



## 2005 ASSEMBLY BILL 1165

April 3, 2006 - Introduced by Representative BERCEAU. Referred to Committee on Labor.

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  
3           product mechanics and contractors, creating a thermal system insulation and  
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

**ASSEMBLY BILL 1165**

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 15 years of experience installing, removing, or maintaining insulation products and must have successfully completed a four-year apprenticeship in the trade of heat and frost insulation. 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, must be registered with the Department of Workforce Development as a contractor that employs and trains apprentices in the trade of heat and frost insulation, 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.

**ASSEMBLY BILL 1165**

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

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*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) Two members who represents a major insulation company.

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

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

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

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

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

18          **101.136 Thermal system installation. (1) DEFINITIONS.** In this section:

19          (a) “Building” means a commercial, industrial, or residential building,  
20          structure, or facility, as defined by the department by rule, but does not include a

**ASSEMBLY BILL 1165****SECTION 2**

1 residential building, structure, or facility that contains fewer than 4 residential  
2 units.

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

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

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

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

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

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

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

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

23 2. Recommend to the department qualifications for the licensure of mechanics  
24 and contractors and circumstances under which the department may take

**ASSEMBLY BILL 1165**

1 disciplinary action against a mechanic or contractor including suspension and  
2 revocation of a license.

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

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

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

10 **(3) STATE THERMAL SYSTEM INSULATION AND FIRE-STOP INSPECTOR.** (a) The  
11 department shall employ a person who has at least 15 years of experience as a  
12 mechanic, and who has successfully completed a 4-year apprenticeship in the trade  
13 of heat and frost insulation, as the state thermal system insulation and fire-stop  
14 inspector. The state inspector shall work under the direct supervision of the  
15 secretary.

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

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

22 2. Keep complete and accurate records of all inspected buildings including a list  
23 identifying all buildings that are in compliance with the standards established by the  
24 department under sub. (4) (a), a list of all buildings that are not in compliance with

**ASSEMBLY BILL 1165****SECTION 2**

1 the standards established by the department under sub. (4) (a), and a list of all orders  
2 that the state inspector issues under par. (c) 2.

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

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

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

20 **(5) LICENSING OF MECHANICS AND CONTRACTORS.** (a) No person may install,  
21 remove, or maintain thermal system insulation or fire-stop products in any building  
22 unless that person is a mechanic licensed by the department under this section, is  
23 working under the direct supervision of a licensed mechanic, or is serving an  
24 apprenticeship with a licensed contractor who meets the requirements specified

**ASSEMBLY BILL 1165**

1 under ch. 106. A person wishing to obtain a mechanic's license shall apply for a  
2 license from the department on a form provided by the department.

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

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

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

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

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

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

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

**ASSEMBLY BILL 1165****SECTION 2**

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

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

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

6           4. He or she has completed any other requirement specified by the department  
7 by rule.

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

13           **(7) 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 general liability, personal injury, and  
16 property damage insurance of the type and in the amount determined by the  
17 department and provide employee health and retirement benefits of the type and in  
18 the amount determined by the department.

19           (b) The department may not issue a license to a contractor unless the contractor  
20 has been in the business of contracting for at least one year and is registered with  
21 the department of workforce development as a contractor that employs and trains  
22 apprentices in the trade of heat and frost insulation.

23           **(8) LICENSING EXCEPTION.** The department may waive a licensing requirement  
24 under sub. (6), (7), or (10) for any person who is licensed as a mechanic or contractor

**ASSEMBLY BILL 1165**

1 in another state in which the standards for licensure are at least as strict as the  
2 requirements under subs. (6), (7), and (10).

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

8 (10) CONTINUING EDUCATION. The department may not renew a license issued  
9 to a mechanic or contractor under this section unless the mechanic or contractor  
10 submits a certificate to the department that demonstrates that the mechanic or  
11 contractor has attended and successfully completed during the previous license  
12 period a continuing education course approved by the department, upon consultation  
13 with the council, that meets all of the following requirements:

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

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

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

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

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

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

**ASSEMBLY BILL 1165****SECTION 2**

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

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

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

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

10           101.19 (1) (k) The licensing of thermal system insulation and fire-stop product  
11 mechanics and contractors under s. 101.136 and the inspection of buildings under  
12 s. 101.136.

13           **SECTION 4. Nonstatutory provisions.**

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

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

18           (b) Two members for a term that expires on July 1, 2009.

19           (c) Three members for a term that expires on July 1, 2010.

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

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

