



State of Wisconsin  
2005 - 2006 LEGISLATURE

RMR  
LRB-2620/PF  
RNK:kjf:rs

Mon 1/9  
D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Creating a thermal system insulation and fire-stop council and inspector, standards for installing, removing, and maintaining thermal system insulation and fire-stop products,

requiring the employment of a state

Regen

1 AN ACT to create 15.157 (13), 101.136 and 101.19 (1) (k) of the statutes; relating  
2 to: the licensing and regulation of thermal system insulation and fire-stop  
3 product mechanics and contractors and requiring the exercise of rule-making  
4 authority, and providing a penalty

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version of this draft.

Insert Analysis

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 15.157 (13) of the statutes is created to read:  
6 15.157 (13) THERMAL SYSTEM INSULATION AND FIRE-STOP COUNCIL. (a) There is  
7 created in the department of commerce a thermal system insulation and fire-stop  
8 council consisting of the state thermal system insulation and fire-stop inspector who  
9 shall serve as chairperson of the council, the secretary of the department of

1 commerce or his or her designee, and the following members appointed for 3-year  
2 terms:

- 3 (1.) One member who represents a major insulation company.  
4 (2.) One member who represents an insulation maintenance company.  
5 (3.) One member who is a building manager.  
6 (4.) One member who is a mechanic.  
7 (5.) One member who represents the general public.

8 (b) The chairperson may call a special meeting of the council and shall call a  
9 special meeting at the request of 2 or more members of the council.

10 SECTION 2. 101.136 of the statutes is created to read:

11 **101.136 Thermal system installation.** (1) DEFINITIONS. In this section:

12 (a) "Building" means a <sup>commercial, industrial, or residential</sup> building, structure, or facility but does not include a  
13 residential building, structure, or facility that contains fewer than 4 residential  
14 units. <sup>as defined by the department by rule,</sup>

15 (b) "Contractor" means a person who is engaged in the business of contracting  
16 to provide services for installing, ~~renovating~~, removing, or maintaining thermal  
17 system insulation and fire-stop products.

18 (c) "Council" means the thermal system insulation and fire-stop council.

19 (d) "Fire-stop product" means a product <sup>that is</sup> used to prevent the spread of fire or  
20 smoke <sup>and</sup> that is installed on or around a pipe, duct, wire, or any other penetration  
21 through a floor, ceiling, or wall of a building.

22 (e) <sup>(f) state</sup> "Inspector" means the state thermal system insulation and fire-stop  
23 inspector.

24 (f) <sup>(e)</sup> "Mechanic" means a person who installs, renovates, removes, or maintains  
25 thermal system insulation and fire-stop products.

1 (g) "Thermal <sup>system</sup> insulation" means a product <sup>that is</sup> used ~~on~~ <sup>to insulate</sup> any hot or cold  
 2 surface including a pipe, duct, valve, boiler, flue, or tank, or equipment on or in a  
 3 building. "Thermal insulation" does not include an insulation product used in the  
 4 walls of a home or building.

5 (2) DUTIES OF THE THERMAL SYSTEM INSULATION AND FIRE-STOP COUNCIL. (a) The  
 6 council shall do all of the following:

7 1. Recommend to the department rules establishing standards for the  
 8 installation <sup>, removal, and maintenance</sup> of thermal system insulation and fire-stop products in buildings ~~and the~~  
 9 ~~removal and inspection of such products.~~

10 2. Recommend to the department qualifications for the licensure of mechanics  
 11 and contractors and circumstances under which the department may take  
 12 disciplinary action against a mechanic or contractor including suspension and  
 13 revocation of a license.

14 3. Recommend to the department an enforcement program ~~that will ensure~~  
 15 ~~compliance with this section and the rules promulgated under this section.~~

\*\*\*\*NOTE: This subdivision is based on a provision in the Nebraska bill. I'm not sure what is meant by an "enforcement program."

16 ~~4. Establish~~ <sup>3. Recommend to the department state</sup> qualifications for the inspector.

17 ~~5. In consultation with~~ <sup>4. Recommend to</sup> the department, ~~approve~~  
 18 program for mechanics and contractors.

19 (b) The council may consult with engineering authorities and other  
 20 organizations concerned with safety and health issues related to <sup>thermal system insulation and</sup> fire-stop products  
 21 and mold in performing its duties under this subsection.

\*\*\*\*NOTE: This provision is based on a provision in the Nebraska bill. I don't know why the provision refers to mold given that mold prevention or removal is not the subject of this bill. Furthermore, shouldn't this provision allow the council to consult about thermal system insulation?

*The department shall employ a person who has at least 5 years of experience as a mechanic as the*

*(a)*

**(3) STATE THERMAL SYSTEM INSULATION AND FIRE-STOP INSPECTOR.** *The secretary*

*shall appoint a state thermal system insulation and fire-stop inspector, subject to*

*the approval of the governor, who shall work under the direct supervision of the*

*secretary. The person appointed as inspector shall have at least 5 years of experience*

*as a mechanic and shall meet the qualifications for the position established by the*

*council.*

**(4) INSTALLATION STANDARDS.** (a) *The department shall promulgate a rule*

*establishing standards for the installation, removal, and maintenance of thermal system insulation and*

*fire-stop products in buildings.*

(b) *Every* ~~A~~ contractor who contracts *to install, remove, or maintain* for the installation of thermal system insulation

or firestop products shall ensure that such installation complies with the standards

established by the department under par. (a).

**(5) DUTIES AND POWERS OF THE INSPECTOR.** *State* (a) *state* The inspector shall do all of the

following:

1. Inspect buildings constructed or *significantly* altered, on or after the effective

*paragraph* date of this ~~subsection~~ *sub-section* .... [revisor inserts date], to determine whether the

*removal, or maintenance* installation of thermal system insulation and fire-stop products in those buildings

and structures complies with the standards established by the department under

sub. (4) (a).

*\*\*\*\*NOTE. I think that the term "significantly altered" is vague and should be made more specific.*

2. Keep complete and accurate records of all *inspected* buildings ~~that the inspector~~

*including a list identifying* ~~inspects~~ all buildings that ~~the inspector determines~~ are in compliance with the

standards established by the department under sub. (4) (a), *and* *a list of* all buildings that

~~the inspector determines~~ are not in compliance with the standards established by the

1 department under <sup>stays</sup> ~~sub. (4)~~ (a), and <sup>state</sup> all orders that the inspector issues under par. ~~(b)~~ <sup>(c)</sup>

2 2. <sup>written</sup> Give notice of noncompliance to

3 3. <sup>every</sup> Notify the owner of any building that the inspector determines does not  
4 comply with the standards established by the department under sub. (4) (a). ~~The~~  
5 inspector shall give such notice in writing.

6 ~~(b)~~ <sup>(c)</sup> The inspector may do any of the following:

7 1. Enter any building at a reasonable hour for the purpose of inspecting, or  
8 gathering information about, any thermal system insulation or fire-stop product.

9 2. Issue an order requiring the owner of a building to make repairs or  
10 alterations that the inspector determines are necessary in order for the building to  
11 comply with the standards established by the department under sub. (4) (a). The  
12 inspector shall issue such an order in writing.

13 ~~(6)~~ <sup>(5)</sup> LICENSING OF MECHANICS AND CONTRACTORS. (a) No person may install,  
14 ~~renovate~~, remove, or maintain thermal system insulation or fire-stop products in  
15 any building unless that person is a mechanic licensed by the department under this  
16 section ~~or~~ <sup>or</sup> is working under the direct supervision of a licensed ~~contractor or~~  
17 mechanic. <sup>no #</sup> No person may contract to install, ~~renovate~~, remove, or maintain thermal  
18 system insulation or fire-stop products in any building unless that person is a  
19 contractor licensed by the department under this subsection. <sup>Insert 5-19-bc/ow</sup>

20 ~~(b)~~ <sup>no #</sup> A person wishing to obtain a mechanic's license shall apply for a license from  
21 the department on a form provided by the department.

22 ~~(c)~~ <sup>no #</sup> A person wishing to obtain a contractor's license shall apply for a license  
23 from the department on a form provided by the department. An applicant for a  
24 contractor license shall provide all of the following information on the application:

insert  
5-16

insert  
5-19

*Insert 5-19 continued*

1. If the applicant is an individual, the name, home address, business address, and social security number of the applicant.

2. If the applicant is a company or business, the applicant's name and business address, the social security number of each of the applicant's officers, a copy of the applicant's articles of incorporation, if any, and the name of the company that the applicant uses to train its employees, if any.

3. The number of years that the applicant has been engaged in the business of contracting.

~~4. Evidence, satisfactory to the department, that the applicant is or will be covered by general liability, personal injury, and property damage insurance in amounts determined by the department.~~

~~5.~~ <sup>4.</sup> Any other information that the department may require.

~~(b)~~ <sup>(c)</sup> A license issued by the department under this subsection shall be issued annually <sup>is valid for one year</sup> and may be renewed subject to the continuing education requirements established under sub. ~~(11)~~ <sup>(10)</sup>.

<sup>shall</sup> ~~(7)~~ <sup>(6) 3</sup> STANDARDS FOR LICENSURE OF MECHANICS. (a) The department may promulgate rules establishing standards for the licensure of mechanics. Except as provided in par. (b), the department may not issue a license to a mechanic unless the mechanic demonstrates <sup>in a manner satisfactory</sup> to the department, that he or she has met all of the following requirements:

1. <sup>He or she has one year</sup> At least 4 years of work experience installing, renovating, removing, and maintaining thermal system insulation and fire-stop products ~~as verified in the manner required by the department.~~

2. <sup>He or she has passed</sup> Satisfactory completion of a written examination approved by the department.

*accredited apprenticeship*

1 3. Satisfactory completion of a nationally approved training program provided  
2 by the National Insulation Apprenticeship and Education Program or an equivalent  
3 program approved by the department.

\*\*\*\*NOTE: I could not confirm that this program actually exists.

4 ~~3.~~ <sup>3.</sup> Satisfactory completion of an apprenticeship program approved by the *He or she has successfully completed*  
5 council. *That meets the requirements specified under ch. 106,*  
6 ~~4.~~ <sup>4.</sup> He or she has completed  
7 ~~5.~~ Any other requirement specified by the department by rule.

8 (b) The department may waive any requirement, or any portion of a  
9 requirement under par. (a) 1. to ~~3.~~ <sup>4.</sup> for any person with experience in installing,  
10 renovating, removing, or maintaining thermal system insulation and fire-stop  
11 products or in contracting to provide that service before the effective date of this  
12 paragraph ... [revisor inserts date], upon submission of evidence satisfactory to the  
13 department that the person is qualified for licensure.

13 ~~(8)~~ <sup>(7)</sup> STANDARDS FOR LICENSURE OF CONTRACTORS. (a) The department *shall*  
14 promulgate rules establishing standards for the licensure of contractors including  
15 a requirement that a contractor obtain ~~minimum~~ general liability, personal injury,  
16 and property damage insurance.

17 (b) The department may not issue a license to a contractor unless the contractor  
18 *been in the business of contracting for* has at least ~~5 years~~ <sup>one year</sup> of work experience, satisfactory to the department, in installing,  
19 renovating, removing, and maintaining thermal system insulation and fire-stop  
20 products.

21 ~~(9)~~ <sup>(8)</sup> LICENSING EXCEPTIONS. (a) Notwithstanding the licensing requirements  
22 under sub. ~~(6)~~, an individual may work as a mechanic or a contractor without a  
23 license if the individual is enrolled in a 4-year apprenticeship program that is

*employee*  
of the type and in the amount determined by the department  
and provide health and retirement benefits of the type and  
in the amount determined by the department

1 approved by the council and the individual works under the direct supervision of a  
2 person who is licensed under this sub. (6).

3 <sup>no ff</sup> (b) The department may waive a licensing requirement under sub. (6) for any  
4 person who is licensed as a mechanic or contractor in another state in which the  
5 standards for licensure are at least as strict as the requirements under subs. (7), and

6 <sup>(8)</sup> <sup>(9)</sup>  
7 ~~(10)~~ TEMPORARY AND EMERGENCY LICENSES. The department may promulgate  
8 rules establishing standards and procedures for the issuance of temporary and  
9 emergency licenses for mechanics and contractors. The rule shall provide that a  
10 temporary or emergency license issued under this subsection is valid for a period of  
11 30 days.

12 ~~(11)~~ CONTINUING EDUCATION. The department may not renew a license issued  
13 to a mechanic or contractor under sub. (6) unless the mechanic or contractor submits  
14 a certificate to the department that demonstrates that the mechanic or contractor  
15 has attended and successfully completed a continuing education course that is  
16 approved by <sup>both</sup> the department and the council, that meets all of the following  
17 requirements:

18 (a) The course consists of at least 8 hours of instruction.

19 (b) The course requires passing an examination that consists of at least 100  
20 written questions.

21 (c) The provider of the course keeps a record of course attendance for each  
22 attendee.

23 (d) The provider of the course makes attendance records available to the  
24 department and the council upon request.

(7), or (10)  
(6)

during the previous license period

this section

upon consultation with

1           (11)  
2           (12) PENALTIES. (a) A person who violates this section or who does any of the  
3 following is subject to a forfeiture of not more than \$5,000 and the suspension or  
4 revocation of his or her license issued under sub. (6) *this section*

5           1. Makes a false statement of material fact in an application for the issuance  
6 or renewal of a license under this section.

7           2. Engages in fraud, misrepresentation, or bribery in order to obtain a license  
8 under this section.

9           3. Fails to notify the department or the owner or lessee of any building that the  
10 building fails to meet the standards established by the department *by rule* under sub. (4) (a).

*insert  
9-9*

11           **SECTION 3.** 101.19 (1) (k) of the statutes is created to read:

12           101.19 (1) (k) The licensing of thermal system insulation and fire-stop product  
13 mechanics and contractors under s. 101.136 and the inspection of buildings under  
14 s. 101.136.

15           **SECTION 4. Nonstatutory provisions.**

16           (1) *Council. 5* Notwithstanding the length of terms of the thermal system insulation and  
17 fire-stop council specified in section 15.157 (13) *14* of the statutes, as created by this act,  
18 the initial members shall be appointed for the following terms:

19           (a) Two members for a term that expires on July 1, 2008.

20           (b) Three members for a term that expires on July 1, 2009.

*Insert  
9-19*

21           **SECTION 5. Effective dates.** This act takes effect on first day of the 12th month  
22 beginning after publication, except as follows:

23           (1) The treatment of sections 15.157 (13) *14* and 101.136 (2) *✓* of the statutes, as  
24 created by this act, takes effect on the day after publication.

(END)

*O-Note*

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2620/lins.  
RNK:.....

INSERT ANALYSIS

The Department of Commerce (Commerce) administers various laws, including building codes, that promote safety in public and private buildings and in the subsystems of those buildings. To that end, Commerce issues various licenses, permits, registrations, and other credentials (licenses) to persons engaged in the construction trades such as electricians and plumbers. Commerce also administers and issues licenses in connection with the administration of other laws relating to public safety such as those regulating fireworks and the storage of flammable liquids.

This bill requires Commerce to regulate the business of installing, removing, and maintaining thermal system insulation and fire-stop products (insulation products). The bill defines thermal system insulation as a product used to insulate any hot or cold surface other than an insulation product used in the walls of a building. The bill defines a fire-stop product as a product used to prevent the spread of fire or smoke that is installed on or around a pipe, duct, wire, or other penetration through a floor, ceiling, or wall of a building. The bill requires Commerce to license persons who install, remove, and maintain insulation products (mechanics) and persons who are in the business of contracting to provide services for installing, removing, and maintaining insulation products (contractors). The bill also requires Commerce to employ a state thermal system insulation and fire-stop inspector (state inspector). The bill establishes a thermal system insulation and fire-stop council (council). The council is responsible for recommending rules to Commerce that establish standards for the installation, removal, and maintenance of insulation products. The council must also provide other advise to Commerce including recommending a continuing education program for mechanics and contractors. *five*

Under the bill, the state inspector must have at least 5 years of experience installing, removing, or maintaining insulation products. The state inspector must inspect buildings to determine whether the buildings comply with standards established by Commerce for the installation, removal, and maintenance of insulation products (state standards). The state inspector must also keep complete and accurate records of all inspected buildings and give notice of noncompliance to the owner of every building that fails to comply with state standards. The bill authorizes the state inspector to enter and inspect buildings and to issue orders requiring the owner of a building to make repairs or alterations that are necessary for the building to comply with state standards. *one*

The bill establishes minimum licensing requirements for insulation product mechanics and contractors. Under the bill, a person may not obtain a mechanic's license unless he or she has at least 1 year of work experience in installing, removing, and maintaining insulation products, has passed a written examination approved by Commerce, has successfully completed an approved apprenticeship program, and has fulfilled any other requirement specified by Commerce. *one*

The bill specifies that in order to be licensed as a contractor, a person must have been in the insulation products contracting business for at least 1 year and must have obtained general liability, person injury, and property damage insurance. The *al*

person must also provide employee health and retirement benefits of the type and in the amount determined by Commerce. The bill allows Commerce to waive any licensing requirement for contractors or mechanics for a person who is licensed in another state in which the standards for licensure are at least as strict as the requirements under the bill.

The bill also provides that Commerce may not issue or renew a license issued to a mechanic or a contractor unless the person completes a continuing education course during the previous license period that is approved by Commerce and that meets specified requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

INSERT 2-9

**SECTION 1.** 20.143 (3) (j) of the statutes is amended to read:

20.143 (3) (j) *Safety and building operations.* The amounts in the schedule for the purposes of chs. 101, 145, and 168 and ss. 236.12 (2) (a), 236.13 (1) (d) and (2m), and 236.335. All moneys received under ch. 145, ss. 101.177 (4) (a) 4., 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973 (7), and 236.12 (7), except moneys received under s. 101.9208 (2m), and all moneys transferred under 2005 Wisconsin Act 45, section 76 (6), shall be credited to this appropriation.

**History:** 1979 c. 361; 1981 c. 20, 21, 349; 1983 a. 27, 83, 192, 381; 1985 a. 29 ss. 169 to 204, 3202 (14); 1985 a. 120, 332, 334; 1987 a. 27, 109, 317, 318, 399, 403; 1989 a. 31, 185, 237, 317, 325, 335, 336, 342, 359; 1991 a. 39, 259, 261, 269, 315; 1993 a. 5, 16, 75, 110, 232, 437; 1995 a. 27 ss. 483, 505 to 517, 608s, 609g, 609j, 964, 965, 977, 987, 988, 990 to 993, 1080b, 1085b, 1086b, 9116 (5); 1995 a. 116, 119, 216, 227; 1997 a. 9, 27, 35, 215, 237, 252, 310; 1999 a. 9, 84, 106, 185, 186; 2001 a. 16, 109; 2003 a. 33 ss. 292c to 297m, 593 to 600, 602 to 604; 2003 a. 255, 256; 2005 a. 25 ss. 150m to 156t, 331; 2005 a. 45.

INSERT 5-16

no #, or is serving an apprenticeship with a licensed contractor who meets the requirements specified under ch. 106

INSERT 9-9

(b) A person who fails to comply with an order issued by the state inspector under this section may be subject to a forfeiture in an amount determined by the department by rule.

INSERT 9-19

(2) POSITION INCREASE. The authorized FTE positions for the department of commerce are increased by 1.0 GPR position to be funded from the appropriation under s. 20.143 (3) (a) of the statutes for the purpose of performing the responsibilities of the state thermal insulation and fire-stop product inspector.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2620/1dn

RNK: *kgf*

*Date*

In accordance with your suggestion, I discussed this redraft at length with Bruce Coleman who I understand represents the relevant trade group. This redraft makes significant changes to the previous version of the draft as a result of my conversation with Bruce Coleman and in an effort to make the draft language more accurate and concise. Please review the entire draft very closely to ensure that it is consistent with your intent. In particular, please note the following:

1. The previous version of this draft includes not only the installation, removal, and maintenance of thermal system insulation and firestop products (insulation products) but also the renovation of those products. I have deleted the reference to "renovation" throughout the draft because it seems to me that such products would not be renovated. Rather, a building in which such a product is installed would be renovated. In any event, I think the term is redundant. Let me know if you disagree.
2. I eliminated the language specifying the authority of the chairperson of the council to call special meetings because this authority exists under current law in s. 15.09 (3), stats.
3. I eliminated redundant language concerning various insurance requirements.
4. I assumed for purposes of this draft that a contractor and mechanic must take continuing education courses every year in order to renew a license. Is my assumption correct?
5. The definition of "thermal system insulation" in the draft specifically excludes an insulation product used in the walls of a home or building. What about such products used in ceilings and roofs?
- X* 6. The draft increases the authorized positions in the department of Commerce by 1.0 FTE position for the purpose of employing the state inspector. The position is funded by the department of Commerce general program operations appropriation under s. 20.143(3), stats. Is this O.K.?  
*X*  
*+*
7. When I spoke with Bruce Coleman, he was interested in ensuring that the draft allowed experienced mechanics and contractors to be licensed without necessarily being required to satisfy all of the conditions required under the draft of

nonexperienced mechanics and contractors. This was a difficult concept to incorporate because the quality and length of experience was hard to quantify. If the draft does not address this issue to your satisfaction, please let me know and we can discuss other ways to accomplish this objective.

If you have any other questions with regard to this draft, please feel free to contact me.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2620/1dn  
RNK:kjf:pg

January 6, 2006

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address this issue to your satisfaction, please let me know and we can discuss other ways to accomplish this objective.

If you have any other questions with regard to this draft, please feel free to contact me.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: [robin.kite@legis.state.wi.us](mailto:robin.kite@legis.state.wi.us)

## Kite, Robin

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**From:** Powell, Thomas  
**Sent:** Thursday, March 02, 2006 1:53 PM  
**To:** Kite, Robin  
**Subject:** FW: Latest draft of mold bill

**Attachments:** Tom Powell notes.doc



Tom Powell  
notes.doc (23 KB)

Robin,

Did I send you these last changes on LRB 2620 (attached)?

Tom Powell

-----Original Message-----

From: clmnbruc@aol.com [mailto:clmnbruc@aol.com]  
Sent: Friday, January 27, 2006 6:11 PM  
To: Powell, Thomas  
Subject: Re: Latest draft of mold bill

Tom,

Here are a few changes to the latest draft.

Thank you,

Bruce Coleman

-----Original Message-----

From: Powell, Thomas <Thomas.Powell@legis.state.wi.us>  
To: clmnbruc@aol.com  
Sent: Wed, 25 Jan 2006 10:18:18 -0600  
Subject: Latest draft of mold bill

Bruce,

Have you had a chance to review the latest draft of the mold bill?

Are there any suggested changes, or should we go with it?

Tom Powell

Tom,

From the Drafter's Notes from the last draft there are 7 points/questions listed & here are the responses for those.

1. The word 'renovation' has been deleted & this is acceptable, as long as the words 'installation, removal, and maintenance' will cover all of the work related to the installation and re-insulation of thermal insulation.
4. Related to the assumption for continuing education, yes, continuing education must be mandatory for the renewal of licenses for mechanics, but I don't know how this applies to contractors. Do Plumbing Contractors, currently licensed in Wisconsin attend continuing education?
5. for the purpose of the bill, the term "thermal insulation" means all insulation products not meant as batts or blown-in for walls and ceiling and means all insulation on heating and cooling systems, plumbing systems, process piping, refrigeration, and dehumidification, cryogenic, sub-ambient temperature, and all other insulation not specifically wall or ceiling batts or blown-in.
6. I am not sure how to answer this question, or am I sure I, or my association has the authority to answer this question.

The following are suggestions for changing some of the language in the last draft:

✓ Page two, related to the requirements for eligibility for the position of state inspector, the current draft lists 5 years experience. Please strike 5 years and insert 15 years experience AND the successful completion of a 4 year apprenticeship in the trade of Heat & Frost Insulation.

*D-Note ✓*  
Also page 2, related to the requirements for eligibility for a contractor's license, the current language lists the requirement as, 'a person must have been in the insulation products contracting business for at least one year, ..., please insert here, & be registered with the Wisconsin Bureau of Apprenticeship as a contractor that employs and trains registered apprentices in the field of Heat & Frost Insulation.

Related to the current language regarding council members, please change the composition of the council to read as follows:

- ✓ • two members from major insulation companies
- ✓ • one licensed architect from Wisconsin with work experience in Indoor Air Quality issues
- ✓ • one licensed Industrial Hygienist with work experience in Indoor Air Quality Issues, Mold and fungal growth
- ✓ • one member who represents Wisconsin's teachers & school administrators
- ✓ • two members who are mechanics with at least 15 years experience in the Field of Heat & Frost Insulation



(5000)  
State of Wisconsin  
2005 - 2006 LEGISLATURE

Rm run

LRB-2620/1

2  
RNK:kjf:tg

## 2005 BILL

D-Note

Regen

1 AN ACT to create 15.157 (14), 101.136 and 101.19 (1) (k) of the statutes; relating  
2 to: the licensing and regulation of thermal system insulation and fire-stop  
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4 fire-stop council, requiring the employment of a state inspector, standards for  
5 installing, removing, and maintaining thermal system insulation and fire-stop  
6 products, requiring the exercise of rule-making authority, and providing a  
7 penalty.

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### *Analysis by the Legislative Reference Bureau*

The Department of Commerce (Commerce) administers various laws, including building codes, that promote safety in public and private buildings and in the subsystems of those buildings. To that end, Commerce issues various licenses, permits, registrations, and other credentials (licenses) to persons engaged in the construction trades such as electricians and plumbers. Commerce also administers and issues licenses in connection with the administration of other laws relating to public safety such as those regulating fireworks and the storage of flammable liquids.

This bill requires Commerce to regulate the business of installing, removing, and maintaining thermal system insulation and fire-stop products (insulation products). The bill defines thermal system insulation as a product used to insulate

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*four* and must have successfully completed a year apprenticeship in the trade of heat and frost insulation

any hot or cold surface other than an insulation product used in the walls of a building. The bill defines a fire-stop product as a product used to prevent the spread of fire or smoke that is installed on or around a pipe, duct, wire, or other penetration through a floor, ceiling, or wall of a building. The bill requires Commerce to license persons who install, remove, and maintain insulation products (mechanics) and persons who are in the business of contracting to provide services for installing, removing, and maintaining insulation products (contractors). The bill also requires Commerce to employ a state thermal system insulation and fire-stop inspector (state inspector). The bill establishes a thermal system insulation and fire-stop council (council). The council is responsible for recommending rules to Commerce that establish standards for the installation, removal, and maintenance of insulation products. The council must also provide other advise to Commerce including recommending a continuing education program for mechanics and contractors.

Under the bill, the state inspector must have at least ~~five~~ years of experience installing, removing, or maintaining insulation products. The state inspector must inspect buildings to determine whether the buildings comply with standards established by Commerce for the installation, removal, and maintenance of insulation products (state standards). The state inspector must also keep complete and accurate records of all inspected buildings and give notice of noncompliance to the owner of every building that fails to comply with state standards. The bill authorizes the state inspector to enter and inspect buildings and to issue orders requiring the owner of a building to make repairs or alterations that are necessary for the building to comply with state standards.

The bill establishes minimum licensing requirements for insulation product mechanics and contractors. Under the bill, a person may not obtain a mechanic's license unless he or she has at least one year of work experience in installing, removing, and maintaining insulation products, has passed a written examination approved by Commerce, has successfully completed an approved apprenticeship program, and has fulfilled any other requirement specified by Commerce.

The bill specifies that in order to be licensed as a contractor, a person must have been in the insulation products contracting business for at least one year, and must have obtained general liability, personal injury, and property damage insurance. The person must also provide employee health and retirement benefits of the type and in the amount determined by Commerce. The bill allows Commerce to waive any licensing requirement for contractors or mechanics for a person who is licensed in another state in which the standards for licensure are at least as strict as the requirements under the bill.

The bill also provides that Commerce may not issue or renew a license issued to a mechanic or a contractor unless the person completes a continuing education course during the previous license period that is approved by Commerce and that meets specified requirements.

*must  
) and be registered  
with the Department  
of Workforce Development  
as a contractor that  
employs and trains  
apprentices in the trade of  
heat and frost insulation;*

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 15.157 (14) of the statutes is created to read:

2           15.157 (14) THERMAL SYSTEM INSULATION AND FIRE-STOP COUNCIL. There is  
3           created in the department of commerce a thermal system insulation and fire-stop  
4           council consisting of the state thermal system insulation and fire-stop inspector who  
5           shall serve as chairperson of the council, the secretary of the department of  
6           commerce or his or her designee, and the following members appointed for 3-year  
7           terms:

8           (a) ~~One member~~ <sup>Two members</sup> who represents a major insulation company.

9           (b) One member who represents an insulation maintenance company.

10          (c) One member who is a building manager.

11          (d) ~~One~~ member who is a mechanic.

12          (e) One member who represents the general public.

insert  
3-12 →

13          **SECTION 2.** 101.136 of the statutes is created to read:

14          **101.136 Thermal system installation. (1) DEFINITIONS.** In this section:

15          (a) “Building” means a commercial, industrial, or residential building,  
16          structure, or facility, as defined by the department by rule, but does not include a  
17          residential building, structure, or facility that contains fewer than 4 residential  
18          units.

19          (b) “Contractor” means a person who is engaged in the business of contracting  
20          to provide services for installing, removing, or maintaining thermal system  
21          insulation and fire-stop products.

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1 (c) “Council” means the thermal system insulation and fire-stop council.

2 (d) “Fire-stop product” means a product that is used to prevent the spread of  
3 fire or smoke and that is installed on or around a pipe, duct, wire, or any other  
4 penetration through a floor, ceiling, or wall of a building.

5 (e) “Mechanic” means a person who installs, removes, or maintains thermal  
6 system insulation and fire-stop products.

7 (f) “State inspector” means the state thermal system insulation and fire-stop  
8 inspector.

9 (g) “Thermal system insulation” means a product that used to insulate any hot  
10 or cold surface including a pipe, duct, valve, boiler, flue, or tank, or equipment on or  
11 in a building. “Thermal system insulation” does not include an insulation product  
12 used in the walls of a home or building.

13 **(2) DUTIES OF THE THERMAL SYSTEM INSULATION AND FIRE-STOP COUNCIL.** (a) The  
14 council shall do all of the following:

15 1. Recommend to the department rules establishing standards for the  
16 installation, removal, and maintenance of thermal system insulation and fire-stop  
17 products in buildings.

18 2. Recommend to the department qualifications for the licensure of mechanics  
19 and contractors and circumstances under which the department may take  
20 disciplinary action against a mechanic or contractor including suspension and  
21 revocation of a license.

22 3. Recommend to the department qualifications for the state inspector.

23 4. Recommend to the department a continuing education program for  
24 mechanics and contractors.

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*and who has successfully completed a 4-year apprenticeship in the trade of heat and frost insulation*

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(b) The council may consult with engineering authorities and other organizations concerned with safety and health issues related to thermal system insulation and fire-stop products and mold in performing its duties under this subsection.

**(3) STATE THERMAL SYSTEM INSULATION AND FIRE-STOP INSPECTOR.** (a) The

department shall employ a person who has at least <sup>15</sup>~~5~~ years of experience as a mechanic as the state thermal system insulation and fire-stop inspector. The state inspector shall work under the direct supervision of the secretary.

(b) The state inspector shall do all of the following:

1. Inspect buildings constructed, or in which the mechanical systems have been altered, on or after the effective date of this paragraph .... [revisor inserts date], to determine whether the installation, removal, or maintenance of thermal system insulation and fire-stop products in those buildings and structures complies with the standards established by the department under sub. (4) (a).

2. Keep complete and accurate records of all inspected buildings including a list identifying all buildings that are in compliance with the standards established by the department under sub. (4) (a), a list of all buildings that are not in compliance with the standards established by the department under sub. (4) (a), and a list of all orders that the state inspector issues under par. (c) 2.

3. Give written notice of noncompliance to the owner of every building that the inspector determines does not comply with the standards established by the department under sub. (4) (a).

(c) The inspector may do any of the following:

1. Enter any building at a reasonable hour for the purpose of inspecting, or gathering information about, any thermal system insulation or fire-stop product.

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1           2. Issue an order requiring the owner of a building to make repairs or  
2 alterations that the inspector determines are necessary in order for the building to  
3 comply with the standards established by the department under sub. (4) (a). The  
4 inspector shall issue such an order in writing.

5           **(4) INSTALLATION STANDARDS.** (a) The department shall promulgate a rule  
6 establishing standards for the installation, removal, and maintenance of thermal  
7 system insulation and fire-stop products in buildings.

8           (b) Every contractor who contracts to install, remove, or maintain thermal  
9 system insulation or firestop products shall ensure that such installation, removal,  
10 and maintenance complies with the standards established by the department under  
11 par. (a).

12           **(5) LICENSING OF MECHANICS AND CONTRACTORS.** (a) No person may install,  
13 remove, or maintain thermal system insulation or fire-stop products in any building  
14 unless that person is a mechanic licensed by the department under this section, is  
15 working under the direct supervision of a licensed mechanic, or is serving an  
16 apprenticeship with a licensed contractor who meets the requirements specified  
17 under ch. 106. A person wishing to obtain a mechanic's license shall apply for a  
18 license from the department on a form provided by the department.

19           (b) No person may contract to install, remove, or maintain thermal system  
20 insulation or fire-stop products in any building unless that person is a contractor  
21 licensed by the department under this subsection. A person wishing to obtain a  
22 contractor's license shall apply for a license from the department on a form provided  
23 by the department. An applicant for a contractor license shall provide all of the  
24 following information on the application:

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1           1. If the applicant is an individual, the name, home address, business address,  
2 and social security number of the applicant.

3           2. If the applicant is a company or business, the applicant's name and business  
4 address, the social security number of each of the applicant's officers, a copy of the  
5 applicant's articles of incorporation, if any, and the name of the company that the  
6 applicant uses to train its employees, if any.

7           3. The number of years that the applicant has been engaged in the business of  
8 contracting.

9           4. Any other information that the department may require.

10          (c) A license issued by the department under this subsection is valid for one  
11 year and may be renewed subject to the continuing education requirements  
12 established under sub. (10).

13          **(6) STANDARDS FOR LICENSURE OF MECHANICS.** (a) The department shall  
14 promulgate rules establishing standards for the licensure of mechanics. Except as  
15 provided in par. (b), the department may not issue a license to a mechanic unless the  
16 mechanic demonstrates, in a manner satisfactory to the department, that he or she  
17 has met all of the following requirements:

18           1. He or she has at least one year of work experience installing, removing, and  
19 maintaining thermal system insulation and fire-stop products.

20           2. He or she has passed a written examination approved by the department.

21           3. He or she has successfully completed an apprenticeship that meets the  
22 requirements specified under ch. 106.

23           4. He or she has completed any other requirement specified by the department  
24 by rule.

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1 (b) The department may waive any requirement, or any portion of a  
2 requirement under par. (a) 1. to 4. for any person with experience in installing,  
3 removing, or maintaining thermal system insulation and fire-stop products upon  
4 submission of evidence satisfactory to the department that the person is qualified for  
5 licensure.

6 (7) STANDARDS FOR LICENSURE OF CONTRACTORS. (a) The department shall  
7 promulgate rules establishing standards for the licensure of contractors including  
8 a requirement that a contractor obtain general liability, personal injury, and  
9 property damage insurance of the type and in the amount determined by the  
10 department and provide employee health and retirement benefits of the type and in  
11 the amount determined by the department.

12 (b) The department may not issue a license to a contractor unless the contractor  
13 has been in the business of contracting for at least one year.

14 (8) LICENSING EXCEPTION. The department may waive a licensing requirement  
15 under sub. (6), (7), or (10) for any person who is licensed as a mechanic or contractor  
16 in another state in which the standards for licensure are at least as strict as the  
17 requirements under subs. (6), (7), and (10).

18 (9) TEMPORARY AND EMERGENCY LICENSES. The department may promulgate  
19 rules establishing standards and procedures for the issuance of temporary and  
20 emergency licenses for mechanics and contractors. The rule shall provide that a  
21 temporary or emergency license issued under this subsection is valid for a period of  
22 30 days.

23 (10) CONTINUING EDUCATION. The department may not renew a license issued  
24 to a mechanic or contractor under this section unless the mechanic or contractor  
25 submits a certificate to the department that demonstrates that the mechanic or

*is registered with the department of workforce development  
as a contractor that employs and trains apprentices in  
the trade of heat and frost insulation*

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1 contractor has attended and successfully completed during the previous license  
2 period a continuing education course approved by the department, upon consultation  
3 with the council, that meets all of the following requirements:

4 (a) The course consists of at least 8 hours of instruction.

5 (b) The course requires passing an examination that consists of at least 100  
6 written questions.

7 (c) The provider of the course keeps a record of course attendance for each  
8 attendee.

9 (d) The provider of the course makes attendance records available to the  
10 department upon request.

11 (11) PENALTIES. (a) A person who violates this section or who does any of the  
12 following is subject to a forfeiture of not more than \$5,000 and the suspension or  
13 revocation of his or her license issued under this section:

14 1. Makes a false statement of material fact in an application for the issuance  
15 or renewal of a license under this section.

16 2. Engages in fraud, misrepresentation, or bribery in order to obtain a license  
17 under this section.

18 3. Fails to notify the department or the owner or lessee of any building that the  
19 building fails to meet the standards established by the department by rule under  
20 sub. (4) (a).

21 (b) A person who fails to comply with an order issued by the state inspector  
22 under this section may be subject to a forfeiture in an amount determined by the  
23 department by rule.

24 **SECTION 3.** 101.19 (1) (k) of the statutes is created to read:



**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2620/2ins.  
RNK:.....

**INSERT 3-12**

(b) One architect licensed to do business in this state with work experience in the area of indoor air quality.

(c) One industrial hygienist with work experience in the area of indoor air quality, mold, and fungal growth.

d (c) One member who represents teachers and school administrators in this state.

e (c) Two members who are mechanics with at least 15 years of experience in the area of heat and frost insulation.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2620/2dn

RNK: kjf

Date

Among other changes, this redraft adds a requirement that a licensed contractor must be registered with the Department of Workforce Development (DWD) as a contractor that employs and trains apprentices in the trade of heat and frost insulation. Current statutes and administrative rules do not appear to specifically require DWD to "register" members of a given trade as qualified to employ and train apprentices, although this may occur as a practical matter. You may wish to discuss this issue with the appropriate person at DWD.

If you have any other questions with regard to this draft, please feel free to contact me.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2620/2dn  
RNK:kjf:jf

March 7, 2006

Among other changes, this redraft adds a requirement that a licensed contractor must be registered with the Department of Workforce Development (DWD) as a contractor that employs and trains apprentices in the trade of heat and frost insulation. Current statutes and administrative rules do not appear to specifically require DWD to "register" members of a given trade as qualified to employ and train apprentices, although this may occur as a practical matter. You may wish to discuss this issue with the appropriate person at DWD.

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**Basford, Sarah**

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**From:** Powell, Thomas  
**Sent:** Wednesday, March 08, 2006 2:35 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 05-2620/2 Topic: Licensing of thermal insulation mechanics and contractors

Please Jacket LRB 05-2620/2 for the ASSEMBLY.