

CHAPTER 86

(SB 10)

AN ACT relating to heating, ventilation, and air conditioning and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 198B.030 to the contrary, any person who installs an initial heating, ventilation, or air conditioning system shall apply for a permit prior to beginning the installation. No installation shall begin before the application for the permit has been filed. In no event, however, shall a person exempt under KRS 198B.674 be required to possess or show proof of a heating, ventilation, or air conditioning license in order to obtain the permit required by this section.*
- (2) *The applicant for a heating, ventilation, and air conditioning permit, by the act of applying for the permit, shall be deemed to consent to inspection of the installation by authorized inspectors of the Commonwealth of Kentucky and of the relevant city, county, urban-county, charter county, unified local government, or consolidated local government.*
- (3) *The permit shall give:*
 - (a) *The name of the person performing the work;*
 - (b) *The full extent of the work to be performed;*
 - (c) *The name of the owner or owners of the property where the work is to be performed;*
 - (d) *The location of the property where the work is to be performed, including county and street address; and*
 - (e) *The master license number, if the work is required to be performed by a master heating, ventilation, and air conditioning contractor.*
- (4) *No permit shall be required for any installation performed on a manufactured home as defined by KRS 227.550(7), by a manufactured home retailer licensed pursuant to KRS 227.610, or by a manufacturer as defined by KRS 227.550(9).*
- (5) *No permit or inspection shall be required for the installation of window unit air conditioners or space heaters.*
- (6) *No permit or inspection shall be required for the installation of a heating, ventilation, or air conditioning system except in buildings designed for human occupancy.*

SECTION 2. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *No person, firm, or corporation shall use, continue to use, or permit the use of any heating, ventilation, or air conditioning system that an authorized inspector or the inspector's employee or agent determines was not installed in accordance with the Uniform State Building Code, the Uniform State Residential Code, and the referenced standards contained in the respective codes.*
- (2) *If a permit is required by Section 1 of this Act for the installation of a heating, ventilation, or air conditioning system, no firm, person, or corporation shall use, continue to use, or permit the use of the heating, ventilation, or air conditioning system unless the permit has been obtained or applied for.*
- (3) *Any inspection required by Section 1 of this Act shall be scheduled with the property owner or owners or their agent or agents at least one (1) business day in advance and shall be completed within three (3) business days of the scheduled inspection.*

SECTION 3. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall promulgate administrative regulations to establish a reasonable schedule of fees to implement the program. The fees shall not exceed the actual costs for the administration of the program. The board shall also establish heating, ventilation, and air conditioning inspection protocols that ensure timely inspections and minimal interruption to the construction process.*

- (2) *The office, with the approval of the board, upon the request of any individual local governing entity or combination of entities with existing heating, ventilation, and air conditioning permitting and inspection programs as of January 1, 2007, shall authorize them to administer, carry out, and enforce the rules and regulations of the office relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of these functions. Nothing in Sections 1 to 8 of this Act shall prohibit these entities from continuing to include major repairs or substantial alterations to a heating, ventilation, or air conditioning system within their permitting and inspection program in the absence of a state requirement, if major repairs or substantial alterations were included in the entities' inspection program prior to January 1, 2007. The office, with the approval of the board, may authorize any other individual local government entities or combination of entities to administer, carry out, and enforce the rules and regulations of the office relating to heating, ventilation, and air conditioning installations, issue permits, and make inspections within their respective boundaries, or perform any portion of those functions. When authorization is granted, the office shall enter into contractual arrangements with the local governing entities, which shall remain in effect as long as the local entity continues to operate its program pursuant to guidelines adopted by the board. A heating, ventilation, and air conditioning permit issued by an authorized local governing entity shall be considered a permit issued by the office, and all fees collected by the authorized local government related to the same shall be retained by that local government.*
- (3) *Any local governing entity enforcing the permitting and inspection requirements of KRS 198B.650 to 198B.689 pursuant to subsection (2) of this section may appoint and fix the compensation of the local governing entity's heating, ventilation, and air conditioning inspectors. No person shall perform the duties of a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating, ventilation, and air conditioning journeyman mechanic or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of employment the heating, ventilation, and air conditioning inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689.*
- (4) *No local governing entity may impose any other additional heating, ventilation, and air conditioning inspection or permit requirements, or establish any local inspection or permitting program, unless those provisions were in place before January 1, 2007.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

All fees and fines collected and paid into the State Treasury shall be credited to a revolving trust and agency account and shall be used only for the administration and enforcement of KRS 198B.650 to 198B.689 and the repayment of moneys borrowed from surplus trust and agency accounts of the office. The moneys in the account are hereby appropriated by the General Assembly for the purposes set forth in KRS 198B.650 to 198B.689, and shall not lapse at the close of the fiscal year.

SECTION 5. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purpose of enforcing the provisions of KRS 198B.650 to 198B.689, officers, agents, and inspectors of the office or an authorized local government shall have the power and authority to enter upon permitted premises at all reasonable times with the consent of the property owner in order to make inspections, interview all persons, and request proof of heating, ventilation, and air conditioning licenses, installation permits, and other evidence of compliance. Officers, agents, and inspectors of the office or an authorized local government shall have the authority to issue a stop-work order to any owner, agent, or occupant of real property whenever the heating, ventilation, and air conditioning system under inspection is found to be in violation of KRS 198B.650 to 198B.689 or the Uniform State Building Code's heating, ventilation, and air conditioning mechanical sections.*
- (2) *Notwithstanding the existence or pursuit of any other civil or criminal penalties, the office and its officers, agents, and inspectors are authorized to institute and maintain actions to restrain and enjoin any violation of KRS 198B.650 to 198B.689, the Uniform State Building Code, the Uniform State Residential Code, or the rules or the administrative regulations of the office relating thereto.*
- (3) *City and county attorneys, Commonwealth's attorneys, and the Attorney General may, within their respective jurisdictions, represent the office and its officers, agents, and inspectors in the enforcement of*

provisions of KRS 198B.650 to 198B.689, the Uniform State Residential Code, and the Uniform State Building Code.

SECTION 6. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *The Circuit Court where a violation occurs shall have jurisdiction and venue in all civil and injunctive actions instituted by the office for the enforcement of the provisions of KRS 198B.650 to 198B.689 and orders issued thereunder.*
- (2) *The District Court where a violation occurs shall have jurisdiction and venue in all criminal actions for the enforcement of the provisions of KRS 198B.650 to 198B.689, the Uniform State Building Code, the Uniform State Residential Code, and orders issued thereunder.*

SECTION 7. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *If an installation for which a permit is required does not meet the requirements of the Uniform State Building Code or the Uniform State Residential Code, whichever is applicable, or if the property owner refuses to allow an inspection, the inspector shall refuse to approve the work covered by the permit. The office or authorized local government may prohibit the continued use of a heating, ventilation, and air conditioning system that an authorized inspector determines was improperly installed or altered if continued use threatens human life or if the property owner refused to allow an inspection.*
- (2) *An applicant aggrieved by an action of an inspector or the office may request a hearing in accordance with KRS Chapter 13B.*

SECTION 8. A NEW SECTION OF KRS 198B.650 TO 198B.689 IS CREATED TO READ AS FOLLOWS:

- (1) *The office shall appoint and assign heating, ventilation, and air conditioning inspectors to each county subject to the provisions of KRS 198B.650 to 198B.689 and in numbers sufficient to implement the provisions of KRS 198B.650 to 198B.689.*
- (2) *No person shall be appointed as a heating, ventilation, and air conditioning inspector unless he or she has at least six (6) years' experience as a licensed heating ventilation, and air conditioning journeyman mechanic, or a licensed master heating, ventilation, and air conditioning contractor, unless he or she is a certified building inspector who has successfully passed the examinations relating to heating, ventilation, and air conditioning systems. At the time of his or her appointment the inspector shall be licensed or certified in accordance with the provisions of KRS 198B.650 to 198B.689.*

Section 9. KRS 198B.650 is amended to read as follows:

As used in KRS 198B.650 to 198B.689, unless the context requires otherwise:

- (1) "Air conditioning or cooling system" means a system in which heat is removed from air, surrounding surfaces, or both;
- (2) "Apprentice heating, ventilation, and air conditioning mechanic" means an individual in the process of learning the heating, ventilation, and air conditioning trade who assists and is under the supervision of a master heating, ventilation, and air conditioning contractor and a journeyman heating, ventilation, and air conditioning mechanic;
- (3) "Board" means the Kentucky Board of Heating, Ventilation, and Air Conditioning Contractors;
- (4) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;
- (5) "Certificate" means a document issued by the board to an apprentice heating, ventilation, and air conditioning mechanic to assist a master heating, ventilation, and air conditioning contractor or a journeyman heating, ventilation, or air conditioning mechanic;
- (6) "Executive director" means the executive director of the Office of Housing, Buildings and Construction;
- (7) "Office" means the Office of Housing, Buildings and Construction;

- (8) "Heating system" means a system in which heat is transmitted by radiation, conduction, convection, or a combination of any of these methods to air, surrounding surfaces, or both. "Heating system" does not include fireplaces and free-standing stoves not incorporated into a primary heating system, electric thermal storage units, electric ceiling cable heating systems, or electric baseboard heating units;
- (9) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;
- (10) ***"Initial heating, ventilation, or air conditioning system" means the first or original heating, ventilation, or air conditioning system installed in a building;***
- (11) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the board to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;
- ~~(12)~~~~(11)~~ "Maintenance person or maintenance engineer" means a person who is a regular and bona fide full-time employee or agent of a property owner, property lessor, property management company, or firm, not in the heating, ventilating, and air conditioning business that has jurisdiction of property where the routine maintenance of heating, ventilating, and air conditioning is being performed, provided the maintenance shall not include replacement of heating, ventilation, or air conditioning systems;
- (13) ***"Major repair" means the complete replacement of any of the following heating, ventilation, or air conditioning equipment:***
- (a) ***Furnaces;***
 - (b) ***Condensing units;***
 - (c) ***Heat pumps;***
 - (d) ***Fan coil units;***
 - (e) ***Chiller systems; or***
 - (f) ***Heating boiler systems not covered by KRS Chapter 236;***
- ~~(14)~~~~(12)~~ "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the board to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;
- (15) ***"Permit" means a document issued by the office or its authorized agent allowing the installation of an original heating, ventilation, or air conditioning system;***
- ~~(16)~~~~(13)~~ "Practice of heating, ventilation, and air conditioning contracting" means the installation, maintenance, altering, remodeling, or repair of heating systems, ventilation systems, hydronic systems, burner service, or cooling systems;
- ~~(17)~~~~(14)~~ "Routine maintenance of heating, ventilation, or air conditioning" means the routine and periodic servicing of heating, ventilation, and air conditioning systems, including cleaning, inspection, and adjustments to insure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include the installation of complete new heating, ventilation, or air conditioning systems; and
- ~~(18)~~~~(15)~~ "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

Section 10. KRS 198B.990 is amended to read as follows:

- (1) Any person who violates any provision of KRS 198B.140, ***of Section 1 or 2 of this Act***, or of the Uniform State Building Code, ***the Uniform State Residential Code***, or any directive or order issued pursuant thereto, shall be fined not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000). Each day the violation continues shall constitute a separate offense.
- (2) Any person who violates the provisions of KRS 198B.310 to 198B.330 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or be imprisoned for not more than one (1) year, or both.
- (3) Any person who violates any provision of KRS 198B.410 to 198B.540, or regulation issued thereunder, shall be fined a sum of five hundred dollars (\$500) for each offense.

Section 11. Funds for the initial administration of this Act, following July 1, 2008, and to the extent fee income is insufficient to meet actual costs as determined by the chief budget officer for the office, with the approval of the board, shall be borrowed from surplus trust and agency accounts of the office and repaid without interest over no more than the succeeding two (2) fiscal years.

Section 12. Sections 1, 3, 4, 6, 8, 9, 10, and 11 of this Act shall take effect July 1, 2008. Sections 2, 5, and 7 shall take effect January 1, 2009.

Approved March 23, 2007.