



2007 ASSEMBLY BILL 388

May 31, 2007 - Introduced by Representatives NEWCOMER, BERCEAU, JESKEWITZ, TURNER, A. OTT, RICHARDS, SHERIDAN, HINES, KLEEFISCH, ZEPNICK, SINICKI, FIELDS, MASON, VAN ROY and GRIGSBY, cosponsored by Senators COGGS, A. LASEE, LEHMAN, OLSEN, HANSEN, PLALE, SULLIVAN, DARLING, LASSA, ERPENBACH, KREITLOW, MILLER and WIRCH. Referred to Committee on Labor and Industry.

1 **AN ACT** *to amend* 101.02 (20) (a) and 101.02 (21) (a); and *to create* 15.157 (15)
2 and 101.136 of the statutes; **relating to:** the licensing and regulation of
3 thermal system insulation and fire-stop product mechanics and contractors;
4 creating a thermal system insulation and fire-stop council; requiring the
5 employment of a state inspector; establishing standards for installing,
6 removing, and maintaining thermal system insulation and fire-stop products;
7 requiring the exercise of rule-making authority; and providing a penalty.

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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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 advice to Commerce including recommending training and continuing education requirements for mechanics.

Under the bill, the state inspector must have at least ten years of experience as a mechanic 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 who 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 met requirements established by Commerce by rule and has either completed a minimum level of training and passed a written examination approved by Commerce or has successfully completed an approved apprenticeship program.

The bill specifies that, in order to be licensed as a contractor, a person must meet requirements established by Commerce by rule, must be registered with the Department of Workforce Development as a contractor that employs and trains apprentices, and be skilled in the installation of insulation products. 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. It also allows Commerce to waive any licensing requirement for experienced mechanics who submit evidence satisfactory to Commerce that the mechanic is qualified for licensure. The bill also provides that Commerce may not renew a license issued to a mechanic unless the mechanic completes a continuing education course during the previous license period that is approved by Commerce.

The bill authorizes Commerce to directly assess a forfeiture by issuing an order against any person who installs, or contracts to install, insulation products without a license or who fails to comply with an order issued by the state inspector.

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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 (15) of the statutes is created to read:

2 15.157 (15) 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 commerce or his or her
6 designee, and the following members appointed for 3-year terms:

7 (a) Two members who represent a major insulation company.

8 (b) One member who is an architect licensed to do business in this state with
9 work experience in the area of indoor air quality.

10 (c) One member who is an industrial hygienist with work experience in the area
11 of indoor air quality, mold, and fungal growth.

12 (d) Two members who are mechanics with at least 10 years of experience in the
13 area of heat and frost insulation.

14 (e) One member who is an adult resident of this state.

15 **SECTION 2.** 101.02 (20) (a) of the statutes, as affected by 2005 Wisconsin Act
16 456, is amended to read:

17 101.02 (20) (a) For purposes of this subsection, "license" means a license,
18 permit or certificate of certification or registration issued by the department under
19 ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17,
20 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6),

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1 101.82 (2), 101.87, 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4),
2 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

3 **SECTION 3.** 101.02 (21) (a) of the statutes, as affected by 2005 Wisconsin Act
4 456, is amended to read:

5 101.02 **(21)** (a) In this subsection, “license” means a license, permit or
6 certificate of certification or registration issued by the department under s. 101.09
7 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a),
8 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935,
9 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15,
10 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

11 **SECTION 4.** 101.136 of the statutes is created to read:

12 **101.136 Regulation of thermal system installation. (1) DEFINITIONS.** In
13 this section:

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

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

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

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

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1 (e) "Mechanic" means a person who installs, removes, or maintains thermal
2 system insulation and fire-stop products.

3 (f) "State inspector" means the state thermal system insulation and fire-stop
4 inspector.

5 (g) "Thermal system insulation" means a product that is used to insulate any
6 hot or cold surface including a pipe, duct, valve, boiler, flue, or tank, or equipment
7 on or in a building. "Thermal system insulation" does not include an insulation
8 product used in the walls of a home or building.

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

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

14 2. Recommend to the department requirements for the licensure of mechanics
15 and contractors and circumstances under which the department may take
16 disciplinary action against a mechanic or contractor including suspension and
17 revocation of a license.

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

19 4. Recommend to the department training and continuing education
20 requirements for mechanics.

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

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

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

8 1. Inspect buildings constructed, or in which the mechanical systems have been
9 altered, on or after the effective date of this subdivision [revisor inserts date], to
10 determine whether the installation, removal, or maintenance of thermal system
11 insulation and fire-stop products in those buildings and structures complies with the
12 standards established by the department under sub. (4) (d). The state inspector shall
13 conduct the inspections on a random basis and whenever requested to do so by a local
14 building inspector.

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

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

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

24 1. Enter any building at a reasonable hour for the purpose of inspecting, or
25 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) (d). The
4 inspector shall issue such an order in writing.

5 **(4) RULES.** The department shall promulgate rules establishing all of the
6 following:

7 (a) Requirements for the licensing of mechanics and contractors. The rules
8 shall provide that a license issued to a mechanic or a contractor under this section
9 is valid for 2 years and is renewable.

10 (b) License fees for mechanics and contractors. The rules shall establish fees
11 for the licensing of mechanics and contractors that are not less than \$250 nor more
12 than \$1,000 for each license period.

13 (c) Training and continuing education requirements for mechanics.

14 (d) Standards for the installation, removal, and maintenance of thermal
15 system insulation and fire-stop products in buildings.

16 (e) Procedures governing the assessment of forfeitures under sub. (14)
17 including the procedure for issuing an order for an alleged violation of this section,
18 the procedure for contesting an order issued for an alleged violation of this section,
19 and the procedure for contesting the assessment of a forfeiture for an alleged
20 violation of this section.

21 **(5) COMPLIANCE WITH INSTALLATION STANDARDS.** Every contractor who contracts
22 to install, remove, or maintain thermal system insulation or firestop products shall
23 ensure that such installation, removal, and maintenance complies with the
24 standards established by the department under sub. (4) (d).

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1 **(6) LICENSING OF MECHANICS AND CONTRACTORS.** (a) 1. No person may install,
2 remove, or maintain thermal system insulation or fire-stop products in any building
3 unless that person is a mechanic licensed by the department under this section, is
4 working under the direct supervision of a licensed mechanic, or is serving an
5 apprenticeship with a licensed contractor who meets the requirements specified
6 under ch. 106.

7 2. A person wishing to obtain a mechanic's license shall apply for a license by
8 submitting an application on a form provided by the department together with the
9 applicable fee.

10 (b) 1. No person may contract to install, remove, or maintain thermal system
11 insulation or fire-stop products in any building unless that person is a contractor
12 licensed by the department under this subsection.

13 2. A person wishing to obtain a contractor's license shall apply for a license from
14 the department by submitting an application on a form provided by the department
15 together with the applicable fee.

16 **(7) REQUIREMENTS FOR LICENSURE OF MECHANICS.** (a) Except as provided in par.
17 (b), the department may not issue a license to a mechanic unless the mechanic
18 demonstrates, in a manner satisfactory to the department, that he or she has met the
19 requirements established by the department by rule and either of the following
20 requirements:

21 1. He or she has successfully completed at least 160 hours of relevant training
22 approved by the department, upon consultation with the council, and has passed a
23 written examination approved by the department.

24 2. He or she has successfully completed an apprenticeship that meets the
25 requirements specified under ch. 106.

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

5 (c) The department may not renew a license issued to a mechanic under this
6 section unless the mechanic submits a certificate to the department that
7 demonstrates that the mechanic has attended and successfully completed during the
8 previous license period a continuing education course approved by the department,
9 upon consultation with the council.

10 **(8) REQUIREMENTS FOR LICENSURE OF CONTRACTORS.** The department may not
11 issue a license to a contractor unless the contractor meets all of the following
12 requirements:

13 (a) The contractor is registered with the department of workforce development
14 as a contractor that employs and trains apprentices in the trade of heat and frost
15 insulation.

16 (b) The contractor is skilled in the planning, superintending, and practical
17 installation of thermal system insulation and fire-stop products.

18 (c) The contractor demonstrates, in a manner satisfactory to the department,
19 that the contractor has met the requirements established by the department by rule.

20 **(9) LICENSING EXCEPTION.** The department may waive a licensing requirement
21 under sub. (7) or (8) for any person who is licensed as a mechanic or contractor in
22 another state in which the standards for licensure are at least as strict as the
23 requirements under subs. (7) or (8).

24 **(10) TEMPORARY AND EMERGENCY LICENSES.** The department may promulgate
25 rules establishing standards and procedures for the issuance of temporary and

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1 emergency licenses for mechanics and contractors. The rule shall provide that a
2 temporary or emergency license issued under this subsection is valid for a period of
3 30 days.

4 **(11) PROHIBITIONS.** No person may do any of the following:

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

7 (b) Engage in fraud, misrepresentation, or bribery in order to obtain a license
8 under this section.

9 (c) Fail 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
11 sub. (4) (d).

12 **(12) PENALTIES.** A person who violates this section or who fails to comply with
13 an order issued by the state inspector under this section is subject to a forfeiture of
14 not less than \$2,000 nor more than \$5,000 for each violation.

15 **(13) ASSESSMENT OF FORFEITURES BY THE DEPARTMENT.** (a) The department may
16 directly assess a forfeiture by issuing an order against any person who violates this
17 section or who fails to comply with an order issued by the state inspector under this
18 section.

19 (b) The department shall remit all forfeitures paid to the department under this
20 subsection to the secretary of administration for deposit in the school fund.

21 (c) All forfeitures that are not paid to the department as required under this
22 subsection shall accrue interest at the rate of 12 percent per year.

23 (d) The attorney general may bring an action in the name of the state to collect
24 any forfeiture imposed by the department, or interest accrued, if the forfeiture or

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1 interest has not been paid after the exhaustion of all administrative and judicial
2 reviews.

3 **SECTION 5. Nonstatutory provisions.**

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

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

8 (b) Two members for a term that expires on July 1, 2010.

9 (c) Three members for a term that expires on July 1, 2011.

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

15 **SECTION 6. Effective dates.** This act takes effect on first day of the 12th month
16 beginning after publication, except as follows:

17 (1) The treatment of sections 15.157 (15), and 101.136 (1), (2), (3), (4), and (10)
18 of the statutes and SECTION 5 of this act take effect on the day after publication.

19 (END)