

Below are the issues and observations regarding the draft HVACR draft legislation based on a preliminary review.

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Issues and Observations – Draft HVACR Legislation for 2006 S-3568.1/06

prepared by: Independent Business Association

Section 1

- Requires an “Administrator.” The current state electrical law requires an administrator for the firm to operate. The state’s plumbing law does not. The electrical requirement has been controversial from the beginning. The key concern is, if the owner is not the administrator, the owner’s business is in jeopardy if the administrator leaves. There are some who feel the administrator requirement has limited of entry into the industry. The electrical administrator requirement has resulted in double fines for violations, a fine issued to the contractor (owner) and a fine is also issued to the administrator for the same violation. **Minimum Necessary Revision** If the administrator requirement remains in the legislation, the legislation must contain provisions of allowing the business to operate without an administrator should the administrator leave or become unable to perform his/her duties. See RCW 19.28.061(1). Also, see comment under Other Issues at the end of this document.
- There is no real definition of what HVACR work is. It is critical to define what HVACR work includes and does not include. For example, sheet metal work is done both by HVAC duct installers and roofers. How will the venting of a gas hot water heater be handled? Can a plumber install or change-out a gas hot water heater or must the plumber be an HVACR contractor and his people HVACR journeymen or specialty journeymen? Can an appliance store install a gas clothes dryer without having to be an HVACR contractor and his people HVACR journeymen or specialty journeymen? Clearly roofers have no interest in having to have an HVAC contractor’s licensee (installers of HVAC equipment/systems are defined by the Dictionary of Occupational Titles under 637.261-014 where roofers are defined separately under 866.281-010 and 804.281-010). Is installation and maintenance of refrigeration equipment for grocery store displays included in the definition of HVACR (installers of HVAC equipment/systems are defined by the Dictionary of Occupational Titles under 637.261-014 where an in-store refrigeration equipment installer is defined separately under 827.361-014)? The hearth products industry – wood stoves and fireplaces – will oppose this legislation if

required to be licensed under this legislation. **Minimum Necessary Revision** Clearly define what HVACR is and is not.

- How is fuel gas piping affected by this legislation? Will someone who does fuel gas piping be required to work for an HVACR contractor and be an HVACR journeyman or specialty journeyman? If so, how will this relate to plumbers? **Minimum Necessary Revision** Clearly state if fuel gas piping is covered by this new law or is exempt.

Section 2

- (1) Prohibits those who do not have an HVACR journeyman or specialty journeyman certificate to work on HVACR equipment (which is broadly defined) or “components” which is not defined. Are components different than equipment and if so how so, or are “components,” components of the equipment? **Minimum Necessary Revision** Clearly define what “components” are and are not.
- (2) The homeowner exemption is far too limiting. What about apartment building owners, business owners, property managers, etc? This issue has been a very significant issue of controversy for the past several years with respect to the state’s electrical contracting laws. **Minimum Necessary Revision** Rewrite the homeowners exemption to include other “owners” as described above.

Section 3

- The draft legislation refers to contractor “licensing” under RCW 18.27. Contractors are not licensed under RCW 18.27, they are “registered,” an important difference. **Minimum Necessary Revision** Use the term contractor registration instead of contractor license when referring to RCW 18.27
- Provides an exemption from the electrical contracting authority under the current state electrical law or program without amending that law, RCW 19.28. **Minimum Necessary Revision** RCW 19.28 must be amended in order to be lawful to eliminate current electrical contractor licensing and electrical specialty journeyman certification requirements for HVACR contractors, journeymen, and specialty journeymen.

Section 4

- (1) Creates a new HVACR Board separate from the existing Plumbing Advisory Board or the state’s Electrical Board.
- Appears to grant very broad rule making authority to the Director of the Department of Labor and Industries with advice from the HVACR Board that the Director can accept or ignore. Yet this grant of rule making authority is not explicit or clearly granted (see Section 12) It is unusual in this era of less government regulation to intent to grant such broad authority to any government agency to set the rules an industry must follow. This apparent grant of authority is even broader than the grant of authority given the current

the state Electrical Board. **Minimum Necessary Revision** Clarify the rulemaking authority of the Department (see Section 12).

Section 6

- (1) As written it appears that a union apprenticeship program will not qualify a job applicant to take the HVACR journeyman's exam. **Minimum Necessary Revision** Clarify the work experience and training experience required to be eligible to take the journeyman HVACR exam.
- (1) There are no requirements for the type of work experience received such as xxxx hours equipment installation, xxxx hours of sheet metal, xxx hours of fuel gas piping, xxxx hours of control, etc. Without this, a journeyman may only have had sheet metal work experience and nothing else and while they may possess a journeyman's certificate, they may not have the skills commonly needed by a journeyman. **Minimum Necessary Revision** Clarify the required work experience.
- (1) Provides an exemption from the electrical contracting authority under the current state electrical law or program without amending that law, RCW 19.28. **Minimum Necessary Revision** RCW 19.28 must be amended in order to be lawful to eliminate current electrical contractor licensing and electrical specialty journeyman certification requirements for HVACR contractors, journeymen, and specialty journeymen.
- (2)(3) Grandfathers in existing HVACR installers as journeymen. Yet some installers may only have had sheet metal work experience and nothing else and while they may be given a journeyman's certificate under the grandfather, they may not have the skills commonly needed by a journeyman. **Minimum Necessary Revision** Clarify the required work experience.

Section 7

- (1) It appears this section grants the Board the authority to establish specialties, but it is not clear. Everywhere else, the Department has the rulemaking authority and the Board is only advisory. **Minimum Necessary Revision** Clarify who has the authority to establish specialties.
- (1) No specialties are defined and possibly some specialties should be defined.
- (1) As written it appears that a union apprenticeship program will not qualify a job applicant to take the HVACR specialty journeyman's exam. **Minimum Necessary Revision** Clarify the work experience and training experience required to be eligible to take the specialty journeyman HVACR exam.
- (1) Provides an exemption from the electrical contracting authority under the current state electrical law or program without amending that law, RCW 19.28. **Minimum Necessary Revision** RCW 19.28 must be amended in order to be lawful to eliminate current electrical contractor licensing and electrical specialty journeyman certification requirements for HVACR contractors, journeymen, and specialty journeymen.
- (2) Allows anyone with 4500 hours of experience currently to be grandfathered in as a specialty journeyman, regardless of the type of HVACR

work experience. Their HVACR work experience may be not be in the same area as the specialty journeyman certificate they are seeking under this grandfather. **Minimum Necessary Revision** Allow the Department, with the advice of the Board, to establish the types of work experience necessary to qualify a person to be grandfathered in to be issued a specialty journeyman certificate.

Section 8

- There is no trainee supervision requirement. In current electrical and plumbing laws, a trainee must be supervised 75% of the time. How long can an HVACR trainee work without supervision of a qualified a journeyman or specialty journeyman? **Minimum Necessary Revision** Clarify how much work a trainee can do unsupervised.

Section 9

- The additional requirements for an administrator are not stated here. What are their duties? Is there a real need for an administrator requirement? See additional comments under Section 1.

Section 10

- Granting local governments the right to impose more stringent regulations for HVACR contractors is an issue of significant controversy under the state's existing electrical contracting law. Some cities simply charge higher permit fees and inspection fees as a revenue producer. Others impose what electricians feel are excessive requirements because the cities have such authority to do so. **Minimum Necessary Revision** While it clearly prohibits additional licensing, add "certification" also. Limit inspection fees by cities to some percent (i.e. 120%) of the state inspection fees. Possibly limit cities from imposing different code requirements except in certain situations.

Section 11

- Creates penalties for persons doing HVACR work without a license. Authorizes the Department to adopt such penalties by rule. It is very general about the penalties and lacks specifics. Can an HVACR contractor be fined? If so for what? Can journeymen be fined? If so for what? Can administrators be fined? If so for what? There are no provisions for appealing penalties. **Minimum Necessary Revision** Clarify who can be fined for what and include appeal provisions. Recommended that it include a minimal schedule of penalties and that it clarify if double fines can be imposed on the contractor and the administrator (see comments under Section 1).

Section 12

- Establishes that the Department may adopt by rule a schedule of fees. It does not grant the Department the authority to set any other rules. **Minimum**

Necessary Revision Clarify Department's rulemaking authority (see section 4 and Section 11).

Section 13

- Establishes a new dedicated HVACR account that is unappropriated and expended at the direction of the Department. Legislative budget writers do not like new, dedicated accounts that are not subject to appropriations.

Other Issues

- Code issues or other disputes are handled by the electrical board under the state's electrical law. How do the proposers of this legislation want the issue of code disputes and interpretations to be handled?
- There is no provision for grandfathering in administrators.