WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2747

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

Passed March 10, 2007

In Effect from Passage
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.

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

§21-14-2. Definitions.

As used in this article:

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

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

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

(d) "Plumber in training" means a person with interest in
and an aptitude for performing plumbing work but who alone
(e) "Plumbing" means the practice, materials and fixtures utilized within a building in the installation, extension and alteration of all piping, fixtures, water treatment devices, plumbing appliances and appurtenances, in connection with sanitary drainage or storm drainage facilities; the plumbing venting systems; medical gas systems; fuel oil and gas piping for residential, commercial and institutional facilities; backflow preventers; and public or private water supply systems, as defined by the state building code.

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

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

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

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

(c) This article does not apply to:

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

(2) A person who performs plumbing at any manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating the plant or establishment;
(3) A person who performs plumbing work while employed by an employer who engages in the business of selling appliances at retail, so long as such plumbing work is performed incidental to the installation or repair of appliances sold by the employer;

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

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

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

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

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

§21-14-4. Rule-making authority.

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

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

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

(3) Reciprocity provisions;

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

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

(6) Enforcement procedures; and

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

§21-14-5. Enforcement.

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

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

(a) The Commissioner of Labor may deny a license to
any applicant who fails to comply with the rules established
by the Commissioner of Labor, or who lacks the necessary
qualifications.

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

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

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

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

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

§21-14-7. Penalties.

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

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

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

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

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

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

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

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND COMMISSIONS.

ARTICLE 3D. SUPERVISION OF FIRE PROTECTION WORK.

§29-3D-1. Declaration of purpose.

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

§29-3D-2. Definitions.

As used in this article:

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

(b) “Fire protection system” means any fire protection suppression device or system designed, installed and maintained in accordance with the applicable National Fire Protection Association (NFPA) codes and standards, but does not include public or private mobile fire vehicles.
(c) "Fire protection work" means the installation, alteration, extension, maintenance, or testing of all piping, materials and equipment inside a building, including the use of shop drawings prepared by a fire protection layout technician, in connection with the discharge of water, other special fluids, chemicals or gases and backflow preventers for fire protection for the express purpose of extinguishing or controlling fire.

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

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

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

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

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

(b) A person licensed under this article must carry a copy of the license on any job in which fire protection work is being performed.
(c) This article does not apply to:

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

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

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

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

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

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

§29-3D-4. Rule-making authority.

The State Fire Marshal shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, for the implementation and enforcement of the provisions of this article, which shall provide:
(1) Standards and procedures for issuing and renewing licenses, including classifications of licenses as defined in this article, applications, examinations and qualifications;

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

(3) Reciprocity provisions;

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

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

(6) Enforcement procedures; and

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

§29-3D-5. Enforcement.

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

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

(a) The State Fire Marshal may deny a license to any
applicant who fails to comply with the rules established by
the State Fire Marshal, or who lacks the necessary
qualifications.

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

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

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

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

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

§29-3D-7. Penalties.

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

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

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

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

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

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

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

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

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

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 was approved this the 22nd day of March, 2007.

Governor