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HOUSE BILL NO. 2536

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on January 30, 1997)

(Patron Prior to Substitute—Delegate Morgan)

A BILL to amend and reenact §§ 54.1-1128 through 54.1-1135 of the Code of Virginia, relating to the Board for Contractors; regulation of tradesman; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-1128 through 54.1-1135 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-1128. Definitions.

"Backflow prevention device worker" means any individual who engages in, or offers to engage in, the maintenance, repair, testing, or periodic inspection of cross connection control devices, including but not limited to reduced pressure principle backflow preventors, double check-valve assemblies, double-detector check-valve assemblies, pressure type vacuum breaker assemblies, and other such devices designed, installed, and maintained in such a manner so as to prevent the contamination of the potable water supply by the introduction of nonpotable liquids, solids, or gases, thus ensuring that the potable water supply remains unaltered and free from impurities, odor, discoloration, bacteria, and other contaminants which would make the potable water supply unfit or unsafe for consumption and use.

"Board" means the Board for Contractors.

"Liquefied petroleum gas fitter" means any individual who engages in, or offers to engage in, work for the general public for compensation in work that includes the installation, repair, improvement, alterations or removal of piping, liquefied petroleum gas tanks and appliances (excluding hot water heaters, boilers and central heating systems which require a heating, ventilation and air conditioning or plumbing certification) annexed to real property.

"Tradesman" means any individual who engages in, or offers to engage in, work for the general public for compensation in the trades of electrical, plumbing and heating, ventilation and air conditioning.

§ 54.1-1129. Necessity for certification.

A. Beginning July 1, 1995, no individual shall engage in, or offer to engage in, work as a tradesman as defined in § 54.1-1128 unless he has been certified under the provisions of this article. Individuals shall not be subject to tradesman certification when working under the supervision of a tradesman who is certified in the specialty for which work is being performed. Individuals holding a certification in one specialty shall not be required to have a tradesman certification in another specialty when performing work which is incidental to work being performed under their own specialty certification.

B. Beginning July 1, 1998, no individual shall engage in, or offer to engage in, work as a backflow prevention device worker as defined in § 54.1-1128 unless he has been certified under the provisions of this article. Individuals certified as backflow prevention device workers shall not be required to hold any other professional or occupational license or certification; however, nothing in this subsection shall prohibit an individual from holding more than one professional or occupational license or certification.

C. Beginning July 1, 1999, no individual shall engage in, or offer to engage in, work as a liquefied petroleum gas fitter as defined in § 54.1-1128 unless he has been licensed under the provisions of this article.

§ 54.1-1130. Application for certification or license; fees; examinations; issuance.

Any individual desiring to be certified as a tradesman or backflow prevention device worker, or licensed as a liquefied petroleum gas fitter shall file a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain, at a minimum, the applicant's name, place of employment, and business address; information on the knowledge, skills, abilities and education or training of the applicant; and an affidavit stating that the information on the application is correct.

If the application is satisfactory to the Board, the applicant shall be required by Board regulations to take an oral or written examination to determine his general knowledge of the trade in which he desires certification or licensure or of backflow prevention devices unless he is exempt pursuant to § 54.1-1131. If the applicant successfully completes the examination, certification as a tradesman or backflow prevention device worker or licensure as a liquefied petroleum gas fitter shall be issued.

§ 54.1-1131. Exemptions.

A. An individual certified or licensed by any one of the following agencies shall not be required to fulfill the examination requirement specified in § 54.1-1130 for tradesman certification:

1. The Board of Housing and Community Development prior to July 1, 1995.

2. Any local governing body prior to July 1, 1978.

3. An apprenticeship program which is approved by the Virginia Apprenticeship Council.

Individuals applying for tradesman certification between July 1, 1995, and July 1, 1998, shall be deemed to have fulfilled the examination requirement if they are able to demonstrate the required number of years of discipline-free experience set forth in Board regulations.

B. Upon satisfactory evidence to the Board, the following individuals shall not be required to fulfill the examination requirement specified in § 54.1-1130 to be certified as a backflow prevention device worker *or licensed as a liquefied petroleum gas fitter*:

1. Individuals approved, or recognized as having expertise, by a local governing body prior to July 1, 1998, to perform backflow prevention device work; or

2. Individuals applying for certification *or licensure* between July 1, 1998, and July 1, 1999, who are able to demonstrate that they have the required number of years of discipline-free experience and education or training set forth in Board regulations.

C. The provisions of this article shall not apply to any individual who is performing work on any ship, boat, barge or other floating vessel.

§ 54.1-1132. Expiration and renewal of certification or license.

A certificate as a tradesman or backflow prevention device worker *or a license as a liquefied petroleum gas fitter* issued pursuant to this article shall expire as provided in Board regulations and shall become invalid on that date unless renewed, subject to approval of the Board. Application for renewal of any certificate *or license* issued pursuant to this article shall be made as provided by Board regulations and shall be accompanied by a fee set by the Board pursuant to § 54.1-201.

§ 54.1-1133. Continuing education.

The Board may establish in the regulations requirements for continuing education as a prerequisite to renewal of any certification *or licensure* issued under this article.

§ 54.1-1134. Grounds for denial or revocation of certification or license; reports of building officials and others.

The Board shall have the power to require remedial education and to suspend, revoke or deny renewal of the certification *or licensure* of any individual who is found to be in violation of the statutes or regulations governing the practice of certified tradesmen or backflow prevention device workers *or licensed liquefied petroleum gas fitters* in the Commonwealth.

Any building official who finds that an individual is practicing as a tradesman or backflow prevention device worker without certification *or as a liquefied petroleum gas fitter without a license* as required by this article shall file a report to such effect with the Board. Any water purveyor who finds that an individual is practicing as a backflow prevention device worker without certification as required by this article shall file a report to such effect with the Board.

Any building official who has reason to believe that (i) a tradesman *or a liquefied petroleum gas fitter* is performing incompetently as demonstrated by an egregious or repeated violation of the Uniform Statewide Building Code (§ 36-97 et seq.) or (ii) a backflow prevention device worker is performing incompetently as demonstrated by an egregious or repeated violation of the standards adopted by the American Society of Sanitary Engineering referenced in the plumbing code adopted by the Virginia Uniform Statewide Building Code shall file a report to such effect with the Board. Any water purveyor who has reason to believe that a backflow prevention device worker is performing incompetently as demonstrated by an egregious or repeated violation of the standards adopted by the American Society of Sanitary Engineering referenced in the plumbing code adopted by the Virginia Uniform Statewide Building Code shall file a report to such effect with the Board and local building official.

§ 54.1-1135. Prohibited acts.

A. Practicing or attempting to practice as a tradesman ~~or~~, backflow prevention device worker *or liquefied petroleum gas fitter* in the Commonwealth, except as provided for in this article, is prohibited and shall constitute the commission of a Class 3 misdemeanor.

B. No person shall be entitled to assert the lack of certification *or licensure* as required by this article as a defense to any action at law or suit in equity if the party who seeks to recover from such person gives substantial performance within the terms of the contract in good faith and without actual knowledge of the certification *or licensure* requirements of this article.