN AN ODD-NUMBERED YEAR.

27 (2) BEFORE THE CERTIFICATE EXPIRES, THE FIRM MAY RENEW IT FOR
28 AN ADDITIONAL 2-YEAR TERM, IF THE FIRM:

29 (I) OTHERWISE IS ENTITLED TO BE GRANTED A CERTIFICATE;

30 (II) SUBMITS:

1 [(g)] (H) (1) On the death of a licensed heating, ventilation,
2 air-conditioning, and refrigeration contractor, the personal representative of the
3 deceased licensee may retain the license for up to 6 months for the purpose of winding
4 up the business.

5 (2) In cases of extreme hardship, the Board may allow the personal
6 representative to retain the license for an additional period not to exceed 24 months
7 upon a good faith showing that the personal representative has:

8 (i) acted diligently to conclude the business of the deceased
9 licensee; and

10 (ii) complied with the provisions of this title.

11 [(h)] (I) The Secretary may determine that licenses AND CERTIFICATES
12 issued under this subtitle shall expire on a staggered basis.

13 9A-310.

14 (a) The Board may deny, SUSPEND, OR REVOKE [a license to any applicant,
15 reprimand any licensee, or suspend or revoke] a license OR CERTIFICATE OR
16 REPRIMAND A LICENSEE OR FIRM after a public hearing conducted in accordance
17 with the provisions of § 9A-311 of this title, if the Board finds that the individual:

18 (1) obtained a license by false or fraudulent representation;

19 (2) transferred the authority granted by the license to another person;

20 (3) willfully or deliberately disregarded and violated the code established
21 by the Board under this title;

22 (4) willfully or deliberately disregarded and violated building codes,
23 electrical codes, or laws of the State or of any municipality, city, or county of the State;

24 (5) under the laws of the United States or of any state, is convicted of:

25 (i) a felony; or

26 (ii) a misdemeanor that is directly related to the fitness and
27 qualification of the applicant or licensee to provide heating, ventilation,
28 air-conditioning, or refrigeration services;

29 (6) aided or abetted a person to evade a provision of this title by allowing
30 a license to be used by an unlicensed person, firm, or corporation;

31 (7) willfully or deliberately disregarded disciplinary action taken by a
32 municipality, city, or county against the individual in connection with providing
33 heating, ventilation, air-conditioning, or refrigeration services;

34 (8) abandoned or failed to perform, without justification, any contract or
35 project to provide heating, ventilation, air-conditioning, or refrigeration services;

1 (9) performed work under a heating, ventilation, air-conditioning, or
2 refrigeration services contract or project that is inadequate or incomplete;

3 (10) directly or indirectly published any advertisement relating to the
4 providing of heating, ventilation, air-conditioning, or refrigeration services that
5 contained an insertion, representation, or statement of fact that is false, deceptive, or
6 misleading;

7 (11) made any material misrepresentation in the procurement of a
8 heating, ventilation, air-conditioning, or refrigeration services contract or project;
9 [or]

10 (12) FRAUDULENTLY OR DECEPTIVELY USED A LICENSE; OR

11 [(12)] (13) failed in any material respect to comply with the provisions of
12 this title.

13 (b) The Board shall consider the following facts in the granting, denial,
14 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
15 applicant or licensee is convicted of a felony or misdemeanor described in subsection
16 (a)(5) of this section:

17 (1) the nature of the crime;

18 (2) the relationship of the crime to the activities authorized by the
19 license;

20 (3) with respect to a felony, the relevance of the conviction to the fitness
21 and qualification of the applicant or licensee to provide heating, ventilation,
22 air-conditioning, and refrigeration services;

23 (4) the length of time since the conviction; and

24 (5) the behavior and activities of the applicant or licensee before and
25 after the conviction.

26 (C) SUBJECT TO THE HEARING PROVISIONS OF § 9A-311 OF THIS SUBTITLE,
27 THE BOARD MAY DENY, SUSPEND, OR REVOKE A LICENSE OR CERTIFICATE OR
28 REPRIMAND A LICENSEE OR FIRM FOR A VIOLATION OF THIS TITLE BY AN AGENT,
29 DIRECTOR, EMPLOYEE, MANAGER, OFFICER, OR PARTNER OF THE LICENSEE OR FIRM
30 UNLESS THE BOARD FINDS THAT THE LICENSEE OR FIRM:

31 (1) HAD NO KNOWLEDGE OF THE VIOLATION; OR

32 (2) COULD NOT PREVENT THE VIOLATION.

33 9A-401.

34 (a) Each licensed master, master restricted, or limited heating, ventilation,
35 air-conditioning, and refrigeration contractor shall display:

1 (1) the license and the license number conspicuously in the principal
2 place of business of the licensee; and

3 (2) the license number of the licensee on each vehicle used on the job for
4 providing heating, ventilation, air-conditioning, or refrigeration services.

5 (b) EACH FIRM SHALL DISPLAY:

6 (1) THE CERTIFICATE IN PUBLIC VIEW IN THE PRINCIPAL PLACE OF
7 BUSINESS OF THE FIRM; AND

8 (2) ON EACH VEHICLE USED BY THE FIRM FOR PROVIDING HEATING,
9 VENTILATION, AIR-CONDITIONING, AND REFRIGERATION SERVICES:

10 (I) THE CERTIFICATE NUMBER OF THE FIRM; OR

11 (II) THE LICENSE NUMBER OF THE INDIVIDUAL WHO:

12 1. DIRECTS AND CONTROLS THE PROVISION OF HEATING,
13 VENTILATION, AIR-CONDITIONING, AND REFRIGERATION SERVICES THROUGH THE
14 FIRM; AND

15 2. HOLDS A MASTER LICENSE, MASTER RESTRICTED
16 LICENSE, OR LIMITED LICENSE.

17 (C) Each licensee AND FIRM shall give the Board written notice of any change
18 of name, address, or employment from that which appears on the current license OR
19 CERTIFICATE, at least 10 working days before the change is to take effect.

20 9A-402.

21 (a) A FIRM OR A holder of a master, master restricted, or limited heating,
22 ventilation, air-conditioning, and refrigeration license may not contract to provide
23 services on behalf of the licensee, or another person who provides heating, ventilation,
24 air-conditioning, or refrigeration services, unless the work of the licensee OR FIRM,
25 including completed operations, is covered by:

26 (1) general liability insurance in the amount of at least \$300,000; and

27 (2) property damage insurance in the amount of at least \$100,000.

28 (b) (1) The insurance required under this section may be bought:

29 (i) by a holder of a master, master restricted, or limited heating,
30 ventilation, air-conditioning, and refrigeration license; or

31 (ii) by the FIRM OR OTHER person who engages in the business of
32 providing heating, ventilation, air-conditioning, or refrigeration services and employs
33 the holder of the master, master restricted, or limited license.

1 (2) The insurance requirement of this section is not meant for work that
2 a master, master restricted, or limited license holder does outside the scope of
3 employment for the person who carries the insurance.

4 (c) (1) A licensed apprentice or licensed journeyman in the employ of a
5 master, master restricted, or limited licensee need not obtain separate insurance
6 while providing or assisting in providing heating, ventilation, air-conditioning, or
7 refrigeration services under the control and supervision of the licensee.

8 (2) Subject to the restrictions of § 9A-309 of this title regarding inactive
9 status, inactive licensees who have had their inactive status approved by the Board
10 need not obtain insurance while maintaining inactive status.

11 (d) (1) An applicant for any license under this title shall submit proof of the
12 insurance required under this section to the Board with the license application.

13 (2) Unless the applicant submits proof of insurance, the Board may not
14 issue any license to an applicant to whom the insurance requirements of this section
15 apply.

16 (e) Unless an applicant meets the insurance requirements of this section, the
17 Board may not renew any license of the applicant to whom the insurance
18 requirements of this section apply.

19 (f) A holder of a master, master restricted, or limited license shall give the
20 Board notice of the cancellation of insurance at least 10 days before the effective date
21 of the cancellation.

22 (g) If a county, municipal corporation, special taxing district, or other political
23 subdivision requires a master, master restricted, or limited heating, ventilation,
24 air-conditioning, and refrigeration license holder, or other person who engages in the
25 business of providing heating, ventilation, air-conditioning, and refrigeration
26 services, to execute a surety bond under local heating, ventilation, air-conditioning,
27 and refrigeration requirements, the person may satisfy the bond requirement by
28 submitting proof of the insurance required under this section.

29 (h) The Board shall specify on each license whether the license holder meets
30 the insurance requirements of this section.

31 9A-404.

32 Each advertisement for heating, ventilation, air-conditioning, or refrigeration
33 services [that is in the name of a person who provides heating, ventilation,
34 air-conditioning, or refrigeration services] shall contain:

35 (1) the [license number and] TRADE name [of a] OR FIRM NAME; AND

36 (2) (I) THE CERTIFICATE NUMBER OF THE FIRM; OR

1 (II) THE LICENSE NUMBER OF THE master, master restricted, or
2 limited license holder [whom the person employs and designates to direct] WHO
3 DIRECTS and [control] CONTROLS the provision of heating, ventilation,
4 air-conditioning, or refrigeration services through the business of the [person] FIRM.

5 9A-505.

6 (a) (1) In this section, "officer" includes a superintendent, manager, or agent
7 of a corporation OR BUSINESS ENTITY OPERATING THROUGH THE USE OF A TRADE
8 NAME regardless of whether the corporation OR BUSINESS ENTITY provides heating,
9 ventilation, air-conditioning, or refrigeration services.

10 (2) Any person, including an officer, who violates § 9A-501, § 9A-502, §
11 9A-503, or § 9A-504 of this title is guilty of a misdemeanor, and on conviction is
12 subject to a fine not exceeding [\$50 for each day or part of each day that the violation
13 continues] \$2,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

14 (b) Any person who knowingly and willfully violates any provision of § 9A-402
15 of this title is guilty of a misdemeanor, and on conviction is subject to a fine not
16 exceeding [\$1,000] \$2,000 or imprisonment not exceeding 6 months or both.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect July 1, 1999.