

State of Wisconsin



2009 Senate Bill 94

Date of enactment: **May 29, 2009**
Date of publication*: **June 12, 2009**

2009 WISCONSIN ACT 16

AN ACT *to amend* 20.143 (3) (j), 101.02 (20) (a) and 101.02 (21) (a); and *to create* 15.157 (15) and 101.136 of the statutes; **relating to:** the licensing and regulation of thermal system insulation mechanics; creating a thermal system insulation council; requiring the employment of a state inspector; establishing standards for installing and maintaining thermal system insulation; requiring the exercise of rule-making authority; making an appropriation; and providing a penalty.

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

SECTION 1. 15.157 (15) of the statutes is created to read:

15.157 (15) THERMAL SYSTEM INSULATION COUNCIL. There is created in the department of commerce a thermal system insulation council consisting of the state thermal system insulation inspector who shall serve as a nonvoting secretary of the council, the secretary of commerce or his or her designee, and the following members appointed for 3-year terms:

(a) Two members who represent major insulation companies that sponsor an apprenticeship training program in installing and maintaining thermal system insulation that is approved by the department and that meets the requirements of the department of workforce development under ch. 106.

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

(c) Two members who are mechanics with at least 10 years of experience in the area of heat and frost insulation and who have successfully completed training in instal-

ling and maintaining thermal system insulation under an apprenticeship program that is approved by the department and that meets the requirements of the department of workforce development under ch. 106.

(d) One member who is a plumbing, heating, or cooling contractor in this state.

SECTION 2. 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, for the purpose of transferring the amounts in the schedule under par. (kg) to the appropriation account under par. (kg), and for the purpose of transferring the amounts in the schedule under par. (km) to the appropriation account under par. (km). All moneys received under ch. 145, ss. ~~101.136 (6) (b)~~, 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.

SECTION 3. 101.02 (20) (a) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

SECTION 4. 101.02 (21) (a) of the statutes is amended to read:

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

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

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

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

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

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

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

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

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

(2) **STANDARDS.** The department shall promulgate rules establishing standards for the installation and maintenance of thermal system insulation in buildings. The department shall base the standards, to the extent possible, on national industry standards for installing and maintaining thermal system insulation. Beginning on the first day of the 19th month beginning after the effective date of this subsection ... [LRB inserts date], thermal system insulation in buildings shall conform to these standards.

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

1. Recommend rules for promulgation by the department to establish standards for the installation and maintenance of thermal system insulation in buildings.

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

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

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

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

(4) **INSPECTION.** (a) The department shall employ a person who has at least 10 years of experience as a mechanic, and who has successfully completed an apprenticeship program in installing and maintaining thermal system insulation that is approved by the department and that meets the requirements of the department of workforce development under ch. 106, as the state inspector. The state inspector shall work under the direct supervision of the secretary or his or her designee.

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

1. Inspect buildings constructed, or in which the mechanical systems have been altered, to determine whether the installation or maintenance of thermal system insulation in those buildings complies with the standards established by the department under sub. (2). The state inspector shall conduct the inspections on a random basis and whenever requested to do so by a building inspector. This subdivision applies to buildings constructed, and mechanical systems that have been altered, on or after the first day of the 19th month beginning after the effective date of this subdivision ... [LRB inserts date].

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

3. 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. (2), a list of all buildings that are not in compliance with the standards established by the department under sub. (2), and a list of all orders that the state inspector issues under par. (c).

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

(c) The state inspector may issue an order requiring the owner of a building to make repairs or alterations that the state inspector determines are necessary in order for the building to comply with the standards established by

the department under sub. (2). The inspector shall issue such an order in writing.

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

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

(b) A definition of "minor repairs" for purposes of sub. (6) (a) 2.

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

(d) Training and continuing education requirements for mechanics.

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

(6) LICENSING OF MECHANICS. (a) 1. Except as provided in subd. 2., beginning on the first day of the 24th month beginning after the effective date of this subdivision [LRB inserts date], no person may install or maintain thermal system insulation in any building unless that person is a mechanic licensed by the department under this section, is working under the direct supervision of a licensed mechanic, or is serving an apprenticeship in the installation and maintenance of thermal system insulation that meets the requirements specified under ch. 106.

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

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

(c) Except as provided in par. (d), the department may not issue a license to a mechanic unless the mechanic meets the requirements established by the department by rule and either of the following requirements:

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

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

(d) The department may waive any requirement, or any portion of a requirement under par. (c) for any person with experience in installing or maintaining thermal system insulation upon submission of evidence satisfactory

to the department that the person is qualified for licensure.

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

(7) LICENSING EXCEPTIONS. The department may waive a licensing requirement under sub. (6) for any person who is licensed as a mechanic in another state in which the standards for licensure are at least as strict as the requirements under sub. (6).

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

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

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

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

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

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

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

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

(d) The attorney general may bring an action in the name of the state to collect any forfeiture imposed by the department, or interest accrued, if the forfeiture or interest has not been paid after the exhaustion of all administrative and judicial reviews. The only contestable issue in such an action is whether the forfeiture has been paid.

SECTION 6. Nonstatutory provisions.

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

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- (a) Two members for a term that expires on July 1, 2012.
- (b) Two members for a term that expires on July 1, 2013.
- (c) Two members for a term that expires on July 1, 2014.

SECTION 7. Fiscal changes.

(1) STATE THERMAL SYSTEM INSULATION INSPECTOR. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of commerce under section 20.143 (3) (j) of the statutes, as affected by the

acts of 2009, the dollar amount is increased by \$78,100 for fiscal year 2009–10 and the dollar amount is increased by \$78,100 for fiscal year 2010–11 to increase the authorized FTE positions for the department of commerce by 1.0 PR position to perform the responsibilities of the state thermal system insulation inspector.

SECTION 8. Effective date.

(1) This act takes effect on the day after publication, or on the 2nd day after publication of the 2009–11 biennial budget act, whichever is later.

