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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 927

February 19, 2009

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to labor and industry; modifying construction codes and licensing;
1.3 adding provisions relating to high pressure piping profession; modifying previous
1.4 appropriations restrictions; extending authority to adopt rules for obtaining boiler
1.5 licenses; requiring rulemaking; amending Minnesota Statutes 2008, sections
1.6 326B.082, subdivision 12; 326B.084; 326B.43, subdivision 1; 326B.435,
1.7 subdivision 2; 326B.475, subdivision 6; 326B.52, subdivision 1; 326B.53;
1.8 326B.55, subdivision 1; 326B.59; 326B.801; 326B.921, subdivision 1, by adding
1.9 a subdivision; Laws 2008, chapter 363, article 10, section 4, subdivision 1;
1.10 repealing Minnesota Statutes 2008, section 326B.43, subdivision 5.

1.11 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

1.12 Section 1. Minnesota Statutes 2008, section 326B.082, subdivision 12, is amended to
1.13 read:

1.14 Subd. 12. **Issuance of licensing orders; hearings related to licensing orders.**

1.15 (a) If the commissioner determines that a permit, license, registration, or certificate
1.16 should be conditioned, limited, suspended, revoked, or denied under subdivision 11,
1.17 or that the permit holder, licensee, registrant, or certificate holder should be censured
1.18 under subdivision 11, then the commissioner shall issue to the person an order denying,
1.19 conditioning, limiting, suspending, or revoking the person's permit, license, registration,
1.20 or certificate, or censuring the permit holder, licensee, registrant, or certificate holder.

1.21 (b) Any order issued under paragraph (a) may include an assessment of monetary
1.22 penalties and may require the person to cease and desist from committing the violation
1.23 or committing the act, conduct, or practice set out in subdivision 11, paragraph (b). The
1.24 monetary penalty may be up to \$10,000 for each violation or act, conduct, or practice
1.25 committed by the person. The procedures in section 326B.083 must be followed when
1.26 issuing orders under paragraph (a).

2.1 (c) The permit holder, licensee, registrant, certificate holder, or applicant to whom
2.2 the commissioner issues an order under paragraph (a) shall have 30 days after ~~service~~
2.3 issuance of the order to request a hearing. The request for hearing must be in writing and
2.4 must be served on or faxed to the commissioner at the address or fax number specified
2.5 in the order by the 30th day after ~~service~~ issuance of the order. If the person does not
2.6 request a hearing or if the person's written request for hearing is not served on or faxed
2.7 to the commissioner by the 30th day after ~~service~~ issuance of the order, the order shall
2.8 become a final order of the commissioner and will not be subject to review by any court or
2.9 agency. The date on which a request for hearing is served by mail shall be the postmark
2.10 date on the envelope in which the request for hearing is mailed. If the person submits to
2.11 the commissioner a timely request for hearing, the order is stayed unless the commissioner
2.12 summarily suspends the license, registration, certificate, or permit under subdivision 13,
2.13 and a contested case hearing shall be held in accordance with chapter 14.

2.14 Sec. 2. Minnesota Statutes 2008, section 326B.084, is amended to read:

2.15 **326B.084 FALSE INFORMATION.**

2.16 Subdivision 1. False information. A person subject to any of the requirements in
2.17 the applicable law may not make a false material statement, representation, or certification
2.18 in; omit material information from; or alter, conceal, or fail to file or maintain a notice,
2.19 application, record, report, plan, or other document required under the applicable law.

2.20 Subd. 2. Unlicensed advertising. No person shall offer to perform services for
2.21 which a license issued by the commissioner is required unless the person holds an active
2.22 license to perform those services.

2.23 Sec. 3. Minnesota Statutes 2008, section 326B.43, subdivision 1, is amended to read:

2.24 Subdivision 1. **Rules.** The Plumbing Board may, by rule, prescribe minimum
2.25 standards which shall be uniform and which shall be effective for all new plumbing
2.26 installations performed anywhere in the state, including additions, extensions, alterations,
2.27 and replacements ~~connected with any water or sewage disposal system owned or operated~~
2.28 ~~by or for any municipality, institution, factory, office building, hotel, apartment building,~~
2.29 ~~or any other place of business regardless of location or the population of the city or town in~~
2.30 ~~which the installation is to be located.~~ Notwithstanding the provisions of Minnesota Rules,
2.31 part 4715.3130, as they apply to review of plans and specifications, the commissioner may
2.32 allow plumbing construction, alteration, or extension to proceed without approval of the
2.33 plans or specifications by the commissioner.

3.1 Except for powers granted to the Plumbing Board, the commissioner of labor and
3.2 industry shall administer the provisions of sections 326B.42 to 326B.49 and for such
3.3 purposes may employ plumbing inspectors and other assistants.

3.4 Sec. 4. Minnesota Statutes 2008, section 326B.435, subdivision 2, is amended to read:

3.5 Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the
3.6 power to:

3.7 (1) elect its chair, vice-chair, and secretary;

3.8 (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board,
3.9 and containing such other provisions as may be useful and necessary for the efficient
3.10 conduct of the business of the board;

3.11 (3) adopt the plumbing code that must be followed in this state and any plumbing
3.12 code amendments thereto. The board shall adopt the plumbing code and any amendments
3.13 thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);

3.14 (4) review requests for final interpretations and issue final interpretations as provided
3.15 in section 326B.127, subdivision 5;

3.16 (5) except for rules regulating continuing education, adopt rules that regulate the
3.17 licensure or registration of plumbing contractors, journeymen, apprentices, master
3.18 plumbers, restricted master plumbers, ~~and~~ restricted journeymen, water conditioning
3.19 contractors, and water conditioning installers, and other persons engaged in the design,
3.20 installation, and alteration of plumbing systems or engaged in or working at the business
3.21 of water conditioning installation or service, except for those individuals licensed under
3.22 section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter
3.23 14 and as provided in subdivision 6, paragraphs (e) and (f);

3.24 (6) advise the commissioner regarding educational requirements for plumbing
3.25 inspectors;

3.26 (7) refer complaints or other communications to the commissioner, whether oral or
3.27 written, as provided in subdivision 8, that allege or imply a violation of a statute, rule, or
3.28 order that the commissioner has the authority to enforce pertaining to code compliance,
3.29 licensure, or an offering to perform or performance of unlicensed plumbing services;

3.30 (8) approve per diem and expenses deemed necessary for its members as provided in
3.31 subdivision 3;

3.32 (9) approve license reciprocity agreements;

3.33 (10) select from its members individuals to serve on any other state advisory council,
3.34 board, or committee; and

3.35 (11) recommend the fees for licenses and certifications.

4.1 Except for the powers granted to the Plumbing Board, the Board of Electricity, and the
4.2 Board of High Pressure Piping Systems, the commissioner of labor and industry shall
4.3 administer and enforce the provisions of this chapter and any rules promulgated pursuant
4.4 thereto.

4.5 (b) The board shall comply with section 15.0597, subdivisions 2 and 4.

4.6 (c) The commissioner shall coordinate the board's rulemaking and recommendations
4.7 with the recommendations and rulemaking conducted by the other boards created pursuant
4.8 to this chapter. The commissioner shall provide staff support to the board. The support
4.9 includes professional, legal, technical, and clerical staff necessary to perform rulemaking
4.10 and other duties assigned to the board. The commissioner of labor and industry shall
4.11 supply necessary office space and supplies to assist the board in its duties.

4.12 Sec. 5. Minnesota Statutes 2008, section 326B.475, subdivision 6, is amended to read:

4.13 Subd. 6. **Bond; insurance.** A restricted master ~~or a restricted journeyman~~ plumber
4.14 licensee is subject to the bond and insurance requirements of section 326B.46, subdivision
4.15 2, unless the exemption provided by section 326B.46, subdivision 3, applies.

4.16 Sec. 6. Minnesota Statutes 2008, section 326B.52, subdivision 1, is amended to read:

4.17 Subdivision 1. **Rulemaking by commissioner.** The commissioner shall, by
4.18 rule, prescribe minimum standards which shall be uniform, and which standards shall
4.19 thereafter be effective for all new water conditioning servicing and water conditioning
4.20 installations performed anywhere in the state, including additions, extensions, alterations,
4.21 and replacements ~~connected with any water or sewage disposal system owned or operated~~
4.22 ~~by or for any municipality, institution, factory, office building, hotel, apartment building or~~
4.23 ~~any other place of business, regardless of location or the population of the city, county~~
4.24 ~~or town in which located.~~

4.25 Sec. 7. Minnesota Statutes 2008, section 326B.53, is amended to read:

4.26 **326B.53 LOCAL REGULATIONS.**

4.27 Any city, county, or town ~~with a population of 5,000 or more according to the last~~
4.28 ~~federal census~~ may, by ordinance, adopt local regulations providing for water conditioning
4.29 permits, bonds, approval of plans, and inspections of water conditioning installations and
4.30 servicing, which regulations shall not be in conflict with the water conditioning standards
4.31 on the same subject prescribed by the commissioner. No such city, county, or town shall
4.32 prohibit water conditioning contractors or installers licensed by the commissioner from
4.33 engaging in or working at the business.

5.1 Sec. 8. Minnesota Statutes 2008, section 326B.55, subdivision 1, is amended to read:

5.2 Subdivision 1. **Licensing in certain cities.** ~~In any city or town having a population~~
5.3 ~~of 5,000 or more according to the last federal census;~~ No person shall engage in or
5.4 work at the business of water conditioning installation or servicing ~~after January 1,~~
5.5 ~~1970; anywhere in the state~~ unless (1) at all times an individual licensed as a water
5.6 conditioning contractor by the commissioner shall be responsible for the proper water
5.7 conditioning installation and servicing work of such person, and (2) all installations, other
5.8 than exchanges of portable equipment, are performed by a licensed water conditioning
5.9 contractor or licensed water conditioning installer. Any individual not so licensed may
5.10 perform water conditioning work that complies with the minimum standard prescribed by
5.11 the commissioner on premises or that part of premises owned and occupied by the worker
5.12 as a residence, unless otherwise prohibited by a local ordinance.

5.13 Sec. 9. Minnesota Statutes 2008, section 326B.59, is amended to read:

5.14 **326B.59 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.**

5.15 The provisions of sections 326B.50 to ~~326B.59~~ 326B.58 that require licenses to
5.16 engage in the work or business of water conditioning installation, and the provisions that
5.17 provide for the examination of applicants for such licenses, ~~shall only apply to work~~
5.18 ~~accomplished in cities or towns having populations of 5,000 or more according to the last~~
5.19 ~~federal census, and shall~~ do not apply to master plumbers and journeymen plumbers
5.20 licensed under the provisions of sections 326B.42 to 326B.49.

5.21 Sec. 10. Minnesota Statutes 2008, section 326B.801, is amended to read:

5.22 **326B.801 SCOPE.**

5.23 Except as otherwise provided by law, ~~the provisions of~~ sections 326B.801 to
5.24 ~~326B.825~~ 326B.885 apply to residential contractors, residential remodelers, residential
5.25 roofers, and manufactured home installers.

5.26 Sec. 11. Minnesota Statutes 2008, section 326B.921, subdivision 1, is amended to read:

5.27 Subdivision 1. **License required; rules; time credit.** No individual shall engage in
5.28 or work at the business of a contracting high pressure pipefitter unless issued a contracting
5.29 high pressure pipefitter license to do so by the department under rules adopted by the
5.30 board. No license shall be required for repairs on existing installations. No individual shall
5.31 engage in or work at the business of journeyman high pressure pipefitter unless issued a
5.32 journeyman high pressure pipefitter competency license to do so by the department under

6.1 rules adopted by the board. An individual possessing a contracting high pressure pipefitter
6.2 competency license may also work as a journeyman high pressure pipefitter.

6.3 No person shall construct or install high pressure piping, nor install high pressure
6.4 piping in connection with the dealing in and selling of high pressure pipe material and
6.5 supplies, unless, at all times, an individual possessing a contracting high pressure pipefitter
6.6 competency license or a journeyman high pressure pipefitter competency license is
6.7 responsible for ensuring that the high pressure pipefitting work is in conformity with
6.8 Minnesota Statutes and Minnesota Rules.

6.9 The board shall prescribe rules, not inconsistent herewith, for the examination
6.10 and competency licensing of contracting high pressure pipefitters and journeyman high
6.11 pressure pipefitters ~~and for issuance of permits by the department and municipalities~~
6.12 ~~for the installation of high pressure piping.~~

6.13 An employee performing the duties of inspector for the department in regulating
6.14 pipefitting shall not receive time credit for the inspection duties when making an
6.15 application for a license required by this section.

6.16 Sec. 12. Minnesota Statutes 2008, section 326B.921, is amended by adding a
6.17 subdivision to read:

6.18 Subd. 2a. **Owner maintenance program.** (a) A person holding a high pressure
6.19 pipng business license who is the owner or who is employed by the owner of a high
6.20 pressure piping system may request approval from the department to implement and
6.21 operate an owner maintenance program that utilizes unlicensed individuals to perform
6.22 work on existing installations of high pressure piping. Subject to written approval from
6.23 the department, the owner may use unlicensed individuals who are directly employed by
6.24 the owner to perform maintenance, repairs, and welding necessary to restore an existing
6.25 permitted high pressure piping system to a safe and satisfactory operating condition.
6.26 Unlicensed individuals may only perform maintenance and repairs necessary to restore a
6.27 high pressure piping system to its original capabilities and may not perform wholesale
6.28 replacements of high pressure piping systems. All work by unlicensed individuals must
6.29 conform to Minnesota Rules, chapter 5230. Approval of an owner maintenance program
6.30 under this subdivision does not allow repair of boilers under the authority of and as defined
6.31 by section 326B.966. Unlicensed individuals performing maintenance, repairs, or welding
6.32 authorized by this subdivision are exempt from the provisions of subdivision 3.

6.33 (b) The owner maintenance program must include organization, design control,
6.34 material control, control of work, inspection, welding, nondestructive testing, records, and
6.35 a provision for system test and inspection.

7.1 (c) The commissioner of the department may withdraw program approval, with
 7.2 cause, upon the recommendation of the department. The commissioner must provide
 7.3 the business with written notification of the department's intent to withdraw program
 7.4 approval and the reasons for the action. The business, upon receipt of the commissioner's
 7.5 notification, has 30 calendar days to implement the required corrective actions to the
 7.6 satisfaction of the department. The acceptance or rejection of all corrective actions must
 7.7 be made in writing by the department.

7.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.9 Sec. 13. Laws 2008, chapter 363, article 10, section 4, subdivision 1, is amended to
 7.10 read:

7.11 Subdivision 1. **Base Reduction** \$ -0- \$ (43,000)

7.12 \$43,000 in the second year is a base
 7.13 reduction. The commissioner ~~must not~~
 7.14 ~~reduce funding available for prevailing wage~~
 7.15 ~~enforcement and~~ must fill all positions when
 7.16 vacancies become available.

7.17 Sec. 14. **TIME LIMIT.**

7.18 Notwithstanding the lapse of the time limit to adopt rules under Minnesota Statutes,
 7.19 section 14.125, the commissioner of labor and industry's authority to adopt rules under
 7.20 Minnesota Statutes, section 326B.978, subdivisions 4 and 18, is extended by 18 months
 7.21 following the effective date of this section.

7.22 Sec. 15. **RULE CHANGE.**

7.23 The Plumbing Board shall amend Minnesota Rules, part 4715.0320, subpart 1, so
 7.24 that it conforms with Minnesota Statutes, section 326B.43, as amended by this act. The
 7.25 Plumbing Board may use the good cause exemption under Minnesota Statutes, section
 7.26 14.388, subdivision 1, clause (3), in adopting the amendment, and Minnesota Statutes,
 7.27 section 14.386, does not apply.

7.28 Sec. 16. **REPEALER.**

7.29 Minnesota Statutes 2008, section 326B.43, subdivision 5, is repealed.

326B.43 PLUMBING STANDARDS; RULES; AGREEMENT WITH MUNICIPALITY; EXEMPTION.

Subd. 5. **Exemption.** No license or registration authorized by sections 326B.42 to 326B.49 shall be required of any individual engaged in or employed by a person engaged in the work or business of pipe laying outside of buildings if such individual or employer is engaged in a business or trade which has traditionally performed such work within the state prior to January 1, 1994.