

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 909

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DATE	D-PG	OFFICIAL STATUS
02/16/2015	315	Introduction and first reading Referred to Jobs, Agriculture and Rural Development

1.1 A bill for an act
 1.2 relating to building codes; regulating the heating, ventilating, and cooling
 1.3 occupation; proposing coding for new law in Minnesota Statutes, chapter 326B.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **PURPOSE.**

1.6 Minnesota Statutes, sections 326B.201 to 326B.204 are intended to protect the
 1.7 health, safety, and welfare of the public as well as public and private property by ensuring
 1.8 the competence of those who perform work on heating, ventilating, and cooling systems.

1.9 Sec. 2. **[326B.201] DEFINITIONS.**

1.10 Subdivision 1. **Scope.** For the purposes of sections 326B.201 to 326B.204, the terms
 1.11 defined in this section have the meanings given them.

1.12 Subd. 2. **Direct supervision.** "Direct supervision" means:

1.13 (1) an unlicensed individual is being supervised by an individual licensed to perform
 1.14 the HVC work being supervised; and

1.15 (2) during the entire working day of the unlicensed individual, the licensed individual
 1.16 is physically present at the location where the unlicensed individual is performing work
 1.17 and immediately available to the unlicensed individual for assistance and direction.

1.18 Direct supervision may not be done electronically. The licensed individual shall
 1.19 review the work performed by the unlicensed individual before the HVC work is operated.

1.20 The licensed individual must determine that all work performed by the unlicensed
 1.21 individual is performed in compliance with applicable building code.

1.22 Subd. 3. **HVC.** "HVC" means the air handling equipment and air distribution
 1.23 systems for heating, ventilating, and cooling.

2.1 Subd. 4. **HVC contractor.** "HVC contractor" means a person who performs or
2.2 offers to perform any HVC installation with or without compensation, who is licensed as
2.3 an HVC contractor by the commissioner.

2.4 Subd. 5. **HVC master.** "HVC master" means an individual having the necessary
2.5 qualifications, training, and experience to perform the planning or supervision of the
2.6 design, installation, service, or repair of heating, ventilating, and cooling systems and is
2.7 otherwise lawfully qualified to conduct the business of HVC, and who is familiar with the
2.8 laws and rules governing the same.

2.9 Subd. 6. **HVC journeyworker.** "HVC journeyworker" means an individual, other
2.10 than an HVC master, who, as a principal occupation, is engaged as an employee of, or
2.11 otherwise working under the direction of, an HVC master in the design, installation,
2.12 service, and repair of HVC, as applicable.

2.13 Subd. 7. **HVC apprentice.** "HVC apprentice" means an individual employed in the
2.14 trade of the practical construction and installation of HVC systems under an apprenticeship
2.15 agreement approved by the department under Minnesota Rules, part 5200.0290.

2.16 Subd. 8. **Unlicensed individual.** "Unlicensed individual" means an individual who
2.17 has not been licensed by the commissioner to perform specific HVC work. An unlicensed
2.18 individual shall not perform HVC work required to be performed by a licensed individual
2.19 unless the individual has first registered with the department as an unlicensed individual.
2.20 Thereafter, an unlicensed individual shall not perform HVC work required to be performed
2.21 by a licensed individual unless the work is performed under the direct supervision of an
2.22 individual actually licensed to perform such work. The licensed individual and unlicensed
2.23 individual must be employed by the same employer. Licensed individuals shall not permit
2.24 unlicensed individuals to perform HVC work except under the direct supervision of an
2.25 individual licensed to perform the work. Licensed individuals shall supervise no more
2.26 than two unlicensed individuals.

2.27 **Sec. 3. [326B.202] LICENSES.**

2.28 Subdivision 1. **Commissioner's duties.** The commissioner shall:

2.29 (1) license HVC contractors, HVC masters, and HVC journeyworkers; and

2.30 (2) collect the fees required by section 326B.092.

2.31 Subd. 2. **HVC master.** (a) Except as otherwise provided by law, an individual shall
2.32 not perform or supervise HVC work unless:

2.33 (1) the individual is licensed by the commissioner as an HVC master; and

2.34 (2) the HVC work is for a licensed contractor, and the individual is:

2.35 (i) an employee, partner, or officer of the contractor; or

3.1 (ii) the licensed contractor, or the HVC work is performed for the individual's
3.2 employer on HVC apparatus, equipment, or facilities that are owned or leased by the
3.3 employer and that are located within the limits of property operated, maintained, and
3.4 either owned or leased by the employer.

3.5 (b) An applicant for an HVC master license shall have at least one year of
3.6 experience, acceptable to the commissioner, as a licensed journeyworker, or shall have
3.7 had at least five years' experience, acceptable to the commissioner, in planning for, laying
3.8 out, supervising, and installing HVC apparatus or equipment.

3.9 Subd. 3. **HVC journeyworker.** (a) Except as otherwise provided by law, no
3.10 individual shall perform and supervise any HVC work except for planning or laying
3.11 out of work unless:

3.12 (1) the individual is licensed by the commissioner as an HVC journeyworker; or

3.13 (2) the HVC work is for a contractor and the individual is an employee, partner, or
3.14 officer of the licensed contractor.

3.15 (b) An applicant for an HVC journeyworker license shall have:

3.16 (1) had at least four years of experience, acceptable to the commissioner, installing
3.17 and repairing HVC apparatus or equipment;

3.18 (2) completed an HVC program at an accredited college or university; or

3.19 (3) completed an HVC-registered apprenticeship program.

3.20 Subd. 4. **Examination.** In addition to the other requirements described in this
3.21 section and sections 326B.091 to 326B.098, prior to issuance of a personal license, each
3.22 applicant must pass a written or oral examination developed and administered by the
3.23 commissioner to ensure the competence of each applicant for license. An oral examination
3.24 shall be administered only to an applicant who furnishes a written statement from a
3.25 certified teacher or other professional trained in the area of reading disabilities stating that
3.26 the applicant has a specific reading disability which would prevent the applicant from
3.27 performing satisfactorily on a written test. The oral examination shall be structured so that
3.28 an applicant who passes the examination will not impair the applicant's own safety or that
3.29 of others while acting as a licensed individual.

3.30 Subd. 5. **Journeyworker exam.** An HVC apprentice or registered unlicensed
3.31 individual who has completed four years of practical HVC experience is eligible to take
3.32 the HVC journeyworker examination. Up to 24 months of practical HVC experience prior
3.33 to becoming an HVC apprentice or registered unlicensed individual may be applied to the
3.34 four-year experience requirement; however, none of this practical HVC experience may be
3.35 applied if the individual did not have any practical HVC experience in the 12-month period
3.36 immediately prior to becoming an HVC apprentice or registered unlicensed individual.

4.1 Subd. 6. **Qualifications for licensing.** An HVC master license shall be issued only to
4.2 an individual who has demonstrated skill in planning, superintending, and servicing HVC
4.3 installations and has successfully passed the examination developed and administered by
4.4 the commissioner for HVC masters. An HVC journeyworker license shall only be issued
4.5 to an individual other than an HVC master who has demonstrated practical knowledge of
4.6 HVC installation and has successfully passed the examination developed and administered
4.7 by the commissioner for HVC journeyworkers. An HVC journeyworker must successfully
4.8 pass the examination for HVC masters before being licensed as an HVC master.

4.9 Subd. 7. **Waiver.** The commissioner shall, through, waive the written
4.10 examination requirements and prior experience requirements for an HVC journeyworker
4.11 or HVC master license if the applicant can demonstrate to the satisfaction of the
4.12 commissioner that the applicant has five or more years of experience prior to,
4.13 which is of a nature that the commissioner deems sufficient to demonstrate continuous
4.14 professional competency consistent with that expected of an individual who passes the
4.15 applicable licensing examination which the applicant would otherwise be required to pass.

4.16 Subd. 8. **Registration of unlicensed individuals.** All unlicensed individuals,
4.17 other than HVC apprentices, shall register with the commissioner in order to assist in the
4.18 practical construction and installation of HVC while employed as a licensed HVC business
4.19 by completing and submitting to the commissioner a registration form provided by the
4.20 commissioner with all fees required by section 326B.092. Registrations of unlicensed
4.21 individuals expire one year from the date of original issuance or renewal.

4.22 Subd. 9. **Contractor's license required.** Except as otherwise provided by law, no
4.23 individual other than an employee, partner, or officer of a licensed contractor shall perform
4.24 or offer to perform HVC work with or without compensation unless the individual obtains
4.25 a contractor's license. A contractor's license does not qualify its holder to perform or
4.26 supervise the electrical work authorized by holding any class of personal license.

4.27 Subd. 10. **Bond required.** As a condition of licensing, each contractor shall give
4.28 and maintain bond to the state in the sum of \$25,000, conditioned upon the faithful and
4.29 lawful performance of all work contracted for or performed by the contractor within the
4.30 state of Minnesota and such bond shall be for the benefit of persons injured or suffering
4.31 financial loss by reason of failure of such performance. The bond shall be filed with the
4.32 commissioner and is in lieu of all other license bonds to any other political subdivision. The
4.33 bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

4.34 Subd. 11. **Insurance required.** A contractor shall have and maintain in effect
4.35 general liability insurance which includes premises and operations insurance and products
4.36 and completed operations insurance with limits of at least \$100,000 per occurrence,

5.1 \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of
5.2 at least \$50,000, or a policy with a single limit for bodily injury and property damage of
5.3 \$300,000 per occurrence and \$300,000 aggregate limits. The insurance shall be written
5.4 by an insurer licensed to do business in the state. A contractor shall maintain on file
5.5 with the commissioner a certificate evidencing the insurance. In the event of a policy
5.6 cancellation, the insurer shall send written notice to the commissioner at the same time
5.7 that a cancellation request is received from or a notice is sent to the insured.

5.8 Subd. 12. **Employment of HVC master.** (a) Each contractor must designate a
5.9 responsible HVC master who shall be responsible for the performance of all HVC work in
5.10 accordance with the requirements of sections 326B.202 to 326B.204, all rules adopted
5.11 under these sections, and all orders issued under section 326B.082.

5.12 (b) Each HVC contractor must designate a responsible licensed HVC master who
5.13 shall be responsible for the performance of all HVC installation in accordance with the
5.14 requirements of sections 326B.202 to 326B.204, all rules adopted under sections 326B.xx
5.15 to 326B.xx, and all orders issued under section 326B.082. If the HVC contractor is an
5.16 individual or sole proprietorship, the responsible licensed master must be the individual,
5.17 proprietor, or managing employee. If the HVC contractor is a partnership, the responsible
5.18 licensed master must be a general partner or managing employee. If the HVC contractor
5.19 is a limited liability company, the responsible licensed master must be a chief manager
5.20 or managing employee. If the HVC contractor is a corporation, the responsible licensed
5.21 master must be an officer or managing employee. If the responsible licensed master
5.22 is a managing employee, the responsible licensed master must be actively engaged in
5.23 performing HVC work on behalf of the HVC contractor and cannot be employed in any
5.24 capacity as an HVC master or HVC journeyworker for any other HVC contractor. An
5.25 individual must not be the responsible licensed master for more than one HVC contractor.

5.26 (c) All applications and renewals for contractor licenses shall include a verified
5.27 statement that the applicant or licensee has complied with this subdivision.

5.28 **Sec. 4. [326B.203] FEES; RENEWAL.**

5.29 (a) Each initial HVC master and HVC journeyworker license shall expire on of
5.30 the year after the year in which the application is made.

5.31 (b) Each HVC master and HVC journeyworker license shall be required to be
5.32 renewed every two years.

5.33 (c) All HVC contractor licenses shall expire on December 31 of each even-numbered
5.34 year after issuance or renewal.

- 6.1 (d) For purposes of calculating license fees and renewal fees required under section
6.2 326B.092:
- 6.3 (1) an HVC journeyworker license shall be considered a journeyworker license;
6.4 (2) an HVC master license shall be considered a master license; and
6.5 (3) an HVC contractor license shall be considered a business license.

6.6 **Sec. 5. [326B.204] RECIPROCITY.**

6.7 (a) The commissioner may enter into reciprocity agreements for personal licenses
6.8 with another state. The commissioner may issue a personal license without requiring the
6.9 applicant to pass an examination provided the applicant:

- 6.10 (1) submits an application under this section;
6.11 (2) pays the application and examination fee and license fee required under section
6.12 326B.092; and
6.13 (3) holds a valid comparable license in the state participating in the agreement.

6.14 (b) Agreements under this section are subject to the following:

- 6.15 (1) parties to the agreement must administer a statewide licensing program that
6.16 includes examination and qualifying experience or training comparable to Minnesota's;
6.17 (2) the experience and training requirements under which an individual applicant
6.18 qualified for examination in the qualifying state must be deemed equal to or greater than
6.19 required for an applicant making application in Minnesota at the time the applicant
6.20 acquired the license in the qualifying state;

6.21 (3) the applicant must have acquired the license in the qualifying state through an
6.22 examination deemed equivalent to the same class of license examination in Minnesota.

6.23 A lesser class of license may be granted where the applicant has acquired a greater
6.24 class of license in the qualifying state and the applicant otherwise meets the conditions
6.25 of this section;

6.26 (4) at the time of application, the applicant must hold a valid license in the qualifying
6.27 state and have held the license continuously for at least one year before making application
6.28 in Minnesota;

6.29 (5) an applicant is not eligible for a license under this section if the applicant has
6.30 failed the same or greater class of license examination in Minnesota, or if the applicant's
6.31 license of the same or greater class has been revoked or suspended; and

6.32 (6) an applicant who has failed to renew a personal license for two years or more
6.33 after its expiration is not eligible for a license under this section.

6.34 **Sec. 6. EFFECTIVE DATE.**

7.1 Sections 1 to 4 are effective