

# SENATE BILL REPORT

## SHB 1876

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, March 29, 2007

**Title:** An act relating to certification of mechanics performing heating, ventilating, air conditioning, refrigeration, and gas piping work.

**Brief Description:** Finding that HVAC/R mechanic certification laws may need to be modified and that a trade coordination panel may need to be established.

**Sponsors:** House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood and Ormsby).

**Brief History:** Passed House: 3/12/07, 90-6.

**Committee Activity:** Labor, Commerce, Research & Development: 3/27/07, 3/29/07 [DPA, w/oRec].

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass as amended.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Clements, Ranking Minority Member; Hewitt and Holmquist.

**Staff:** Jennifer Strus (786-7316)

**Background:** State laws require registration or licensure for construction, electrical, and plumbing contractors, and certification for electrical administrators, electricians, and plumbers. These laws are administered and enforced by the Department of Labor and Industries (L&I). Depending on the type of heating, ventilating, air conditioning, and refrigeration (HVAC/R) work that a contractor performs, state law may require that the contractor be registered as a general or specialty construction contractor or licensed as an electrical contractor or both.

Local ordinances in a number of cities require persons performing HVAC/R work to obtain additional certification. Some require certification for mechanical work and gas fitting work. Others require certification for heating oil and air conditioning/refrigeration work. In 2004, the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to conduct a study to evaluate the state's rules relating to the licensing and testing requirements for HVAC/R contractors and installers, and to develop recommendations for modifications in

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licensing and testing requirements. In 2005, the JLARC issued the study, which included the following recommendation:

"Based on JLARC's survey of contractors, and our review of certification requirements of Washington cities and models of other states, certifying other aspects of HVAC/R work may be an option for the state to consider. To provide policy makers and industry with a better sense of possible options, [L&I] should provide fiscal and public safety estimates of scenarios that would certify other aspects of HVAC/R work."

In 2006, L&I organized the HVAC/R Task Force, which consisted of business and labor representatives from the HVAC/R, electrical, plumbing, and sheet metal industries. A regulatory alternatives subcommittee considered various options for regulation of the HVAC/R industry. The subcommittee was not able to reach consensus on a single option, but agreed to include five options in a final report.

**Summary of Substitute Bill:** The Legislature finds that HVAC/R mechanic certification laws may need to be modified, and that a trade coordination panel may need to be established.

**EFFECT OF CHANGES MADE BY RECOMMENDED STRIKING AMENDMENT(S) AS PASSED COMMITTEE (Labor, Commerce, Research & Development):** Provisions governing the HVAC/R industry are enacted. Requirements for certification of HVAC/R mechanics with specialties are established. These requirements are to be administered by L&I.

Persons in the business of performing HVAC/R work with or without a specialty must register as a contractor under the Contractor Registration Act with L&I. A single registration/certification/licensing document for contractors who qualify for two or more registrations or licenses under state laws governing construction contractors and electrical contractors must be established by L&I.

Three levels of HVAC/R mechanics are created with the ability to be certified in several specialties, including gas piping, sheet metal, and refrigeration. Each certification requires a separate exam, although an applicant can sit for all of the exams in one testing session.

The scope of work allowed for an HVAC/R mechanic increases as the level increases. The same is true of the specialties. A person holding an HVAC/R mechanic III certification with certifications for all three specialties is considered a master HVAC/R mechanic.

The on-the-job experience requirements for each mechanic level increase as the levels increase. All of the levels require some level of supervision for all or a portion of the on-the-job experience. At each level, some hours obtained in a technical college program can be substituted for the on the job experience.

Apprentices and other persons learning to perform HVAC/R work or one of the specialties must obtain training certificates. The certificates permit holders to learn to perform HVAC/R work or specialty work while working under the direct supervision of a certified mechanic. Supervision requirements which specify the percentage of the working day that a mechanic must be on the same job site as a trainee are established. Ratio requirements which specify the ratio of trainees to mechanics on the same job site are also established.

There are a number of exemptions from the licensing and certification requirements. The requirements do not apply to:

- persons doing electrical work at their residences, farms, places of business, or on other property owned by them;
- regularly employed employees working on their employers' premises (unless they are working on a new building intended for rent, sale, or lease);
- persons doing work on or behalf of gas companies, including gas piping work that is incidental to delivering natural gas to a premise;
- architects and engineers who are designing HVAC/R systems or gas piping systems;
- persons making like-in-kind replacements of household appliances;
- persons who clean or replace air filters, lubricates bearings, replaces fan belts (janitor type);
- persons who install, alter, or repair very small HVAC/R systems;
- persons installing a wood, pellet or gas fueled hearth appliance;
- persons setting oil tanks and piping to the furnace; and
- person setting propane tanks and piping outside a building.

An HVAC/R sheet metal manufacturer or fabricator may opt out of the HVAC/R certification requirements.

A property management company which employs an HVAC/R mechanic on a regular basis need not register as an HVAC/R contractor.

An HVAC/R operator's only certification is created. The scope of work for this certification includes preventive maintenance such as filter changing, belt replacement, bearing lubrication and equipment logging.

A nine-member HVAC/R Board (Board) is established. Members of the Board consist of three mechanics, three contractors, one member representing the Building Owners and Managers Association or the Stationary Operating Engineers, one member representing a technical college, and one public member familiar with HVAC/R work. Members must include representation from eastern Washington.

The Board conducts proceedings for denying applications, suspending or revoking certificates, and imposing penalties. The Board also reviews and makes recommendations on rules, approves expenditures from the dedicated account, and generally advises L&I on HVAC/R matters.

L&I may convene an advisory committee to review electrical licenses and certifications required under chapter 19.28 RCW in relation to the certificates required in this bill.

Proceedings for denying applications, suspending or revoking certificates, and imposing civil penalties are governed by the Administrative Procedures Act. L&I has the ability to investigate compliance with this chapter and to take specific action in the event of noncompliance.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The bill represents a reasonable compromise and is worth passing, although there are still some things to work out. This bill makes the state of Washington safer because the training is better and it will protect consumers. There is a need for this bill and a need for this bill this year. This issue has been a contentious one and has been worked on for five years. There have been studies done about this industry and they have raised safety concerns. This bill goes to addressing that the people doing HVAC/R work know what they are doing. A consumer assumes that a person working on his or her furnace knows what he or she is doing and that is not true today. But it will be if this bill passes.

CON: It is difficult to comment on a bill on which there has been no draft language. The bill should not be passed this year and the parties should continue working the issue during the interim. This bill potentially regulates the entire HVAC/R industry, is very complicated, and, if not done right, could put workers and employers out of business. There are still a lot of details to be worked out and that is why the parties should continue to work the issue during the interim. This is not a public hearing because no one has seen a bill yet. The costs versus the benefits of the bill is a concern.

OTHER: Signed up in the "other" category because the language has not yet been seen.

**Persons Testifying:** PRO: Patrick Woods, L&I; Rod Kauffman, Building Owners and Managers Association; Greg Nolan, Northwest HVAC/R Association; Kathleen Collins, Sheet Metal and Air Conditioning Contractors' National Association; Dale Wentworth, Seattle Area Pipe Trade and International Appliance Technical Conference; Tim Carter, Lance Deyette, Sheet Metal Workers 66; Christian Dube, International Union of Operating Engineers No. 286; Larry Stevens, National Electrical Contractors and Mechanical Contractors.

CON: James Curry, Northwest Propane Gas Association & Refrigeration; Gary Smith, Independent Business Association; Rick Slunaker, Associated General Contractors.

OTHER: Charlie Brown, Washington Oil Marketers/Pacific Northwest Oil Heat Dealers.