

**SENATE SUBSTITUTE AMENDMENT 2,
TO 2007 SENATE BILL 194**

November 29, 2007 – Offered by Senator COGGS.

1 **AN ACT** *to amend* 20.143 (3) (j), 101.02 (20) (a) and 101.02 (21) (a); and *to create*
2 15.157 (15) and 101.136 of the statutes; **relating to:** the licensing and
3 regulation of thermal system insulation mechanics; creating a thermal system
4 insulation council; requiring the employment of a state inspector; establishing
5 standards for installing and maintaining thermal system insulation; requiring
6 the exercise of rule-making authority; making an appropriation; and providing
7 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 substitute amendment requires Commerce to regulate the business of installing and maintaining thermal system insulation in commercial and industrial

buildings and in residential buildings that contain four or more residential units. The substitute amendment defines thermal system insulation as a product used in a heating, ventilating, cooling, plumbing, or refrigeration system (heating or cooling system) to insulate any hot or cold surface on or in a building. The substitute amendment requires Commerce to license most persons who install and maintain thermal system insulation in heating and cooling systems (mechanics). The substitute amendment also requires Commerce to employ a state thermal system insulation inspector (state inspector). The substitute amendment establishes a thermal system insulation council (council). The council is responsible for recommending to Commerce requirements for the licensure of mechanics. The council must also provide other advice to Commerce including recommending training and continuing education requirements for mechanics.

Under the substitute amendment, the state inspector must have at least ten years of experience as a mechanic and must have successfully completed a four-year apprenticeship program in installing and maintaining thermal system insulation. The state inspector must inspect buildings to determine whether the buildings comply with standards established by Commerce for the installation and maintenance of thermal system insulation (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 substitute amendment 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. Under the substitute amendment, the state inspector must also provide assistance and information to local building inspectors who inspect buildings for compliance with the standards established by Commerce under this substitute amendment.

The substitute amendment establishes minimum licensing requirements for thermal system insulation mechanics. Under the substitute amendment, a person may not obtain a mechanic's license unless he or she has acquired a specified amount of experience installing and maintaining thermal system insulation and passed a written examination approved by Commerce or has successfully completed an approved apprenticeship program. The licensing requirement under the substitute amendment does not apply to a person who makes only minor repairs to thermal system insulation.

The substitute amendment allows Commerce to waive any licensing requirement for 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 substitute amendment. 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 substitute amendment 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 substitute amendment 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.

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 COUNCIL. There is created in the
3 department of commerce a thermal system insulation council consisting of the state
4 thermal system insulation inspector who shall serve as a nonvoting secretary of the
5 council, the secretary of commerce or his or her designee, and the following members
6 appointed for 3–year terms:

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

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

12 (d) One member who is a general contractor in this state.

13 **SECTION 2.** 20.143 (3) (j) of the statutes, as affected by 2007 Wisconsin Act 20,
14 is amended to read:

15 20.143 **(3)** (j) *Safety and building operations.* The amounts in the schedule for
16 the purposes of chs. 101, 145, and 168 and ss. 101.136 (4) (b), 236.12 (2) (a), 236.13
17 (1) (d) and (2m), and 236.335, for the purpose of transferring the amounts in the
18 schedule under par. (kg) to the appropriation account under par. (kg), and for the
19 purpose of transferring the amounts in the schedule under par. (km) to the
20 appropriation account under par. (km). All moneys received under ch. 145, ss.

1 101.177 (4) (a) 4., 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4),
2 101.955 (2), 101.973 (7), and 236.12 (7), except moneys received under s. 101.9208
3 (2m), and all moneys transferred under 2005 Wisconsin Act 45, section 76 (6), shall
4 be credited to this appropriation.

5 **SECTION 3.** 101.02 (20) (a) of the statutes, as affected by 2005 Wisconsin Act
6 456, is amended to read:

7 101.02 **(20)** (a) For purposes of this subsection, “license” means a license,
8 permit or certificate of certification or registration issued by the department under
9 ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17,
10 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6),
11 101.82 (2), 101.87, 101.935, 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4),
12 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

13 **SECTION 4.** 101.02 (21) (a) of the statutes, as affected by 2005 Wisconsin Act
14 456, is amended to read:

15 101.02 **(21)** (a) In this subsection, “license” means a license, permit or
16 certificate of certification or registration issued by the department under s. 101.09
17 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a),
18 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935,
19 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15,
20 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

21 **SECTION 5.** 101.136 of the statutes is created to read:

22 **101.136 Regulation of thermal system insulation installation. (1)**

23 **DEFINITIONS.** In this section:

1 (a) “Building” means a commercial, industrial, or residential building,
2 structure, or facility, as defined by the department by rule, but does not include a
3 residential building, structure, or facility that contains 3 or fewer residential units.

4 (b) “Building inspector” means a person who is certified under rules
5 promulgated by the department to make inspections of public buildings and places
6 of employment.

7 (c) “Council” means the thermal system insulation council.

8 (d) “Mechanic” means a person who installs or maintains thermal system
9 insulation in heating, ventilating, cooling, plumbing, and refrigeration systems.

10 (e) “State inspector” means the state thermal system insulation inspector.

11 (f) “Thermal system insulation” means a product that is used in a heating,
12 ventilating, cooling, plumbing, or refrigeration system to insulate any hot or cold
13 surface including a pipe, duct, valve, boiler, flue, or tank, or equipment on or in a
14 building.

15 **(2) DUTIES OF THE THERMAL SYSTEM INSULATION COUNCIL.** (a) The council shall
16 do all of the following:

17 1. Recommend to the department rules establishing standards for the
18 installation and maintenance of thermal system insulation in buildings.

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

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

23 4. Recommend to the department training and continuing education
24 requirements for mechanics.

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

4 **(3) INSPECTION.** (a) The department shall employ a person who has at least 10
5 years of experience as a mechanic, and who has successfully completed a 4–year
6 apprenticeship program in installing and maintaining thermal system insulation,
7 as the state inspector. The state inspector shall work under the direct supervision
8 of the secretary or his or her designee.

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

10 1. Inspect buildings constructed, or in which the mechanical systems have been
11 altered, on or after the first day of the 19th month beginning after the effective date
12 of this subdivision [revisor inserts date], to determine whether the installation or
13 maintenance of thermal system insulation in those buildings complies with the
14 standards established by the department under sub. (4) (d). The state inspector shall
15 conduct the inspections on a random basis and whenever requested to do so by a local
16 building inspector.

17 2. Provide assistance and information to local building inspectors who inspect
18 buildings for compliance with the standards established by the department under
19 sub. (4) (d).

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

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

4 (c) The state inspector may issue an order requiring the owner of a building to
5 make repairs or alterations that the state inspector determines are necessary in
6 order for the building to comply with the standards established by the department
7 under sub. (4) (d). The inspector shall issue such an order in writing.

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

10 (a) Requirements for the licensing of mechanics. The rules shall provide that
11 a license issued to a mechanic under this section is valid for 2 years and is renewable.

12 (am) A definition of “minor repairs” for purposes of sub. (5) (a) 2.

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

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

16 (d) Standards for the installation and maintenance of thermal system
17 insulation in buildings. The department shall base the standards, to the extent
18 possible, on national industry standards for installing and maintaining thermal
19 system insulation.

20 (e) Procedures governing the assessment of forfeitures under sub. (11)
21 including the procedure for issuing an order for an alleged violation of this section,
22 the procedure for contesting an order issued for an alleged violation of this section,
23 and the procedure for contesting the assessment of a forfeiture for an alleged
24 violation of this section.

1 **(5) LICENSING OF MECHANICS.** (a) 1. Except as provided in subd. 2., beginning
2 on the first day of the 48th month beginning after the effective date of this
3 subdivision, no person may install or maintain thermal system insulation in any
4 building unless that person is a mechanic licensed by the department under this
5 section, is working under the direct supervision of a licensed mechanic, or is serving
6 an apprenticeship in the installation and maintenance of thermal system insulation
7 that meets the requirements specified under ch. 106.

8 2. Subdivision 1. does not apply to a person who makes only minor repairs to
9 thermal system insulation.

10 (b) A person wishing to obtain a mechanic's license shall apply for a license by
11 submitting an application on a form provided by the department together with the
12 applicable fee.

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

18 1. He or she has at least 1,000 hours of experience in each of 4 consecutive years
19 installing and maintaining thermal system insulation under the supervision of a
20 licensed mechanic and has passed an examination approved by the department.

21 2. He or she has successfully completed an apprenticeship program in
22 installing and maintaining thermal system insulation that is approved by the
23 department and that meets the requirements of the department of workforce
24 development under ch. 106.

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 or
3 maintaining thermal system insulation upon submission of evidence satisfactory to
4 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 **(7) LICENSING EXCEPTIONS.** The department may waive a licensing requirement
11 under sub. (6) for any person who is licensed as a mechanic in another state in which
12 the standards for licensure are at least as strict as the requirements under sub. (6).

13 **(8) TEMPORARY AND EMERGENCY LICENSES.** The department may promulgate
14 rules establishing standards and procedures for the issuance of temporary and
15 emergency licenses for mechanics. The rule shall provide that a temporary or
16 emergency license issued under this subsection is valid for a period of 30 days.

17 **(9) PROHIBITIONS.** No person may do any of the following:

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

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

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

1 **(11) ASSESSMENT OF FORFEITURES BY THE DEPARTMENT.** (a) The department may
2 directly assess a forfeiture by issuing an order against any person who violates this
3 section or who fails to comply with an order issued by the state inspector under this
4 section.

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

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

9 (d) The attorney general may bring an action in the name of the state to collect
10 any forfeiture imposed by the department, or interest accrued, if the forfeiture or
11 interest has not been paid after the exhaustion of all administrative and judicial
12 reviews.

13 **SECTION 6. Nonstatutory provisions.**

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

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

19 (b) Two members for a term that expires on July 1, 2011.

20 (c) Two members for a term that expires on July 1, 2012.

21 **SECTION 7. Fiscal changes.**

22 (1) STATE THERMAL SYSTEM INSULATION INSPECTOR. In the schedule under section
23 20.005 (3) of the statutes for the appropriation to the department of commerce under
24 section 20.143 (3) (j) of the statutes, as affected by the acts of 2007, the dollar amount
25 is increased by \$78,100 for fiscal year 2007–08 and the dollar amount is increased

1 by \$78,100 for fiscal year 2008–09 to increase the authorized FTE positions for the
2 department of commerce by 1.0 PR position to perform the responsibilities of the
3 state thermal system insulation inspector.

4 (END)