

CHAPTER 108**(HB 249)**

AN ACT relating to building facilities and declaring an emergency.

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

➔Section 1. 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) "Burner service" means the servicing of oil or gas burners used for heating air or water for purposes other than the transmission of heat;
- (4) "Certificate" means a document issued by the department 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;
- (5) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- (6) "Department" means the Department of Housing, Buildings and Construction;
- (7) "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;
- (8) "Hydronic system" means a heating and cooling system using liquids to transmit or remove heat;
- (9) "Initial heating, ventilation, or air conditioning system" means the first or original heating, ventilation, or air conditioning system installed in a building;
- (10) "Journeyman heating, ventilation, and air conditioning mechanic" means an individual who is licensed by the department to perform heating, ventilation, and air conditioning work under the supervision, direction, and responsibility of a master heating, ventilation, and air conditioning contractor;
- (11) "Maintenance person or maintenance engineer" means a person who is a regular and bona fide employee 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 major repairs;
- (12) "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;
- (13) "Master heating, ventilation, and air conditioning contractor" means a heating, ventilation, and air conditioning contractor who is licensed by the department to advertise and practice heating, ventilation, and air conditioning contracting in this Commonwealth;

- (14) "Permit" means a document issued by the department or its authorized agent allowing the installation of an original heating, ventilation, or air conditioning system;
- (15) (a) "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.
- (b) *"Practice of heating, ventilation, and air conditioning contracting" does not include cleaning of duct work. If cleaning of duct work involves cutting an access point or hole into a duct, the access point or hole shall be repaired and resealed in such a manner that the integrity of the duct is restored before the cleaning service is concluded.*
- (c) *Nothing in this subsection shall be taken to prohibit a person licensed under KRS 198B.650 to 198B.689 from performing the cleaning of duct work;*
- (16) "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 ensure the proper operation, and the removal and replacement of component parts. "Routine maintenance of heating, ventilation, or air conditioning" shall not include major repairs; and
- (17) "Ventilation system" means a natural or mechanical system of supplying air to or removing air from any space.

➔Section 2. KRS 198B.674 is amended to read as follows:

KRS 198B.650 to 198B.689 shall not apply to:

- (1) Employees of any master heating, ventilation, and air conditioning contractor who are subordinates of the licensee, if those employees are not journeyman heating, ventilation, and air conditioning mechanics or apprentice heating, ventilation, and air conditioning mechanics and do not engage in heating, ventilation, and air conditioning contracting, except as an employee;
- (2) An employee of the United States government while practicing heating, ventilation, and air conditioning contracting on or within property owned by the United States government.
- (3) An individual owner of real property while practicing heating, ventilation, and air conditioning work on or within property owned and occupied by the individual;
- (4) A person employed in the installation, maintenance, repair, or replacement of residential window air conditioning units;
- (5) A person licensed under KRS Chapter 236, if he is installing, servicing, repairing, or replacing boiler devices;
- (6) A person licensed under KRS Chapter 322, if he is preparing plans or conducting construction inspections;
- (7) A full-time maintenance person or maintenance engineer performing routine maintenance of heating, ventilation, or air conditioning in connection with his employment;
- (8) Contractors or employees while installing or maintaining heating, cooling, air conditioning, ventilation, or burner services on any property or site owned or operated by any entity:
 - (a) Subject to the jurisdiction of KRS Chapter 278; or
 - (b) Of any municipal electric, water, gas, or sewer utility operating pursuant to any of the provisions of KRS Chapter 96;
- (9) The adjustment of an air flow device performed by any entity specified in subsection (8) of this section, if the adjustment is performed in conjunction with the installation, replacement, or repair of a gas distribution line;
- (10) A person licensed or certified pursuant to KRS 227.570, or the administrative regulations promulgated thereunder, upon initial installation of air conditioning units incorporated with the original sale of a manufactured housing unit;
- (11) A general retailer whose primary business is not the practice of heating, ventilation, and air conditioning contracting, if that general retailer uses only licensed subcontractors that comply with the provisions of KRS 198B.650 to 198B.689. The provisions of this subsection shall not exclude or limit the liability of the general retailer, or exempt the general retailer from the insurance requirements as established in KRS 198B.668, if the general retailer is engaging in the practice of heating, ventilation, and air conditioning contracting;

- (12) The installation, service, repair, or replacement of electrical units on any heating, ventilation, or air conditioning system;
- (13) An employee or agent of the Commonwealth of Kentucky while practicing heating and ventilation contracting in connection with weatherization assistance for low income persons pursuant to 903 KAR 6:020;
- (14) A person conducting routine maintenance of heating, ventilation, or air conditioning as a volunteer for any church or religious organization, provided he receives no compensation for the services rendered;~~{or}~~
- (15) The installation, service, repair, or replacement of liquefied petroleum gas units on any heating, ventilation, or air conditioning system by an employee of any person licensed under the provisions of KRS 234.120(1)(a); **or**
- (16) ***A person cleaning duct work not engaged in installation or repair of the heating, ventilation, or air conditioning system unless, in cleaning the duct work it was necessary to cut an access point or hole, in which case the repair of the access point or hole shall be included in the cleaning service and the duct work shall be restored to its original integrity before concluding the cleaning service. A person who cuts, repairs, or restores duct work related to a duct cleaning service shall be a contractor that is licensed and insured in the state of Kentucky.***

➔Section 3. KRS 198B.4021 is amended to read as follows:

- (1) An elevator contractor shall notify the department when the contractor has ***a shortage of***~~{no}~~ licensed personnel available, ***due to a reduction in licensed elevator mechanics employed by the contractor or an increase in work***, to perform elevator work. The elevator contractor may request that the department issue temporary elevator mechanic licenses to persons confirmed by the licensed elevator contractor to have a combination of ***a minimum of twenty-four (24) months'*** documented experience and education ***as part of:***
 - (a) ***A state-certified apprenticeship educational program;***
 - (b) ***A training program provided by the National Elevator Industry Educational Program or the National Association of Elevator Contractors; or***
 - (c) ***Equivalent experience while serving in the United States military services*** to perform elevator work without direct and immediate supervision, ***not to exceed twenty-five percent (25%) of the number of licensed personnel employed by the elevator contractor.***
- (2) Any person confirmed by an elevator contractor to have a combination of ***a minimum of twenty-four (24) months'*** documented experience and education ***as part of:***
 - (a) ***A state-certified apprenticeship educational program;***
 - (b) ***A training program provided by the National Elevator Industry Educational Program or the National Association of Elevator Contractors; or***
 - (c) ***Equivalent experience while serving in the United States military services*** to perform elevator work without direct and immediate supervision shall ***be eligible to*** immediately seek a temporary elevator mechanic license from the department.
- (3) Each temporary license shall be valid for a period of one (1) year and only while the licensee is employed by the licensed elevator contractor that confirmed the individual as qualified.
- (4) The temporary license shall be renewable for ***one (1)*** additional ~~*term*~~~~{terms}~~ of one (1) year~~{each until there is no shortage of ordinary license holders}~~.

➔Section 4. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

- (1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:
 - (a) Armories;
 - (b) Assembly halls;
 - (c) Auditoriums;
 - (d) Bowling alleys;

- (e) Broadcasting studios;
 - (f) Chapels;
 - (g) Churches;
 - (h) Clubrooms;
 - (i) Community buildings;
 - (j) Courthouses;
 - (k) Dance halls;
 - (l) Exhibition rooms;
 - (m) Gymnasiums;
 - (n) Hotels;
 - (o) Lecture rooms;
 - (p) Lodge rooms;
 - (q) Motels;
 - (r) Motion picture theaters;
 - (s) Museums;
 - (t) Night clubs;
 - (u) Opera houses;
 - (v) Passenger stations;
 - (w) Pool rooms;
 - (x) Recreation areas;
 - (y) Restaurants;
 - (z) Skating rinks;
 - (aa) Television studios; *and*
 - (bb) Theaters.
- (2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.
- (3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.
- (4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular, and also means single-family dwellings, including those sold or constructed under a trade or brand name. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a manufactured home governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if the farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.
- (5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling, or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

- (a) Banks;
 - (b) Barber shops;
 - (c) Beauty parlors;
 - (d) Department stores;
 - (e) Garages;
 - (f) Markets;
 - (g) Service stations;
 - (h) Offices;
 - (i) Stores;
 - (j) Radio stations;
 - (k) Telephone exchanges; and
 - (l) Television stations.
- (6) "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.
- (7) "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.
- (8) "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.
- (9) "Commissioner" means the commissioner of the department.
- (10) "Committee" means the Housing, Buildings and Construction Advisory Committee established by KRS 198B.032.
- (11) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.
- (12) ***"Controlled environment agriculture facility":***
- (a) ***Means a facility that utilizes a technologically advanced form of hydroponic or soilless-based production that includes a combination of engineering, plant science, and computer-managed greenhouse control technologies in growing spaces and all connected sorting, packing, and storage areas to allow complete and stable control of the plant environment, including temperature, light, and carbon dioxide;***
 - (b) ***Includes the immediate sorting, packing, and shipping of fresh, ready-to-consume produce; and***
 - (c) ***Shall not be used for retail sales or allow open access to the public.***
- (13) "Department" means the Department of Housing, Buildings and Construction.
- ~~(14)~~~~(13)~~ "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction. "Educational occupancy" shall not include a building for occupancy or use by thirty-five (35) persons or less assembled to receive religious and educational instruction. "Educational occupancy" includes but is not limited to:
- (a) Academies;
 - (b) Care centers;
 - (c) Colleges;
 - (d) Kindergartens;

- (e) Libraries;
- (f) Preschools;
- (g) Relocatable classroom units;
- (h) Schools;
- (i) Seminaries; and
- (j) Universities.

(15)~~(14)~~ "Equipment" means facilities or installations, including but not limited to heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(16)~~(15)~~ "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

- (a) Aluminum powder factories;
- (b) Charging or filling stations;
- (c) Distilleries;
- (d) Dry cleaning plants;
- (e) Dry dyeing plants;
- (f) Explosive-manufacture, sale or storage;
- (g) Flour and feed mills;
- (h) Gasoline bulk plants;
- (i) Grain elevators;
- (j) Lacquer factories;
- (k) Liquefied petroleum gas;
- (l) Mattress factories;
- (m) Paint factories;
- (n) Pyroxylin-factories, or warehouses; and
- (o) Rubber factories.

(17)~~(16)~~ "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:

- (a) Assembly plants;
- (b) Creameries;
- (c) Electrical substations;
- (d) Factories;
- (e) Ice plants;
- (f) Laboratories;
- (g) Laundries;
- (h) Manufacturing plants;
- (i) Mills;
- (j) Power plants;
- (k) Processing plants;
- (l) Pumping stations;

- (m) Repair garages;
 - (n) Smokehouses; and
 - (o) Workshops.
- (18)~~(17)~~ "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.
- (19)~~(18)~~ "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:
- (a) Asylums;
 - (b) Homes for the aged;
 - (c) Hospitals;
 - (d) Houses of correction;
 - (e) Infirmarys;
 - (f) Jails;
 - (g) Nursing homes;
 - (h) Orphanages;
 - (i) Penal institutions;
 - (j) Reformatories;
 - (k) Sanitariums; and
 - (l) Nurseries.
- (20)~~(19)~~ "Mobile home" means mobile home as defined in KRS 227.550.
- (21)~~(20)~~ "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include but not be limited to the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring, or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.
- (22)~~(21)~~ "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.
- (23)~~(22)~~ "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he or she is insecure or exposed to danger; a person whose hearing is so impaired that he or she is unable to hear warning signals; and a person whose mobility, flexibility, coordination, and perceptiveness are significantly reduced by aging.
- (24)~~(23)~~ "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety, or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.
- (25)~~(24)~~ "Manufactured home" is defined as in KRS 227.550.

➔Section 5. Whereas, the safety and well-being of the citizens of our great Commonwealth are a vital part of our communities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 8, 2022.

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