

NATURAL GAS TECHNICIAN

CERTIFICATION

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Gordon E. Snow

LONG TITLE

General Description:

This bill modifies provisions of the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of a combustion system;
- ▶ exempts from licensure a delivery person who replaces existing equipment with certain new gas appliances; and
- ▶ provides an exemption from certification requirements for an individual installing, repairing, or replacing a residential or commercial gas appliance or a combustion system when under the supervision of a certified natural gas technician or a person exempt from certification.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-102, as last amended by Chapters 33 and 241, Laws of Utah 2002

58-55-305, as last amended by Chapter 104, Laws of Utah 2003

58-55-308, as last amended by Chapter 104, Laws of Utah 2003



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-55-102** is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system.

(b) "Alarm business or company" does not include the activities of:

(i) a person engaged in the manufacture and sale of alarm systems when that person is not engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems, and the manufacture or sale occurs only at a place of business established by the person engaged in the manufacture or sale and does not involve site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent" means any individual employed within this state by a person engaged in the alarm business.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under approved supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under approved supervision of a journeyman plumber.

(6) "Approved supervision" means the immediate supervision of apprentices by qualified licensed electricians or plumbers as a part of a planned program of training.

59 (7) "Board" means the Electrician Licensing Board, Alarm System Security and
60 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

61 (8) "Combustion system" means an assembly consisting of piping and components
62 with a means for conveying natural gas from the [~~shutoff valve of the piping system nearest the~~
63 ~~gas appliance~~] outlet of the natural gas provider's meter to the burner [and] of the appliance
64 which includes the electric control and combustion air supply and venting systems, either
65 continuously or intermittently, and that incorporates components intended to achieve control of
66 quantity, flow, and pressure.

67 (9) "Commission" means the Construction Services Commission created under Section
68 58-55-103.

69 (10) "Construction trade" means any trade or occupation involving:

70 (a) construction, alteration, remodeling, repairing, wrecking or demolition, addition to,
71 or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or
72 other project, development, or improvement to other than personal property; or

73 (b) installation or repair of a residential or commercial natural gas appliance or a
74 combustion system.

75 (11) "Construction trades instructor" means a person licensed under this chapter to
76 teach one or more construction trades in both a classroom and project environment, where a
77 project is intended for sale to or use by the public and is completed under the direction of an
78 instructor who has no economic interest in the project.

79 (12) (a) "Contractor" means any person who for compensation other than wages as an
80 employee undertakes any work in the construction, plumbing, or electrical trade for which
81 licensure is required under this chapter and includes:

82 (i) a person who builds any structure on his own property for the purpose of sale or
83 who builds any structure intended for public use on his own property;

84 (ii) any person who represents himself to be a contractor by advertising or any other
85 means;

86 (iii) any person engaged as a maintenance person, other than an employee, who
87 regularly engages in activities set forth under the definition of "construction trade";

88 (iv) any person engaged in any construction trade for which licensure is required under
89 this chapter; or

90 (v) a construction manager who performs management and counseling services on a
91 construction project for a fee.

92 (b) "Contractor" does not include an alarm company or alarm company agent.

93 (13) (a) "Electrical trade" means the performance of any electrical work involved in the
94 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
95 buildings, or appendages or appurtenances.

96 (b) "Electrical trade" does not include:

97 (i) transporting or handling electrical materials;

98 (ii) preparing clearance for raceways for wiring; or

99 (iii) work commonly done by unskilled labor or any installations under the exclusive
100 control of electrical utilities.

101 (c) For purposes of Subsection (13)(b):

102 (i) no more than one unlicensed person may be so employed unless more than five
103 licensed electricians are employed by the shop; and

104 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
105 permitted by this Subsection (13)(c).

106 (14) "Employee" means an individual as defined by the division by rule giving
107 consideration to the definition adopted by the Internal Revenue Service and the Department of
108 Workforce Services.

109 (15) "Engage in a construction trade" means to:

110 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
111 in a construction trade; or

112 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
113 to believe one is or will act as a contractor.

114 (16) (a) "Financial responsibility" means a demonstration of a current and expected
115 future condition of financial solvency evidencing a reasonable expectation to the division and
116 the board that an applicant or licensee can successfully engage in business as a contractor
117 without jeopardy to the public health, safety, and welfare.

118 (b) Financial responsibility may be determined by an evaluation of the total history
119 concerning the licensee or applicant including past, present, and expected condition and record
120 of financial solvency and business conduct.

121 (17) "Gas appliance" means any device that uses natural gas to produce light, heat,
122 power, steam, hot water, refrigeration, or air conditioning.

123 (18) (a) "General building contractor" means a person licensed under this chapter as a
124 general building contractor qualified by education, training, experience, and knowledge to
125 perform or superintend construction of structures for the support, shelter, and enclosure of
126 persons, animals, chattels, or movable property of any kind or any of the components of that
127 construction except plumbing, electrical, and mechanical, for which the general building
128 contractor shall employ the services of a contractor licensed in the particular specialty, except
129 that a general building contractor engaged in the construction of single-family and multifamily
130 residences up to four units may perform the mechanical and hire a licensed plumber or
131 electrician as an employee.

132 (b) The division may by rule exclude general building contractors from engaging in the
133 performance of other construction specialties in which there is represented a substantial risk to
134 the public health, safety, and welfare, and for which a license is required unless that general
135 building contractor holds a valid license in that specialty classification.

136 (19) (a) "General engineering contractor" means a person licensed under this chapter as
137 a general engineering contractor qualified by education, training, experience, and knowledge to
138 perform construction of fixed works in any or all of the following: irrigation, drainage, water,
139 power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels,
140 airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants
141 requiring specialized engineering knowledge and skill, piers, and foundations, or any of the
142 components of those works. [~~However, a~~]

143 (b) A general engineering contractor may not perform construction of structures built
144 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

145 (20) "Immediate supervision" means reasonable direction, oversight, inspection, and
146 evaluation of the work of a person, in or out of the immediate presence of the supervising
147 person, so as to ensure that the end result complies with applicable standards.

148 (21) "Individual" means a natural person.

149 (22) "Journeyman electrician" means a person licensed under this chapter as a
150 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
151 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

152 (23) "Journeyman plumber" means a person licensed under this chapter as a
153 journeyman plumber having the qualifications, training, experience, and technical knowledge
154 to engage in the plumbing trade.

155 (24) "Master electrician" means a person licensed under this chapter as a master
156 electrician having the qualifications, training, experience, and knowledge to properly plan,
157 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
158 for light, heat, power, and other purposes.

159 (25) "Person" means a natural person, sole proprietorship, joint venture, corporation,
160 limited liability company, association, or organization of any type.

161 (26) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
162 the installation, alteration, change, repair, removal, maintenance, or use in buildings or within
163 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for delivery of
164 the water supply, discharge of liquid and water carried waste, or the building drainage system
165 within the walls of the building.

166 (b) It includes that work pertaining to the water supply, distribution pipes, fixtures, and
167 fixture traps, the soil, waste and vent pipes, and the building drain and roof drains together with
168 their devices, appurtenances, and connections where installed within the outside walls of the
169 building.

170 (27) (a) "Ratio of apprentices" means, for the purpose of determining compliance with
171 the requirements for planned programs of training and electrician apprentice licensing
172 applications, the shop ratio of apprentice electricians to journeyman or master electricians shall
173 be one journeyman or master electrician to one apprentice on industrial and commercial work,
174 and one journeyman or master electrician to three apprentices on residential work.

175 (b) All on-the-job training shall be under circumstances in which the ratio of
176 apprentices to supervisors is in accordance with a ratio of one-to-one on nonresidential work
177 and up to three apprentices to one supervisor on residential projects.

178 (28) "Residential and small commercial contractor" means a person licensed under this
179 chapter as a residential and small commercial contractor qualified by education, training,
180 experience, and knowledge to perform or superintend the construction of single-family
181 residences, multifamily residences up to four units, and commercial construction of not more
182 than three stories above ground and not more than 20,000 square feet, or any of the components

183 of that construction except plumbing, electrical, and mechanical, for which the residential and
184 small commercial contractor shall employ the services of a contractor licensed in the particular
185 specialty, except that a residential and small commercial contractor engaged in the construction
186 of single-family and multifamily residences up to four units may perform the mechanical work
187 and hire a licensed plumber or electrician as an employee.

188 (29) "Residential apprentice plumber" means a person licensed under this chapter as a
189 residential apprentice plumber who is learning the residential plumbing trade while working on
190 residential buildings under the approved supervision of a residential journeyman plumber or a
191 journeyman plumber.

192 (30) "Residential building," as it relates to the license classification of residential
193 apprentice plumber and residential journeyman plumber, means a single or multiple family
194 dwelling of up to four units.

195 (31) "Residential journeyman electrician" means a person licensed under this chapter
196 as a residential journeyman electrician having the qualifications, training, experience, and
197 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
198 and other purposes on buildings using primarily nonmetallic sheath cable.

199 (32) "Residential journeyman plumber" means a person licensed under this chapter as a
200 residential journeyman plumber having the qualifications, training, experience, and knowledge
201 to engage in the plumbing trade as limited to the plumbing of residential buildings.

202 (33) "Residential master electrician" means a person licensed under this chapter as a
203 residential master electrician having the qualifications, training, experience, and knowledge to
204 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
205 and equipment for light, heat, power, and other purposes on residential projects.

206 (34) "Residential project," as it relates to an electrician or electrical contractor, means
207 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
208 and regulations governing this work, including the National Electrical Code, and in which the
209 voltage does not exceed 250 volts line to line and 125 volts to ground.

210 (35) (a) "Specialty contractor" means a person licensed under this chapter under a
211 specialty contractor classification established by rule, who is qualified by education, training,
212 experience, and knowledge to perform those construction trades and crafts requiring
213 specialized skill the regulation of which are determined by the division to be in the best interest

214 of the public health, safety, and welfare.

215 (b) A specialty contractor may perform work in crafts or trades other than those in
216 which he is licensed if they are incidental to the performance of his licensed craft or trade.

217 (36) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

218 (37) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as
219 may be further defined by rule.

220 (38) "Wages" means all amounts due an employee for labor or services whether the
221 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
222 the amount.

223 Section 2. Section **58-55-305** is amended to read:

224 **58-55-305. Exemptions from licensure.**

225 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
226 persons may engage in acts or practices included within the practice of construction trades,
227 subject to the stated circumstances and limitations, without being licensed under this chapter:

228 (a) an authorized representative of the United States government or an authorized
229 employee of the state or any of its political subdivisions when working on construction work of
230 the state or the subdivision, and when acting within the terms of the person's trust, office, or
231 employment;

232 (b) a person engaged in construction or operation incidental to the construction and
233 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
234 districts, and drainage districts or construction and repair relating to farming, dairying,
235 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
236 excavations, well drilling, hauling to and from construction sites, and lumbering;

237 (c) public utilities operating under the rules of the Public Service Commission on
238 construction work incidental to their own business;

239 (d) sole owners of property engaged in building:

240 (i) no more than one residential structure per year and no more than three residential
241 structures per five years on their property for their own noncommercial, nonpublic use; except,
242 a person other than the property owner or individuals described in Subsection (1)(e), who
243 engages in building the structure must be licensed under this chapter if the person is otherwise
244 required to be licensed under this chapter; or

245 (ii) structures on their property for their own noncommercial, nonpublic use which are
246 incidental to a residential structure on the property, including sheds, carports, or detached
247 garages;

248 (e) (i) a person engaged in construction or renovation of a residential building for
249 noncommercial, nonpublic use if that person:

250 (A) works without compensation other than token compensation that is not considered
251 salary or wages; and

252 (B) works under the direction of the property owner who engages in building the
253 structure;

254 (ii) for purposes of this Subsection (1)(e), "token compensation" means compensation
255 paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person
256 exempted from licensure under this Subsection (1)(e), that is:

257 (A) minimal in value when compared with the fair market value of the services
258 provided by the person;

259 (B) not related to the fair market value of the services provided by the person; and

260 (C) is incidental to providing of services by the person including paying for or
261 providing meals or refreshment while services are being provided, or paying reasonable
262 transportation costs incurred by the person in travel to the site of construction;

263 (f) a person engaged in the sale or merchandising of personal property that by its design
264 or manufacture may be attached, installed, or otherwise affixed to real property who has
265 contracted with a person, firm, or corporation licensed under this chapter to install, affix, or
266 attach that property;

267 (g) a contractor submitting a bid on a federal aid highway project, if, before
268 undertaking construction under that bid, the contractor is licensed under this chapter;

269 (h) (i) a person engaged in the alteration, repair, remodeling, or addition to or
270 improvement of a building with a contracted or agreed value of less than \$1,000, including
271 both labor and materials, and including all changes or additions to the contracted or agreed
272 upon work;

273 (ii) notwithstanding Subsection (1)(h)(i):

274 (A) work in the plumbing and electrical trades must be performed by a licensed
275 electrician or plumber except as otherwise provided in this section; and

276 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
277 combustion system must be performed by a person who has received certification under
278 Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or
279 58-55-308(3);

280 (i) a person practicing a specialty contractor classification or construction trade which
281 is not classified by rule by the director as significantly impacting the public's health, safety, and
282 welfare;

283 (j) owners and lessees of property and persons regularly employed for wages by owners
284 or lessees of property or their agents for the purpose of maintaining the property, are exempt
285 from this chapter when doing work upon the property;

286 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
287 repair of a fixture or an appliance in a residential or small commercial building, or structure
288 used for agricultural use, as defined in Section 58-56-4, provided that no modification is made
289 to:

290 (A) existing culinary water, soil, waste, or vent piping; or

291 (B) a gas appliance or combustion system;

292 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
293 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

294 (l) a person who ordinarily would be subject to the plumber licensure requirements
295 under this chapter when installing or repairing a water conditioner or other water treatment
296 apparatus if the conditioner or apparatus:

297 (i) meets the appropriate state construction codes or local plumbing standards; and

298 (ii) is installed or repaired under the direction of a person authorized to do the work
299 under an appropriate specialty contractor license;

300 (m) a person who ordinarily would be subject to the electrician licensure requirements
301 under this chapter when employed by or under contract with:

302 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
303 contractors or constructors, or street railway systems; or

304 (ii) public service corporations, rural electrification associations, or municipal utilities
305 who generate, distribute, or sell electrical energy for light, heat, or power;

306 (n) a person involved in minor electrical work incidental to a mechanical or service

307 installation; ~~and~~

308 (o) a student participating in construction trade education and training programs
309 approved by the commission with the concurrence of the director under the condition that:

310 (i) all work intended as a part of a finished product on which there would normally be
311 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
312 building inspector; and

313 (ii) a licensed contractor obtains the necessary building permits~~[-]; and~~

314 (p) a delivery person when replacing any of the following existing equipment with a
315 new gas appliance, provided there is an existing gas shutoff valve:

316 (i) gas range;

317 (ii) gas dryer;

318 (iii) outdoor gas barbeque; or

319 (iv) outdoor gas patio heater.

320 (2) (a) A compliance agency as defined in Subsection 58-56-3(4) that issues a building
321 permit to any person requesting a permit as a sole owner of property referred to in Subsection
322 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of
323 the permit.

324 (b) The division shall evaluate the effectiveness of the notification requirement under
325 Subsection (2)(a) and report its findings, including any recommendations for modification to or
326 termination of the requirement, to the Legislature's Business and Labor Interim Committee
327 prior to the 2008 General Session.

328 Section 3. Section **58-55-308** is amended to read:

329 **58-55-308. Scope of practice -- Installation, repair, or replacement of gas**
330 **appliance or combustion system -- Rules.**

331 (1) (a) The commission, with the concurrence of the director, may adopt reasonable
332 rules pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to define and
333 limit the scope of practice and operating standards of the classifications and subclassifications
334 licensed under this chapter in a manner consistent with established practice in the relevant
335 industry.

336 (b) The commission and the director may limit the field and scope of operations of a
337 licensee under this chapter in accordance with the rules and the public health, safety, and

338 welfare, based on the licensee's education, training, experience, knowledge, and financial
339 responsibility.

340 (2) (a) The work and scope of practice covered by this Subsection (2) is the
341 installation, repair, or replacement of a residential or commercial gas appliance or combustion
342 system.

343 (b) The provisions of this Subsection (2) apply to any:

344 (i) licensee under this chapter whose license authorizes the licensee to perform the
345 work described in Subsection (2)(a); and

346 (ii) person exempt from licensure under Subsection 58-55-305(1)(h).

347 (c) Any person described in Subsection (2)(b) that performs work described in
348 Subsection (2)(a):

349 (i) must first receive training and certification as specified in rules adopted by the
350 division; and

351 (ii) shall ensure that any employee authorized under other provisions of this chapter to
352 perform work described in Subsection (2)(a) has first received training and certification as
353 specified in rules adopted by the division.

354 (d) The division may exempt from the training requirements adopted under Subsection
355 (2)(c) a person that has adequate experience, as determined by the division.

356 ~~[(e)]~~ (3) The division ~~[shall]~~ may exempt the following individuals from ~~[initial]~~ the
357 certification requirements adopted under Subsection (2)(c):

358 (a) a person who has passed a test equivalent to the level of testing required by the
359 division for certification, or has completed an apprenticeship program that teaches the
360 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship
361 Training[-]; and

362 (b) a person working under the immediate one-to-one supervision of a certified natural
363 gas technician or a person exempt from certification.

364 ~~[(3)]~~ (4) This section does not prohibit a licensed specialty contractor from accepting
365 and entering into a contract involving the use of two or more crafts or trades if the performance
366 of the work in the crafts or trades, other than that in which the contractor is licensed, is
367 incidental and supplemental to the work for which the contractor is licensed.

Legislative Review Note
as of 11-25-03 3:02 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0049

Natural Gas Technician Certification

15-Jan-04

1:25 PM

State Impact

No fiscal impact.

Individual and Business Impact

Delivery persons under supervision will be exempt for licensure expenses.

Office of the Legislative Fiscal Analyst