

1                                   **SERVICING OF HEATING OR COOLING**

2   **DUCT SYSTEMS**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Parley G. Hellewell**

6   House Sponsor: David Clark

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies provisions of the Utah Construction Trades Licensing Act related to  
11 the installation, repair, maintenance, cleaning, or replacement of a residential or  
12 commercial gas appliance or combustion system.

13                   **Highlighted Provisions:**

14                   This bill:

- 15                   ▶ modifies the definition of a combustion system to specifically include air ducts; and
- 16                   ▶ modifies provisions related to the work and scope of practice in the installation,

17 repair, maintenance, cleaning, or replacement of a residential or commercial  
18 combustion system by requiring certification for maintenance and cleaning in  
19 addition to the current certification required for installation, repair, or replacement  
20 of a combustion system.

21                   **Monies Appropriated in this Bill:**

22                   None

23                   **Other Special Clauses:**

24                   None

25                   **Utah Code Sections Affected:**

26                   AMENDS:

27                   **58-55-102**, as last amended by Chapter 206, Laws of Utah 2005

28                   **58-55-308**, as last amended by Chapter 39, Laws of Utah 2004

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

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

32 **58-55-102. Definitions.**

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

34 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,  
35 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,  
36 except as provided in Subsection (1)(b).

37 (b) "Alarm business or company" does not include:

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

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

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

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

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

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

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

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

58 plumber.

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

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

63 (8) "Combustion system" means an assembly consisting of:

64 (a) piping and components with a means for conveying, either continuously or  
65 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the  
66 appliance;

67 (b) the electric control and combustion air supply and venting systems, including air  
68 ducts; and

69 (c) components intended to achieve control of quantity, flow, and pressure.

70 (9) "Commission" means the Construction Services Commission created under Section  
71 58-55-103.

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

73 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition  
74 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation  
75 or other project, development, or improvement to other than personal property; and

76 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as  
77 defined in Section 58-56-3; or

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

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

84 (12) (a) "Contractor" means any person who for compensation other than wages as an  
85 employee undertakes any work in the construction, plumbing, or electrical trade for which

86 licensure is required under this chapter and includes:

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

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

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

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

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

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

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

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

102 (i) transporting or handling electrical materials;

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

104 (iii) work commonly done by unskilled labor on any installations under the exclusive  
105 control of electrical utilities.

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

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

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

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

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

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

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

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

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

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

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

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

141 (19) (a) "General engineering contractor" means a person licensed under this chapter as

142 a general engineering contractor qualified by education, training, experience, and knowledge to  
143 perform construction of fixed works in any of the following: irrigation, drainage, water, power,  
144 water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports  
145 and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring  
146 specialized engineering knowledge and skill, piers, and foundations, or any of the components  
147 of those works.

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

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

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

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

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

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

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

166 (26) (a) "Plumbing trade" means the performance of any mechanical work pertaining to  
167 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within  
168 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

169 (i) delivery of the water supply;

170 (ii) discharge of liquid and water carried waste; or  
171 (iii) the building drainage system within the walls of the building.

172 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,  
173 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains  
174 together with their devices, appurtenances, and connections where installed within the outside  
175 walls of the building.

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

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

184 (28) "Residential and small commercial contractor" means a person licensed under this  
185 chapter as a residential and small commercial contractor qualified by education, training,  
186 experience, and knowledge to perform or superintend the construction of single-family  
187 residences, multifamily residences up to four units, and commercial construction of not more  
188 than three stories above ground and not more than 20,000 square feet, or any of the components  
189 of that construction except plumbing, electrical work, mechanical work, and manufactured  
190 housing installation, for which the residential and small commercial contractor shall employ  
191 the services of a contractor licensed in the particular specialty, except that a residential and  
192 small commercial contractor engaged in the construction of single-family and multifamily  
193 residences up to four units may perform the mechanical work and hire a licensed plumber or  
194 electrician as an employee.

195 (29) "Residential apprentice plumber" means a person licensed under this chapter as a  
196 residential apprentice plumber who is learning the residential plumbing trade while working on  
197 residential buildings under the approved supervision of a residential journeyman plumber or a

198 journeyman plumber.

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

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

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

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

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

217 (35) "Specialty contractor" means a person licensed under this chapter under a  
218 specialty contractor classification established by rule, who is qualified by education, training,  
219 experience, and knowledge to perform those construction trades and crafts requiring  
220 specialized skill, the regulation of which are determined by the division to be in the best  
221 interest of the public health, safety, and welfare. A specialty contractor may perform work in  
222 crafts or trades other than those in which he is licensed if they are incidental to the performance  
223 of his licensed craft or trade.

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

225 (37) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as



226 may be further defined by rule.

227 (38) "Wages" means amounts due to an employee for labor or services whether the  
228 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating  
229 the amount.

230 Section 2. Section **58-55-308** is amended to read:

231 **58-55-308. Scope of practice -- Installation, repair, or replacement of gas**  
232 **appliance or combustion system -- Rules.**

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

238 (b) The commission and the director may limit the field and scope of operations of a  
239 licensee under this chapter in accordance with the rules and the public health, safety, and  
240 welfare, based on the licensee's education, training, experience, knowledge, and financial  
241 responsibility.

242 (2) (a) The work and scope of practice covered by this Subsection (2) is the  
243 installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas  
244 appliance or combustion system.

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

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

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

249 (c) Any person described in Subsection (2)(b) that performs work described in  
250 Subsection (2)(a):

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

253 (ii) shall ensure that any employee authorized under other provisions of this chapter to

254 perform work described in Subsection (2)(a) has first received training and certification as  
255 specified in rules adopted by the division.

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

258 (3) The division may exempt the following individuals from the certification  
259 requirements adopted under Subsection (2)(c):

260 (a) a person who has passed a test equivalent to the level of testing required by the  
261 division for certification, or has completed an apprenticeship program that teaches the  
262 installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship  
263 Training; and

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

266 (4) This section does not prohibit a licensed specialty contractor from accepting and  
267 entering into a contract involving the use of two or more crafts or trades if the performance of  
268 the work in the crafts or trades, other than that in which the contractor is licensed, is incidental  
269 and supplemental to the work for which the contractor is licensed.