

**2009 DRAFTING REQUEST**

**Bill**

Received: **11/13/2008**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing: **Adam**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Buildings/Safety - lic and reg**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

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**Topic:**

Regulation of thermal insulation system mechanics

---

**Instructions:**

Same as Senate Substitute Amendment 2 to 2007 SB 194

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 11/18/2008	wjackson 12/11/2008		_____			
/P1			mduchek 12/12/2008	_____	sbasford 12/12/2008		S&L
/1	rkite 12/17/2008	wjackson 12/18/2008	phenry 12/18/2008	_____	sbasford 12/18/2008		S&L
/2	rkite	wjackson	phenry	_____	lparisi	cduerst	

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	01/09/2009	01/10/2009	01/13/2009	_____	01/13/2009	01/20/2009	

FE Sent For: "1/2" @ intro. 2/27/09

<END>

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*12 Wj 1/10*  
*1/3ph*  
*1/3ph/nd*

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/P1		1/11/12/18	mduchek 12/12/2008	_____	sbasford 12/12/2008		

FE Sent For:

12/18  
ph

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ph/mo

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/?	rkite	1/1 WJ 12/11	1/1 12/11	1/1 PA 12/11			

FE Sent For:

<END>



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

10-14-09

Per Adam-

O.K. to rework perfection language

OK to talk to Kendra at LFB re: fees + 20.143(3)(j)

Re: his question about emergency rules - told him that I didn't think they were necessary

Rm not run  
- 0763/P1  
LRBS 0144/31  
RNK: [unclear]  
Wlj

In  
10/18

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

2009 BILL

D-Note

November 29, 2007 - Offered by Senator COGGS.

LPS: Please  
PWF

Regen

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**

LPS: "Substitute Amendment"  
is a bill in  
the 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 ~~substitute amendment~~ <sup>bill</sup> requires Commerce to regulate the business of installing and maintaining thermal system insulation in commercial and industrial

bill

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~~ <sup>or</sup> 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~~ <sup>which recommends</sup> recommending to Commerce <sup>the</sup> 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~~ <sup>successfully</sup> 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~~ <sup>conform to</sup> ~~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~~ <sup>bill</sup>.

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~~ <sup>successfully</sup> 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. <sup>bill</sup>

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~~ <sup>bill's</sup> ~~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~~ <sup>also</sup> 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~~ <sup>approved by Commerce</sup> <sup>that is</sup> approved by Commerce. <sup>Keep period</sup>

bill

conform to

bill

further

an approved

The bill

Keep period

bill

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 10~~  
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.

1010136 (6)(b) ✓

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.

insert  
5-14

rules for promulgation by to establish  
rules establishing

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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 <sup>(4) (2)</sup> (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). <sup>(2) ✓</sup> 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). <sup>(2) ✓</sup>

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). <sup>(2) ✓</sup> a list of all buildings that are not in compliance with  
23 the standards established by the department under sub. (4) (d), <sup>(2) ✓</sup> and a list of all orders  
24 that the state inspector issues under par. (c). <sup>✓</sup>

No 9 This <sup>subdivision</sup> ~~provision~~ 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]

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) (2)

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) (2). 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. (b) ✓

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~~<sup>24th</sup> month beginning after the effective date of this  
 3 subdivision, ~~no person may~~ <sup>.... [LRB inserts date]</sup> 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 <sup>meets</sup>  
 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           <sup>(d)</sup>  
2           ~~(b)~~ The department may waive any requirement, or any portion of a  
3 requirement under par. <sup>(c)</sup>~~(a)~~ for any person with experience in installing or  
4 maintaining thermal system insulation upon submission of evidence satisfactory to  
5 the department that the person is qualified for licensure.

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

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

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

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

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

22           <sup>(e)</sup>  
23           ~~(b)~~ Engage in fraud, misrepresentation, or bribery in order to obtain a license  
24 under this section.

25           **(10) PENALTIES.** A person who violates this section or who fails to comply with  
26 an order issued by the state inspector under this section is subject to a forfeiture of  
27 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 <sup>to</sup> 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. *The only contestable issue in such an action*

13 *is whether ~~or not~~ the forfeiture has been paid.*

**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~~ <sup>2012</sup>

19 (b) Two members for a term that expires on July 1, ~~2011~~ <sup>2013</sup>

20 (c) Two members for a term that expires on July 1, ~~2012~~ <sup>2014</sup>

**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 <sup>2009</sup> ~~2007~~, the dollar amount  
25 is increased by \$78,100 for fiscal year 2007-08 and the dollar amount is increased

insert  
10-4

2008-09

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.

2009-10

insert  
11-3



4 (END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0763/P1ins.  
RNK:.....

LPS: Please  
check spacing.

INSERT 5-14

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

INSERT 10-4

8 (8) <sup>Notif</sup> The department may directly assess a forfeiture provided for <sup>under</sup> ~~an~~ sub<sup>10</sup> (10). If the  
9 department determines that a forfeiture should be assessed, the department shall  
10 send a notice of assessment to the person. The notice shall specify the amount of the  
11 forfeiture assessed, the statute or rule alleged to have been violated, and the right  
12 to judicial review under ch. 227. The person against whom the department assesses  
13 a forfeiture under this subsection shall pay the forfeiture to the department within  
14 10 days after receipt of notice of the assessment, or, if the person petitions for judicial  
15 review under ch. 227, within 10 days after receipt of the final decision after  
16 exhaustion of judicial review.

INSERT 11-3

17 SECTION ~~11~~ Effective date.

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

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

LRB-0763/P1dn  
RNK:.....

Wlj

Date

✓

This draft is based upon Senate Substitute Amendment 2 to 2007 Senate Bill 194. As you requested, this version of the draft delays the licensing requirement for 24 months after the effective date of the draft rather than 48 months. Please note these other changes:

1. I have added a provision that makes it clear that thermal system insulation in buildings that are constructed on the first day of the 19th month after the effective date of the draft must conform to the standards promulgated as rules by the Department of Commerce.

2. I have modified the language authorizing the Department of Commerce to directly assess a forfeiture. This change specifies minimum procedural and notice requirements rather than requiring the Department of Commerce to establish those requirements. Also, the modified language is consistent with other similar provisions in the statutes.

3. I have advanced the expiration dates for the initial terms of the members of the thermal system insulation council by 2 years.

4. Please note that under this draft, one way for a person to be licensed as a mechanic is for the person to meet the requirements established by the Department of Commerce by rule and to also accumulate 1,000 hours of experience in each of 4 consecutive years installing and maintaining thermal system insulation under the supervision of a licensed mechanic. See proposed s. 101.136 (6) (c) 1. Because the draft does not require a person to have a license for approximately 2 years after the proposal takes effect, then it seems that the earliest that a person could qualify to become a mechanic under this provision is approximately 6 years after the proposal takes effect. Is this consistent with your intent?

5. Under s. 227.137, stats., the secretary of administration may require the Department of Commerce to prepare an economic impact report for proposed rules before the rules are submitted to the legislature for review. If the secretary of administration requires the Department of Commerce to prepare that report, the Department of Administration must review the proposed rules and the report and issue its own report and the secretary of administration must approve the rules before

\*

the Department of Commerce may submit the rules to the legislature. This process could lengthen the time that it takes for the Department of Commerce to promulgate rules. I do not know if the secretary of administration would require the preparation of an economic impact report for the rules required under this proposal, but you may wish to consider establishing a longer delay for implementation of the standards and licensing requirements under the draft to ensure that the rules are promulgated before the proposed law would take effect. \*

The draft makes some other minor changes for the purpose of greater clarity and better organization. I have prepared this draft in preliminary form so that you have an opportunity to review these changes before the draft is finalized. \*

Please feel free to contact me if you have any questions with regard to this draft.

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

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

LRB-0763/P1dn  
RNK:wlj:md

December 11, 2008

This draft is based upon Senate Substitute Amendment 2 to 2007 Senate Bill 194. As you requested, this version of the draft delays the licensing requirement for 24 months after the effective date of the draft rather than 48 months. Please note these other changes:

1. I have added a provision that makes it clear that thermal system insulation in buildings that are constructed on the first day of the 19th month after the effective date of the draft must conform to the standards promulgated as rules by the Department of Commerce.
2. I have modified the language authorizing the Department of Commerce to directly assess a forfeiture. This change specifies minimum procedural and notice requirements rather than requiring the Department of Commerce to establish those requirements. Also, the modified language is consistent with other similar provisions in the statutes.
3. I have advanced the expiration dates for the initial terms of the members of the thermal system insulation council by two years.
4. Please note that under this draft, one way for a person to be licensed as a mechanic is for the person to meet the requirements established by the Department of Commerce by rule and to accumulate 1,000 hours of experience in each of four consecutive years installing and maintaining thermal system insulation under the supervision of a licensed mechanic. See proposed s. 101.136 (6) (c) 1. Because the draft does not require a person to have a license for approximately two years after the proposal takes effect, then it seems the earliest a person could qualify to become a mechanic under this provision is approximately six years after the proposal takes effect. Is this consistent with your intent?
5. Under s. 227.137, stats., the secretary of administration may require the Department of Commerce to prepare an economic impact report for proposed rules before the rules are submitted to the legislature for review. If the secretary of administration requires the Department of Commerce to prepare that report, the Department of Administration must review the proposed rules and the report and issue its own report, and the secretary of administration must approve the rules before



the Department of Commerce may submit the rules to the legislature. This process could lengthen the time it takes for the Department of Commerce to promulgate rules. I do not know if the secretary of administration would require the preparation of an economic impact report for the rules required under this proposal, but you may wish to consider establishing a longer delay for implementation of the standards and licensing requirements under the draft to ensure that the rules are promulgated before the proposed law would take effect.

The draft makes some other minor changes for the purpose of greater clarity and better organization. I have prepared this draft in preliminary form so that you have an opportunity to review these changes before the draft is finalized.

Please feel free to contact me if you have any questions with regard to this draft.

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

**Kite, Robin**

---

**From:** Plotkin, Adam  
**Sent:** Tuesday, December 16, 2008 9:54 AM  
**To:** Kite, Robin  
**Subject:** LRB 0763 Forfeiture Language

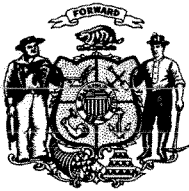
2. It seemingly does NOT allow an inspector from Commerce, who finds a violation, to issue a violation citation "on the spot". We want to model this provision on the penalty provision for plumbing license violations. We DON'T want the inspector to have to go back to his office in Madison and "send a notice of assessment to the person" (line 16). The plumbing license forfeiture rules are now outlined in Comm. 5, section Comm 5.12. Is there a problem with the procedures that are outlined in this recently approved Rule? If those procedures are acceptable, then it would seem that similar procedures for violations of the heat & frost license provisions can be adopted by the Dept. of Commerce for violations of the heat & frost licensing requirements.

*Adam Plotkin  
Clerk, Committee on Labor, Elections, and Urban Affairs  
Office of Senator Spencer Coggs  
phone, 608-266-2500  
fax, 608-282-3546*

12/16/08 -

Per Adam

Redraft w/ forfeitures as above



(soon)  
State of Wisconsin  
2009 - 2010 LEGISLATURE

RM run  
LRB-0763/P1

RNK:wlj:md

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 BILL

Regen

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 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 and maintaining thermal system insulation in commercial and industrial buildings and in residential buildings that contain four or more residential units. The bill 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 bill requires Commerce to license most persons who install and maintain thermal system insulation in heating or cooling systems (mechanics). The bill also requires Commerce to employ a state thermal system insulation inspector (state inspector). The bill establishes a thermal system insulation council (council), which recommends to Commerce the 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 bill, 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 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 necessary for the building to conform to state standards. Under the bill, the state inspector must also provide assistance and information to building inspectors who inspect buildings for compliance with the standards established by Commerce under this bill.

The bill establishes minimum licensing requirements for thermal system insulation mechanics. Under the bill, 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 bill does not apply to a person who makes only minor repairs to thermal system insulation.

The bill 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 bill's requirements. The bill 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 further provides that Commerce may not renew a license issued to a mechanic unless the mechanic completes an approved continuing education course during the previous license period.

The bill authorizes Commerce to assess directly 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 is amended to read:

14           **20.143 (3) (j) Safety and building operations.** The amounts in the schedule for  
15 the purposes of chs. 101, 145, and 168 and ss. 236.12 (2) (a), 236.13 (1) (d) and (2m),  
16 and 236.335, for the purpose of transferring the amounts in the schedule under par.  
17 (kg) to the appropriation account under par. (kg), and for the purpose of transferring  
18 the amounts in the schedule under par. (km) to the appropriation account under par.  
19 (km). All moneys received under ch. 145, ss. 101.136 (6) (b), 101.177 (4) (a) 4.,  
20 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973  
21 (7), and 236.12 (7), except moneys received under s. 101.9208 (2m), and all moneys  
22 transferred under 2005 Wisconsin Act 45, section 76 (6), shall be credited to this  
23 appropriation.

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

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

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

8           101.02 (21) (a) In this subsection, "license" means a license, permit or  
9 certificate of certification or registration issued by the department under s. 101.09  
10 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a),  
11 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935,  
12 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15,  
13 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

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

15           **101.136 Regulation of thermal system insulation installation. (1)**

16           DEFINITIONS. In this section:

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

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

23           (c) "Council" means the thermal system insulation council.

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

1 (e) "State inspector" means the state thermal system insulation inspector.

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

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

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

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

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

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

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

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

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

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. (2). The inspector shall issue such an order in writing.

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

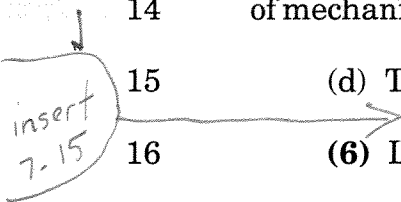
13           (c) License fees for mechanics. The rules shall establish fees for the licensing  
14 of mechanics that are not less than \$250 nor more than \$1,000 for each license period.

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

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

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

insert  
7-15



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

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

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

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

14 (d) The department may waive any requirement, or any portion of a  
15 requirement under par. (c) for any person with experience in installing or  
16 maintaining thermal system insulation upon submission of evidence satisfactory to  
17 the department that the person is qualified for licensure.

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

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

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

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

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

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

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

13          **(11) ASSESSMENT OF FORFEITURES BY THE DEPARTMENT.** (a) The department may  
14 directly assess a forfeiture ~~provided for under sub. (10)~~. If the department  
15 determines that a forfeiture should be assessed, the department shall send a notice  
16 of assessment to the person. The notice shall specify the amount of the forfeiture  
17 assessed, the statute or rule alleged to have been violated, and the right to judicial  
18 review under ch. 227. The person against whom the department assesses a forfeiture  
19 under this subsection shall pay the forfeiture to the department within 10 days after  
20 receipt of notice of the assessment, or, if the person petitions for judicial review under  
21 ch. 227, within 10 days after receipt of the final decision after exhaustion of judicial  
22 review.

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

No FF

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.

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

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

8 **SECTION 6. Nonstatutory provisions.**

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

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

14 (b) Two members for a term that expires on July 1, 2013.

15 (c) Two members for a term that expires on July 1, 2014.

16 **SECTION 7. Fiscal changes.**

17 (1) STATE THERMAL SYSTEM INSULATION INSPECTOR. In the schedule under section  
18 20.005 (3) of the statutes for the appropriation to the department of commerce under  
19 section 20.143 (3) (j) of the statutes, as affected by the acts of 2009, the dollar amount  
20 is increased by \$78,100 for fiscal year 2008-09 and the dollar amount is increased  
21 by \$78,100 for fiscal year 2009-10 to increase the authorized FTE positions for the  
22 department of commerce by 1.0 PR position to perform the responsibilities of the  
23 state thermal system insulation inspector.

24 **SECTION 8. Effective date.**



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0763/1ins.  
RNK.....

INSERT 7-15

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

**Kite, Robin**

---

**From:** Plotkin, Adam  
**Sent:** Tuesday, December 23, 2008 2:25 PM  
**To:** Kite, Robin  
**Subject:** RE: Heat & Frost Redraft

Good questions, let me ask.

*Adam Plotkin  
Clerk, Committee on Labor, Elections, and Urban Affairs  
Office of Senator Spencer Coggs  
phone, 608-266-2500  
fax, 608-282-3546*

1/9  
Per Adam:  
Do not require  
apprenticeship to be  
a "4-year" apprenticeship.

---

**From:** Kite, Robin  
**Sent:** Tuesday, December 23, 2008 1:30 PM  
**To:** Plotkin, Adam  
**Subject:** RE: Heat & Frost Redraft

Adam,

I noticed that under the draft, the state inspector must have completed a "4-year" apprenticeship program (see page 6 of the draft) but that the apprenticeship requirement for mechanics does not specify a "4-year" program. Is this O.K.? And do you know for sure that the apprenticeship program for thermal insulation mechanics is a 4-year program?

Robin

---

**From:** Plotkin, Adam  
**Sent:** Tuesday, December 23, 2008 10:48 AM  
**To:** Kite, Robin  
**Subject:** FW: Heat & Frost Redraft

Robin,

Below are the two little changes we came up with for the heat & frost draft, LRB 0763/1. Let me know if you have questions, otherwise just shoot over the slash 2.

Thank you!  
Adam

*Adam Plotkin  
Clerk, Committee on Labor, Elections, and Urban Affairs  
Office of Senator Spencer Coggs  
phone, 608-266-2500  
fax, 608-282-3546*

We're looking to "beef up" the requirements/credentials for members of the Thermal System Insulation Council, to reflect our strong belief in the state's apprenticeship programs.

1. On page 3 of the draft, on line 7, when talking about the contractors who will be on the Council, we would like to remove the period after the word "companies", and add the words "that participate and support 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."
2. On page 3, line 11, when talking about the mechanics who will be on the Council, we would like to remove the period after the word "insulation" and add the words "and who have 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."

The suggested language in these two areas is identical to the language we use when describing the apprenticeship requirement in our licensing language in lines 16 to 19 on page 8.





*soon*  
**State of Wisconsin**  
**2009 - 2010 LEGISLATURE**

*RM run*  
*2*  
LRB-0763/4

RNK:wlj:ph

↑  
Stays

## 2009 BILL

*In 1/9*

Regen

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 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 and maintaining thermal system insulation in commercial and industrial buildings and in residential buildings that contain four or more residential units. The bill defines thermal system insulation as a product used in a heating, ventilating, cooling,

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plumbing, or refrigeration system (heating or cooling system) to insulate any hot or cold surface on or in a building. The bill requires Commerce to license most persons who install and maintain thermal system insulation in heating or cooling systems (mechanics). The bill also requires Commerce to employ a state thermal system insulation inspector (state inspector). The bill establishes a thermal system insulation council (council), which recommends to Commerce the 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 bill, 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 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 necessary for the building to conform to state standards. Under the bill, the state inspector must also provide assistance and information to building inspectors who inspect buildings for compliance with the standards established by Commerce under this bill.

The bill establishes minimum licensing requirements for thermal system insulation mechanics. Under the bill, 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 bill does not apply to a person who makes only minor repairs to thermal system insulation.

The bill 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 bill's requirements. The bill 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 further provides that Commerce may not renew a license issued to a mechanic unless the mechanic completes an approved continuing education course during the previous license period.

The bill authorizes Commerce to assess directly 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 and local* 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:*

**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

insert 3-7

(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

insert 3-11

(d) One member who is a general 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

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1 transferred under 2005 Wisconsin Act 45, section 76 (6), shall be credited to this  
2 appropriation.

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

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

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

11 101.02 (21) (a) In this subsection, "license" means a license, permit or  
12 certificate of certification or registration issued by the department under s. 101.09  
13 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a),  
14 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935,  
15 101.95, 101.951, 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15,  
16 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

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

18 **101.136 Regulation of thermal system insulation installation. (1)**

19 **DEFINITIONS.** In this section:

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

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

**BILL**

1 (c) "Council" means the thermal system insulation council.

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

4 (e) "State inspector" means the state thermal system insulation inspector.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (c) The state inspector may issue an order requiring the owner of a building to  
7 make repairs or alterations that the state inspector determines are necessary in  
8 order for the building to comply with the standards established by the department  
9 under sub. (2). The inspector shall issue such an order in writing.

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

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

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

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

17 (d) Training and continuing education requirements for mechanics.

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

23 **(6) LICENSING OF MECHANICS.** (a) 1. Except as provided in subd. 2., beginning  
24 on the first day of the 24th month beginning after the effective date of this  
25 subdivision .... [LRB inserts date], no person may install or maintain thermal system

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1 insulation in any building unless that person is a mechanic licensed by the  
2 department under this section, is working under the direct supervision of a licensed  
3 mechanic, or is serving an apprenticeship in the installation and maintenance of  
4 thermal system insulation that meets the requirements specified under ch. 106.

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

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

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

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

20 (d) The department may waive any requirement, or any portion of a  
21 requirement under par. (c) for any person with experience in installing or  
22 maintaining thermal system insulation upon submission of evidence satisfactory to  
23 the department that the person is qualified for licensure.

24 (e) The department may not renew a license issued to a mechanic under this  
25 section unless the mechanic submits a certificate to the department that

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**BILL**

1 demonstrates that the mechanic has attended and successfully completed during the  
2 previous license period a continuing education course approved by the department,  
3 upon consultation with the council.

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

7 (8) 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. The rule shall provide that a temporary or  
10 emergency license issued under this subsection is valid for 30 days.

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

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

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

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

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

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

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

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

**SECTION 6. Nonstatutory provisions.**

8  
9 (1) COUNCIL. Notwithstanding the length of terms of the members of the  
10 thermal system insulation council specified in section 15.157 (15) (a) to (d) of the  
11 statutes, as created by this act, the initial members shall be appointed for the  
12 following terms:

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

14 (b) Two members for a term that expires on July 1, 2013.

15 (c) Two members for a term that expires on July 1, 2014.

**SECTION 7. Fiscal changes.**

16  
17 (1) STATE THERMAL SYSTEM INSULATION INSPECTOR. In the schedule under section  
18 20.005 (3) of the statutes for the appropriation to the department of commerce under  
19 section 20.143 (3) (j) of the statutes, as affected by the acts of 2009, the dollar amount  
20 is increased by \$78,100 for fiscal year 2008-09 and the dollar amount is increased  
21 by \$78,100 for fiscal year 2009-10 to increase the authorized FTE positions for the  
22 department of commerce by 1.0 PR position to perform the responsibilities of the  
23 state thermal system insulation inspector.

**SECTION 8. Effective date.**



2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0763/2ins.  
RNK.....

INSERT 3-7

1 (No ff) that sponsor an apprenticeship training program in installing and maintaining  
2 thermal system insulation that is approved by the department and that meets the  
3 requirements of the department of workforce development under ch. 106

INSERT 3-11

4 (No ff) and who have successfully completed training in installing and maintaining  
5 thermal system insulation under an apprenticeship program that is approved by the  
6 department and that meets the requirements of the department of workforce  
7 development under ch. 106

INSERT 6-8

8 (No ff) that is approved by the department and that meets the requirements of the  
9 department of workforce development under ch. 106 ✓

INSERT 8-19

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

**Duerst, Christina**

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**From:** Plotkin, Adam  
**Sent:** Tuesday, January 20, 2009 4:04 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-0763/2 Topic: Regulation of thermal insulation system mechanics

Please Jacket LRB 09-0763/2 for the SENATE.