

CHAPTER 143  
HOUSE BILL No. 2058

AN ACT concerning cities and counties; relating to the licensure of certain contractors; relating to certain license or occupation fees, charges and taxes; amending K.S.A. 12-1509, 12-1542, 12-1617 and 19-2233 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 12-1509 is hereby amended to read as follows: 12-1509. (a) Any county or city requiring the licensure of plumbers practicing within the county or city may conduct examinations designated by K.S.A. 12-1508, and amendments thereto, for the purpose of determining the competency of applicants for such licensure and shall not be allowed to ask further questions not designated on such examination. The board of county commissioners of such county or the governing body of such city shall adopt rules and regulations: (1) Governing the conduct and grading of such examinations; (2) prescribing a minimum score of 75% for passage of examinations; ~~and~~ (3) fixing a uniform fee to be charged all applicants taking each such examination; *and (4) requiring all persons receiving such license annually to obtain not less than 12 hours biennially of continuing education approved by such local governing body. Continuing education may be provided by the local governing body or a nationally recognized trade association. All 12 hours of education may consist of code up-date training on the code currently adopted in the county or city where licensing is being requested.*

(b) The certificate of competency received by any person who successfully passes an examination designated by K.S.A. 12-1508, and amendments thereto, shall be valid proof of competency for licensure, without additional examination, in any county or city of the state which requires licensure of plumbers practicing within such county or city. The county or city shall issue the appropriate license to any applicant therefor who presents such a certificate of competency. The county or city shall fix a uniform fee to be charged all such applicants for licensure.

(c) All licenses issued by a county or city upon the basis of successful passage of an examination designated by K.S.A. 12-1508, and amendments thereto, shall bear a distinctive notation of such fact. All such licenses shall be valid in any other county or city which requires examination and licensure of plumbers for practice in such county or city.

(d) No person who was certified or licensed prior to July 1, 1989, upon the basis of passage of a standard examination designated as such under the provisions of article 15 of chapter 12 of Kansas Statutes Annotated, and whose certificate or license was issued by a political subdivision which prescribed a minimum score of not less than 70% for passage of such examination, shall be required to be reexamined for renewal of certification or licensure.

(e) *Before sitting for the standard examination designated by K.S.A. 12-1508, and amendments thereto, an applicant for a journeyman certificate shall demonstrate documented proof of a minimum of two years field experience. "Field experience" means working under the direct supervision of a person having a valid journeyman certificate or master certificate or attending trade related schooling. No more than one year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of 240 hours classroom training.*

(f) *Before sitting for the standard examination designated by K.S.A. 12-1508, and amendments thereto, an applicant for a master certificate shall demonstrate documented proof of having a valid journeyman certificate for a minimum of two years or having field experience for a minimum of four years.*

Sec. 2. K.S.A. 12-1542 is hereby amended to read as follows: 12-1542. (a) Any county or city requiring the licensure of mechanical heating, ventilation and air conditioning contractors and master and journeyman heating, ventilation and air conditioning mechanics practicing within the county or city may conduct examinations designated by K.S.A. 12-1541 for the purpose of determining the competency of applicants for such licensure and shall not be allowed to ask further questions not designated on such examination. The board of county commissioners of such county or the governing body of such city shall adopt rules and regulations: (1) Governing the conduct and grading of such examinations; (2) prescribing

a minimum score of 75% for passage of examinations; ~~and~~ (3) fixing a uniform fee to be charged all applicants taking each such examination; *and (4) requiring all persons receiving such license annually to obtain not less than 12 hours biennially of continuing education approved by such local governing body. Continuing education may be provided by the local governing body or a nationally recognized trade association. All 12 hours of education may consist of code up-date training on the code currently adopted in the county or city where licensing is being requested.*

(b) The certificate of competency received by any person who successfully passes an examination designated by K.S.A. 12-1541, *and amendments thereto*, shall be valid proof of competency for licensure, without additional examination, in any county or city of the state which requires licensure of mechanical heating, ventilation and air conditioning contractors and master and journeyman heating, ventilation and air conditioning mechanics practicing within such county or city. The county or city shall issue the appropriate license to any applicant therefor who presents such a certificate of competency. The county or city shall fix a uniform fee to be charged all such applicants for licensure.

(c) All licenses issued by a county or city upon the basis of successful passage of an examination designated by K.S.A. 12-1541, *and amendments thereto*, shall bear a distinctive notation of such fact. All such licenses shall be valid in any other county or city which requires examination and licensure of mechanical heating, ventilation and air conditioning contractors and master and journeyman heating, ventilation and air conditioning mechanics for practice in such county or city.

(d) No person who was certified or licensed prior to July 1, 1989, upon the basis of passage of a standard examination designated by the political subdivision and whose certificate or license was issued by such political subdivision which prescribed a minimum score of not less than 70% for passage of such examination, shall be required to be reexamined for renewal of certification or licensure.

(e) *Before sitting for the standard examination designated by K.S.A. 12-1541, and amendments thereto, an applicant for a journeyman heating, ventilation and air conditioning mechanic certificate shall demonstrate documented proof of a minimum of two years field experience. "Field experience" means working under the direct supervision of a person having a valid journeyman certificate or master certificate or attending trade related schooling. No more than one year of the requirement may be satisfied by trade related schooling. Schooling shall consist of minimum of 240 hours classroom training.*

(f) *Before sitting for the standard examination designated by K.S.A. 12-1541, and amendments thereto, an applicant for a master heating, ventilation and air conditioning mechanic certificate shall demonstrate documented proof of having a valid journeyman certificate for a minimum of two years or having field experience for a minimum of four years.*

Sec. 3. K.S.A. 12-1617 is hereby amended to read as follows: 12-1617. ~~The powers of the cities of the first, second and third classes within this state to impose license or occupation taxes upon peddlers and venders shall not be construed so as to apply to, or create the power to impose license taxes or occupation taxes upon producers and growers, or their agents or employees engaged in the sale of farm, garden or aquaculture products, or fruits grown within this state.~~

(a) *As used in this section, "fee" means any license or occupation fee, charge or tax, vending or peddling fee, charge or tax, transient merchant license fee, charge or tax or any other similar fee, charge or tax.*

(b) *A city may require any producer, grower or agent or employee of such grower engaged in the sale of agricultural, farm, garden or aquacultural products grown by such growers within this state to obtain a peddler's, vendor's or transient merchant's license or permit. Such license or permit shall be valid for a period of time of not less than six months from the date of issuance.*

(c) *No city shall impose any fee against any producer, grower, or agent or employee of such grower, engaged in the sale of agricultural, farm, garden or aquacultural products grown by such growers residing within this state.*

Sec. 4. K.S.A. 19-2233 is hereby amended to read as follows: 19-2233. (a) The provisions of ~~this~~ *the transient merchant licensing act* shall not apply to:

(1) Sales at wholesale to retail merchants by commercial travelers or

selling agents in the usual course of business;

(2) sales or displays at trade shows, expositions or conventions;

(3) sales of goods, wares or merchandise by sample catalogue or brochure for future delivery;

(4) sales or displays at fairs, conventions or shows operated primarily for purposes of amusement, entertainment, recreation or education;

(5) sales or displays at sales, fairs, auctions or bazaars operated by church, religious or charitable organizations;

(6) garage sales held on premises devoted to residential use;

(7) sales or displays at sales or shows of crafts or items made by hand and sold, offered for sale or displayed by the individual making such crafts or handmade items;

(8) sales of agricultural *or farm, garden or aquacultural* products, except nursery products and foliage plants, sold or offered for sale by the individual raising or producing such products *and such person's agents or employees*;

(9) sales to the owner or legal occupant of residential premises, at such premises pursuant to an invitation issued by such owner or legal occupant;

(10) sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools or educational institutions;

(11) sales of paraphernalia used in the celebration of any nationally recognized holiday;

(12) sales or displays at flea markets or at sales, exchanges or shows of antique or other personal property having an enhanced value by reason of its age or unique characteristics;

(13) retail sales of fireworks;

(14) sales or displays at fairs or expositions sponsored by the state, a county or another governmental entity or a convention or tourism committee created pursuant to either K.S.A. 12-1695 or 12-16,101, and amendments thereto;

(15) sales or displays at sales, exchanges or shows of collectibles or hobby or investment items of personal property, including but not limited to pets, gems and minerals, stamps, coins, photographs and photographic equipment, guns and belt buckles;

(16) sales or displays in connection with, and at the site of, athletic tournaments, events, contests or expositions;

(17) events sponsored by nonprofit organizations; or

(18) any person who has a permanent business location in this state for not less than six months in each year but who may carry on a transient business at locations in this state other than at the person's permanent business location.

(b) The exemption provided by subsection (a) shall apply regardless of whether the transient merchant is sponsoring or operating the activity giving rise to the exemption or is participating in the activity as a seller or exhibitor.

(c) A transient merchant not otherwise exempted from the provisions of this act shall not be relieved or exempted from the provisions of this act by reason of temporary association with any local dealer, auctioneer, trader, contractor or merchant or by conducting temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

Sec. 5. K.S.A. 12-1509, 12-1542, 12-1617 and 19-2233 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 15, 2005.

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