

HB 2747  
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2747**

(By Delegates Argento, Barker, Iaquina,  
Manchin, Martin, Perdue, Tucker, Yost, Blair,  
Porter and Rowan)



Passed March 10, 2007

In Effect from Passage

FILED

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COMMITTEE SUBSTITUTE

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FOR

# H. B. 2747

(BY DELEGATES ARGENTO, BARKER, IAQUINTA,  
MANCHIN, MARTIN, PERDUE, TUCKER, YOST, BLAIR,  
PORTER AND ROWAN)

[Passed March 10, 2007; in effect from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-14-1, §21-14-2, §21-14-3, §21-14-4, §21-14-5, §21-14-6, §21-14-7, §21-14-8 and §21-14-9; and to amend said code by adding thereto a new article, designated §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7, §29-3D-8 and §29-3D-9, all relating to regulating plumbers and fire protection workers; definitions; requiring plumbers to be licensed by the Commissioner of Labor; requiring fire protection workers to be licensed by the State Fire Marshal; exemptions from licensure; rulemaking authority for the Commissioner of Labor and the State Fire Marshal; providing enforcement procedures; criminal penalties; and providing that no political subdivision of the state may mandate additional licensing requirements.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be

amended by adding thereto a new article, designated §21-14-1, §21-14-2, §21-14-3, §21-14-4, §21-14-5, §21-14-6, §21-14-7, §21-14-8 and §21-14-9; and that said code be amended by adding thereto a new article, designated §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7, §29-3D-8 and §29-3D-9, all to read as follows:

## **CHAPTER 21. LABOR.**

### **ARTICLE 14. SUPERVISION OF PLUMBING WORK.**

#### **§21-14-1. Declaration of purpose.**

1       The provisions of this article are intended to protect the  
2 health, safety and welfare of the public as well as public and  
3 private property by assuring the competence of those who  
4 perform plumbing through licensure by the Commissioner of  
5 Labor.

#### **§21-14-2. Definitions.**

1       As used in this article:

2       (a) "License" means a valid and current license issued by  
3 the Commissioner of Labor in accordance with the provisions  
4 of this article.

5       (b) "Journeyman plumber" means a person qualified by  
6 at least eight thousand hours of plumbing or related  
7 experience and who is competent to instruct and supervise  
8 the work of a plumber in training.

9       (c) "Master plumber" means a person with at least twelve  
10 thousand hours of plumbing work experience and who is  
11 competent to design plumbing systems, and to instruct and  
12 supervise the plumbing work of journeyman plumbers, and  
13 plumbers in training.

14       (d) "Plumber in training" means a person with interest in  
15 and an aptitude for performing plumbing work but who alone

16 is not capable of performing plumbing work, and who has  
17 fewer than eight thousand hours of plumbing experience.

18 (e) "Plumbing" means the practice, materials and fixtures  
19 utilized within a building in the installation, extension and  
20 alteration of all piping, fixtures, water treatment devices,  
21 plumbing appliances and appurtenances, in connection with  
22 sanitary drainage or storm drainage facilities; the plumbing  
23 venting systems; medical gas systems; fuel oil and gas piping  
24 for residential, commercial and institutional facilities;  
25 backflow preventers; and public or private water supply  
26 systems, as defined by the state building code.

27 (f) "Single family dwelling" means a building which is  
28 occupied as, or designed or intended for occupancy as, a  
29 single residence for one or more persons.

**§21-14-3. License required; exemptions.**

1 (a) On and after the first day of January, two thousand  
2 nine, a person performing or offering to perform plumbing  
3 work in this state shall have a license issued by the  
4 Commissioner of Labor, in accordance with the provisions of  
5 this article.

6 (b) A person licensed under this article must carry a copy  
7 of the license on any job in which plumbing work is being  
8 performed.

9 (c) This article does not apply to:

10 (1) A person who personally performs plumbing work on  
11 a single family dwelling owned or leased by that person or by  
12 a member of that person's immediate family;

13 (2) A person who performs plumbing at any  
14 manufacturing plant or other industrial establishment as an  
15 employee of the person, firm or corporation operating the  
16 plant or establishment;

17 (3) A person who performs plumbing work while  
18 employed by an employer who engages in the business of  
19 selling appliances at retail, so long as such plumbing work is  
20 performed incidental to the installation or repair of appliances  
21 sold by the employer;

22 (4) A person who, while employed by a public utility or  
23 its affiliate, performs plumbing in connection with the  
24 furnishing of public utility service;

25 (5) A person who performs plumbing work while  
26 engaging in the business of installing, altering or repairing  
27 water distribution or drainage lines outside the foundation  
28 walls of a building, public or private sewage treatment or  
29 water treatment systems including all associated structures or  
30 buildings, sewers or underground utility services;

31 (6) A person who performs plumbing work while  
32 engaged in the installation, extension, dismantling,  
33 adjustment, repair, servicing or alteration of a heating  
34 ventilation and air conditioning (HVAC) system, air-veyor  
35 system, air exhaust system or air handling system;

36 (7) A person who performs plumbing work at a coal mine  
37 that is being actively mined or where coal is being processed;  
38 or

39 (8) A person who performs plumbing work at  
40 manufacturing, industrial and natural gas facilities.

**§21-14-4. Rule-making authority.**

1 The Commissioner of Labor shall propose rules for  
2 legislative approval, in accordance with the provisions of  
3 article three, chapter twenty-nine-a of this code, for the  
4 implementation and enforcement of the provisions of this  
5 article, which shall provide:

6 (1) Standards and procedures for issuing and renewing

- 7 licenses, including classifications of licenses as defined in  
8 this article, applications, examinations and qualifications;  
9
- 10 (2) Provisions for the granting of licenses without  
11 examination, to applicants who present satisfactory evidence  
12 of having the expertise required to perform work at the level  
13 of the classifications defined in this article and who apply  
14 for licensure on or before the first day of July, two thousand  
15 nine: *Provided*, That if a license issued under the authority  
16 of this subsection subsequently lapses, the applicant is  
17 subject to all licensure requirements, including the  
18 examination;  
19
- 20 (3) Reciprocity provisions;
- 21 (4) Procedures for investigating complaints and revoking  
22 or suspending licenses, including appeal procedures;
- 23 (5) Fees for testing, issuance and renewal of licenses, and  
24 other costs necessary to administer the provisions of this  
25 article;
- 26 (6) Enforcement procedures; and
- 27 (7) Any other rules necessary to effectuate the purposes  
28 of this article.

**§21-14-5. Enforcement.**

1 The Commissioner of Labor and his or her Deputy  
2 Commissioner or any compliance officer of the Division of  
3 Labor as authorized by the Commissioner of Labor is  
4 authorized to enforce the provisions of this article, and may,  
5 at reasonable hours, enter any building or premises where  
6 plumbing work is performed and issue cease and desist  
7 orders for noncompliance.

**§21-14-6. Denial, suspension and revocation of license.**

1 (a) The Commissioner of Labor may deny a license to

2 any applicant who fails to comply with the rules established  
3 by the Commissioner of Labor, or who lacks the necessary  
4 qualifications.

5 (b) The Commissioner of Labor may, upon complaint or  
6 upon his or her own inquiry, and after notice to the licensee,  
7 suspend or revoke a licensee's license if:

8 (1) The license was granted upon an application or  
9 documents supporting the application which materially  
10 misstated the terms of the applicant's qualifications or  
11 experience;

12 (2) The licensee subscribed or vouched for a material  
13 misstatement in his or her application for licensure;

14 (3) The licensee incompetently or unsafely performs  
15 plumbing work; or

16 (4) The licensee violated any statute of this state, any  
17 legislative rule or any ordinance of any municipality or  
18 county of this state which protects the consumer or public  
19 against unfair, unsafe, unlawful or improper business  
20 practices.

#### **§21-14-7. Penalties.**

1 (a) On and after the first day of January, two thousand  
2 nine, a person performing or offering to perform plumbing  
3 work without a license issued by the Commissioner of Labor,  
4 is subject to a cease and desist order.

5 (b) Any person continuing to engage in plumbing work  
6 after the issuance of a cease and desist order is guilty of a  
7 misdemeanor and, upon conviction thereof, is subject to the  
8 following penalties:

9 (1) For the first offense, a fine of not less than two  
10 hundred dollars nor more than one thousand dollars;

11 (2) For the second offense, a fine of not less than five  
12 hundred dollars nor more than two thousand dollars, or  
13 confinement in jail for not more than six months, or both;

14 (3) For the third and subsequent offenses, a fine of not  
15 less than one thousand dollars nor more than five thousand  
16 dollars, and confinement in jail for not less than thirty days  
17 nor more than one year.

18 (c) A separate offense means each day, after official  
19 notice is given, that a person performs plumbing work that is  
20 unlawful or is not in compliance with the provisions of this  
21 article.

22 (d) The Commissioner of Labor may institute  
23 proceedings in the circuit court of the county where the  
24 alleged violation of the provisions of this article occurred or  
25 are occurring to enjoin any violation of any provision of this  
26 article. A circuit court by injunction may compel compliance  
27 with the provisions of this article, with the lawful orders of  
28 the Commissioner of Labor and with any final decision of the  
29 Commissioner of Labor. The Commissioner of Labor shall be  
30 represented in all such proceedings by the Attorney General  
31 or his or her assistants.

32 (e) Any person adversely affected by an action of the  
33 Commissioner of Labor may appeal the action pursuant to the  
34 provisions of chapter twenty-nine-a of this code.

**§21-14-8. Inapplicability of local ordinances.**

1 On and after the first day of January, two thousand nine,  
2 a political subdivision of this state may not require, as a  
3 condition precedent to the performance of plumbing work in  
4 the political subdivision, a person who holds a valid and  
5 current license issued under the provisions of this article, to  
6 have any other license or other evidence of competence as a  
7 plumber.

**§21-14-9. Disposition of fees.**

1 All fees paid pursuant to the provisions of this article,  
2 shall be paid to the Commissioner of Labor and deposited in  
3 a special revenue account with the State Treasurer for the use  
4 of the Commissioner of Labor to enforce the provisions of  
5 this article.

**CHAPTER 29. MISCELLANEOUS BOARDS AND  
COMMISSIONS.**

**ARTICLE 3D. SUPERVISION OF FIRE PROTECTION  
WORK.**

**§29-3D-1. Declaration of purpose.**

1 The provisions of this article are intended to protect the  
2 health, safety and welfare of the public as well as public and  
3 private property by assuring the competence of those who  
4 perform fire protection work through licensure by the State  
5 Fire Marshal.

**§29-3D-2. Definitions.**

1 As used in this article:

2 (a) "Fire protection layout technician" is an individual  
3 who has achieved National Institute for Certification in  
4 Engineering Technologies (NICET) Level III or higher  
5 certification, and who has the knowledge, experience and  
6 skills necessary to layout fire protection systems based on  
7 engineering design documents.

8 (b) "Fire protection system" means any fire protection  
9 suppression device or system designed, installed and  
10 maintained in accordance with the applicable National Fire  
11 Protection Association (NFPA) codes and standards, but does  
12 not include public or private mobile fire vehicles.

13 (c) "Fire protection work" means the installation,  
14 alteration, extension, maintenance, or testing of all piping,  
15 materials and equipment inside a building, including the use  
16 of shop drawings prepared by a fire protection layout  
17 technician, in connection with the discharge of water, other  
18 special fluids, chemicals or gases and backflow preventers  
19 for fire protection for the express purpose of extinguishing or  
20 controlling fire.

21 (d) "Journeyman sprinkler fitter" means a person  
22 qualified by at least ten thousand hours of work experience  
23 installing, adjusting, repairing and dismantling fire protection  
24 systems and who is competent to instruct and supervise the  
25 fire protection work of a sprinkler fitter in training.

26 (e) "License" means a valid and current license issued by  
27 the State Fire Marshal in accordance with the provisions of  
28 this article.

29 (f) "Sprinkler fitter in training" means a person with  
30 interest in and an aptitude for performing fire protection work  
31 but who alone is not capable of performing such work, and  
32 who has fewer than ten thousand hours of experience  
33 installing, adjusting, repairing and dismantling fire protection  
34 systems.

**§29-3D-3. License required; exemptions.**

1 (a) On and after the first day of January, two thousand  
2 nine, a person performing or offering to perform fire  
3 protection work in this state shall have a license issued by the  
4 State Fire Marshal, in accordance with the provisions of this  
5 article.

6 (b) A person licensed under this article must carry a copy  
7 of the license on any job in which fire protection work is  
8 being performed.

9 (c) This article does not apply to:

10 (1) A person who personally performs fire protection  
11 work on a single family dwelling owned or leased, and  
12 occupied by that person;

13 (2) A person who performs fire protection work at any  
14 manufacturing plant or other industrial establishment as an  
15 employee of the person, firm or corporation operating the  
16 plant or establishment;

17 (3) A person who, while employed by a public utility or  
18 its affiliate, performs fire protection work in connection with  
19 the furnishing of public utility service.

20 (4) A person who performs fire protection work while  
21 engaging in the business of installing, altering or repairing  
22 water distribution or drainage lines outside the foundation  
23 walls of a building, public or private sewage treatment or  
24 water treatment systems including all associated structures or  
25 buildings, sewers or underground utility services;

26 (5) A person who performs fire protection work while  
27 engaged in the installation, extension, dismantling,  
28 adjustment, repair or alteration of a heating ventilation and  
29 air conditioning (HVAC) system, air-veyor system, air  
30 exhaust system or air handling system; or

31 (6) A person who performs fire protection work at a coal  
32 mine that is being actively mined or where coal is being  
33 processed.

**§29-3D-4. Rule-making authority.**

1 The State Fire Marshal shall propose rules for legislative  
2 approval, in accordance with the provisions of article three,  
3 chapter twenty-nine-a of this code, for the implementation  
4 and enforcement of the provisions of this article, which shall  
5 provide:

6 (1) Standards and procedures for issuing and renewing  
7 licenses, including classifications of licenses as defined in  
8 this article, applications, examinations and qualifications;

9 (2) Provisions for the granting of licenses without  
10 examination, to applicants who present satisfactory evidence  
11 of having the expertise required to perform work at the level  
12 of the classifications defined in this article and who apply for  
13 licensure on or before the first day of July, two thousand  
14 nine: *Provided*, That if a license issued under the authority  
15 of this subsection subsequently lapses, the applicant is  
16 subject to all licensure requirements, including the  
17 examination;

18 (3) Reciprocity provisions;

19 (4) Procedures for investigating complaints and revoking  
20 or suspending licenses, including appeal procedures;

21 (5) Fees for testing, issuance and renewal of licenses, and  
22 other costs necessary to administer the provisions of this  
23 article;

24 (6) Enforcement procedures; and

25 (7) Any other rules necessary to effectuate the purposes  
26 of this article.

**§29-3D-5. Enforcement.**

1 The State Fire Marshal and his or her deputy fire marshal,  
2 assistant fire marshal or assistant fire marshal-in-training, is  
3 authorized to enforce the provisions of this article, and may,  
4 at reasonable hours, enter any building or premises where fire  
5 protection work is performed and issue citations for  
6 noncompliance.

**§29-3D-6. Denial, suspension and revocation of license.**

1 (a) The State Fire Marshal may deny a license to any

2 applicant who fails to comply with the rules established by  
3 the State Fire Marshal, or who lacks the necessary  
4 qualifications.

5 (b) The State Fire Marshal may, upon complaint or upon  
6 his or her own inquiry, and after notice to the licensee,  
7 suspend or revoke a licensee's license if:

8 (1) The license was granted upon an application or  
9 documents supporting the application which materially  
10 misstated the terms of the applicant's qualifications or  
11 experience;

12 (2) The licensee subscribed or vouched for a material  
13 misstatement in his or her application for licensure;

14 (3) The licensee incompetently or unsafely performs  
15 plumbing or fire protection work; or

16 (4) The licensee violated any statute of this state, any  
17 legislative rule or any ordinance of any municipality or  
18 county of this state which protects the consumer or public  
19 against unfair, unsafe, unlawful or improper business  
20 practices.

**§29-3D-7. Penalties.**

1 (a) On and after the first day of January, two thousand  
2 nine, a person performing or offering to perform fire  
3 protection work without a license issued by the State Fire  
4 Marshal, is subject to a citation.

5 (b) Any person continuing to engage in fire protection  
6 work after the issuance of a citation is guilty of a  
7 misdemeanor and, upon conviction thereof, is subject to the  
8 following penalties:

9 (1) For the first offense, a fine of not less than two  
10 hundred dollars nor more than one thousand dollars;

11 (2) For the second offense, a fine of not less than five  
12 hundred dollars nor more than two thousand dollars, or  
13 confinement in jail for not more than six months, or both;

14 (3) For the third and subsequent offenses, a fine of not  
15 less than one thousand dollars nor more than five thousand  
16 dollars, and confinement in jail for not less than thirty days  
17 nor more than one year.

18 (c) A separate offense means each day, after official  
19 notice is given, that a person performs fire protection work  
20 that is unlawful or is not in compliance with the provisions of  
21 this article.

22 (d) The State Fire Marshal may institute proceedings in  
23 the circuit court of the county where the alleged violation of  
24 the provisions of this article occurred or are now occurring to  
25 enjoin any violation of any provision of this article. A circuit  
26 court by injunction may compel compliance with the  
27 provisions of this article, with the lawful orders of the State  
28 Fire Marshal and with any final decision of the State Fire  
29 Marshal. The State Fire Marshal shall be represented in all  
30 such proceedings by the Attorney General or his or her  
31 assistants.

32 (e) Any person adversely affected by an action of the  
33 State Fire Marshal may appeal the action pursuant to the  
34 provisions of chapter twenty-nine-a of this code.

**§29-3D-8. Inapplicability of local ordinances.**

1 On and after the first day of January, two thousand nine,  
2 a political subdivision of this state may not require, as a  
3 condition precedent to the performance of fire protection  
4 work in the political subdivision, a person who holds a valid  
5 and current license issued under the provisions of this article,  
6 to have any other license or other evidence of competence as  
7 a fire protection worker.

**§29-3D-9. Disposition of fees.**

1 All fees paid pursuant to the provisions of this article,  
2 shall be paid to the State Fire Marshal and deposited in a  
3 special revenue account with the State Treasurer for the use  
4 of the State Fire Marshal as provided in subsection (c),  
5 section twelve-b, article three of this chapter.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

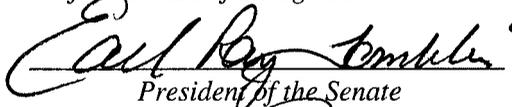
In effect from passage.



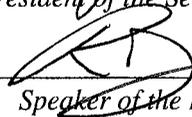
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 22nd  
day of March, 2007.



Governor

PRESENTED TO THE  
GOVERNOR

MAR 18 2007

Time

*2:02pm*