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SENATE BILL NO. 246
 INTRODUCED BY H. Smith KMM Norman Brown
Jerguson III
 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
 HEATING, VENTILATION, AND AIR CONDITIONING; PROVIDING FOR
 THE LICENSING OF PERSONS PERFORMING HEATING, VENTILATING, OR
 AIR CONDITIONING WORK; AND AMENDING SECTION 69-2111, R.C.M.
 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 Section 1. There is a new R.C.M. section numbered
 82A-1602.28 that reads as follows:
 82A-1602.28. Board of heating, ventilation, and air
 conditioning -- appointment -- qualifications -- term. (1)
 There is a state board of heating, ventilation, and air
 conditioning.
 (2) The board consists of eight (8) members, appointed
 by the governor. The members are:
 (a) two (2) master and two (2) journeyman mechanics,
 who shall be over the age of majority and residents of
 Montana for at least one (1) year. After the first board,
 each mechanic shall have been licensed pursuant to this act
 at least two (2) years immediately preceding his
 appointment;
 (b) one (1) licensed professional engineer;

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(c) one (1) representative of the department of health
 and environmental sciences, who shall act as secretary;
 (d) one (1) representative of the state fire
 marshall's office; and
 (e) one (1) attorney licensed to practice in Montana.
 (3) Each member shall serve for a period of four (4)
 years, provided, however, that four (4) members of the first
 board shall serve as follows:
 (a) one (1) master and one (1) journeyman for two (2)
 years; and
 (b) one (1) master and one (1) journeyman for three
 (3) years.
 (4) Each member of the board is entitled to
 twenty-five dollars (\$25) per day for each day served
 discharging his board duties, together with a per diem and
 mileage expense allowance pursuant to sections 59-801 and
 59-538.
 (5) A majority of the members of the board constitute
 a quorum necessary for the transaction of business.
 (6) The board shall meet at least semi-annually.
 Section 2. There is a new R.C.M. section numbered
 66-3501 that reads as follows:
 66-3501. Short title. This act is to be known and
 referred to as the "Heating, Ventilation, and Air
 Conditioning Act".

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1 Section 3. There is a new R.C.M. section numbered
2 66-3502 that reads as follows:

3 66-3502. Purpose. It is hereby declared to be the
4 purpose of this act to protect the people of Montana from
5 health, life, financial, and other hazards resulting from
6 irresponsible service methods, unethical practices, inferior
7 installation, maintenance and repair of heating,
8 ventilation, and air conditioning systems and equipment.

9 Section 4. There is a new R.C.M. section numbered
10 66-3503 that reads as follows:

11 66-3503. Definitions. As used in this act:

12 (1) "Board" means board of heating, ventilation and
13 air conditioning, provided for in section 82A-1602.28.

14 (2) "Department" means the department of professional
15 and occupational licensing.

16 (3) "Heating, ventilation, and air conditioning work"
17 means construction, installation, alteration, maintenance
18 and repair of all warm air furnaces, stokers, oil-burning,
19 solid fuel-burning, gas-burning, and liquefied petroleum
20 gas-burning and electrical equipment for air heating,
21 ventilating, air conditioning and air pollution control,
22 blower and exhaust appliances and systems and domestic and
23 commercial gas-fired equipment.

24 Section 5. There is a new R.C.M. section numbered
25 66-3504 that reads as follows:

1 66-3504. Powers and duties of board. In addition to
2 all other powers and duties conferred and imposed upon the
3 board by law, the board shall have and exercise the
4 following powers and duties:

5 (1) to promulgate rules which it determines to be
6 necessary to carry out the provisions of this act;

7 (2) to conduct hearings on proposed rules and
8 provisions of a heating, ventilation, and air conditioning
9 code, and to propose rules to the department of
10 administration for inclusion in the state building code;

11 (3) to hear contested cases coming under the
12 provisions of this act; and

13 (4) to establish equipment fees to be collected before
14 installation of heating, ventilation, and air conditioning
15 equipment designated by the board.

16 Section 6. There is a new R.C.M. section numbered
17 66-3505 that reads as follows:

18 66-3505. Earmarked account. Money paid for license
19 and equipment fees under this act shall be deposited in an
20 earmarked revenue account for the use of the board, subject
21 to section 82A-1603(6).

22 Section 7. There is a new R.C.M. section numbered
23 66-3506 that reads as follows:

24 66-3506. Examination of applicant for license. An
25 applicant for a license to engage in heating, ventilation,

1 or air conditioning work shall be examined as to his
 2 qualifications by the department, subject to section
 3 82A-1603(4). The department shall examine each applicant
 4 for a license, to determine his qualifications and fitness
 5 for carrying on heating, ventilation, or air conditioning
 6 work, as a master or journeyman, and if the applicant
 7 successfully passes the examination prescribed by the board,
 8 then a license shall be issued to the applicant authorizing
 9 him to engage in heating, ventilation, or air conditioning
 10 work as a master or journeyman in the state, subject to
 11 other provisions of this act.

12 Section 8. There is a new R.C.M. section numbered
 13 66-3507 that reads as follows:

14 66-3507. Persons exempt from examination. Persons
 15 fulfilling the qualifications for applicants for licenses as
 16 hereinafter provided prior to July 1, 1975, and who are then
 17 actively engaged in heating, ventilation, and sheet metal
 18 work, shall not be required to take an examination, but
 19 shall be issued a license by the board upon payment of the
 20 proper license fee before January 1, 1976, and upon posting
 21 a bond as herein provided in the case of a master licensee.

22 Section 9. There is a new R.C.M. section numbered
 23 66-3508 that reads as follows:

24 66-3508. Requirements for licensure. The following
 25 requirements shall be met by applicants for a state license:

1 (1) Master mechanics shall furnish evidence of five
 2 (5) years experience in heating, ventilation, and air
 3 conditioning work satisfactory to the board.

4 (2) Journeyman mechanics shall furnish evidence of
 5 four (4) years experience in heating, ventilation, and air
 6 conditioning work which is satisfactory to the board. This
 7 experience requirement may be fulfilled by working four (4)
 8 years in any major phase of the heating, ventilation, and
 9 air conditioning business, or by completing an
 10 apprenticeship program meeting the standards set by the
 11 Montana state apprenticeship council or United States
 12 department of labor, bureau of apprenticeship, and credit
 13 towards this experience requirement may be given for time
 14 spent in attending trade or other schools specializing in
 15 training in the heating, ventilation, and air conditioning
 16 business and approved by the board.

17 (3) For apprentice mechanics:

18 (a) registration by the board and the Montana
 19 apprenticeship council as an apprentice;

20 (b) working under the direct and personal supervision
 21 of a duly licensed journeyman, learning the business of
 22 heating, ventilation, and air conditioning; and

23 (c) apprentices qualifying hereunder shall be issued
 24 apprentice permits by the board.

25 Section 10. There is a new R.C.M. section numbered

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1 66-3509 that reads as follows:

2 66-3509. License fees. Each applicant for a master
3 license shall pay a seventy-five dollar (\$75) application
4 fee, and each applicant for a journeyman's license shall pay
5 a thirty-five dollar (\$35) application fee. All licenses
6 and renewals expire on July 1 of each year. Renewal fees
7 shall be set annually by the board and may not exceed the
8 application fees.

9 Section 11. There is a new R.C.M. section numbered
10 66-3510 that reads as follows:

11 66-3510. Bond to be deposited with board. A master
12 license may not be issued until the applicant has deposited
13 with the board a bond, approved by the board, in the amount
14 of fifteen thousand dollars (\$15,000), or cash in lieu
15 thereof, running to the state of Montana for the use and
16 benefit of any person who might have a cause of action of
17 any nature arising from or out of work performed or
18 installations of equipment by the master licensee or the
19 firm with which he is associated. Any person having a cause
20 of action may join the master licensee, the firm with which
21 he is associated and the surety on the bond in the same
22 action, or may in such action sue either the firm, the
23 licensee, or the surety alone. The term "cause of action"
24 shall be construed to include claims for expenses incurred
25 in correcting work which is not in conformance with the

1 applicable heating, ventilation, and air conditioning code.

2 Section 12. There is a new R.C.M. section numbered
3 66-3511 that reads as follows:

4 66-3511. Display of license badge. The board shall
5 issue a badge of a design approved by the board to each
6 licensee. A person licensed shall display the license in
7 plain view in his place of business and if he is performing
8 services away from his place of business, he shall present
9 identification issued by the board showing his license
10 number. Licenses are not transferable.

11 Section 13. There is a new R.C.M. section numbered
12 66-3512 that reads as follows:

13 66-3512. Revocation or suspension of license. Any
14 licensee who performs, or any master licensee whose
15 associated firm performs heating, ventilation, and air
16 conditioning work in any building whatsoever, below the
17 standards set by the applicable heating, ventilation, and
18 air conditioning code, may have his license revoked or
19 suspended by the board. Proceedings for the revocation or
20 suspension of a license may be commenced by the board upon
21 its own motion, or upon motion of any person. All
22 complaints must be in writing, verified and filed with the
23 department. The board may deem the complaint sufficient as
24 received or require further investigation. When a complaint
25 is deemed sufficient by the board, it shall provide for a

1 hearing, at a specified time and place, and the department
2 shall cause a true copy of notice of hearing and of the
3 complaint to be served upon the licensee at least ten (10)
4 days before the day appointed in the order for hearing.

5 Section 14. There is a new R.C.M. section numbered
6 66-3513 that reads as follows:

7 66-3513. Unlawful conduct. It shall be unlawful:

8 (1) for any person or firm to perform, or to establish
9 a place of business to perform, or to advertise for,
10 heating, ventilation, or air conditioning work for another
11 unless such person, or a full partner or ten percent (10%)
12 or more shareholder of such firm, shall have first obtained
13 a master license hereunder, provided, that any person who is
14 licensed as a journeyman may perform such work for a master
15 licensee or a firm with which a master licensee is
16 associated; and

17 (2) for equipment to be installed in this state unless
18 evidence of fee payment is attached in the manner prescribed
19 by the board.

20 Section 15. There is a new R.C.M. section numbered
21 66-3514 that reads as follows:

22 66-3514. Penalty. Any person or firm convicted of
23 violating the provisions of section 66-3513 shall be fined
24 not less than twenty dollars (\$20) and not more than five
25 hundred dollars (\$500) for each separate offense. A person

1 engaged in heating, ventilation, or air conditioning work
2 after July 1, 1975, and who applies for a license prior to
3 January 1, 1976, is not in violation of this act until his
4 application for licensure is denied.

5 Section 16. There is a new R.C.M. section numbered
6 66-3515 that reads as follows:

7 66-3515. Exemptions from act. The provisions of this
8 act do not apply to work done by a homeowner on his own
9 single family dwelling, provided, however, that this
10 provision does not excuse a homeowner from obtaining
11 necessary permits and paying inspection and equipment fees.

12 Section 17. Section 69-2111, R.C.M. 1947, is amended
13 to read as follows:

14 "69-2111. Adoption of rules by department. (1) The
15 department shall adopt by reference nationally recognized
16 building codes in whole or in part, amend and repeal rules
17 relating to the construction of all buildings or classes or
18 buildings of the installation of equipment in those
19 buildings, and may by rule prescribe standards or
20 requirements for materials to be used in buildings including
21 provisions dealing with safety and sanitation. The rules,
22 when adopted as provided in this chapter, constitute the
23 "state building code" and shall be acceptable for the
24 buildings to which it is applicable.

25 (2) The department may hold hearings relating to the

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1 administration of this act in accordance with the Montana
2 Administrative Procedure Act.

3 (3) Except as provided in subsection (4) of this
4 section, no rule and no amendment or repeal of the state
5 building code shall take effect until after a public hearing
6 by the department.

7 (4) If a hearing has been held by the department of
8 justice with respect to its duties contained in Title 82,
9 chapter 12, the board of plumbers, the department of health
10 and environmental sciences, board of heating, ventilation,
11 and air conditioning, or state electrical board, on a
12 proposed rule relating to building and equipment standards
13 in their respective fields, a public hearing by the
14 department is not required. The proposed rule is effective
15 upon approval of the department and filing with the
16 secretary of state as a part of the state building code.

17 (5) If a rule relating to building or equipment
18 standards is proposed by the department of justice with
19 respect to its duties contained in Title 82, chapter 12,
20 board of plumbers, department of health and environmental
21 sciences, board of heating, ventilation, and air
22 conditioning, or state electrical board which conflicts with
23 the state building code, the department shall modify the
24 proposed rule or the state building code to resolve the
25 conflict after consultation with the state agencies

1 affected."

-End-

Approved by Committee
on State Administration

1 SENATE BILL NO. 246
2 INTRODUCED BY R. SMITH, REGAN, NORMAN, BROWN, JERGESON, LEE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
5 WARM AIR HEATING, VENTILATION, AND AIR CONDITIONING;
6 PROVIDING FOR THE LICENSING OF PERSONS PERFORMING WARM AIR
7 HEATING, VENTILATING, OR AIR CONDITIONING WORK; AND AMENDING
8 SECTION 59-2111, R.C.M. 1947."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. There is a new R.C.M. section numbered
12 82A-1602.28 that reads as follows:
13 82A-1602.28. Board of WARM AIR heating, ventilation,
14 and air conditioning -- appointment -- qualifications --
15 term. (1) There is a state board of heating, ventilation,
16 and air conditioning.
17 (2) The board consists of ~~eight-(8)~~ SEVEN (7) members,
18 appointed by the governor. The members are:
19 (a) two (2) master and two (2) journeyman mechanics,
20 who shall be over the age of majority and residents of
21 Montana for at least one (1) year. After the first board,
22 each mechanic shall have been licensed pursuant to this act
23 at least two (2) years immediately preceding his
24 appointment;
25 (b) ~~one-(1)-licensed--professional--engineer~~ ONE (1)

1 REPRESENTATIVE OF THE DEPARTMENT OF ADMINISTRATION, CHIEF OF
2 CONSTRUCTION REGULATION BUREAU, WHO SHALL ACT AS SECRETARY;
3 (c) ~~one-(1)-representative-of-the-department-of-health~~
4 ~~and-environmental-sciences, who shall act as secretary,~~ ONE
5 (1) ATTORNEY FROM THE DEPARTMENT; AND
6 (d) one (1) representative of the state fire
7 marshall's office, and
8 ~~(e)--one-(1)-attorney-licensed-to-practice-in--Montana~~
9 (3) Each member shall serve for a period of four (4)
10 years, provided, however, that four (4) members of the first
11 board shall serve as follows:
12 (a) one (1) master and one (1) journeyman for two (2)
13 years; and
14 (b) one (1) master and one (1) journeyman for three
15 (3) years.
16 (4) Each member of the board is entitled to
17 twenty-five dollars (\$25) per day for each day served
18 discharging his board duties, together with a per diem and
19 mileage expense allowance pursuant to sections 59-801 and
20 59-538. NO MEMBER OF THE BOARD SHALL BE ALLOWED
21 COMPENSATION IN ADDITION TO HIS PRESENT COMPENSATION FROM
22 THE STATE.
23 (5) A majority of the members of the board constitute
24 a quorum necessary for the transaction of business.
25 (6) The board shall meet at least semi-annually.

1 Section 2. There is a new R.C.M. section numbered
2 66-3501 that reads as follows:

3 66-3501. Short title. This act is to be known and
4 referred to as the "Heating, Ventilation, and Air
5 Conditioning Act".

6 Section 3. There is a new R.C.M. section numbered
7 66-3502 that reads as follows:

8 66-3502. Purpose. It is hereby declared to be the
9 purpose of this act to protect the people of Montana from
10 health, life, financial, and other hazards resulting from
11 irresponsible service methods, unethical practices, inferior
12 installation, maintenance and repair of WARM AIR heating,
13 ventilation, and air conditioning systems and equipment.

14 Section 4. There is a new R.C.M. section numbered
15 66-3503 that reads as follows:

16 66-3503. Definitions. As used in this act:

17 (1) "Board" means board of WARM AIR heating,
18 ventilation and air conditioning, provided for in section
19 82A-1602.28.

20 (2) "Department" means the department of professional
21 and occupational licensing.

22 (3) ~~Heating, ventilation, and air conditioning work~~
23 ~~means construction, installation, alteration, maintenance~~
24 ~~and repair of all warm air furnaces, stokers, oil-burning,~~
25 ~~solid-fuel-burning, gas-burning, and liquefied-petroleum~~

1 ~~gas-burning and electrical equipment for air heating,~~
2 ~~ventilating, air conditioning, and air pollution control,~~
3 ~~blower and exhaust appliances and systems and domestic and~~
4 ~~commercial gas-fired equipment. "WARM AIR HEATING,~~
5 ~~VENTILATION, AND AIR CONDITIONING WORK" MEANS CONSTRUCTION,~~
6 ~~INSTALLATION, ALTERATION, MAINTENANCE AND REPAIR OF ALL WARM~~
7 ~~AIR: HEATING SYSTEMS COMPLETE WITH WARM AIR APPLIANCES,~~
8 ~~DUCTS, REGISTERS AND FLUES WITH OR WITHOUT AIR FILTERS,~~
9 ~~HUMIDITY AND THERMOSTATIC CONTROLS; VENTILATING SYSTEMS~~
10 ~~COMPLETE WITH BLOWERS, DUCTS, PLENUM CHAMBERS, REGISTER,~~
11 ~~WITH OR WITHOUT AIR FILTERS, HUMIDITY AND THERMOSTATIC~~
12 ~~CONTROLS; AIR CONDITIONING SYSTEMS, COMPLETE WITH AIR~~
13 ~~CONDITIONING UNITS, DUCTS, REGISTERS, AIR FILTERS, HUMIDITY~~
14 ~~AND THERMOSTATIC CONTROLS; AND ALL EQUIPMENT FOR AIR~~
15 ~~HEATING, VENTILATING, AIR CONDITIONING AND AIR POLLUTION~~
16 ~~CONTROL; BLOWER AND EXHAUST APPLIANCES AND SYSTEMS; AND~~
17 ~~DOMESTIC AND COMMERCIAL FORCED AIR HEATING EQUIPMENT. WARM~~
18 ~~AIR HEATING, VENTILATION, AND AIR CONDITIONING WORK DOES NOT~~
19 ~~INCLUDE ANY PORTABLE HEATING, VENTILATING OR AIR~~
20 ~~CONDITIONING EQUIPMENT, WHICH DOES NOT BECOME AFFIXED TO~~
21 ~~REAL PROPERTY.~~

22 Section 5. There is a new R.C.M. section numbered
23 66-3504 that reads as follows:

24 66-3504. Powers and duties of board. In addition to
25 all other powers and duties conferred and imposed upon the

1 board by law, the board shall have and exercise the
2 following powers and duties:

3 (1) to promulgate rules which it determines to be
4 necessary to carry out the provisions of this act;

5 ~~(2) to conduct hearings on proposed rules and~~
6 ~~provisions of a heating, ventilation, and air conditioning~~
7 ~~code, and to propose rules to the department of~~
8 ~~administration for inclusion in the state building code;~~

9 (2) (2) to hear contested cases coming under the
10 provisions of this act; and

11 ~~(4) (3) to establish equipment fees to be collected~~
12 ~~before installation of heating, ventilation, and air~~
13 ~~conditioning equipment designated by the board TO ESTABLISH~~
14 ~~HOW PERMIT FEES ARE TO BE COLLECTED AND ALLOCATED UNDER~~
15 ~~SECTION 69-2113.~~

16 Section 6. There is a new R.C.M. section numbered
17 66-3505 that reads as follows:

18 66-3505. Earmarked account. Money paid for license
19 and equipment fees under this act shall be deposited in an
20 earmarked revenue account for the use of the board, subject
21 to section 32A-1603(6).

22 Section 7. There is a new R.C.M. section numbered
23 66-3506 that reads as follows:

24 66-3506. Examination of applicant for license. An
25 applicant for a license to engage in WARM AIR heating,

1 ventilation, or air conditioning work shall be examined as
2 to his qualifications by the department, subject to section
3 32A-1603(4). The department shall examine each applicant
4 for a license, to determine his qualifications and fitness
5 for carrying on WARM AIR heating, ventilation, or air
6 conditioning work, as a master or journeyman, and if the
7 applicant successfully passes the examination prescribed by
8 the board, then a license shall be issued to the applicant
9 authorizing him to engage in WARM AIR heating, ventilation,
10 or air conditioning work as a master or journeyman in the
11 state, subject to other provisions of this act.

12 Section 8. There is a new R.C.M. section numbered
13 66-3507 that reads as follows:

14 66-3507. Persons exempt from examination. Persons
15 fulfilling the qualifications for applicants for licenses as
16 hereinafter provided prior to July 1, 1975, and who are then
17 actively engaged in WARM AIR heating, ventilation, and sheet
18 metal work, shall not be required to take an examination,
19 but shall be issued a license by the board upon payment of
20 the proper license fee before January 1, 1976, and upon
21 posting a bond as herein provided in the case of a master
22 licensee.

23 Section 9. There is a new R.C.M. section numbered
24 66-3508 that reads as follows:

25 66-3508. Requirements for licensure. The following

1 requirements shall be met by applicants for a state license:

2 (1) ~~Master-mechanics~~ MASTERS shall furnish evidence of
3 five (5) years experience in WARM AIR heating, ventilation,
4 and air conditioning work satisfactory to the board.

5 (2) Journeyman mechanics shall furnish evidence of
6 four (4) years experience in WARM AIR heating, ventilation,
7 and air conditioning work which is satisfactory to the
8 board. This experience requirement may be fulfilled by
9 working four (4) years in any major phase of the WARM AIR
10 heating, ventilation, and air conditioning business, or by
11 completing an apprenticeship program meeting the standards
12 set by the Montana state apprenticeship council or United
13 States department of labor, bureau of apprenticeship, and
14 credit towards this experience requirement may SHALL be
15 given for time spent in attending trade or other schools
16 specializing in training in the WARM AIR heating,
17 ventilation, and air conditioning business and approved by
18 the board.

19 (3) For apprentice mechanics:

20 (a) registration by the board and the Montana
21 apprenticeship council as an apprentice;

22 (b) working under the direct and personal supervision
23 of a duly licensed journeyman, learning the business of WARM
24 AIR heating, ventilation, and air conditioning; and

25 (c) apprentices qualifying hereunder shall be issued

1 apprentice permits by the board.

2 Section 10. There is a new R.C.M. section numbered
3 66-3509 that reads as follows:

4 66-3509. License fees -- EXAMINATION FEES. Each
5 applicant for a master license shall pay a seventy-five
6 dollar (\$75) application fee, and each applicant for a
7 journeyman's license shall pay a thirty-five dollar (\$35)
8 application fee. All licenses and renewals expire on July 1
9 of each year. Renewal fees shall be set annually by the
10 board and may not exceed the application fees. EXAMINATION
11 FEES SHALL BE SET BY THE BOARD BUT NOT TO EXCEED FIFTY
12 DOLLARS (\$50) FOR A MASTER EXAMINATION AND TWENTY-FIVE
13 DOLLARS (\$25) FOR A JOURNEYMAN EXAMINATION.

14 Section 11. There is a new R.C.M. section numbered
15 66-3510 that reads as follows:

16 66-3510. Bond to be deposited with board. A master
17 license may not be issued until the applicant has deposited
18 with the board a bond, approved by the board, in the amount
19 of fifteen thousand dollars (\$15,000), or cash in lieu
20 thereof, running to the state of Montana for the use and
21 benefit of any person who might have a cause of action of
22 any nature arising from or out of work performed or
23 installations of equipment by the master licensee or the
24 firm with which he is associated. Any person having a cause
25 of action may join ~~the-master-licensee~~, the firm with which

1 he THE MASTER is associated and the surety on the bond in
 2 the same action, or may in such action sue either the firm,
 3 ~~the licensee~~, or the surety alone. The term "cause of
 4 action" shall be construed to include claims for expenses
 5 incurred in correcting work which is not in conformance with
 6 the applicable heating, ventilation, and air conditioning
 7 code. THE BOND REQUIREMENT MAY BE WAIVED, IF MASTERS CAN
 8 PROVIDE ADEQUATE LIABILITY INSURANCE, ONE HUNDRED THOUSAND
 9 DOLLARS, (\$100,000) OR MORE, AND FURNISH TO THE BOARD
 10 PRE-CANCELLATION NOTICE, SATISFACTORY TO THE BOARD.

11 Section 12. There is a new R.C.M. section numbered
 12 66-3511 that reads as follows:

13 66-3511. Display of license badge. The board shall
 14 issue a badge LICENSE of a design approved by the board to
 15 each licensee. A person licensed shall display the license
 16 in plain view in his place of business and if he is
 17 performing services away from his place of business, he
 18 shall present identification issued by the board showing his
 19 license number. Licenses are not transferable.

20 Section 13. There is a new R.C.M. section numbered
 21 66-3512 that reads as follows:

22 66-3512. Revocation or suspension of license. Any
 23 licensee who performs, or any master licensee whose
 24 associated firm performs WARM AIR heating, ventilation, and
 25 air conditioning work in any building whatsoever, below the

1 standards set by the applicable WARM AIR heating,
 2 ventilation, and air conditioning code, may have his license
 3 revoked or suspended by the board. Proceedings for the
 4 revocation or suspension of a license may be commenced by
 5 the board upon its own motion, or upon motion of any person.
 6 All complaints must be in writing, verified and filed with
 7 the department. The board may deem the complaint sufficient
 8 as received or require further investigation. When a
 9 complaint is deemed sufficient by the board, it shall
 10 provide for a hearing, at a specified time and place, and
 11 the department shall cause a true copy of notice of hearing
 12 and of the complaint to be served upon the licensee at least
 13 ten (10) days before the day appointed in the order for
 14 hearing.

15 Section 14. There is a new R.C.M. section numbered
 16 66-3513 that reads as follows:

17 66-3513. Unlawful conduct. It shall be unlawful:

18 (1) for any person or firm to perform, or to establish
 19 a place of business to perform, or to advertise for, WARM
 20 AIR heating, ventilation, or air conditioning work for
 21 another unless such person, or a full partner or ten percent
 22 (10%) or more shareholder of such firm, shall have first
 23 obtained a master license hereunder, provided, that any
 24 person who is licensed as a journeyman may perform such work
 25 for a master licensee or a firm with which a master licensee

1 is associated; and

2 (2) for equipment to be installed in this state unless
3 evidence of PERMIT fee payment is attached in the manner
4 prescribed by the board.

5 Section 15. There is a new R.C.M. section numbered
6 66-3514 that reads as follows:

7 66-3514. Penalty. Any person or firm convicted of
8 violating the provisions of section 66-3513 shall be fined
9 not less than twenty dollars (\$20) and not more than five
10 hundred dollars (\$500) for each separate offense. A person
11 engaged in WARM AIR heating, ventilation, or air
12 conditioning work after July 1, 1975, and who applies for a
13 license prior to January 1, 1976, is not in violation of
14 this act until his application for licensure is denied.

15 Section 16. There is a new R.C.M. section numbered
16 66-3515 that reads as follows:

17 66-3515. Exemptions from act. The provisions of this
18 act do not apply ~~to work done by a homeowner on his own~~
19 ~~single family dwelling, provided, however, that this~~
20 ~~provision does not excuse a homeowner from obtaining~~
21 ~~necessary permits and paying inspection and equipment fees.~~
22 OR AFFECT WORK DONE:

23 (A) BY A HOMEOWNER ON EITHER THEIR FAMILY DWELLING OR
24 OUT BUILDINGS OR BOTH OF THEM;

25 (B) TO PROVIDE FUEL OR REFRIGERATION PIPE LINES, WHEN

1 LINES ARE CONNECTED TO THE INSTALLATION OF HEATING,
2 VENTILATING AND AIR CONDITIONING SYSTEMS; OR
3 (C) BY RAILROADS, SMELTERS, MILLS OR REFINERIES ON
4 THEIR PROPERTIES, BY EMPLOYEES.

5 Section 17. Section 69-2111, R.C.M. 1947, is amended
6 to read as follows:

7 "69-2111. Adoption of rules by department. (1) The
8 department shall adopt by reference nationally recognized
9 building codes in whole or in part, amend and repeal rules
10 relating to the construction of all buildings or classes or
11 buildings of the installation of equipment in those
12 buildings, and may by rule prescribe standards or
13 requirements for materials to be used in buildings including
14 provisions dealing with safety and sanitation. The rules,
15 when adopted as provided in this chapter, constitute the
16 "state building code" and shall be acceptable for the
17 buildings to which it is applicable.

18 (2) The department may hold hearings relating to the
19 administration of this act in accordance with the Montana
20 Administrative Procedure Act.

21 (3) Except as provided in subsection (4) of this
22 section, no rule and no amendment or repeal of the state
23 building code shall take effect until after a public hearing
24 by the department.

25 (4) If a hearing has been held by the department of

1 justice with respect to its duties contained in Title 82,
2 chapter 12, the board of plumbers, the department of health
3 and environmental sciences, board of WARM AIR heating,
4 ventilation, and air conditioning, or state electrical
5 board, on a proposed rule relating to building and equipment
6 standards in their respective fields, a public hearing by
7 the department is not required. The proposed rule is
8 effective upon approval of the department and filing with
9 the secretary of state as a part of the state building code.

10 (5) If a rule relating to building or equipment
11 standards is proposed by the department of justice with
12 respect to its duties contained in Title 82, chapter 12,
13 board of plumbers, department of health and environmental
14 sciences, board of WARM AIR heating, ventilation, and air
15 conditioning, or state electrical board which conflicts with
16 the state building code, the department shall modify the
17 proposed rule or the state building code to resolve the
18 conflict after consultation with the state agencies
19 affected."

-End-

1 SENATE BILL NO. 246
 2 INTRODUCED BY R. SMITH, REGAN, NORMAN, BROWN, JERGESON, LEE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF
 5 WARM AIR HEATING, VENTILATION, AND AIR CONDITIONING;
 6 PROVIDING FOR THE LICENSING OF PERSONS PERFORMING WARM AIR
 7 HEATING, VENTILATING, OR AIR CONDITIONING WORK; AND AMENDING
 8 SECTION 69-2111, R.C.M. 1947."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. There is a new R.C.M. section numbered
 12 82A-1602.28 that reads as follows:
 13 82A-1602.28. Board of WARM AIR heating, ventilation,
 14 and air conditioning -- appointment -- qualifications --
 15 term. (1) There is a state board of heating, ventilation,
 16 and air conditioning.
 17 (2) The board consists of ~~eight-(8)~~ SEVEN (7) members,
 18 appointed by the governor. The members are:
 19 (a) two (2) master and two (2) journeyman mechanics,
 20 who shall be over the age of majority and residents of
 21 Montana for at least one (1) year. After the first board,
 22 each mechanic shall have been licensed pursuant to this act
 23 at least two (2) years immediately preceding his
 24 appointment;
 25 (b) ~~one-(1)-licensed--professional--engineer~~ ONE (1)

1 REPRESENTATIVE OF THE DEPARTMENT OF ADMINISTRATION, CHIEF OF
 2 CONSTRUCTION REGULATION BUREAU, WHO SHALL ACT AS SECRETARY;
 3 (c) ~~one-(1)-representative-of-the-department-of-health~~
 4 ~~and--environmental-sciences,-who-shall-act-as-secretary;~~ ONE
 5 (1) ATTORNEY FROM THE DEPARTMENT; AND
 6 (d) one (1) representative of the state fire
 7 marshall's office, and
 8 ~~(e)--one-(1)-attorney-licensed-to-practice-in--Montana;~~
 9 (3) Each member shall serve for a period of four (4)
 10 years, provided, however, that four (4) members of the first
 11 board shall serve as follows:
 12 (a) one (1) master and one (1) journeyman for two (2)
 13 years; and
 14 (b) one (1) master and one (1) journeyman for three
 15 (3) years.
 16 (4) Each member of the board is entitled to
 17 twenty-five dollars (\$25) per day for each day served
 18 discharging his board duties, together with a per diem and
 19 mileage expense allowance pursuant to sections 59-801 and
 20 59-538. NO MEMBER OF THE BOARD SHALL BE ALLOWED
 21 COMPENSATION IN ADDITION TO HIS PRESENT COMPENSATION FROM
 22 THE STATE.
 23 (5) A majority of the members of the board constitute
 24 a quorum necessary for the transaction of business.
 25 (6) The board shall meet at least semi-annually.

1 Section 2. There is a new R.C.M. section numbered
2 66-3501 that reads as follows:

3 66-3501. Short title. This act is to be known and
4 referred to as the "Heating, Ventilation, and Air
5 Conditioning Act".

6 Section 3. There is a new R.C.M. section numbered
7 66-3502 that reads as follows:

8 66-3502. Purpose. It is hereby declared to be the
9 purpose of this act to protect the people of Montana from
10 health, life, financial, and other hazards resulting from
11 irresponsible service methods, unethical practices, inferior
12 installation, maintenance and repair of WARM AIR heating,
13 ventilation, and air conditioning systems and equipment.

14 Section 4. There is a new R.C.M. section numbered
15 66-3503 that reads as follows:

16 66-3503. Definitions. As used in this act:

17 (1) "Board" means board of WARM AIR heating,
18 ventilation and air conditioning, provided for in section
19 82A-1602.28.

20 (2) "Department" means the department of professional
21 and occupational licensing.

22 (3) ~~Heating, ventilation, and air conditioning work~~
23 ~~means construction, installation, alteration, maintenance~~
24 ~~and repair of all warm air furnaces, stokers, oil-burning,~~
25 ~~solid-fuel-burning, gas-burning, and liquefied-petroleum~~

1 ~~gas-burning and electrical equipment for air heating,~~
2 ~~ventilating, air conditioning and air pollution control,~~
3 ~~blower and exhaust appliances and systems and domestic and~~
4 ~~commercial gas-fired equipment. WARM AIR HEATING,~~
5 ~~VENTILATION, AND AIR CONDITIONING WORK MEANS CONSTRUCTION,~~
6 ~~INSTALLATION, ALTERATION, MAINTENANCE AND REPAIR OF ALL WARM~~
7 ~~AIR: HEATING SYSTEMS COMPLETE WITH WARM AIR APPLIANCES,~~
8 ~~DUCTS, REGISTERS AND FLUES WITH OR WITHOUT AIR FILTERS,~~
9 ~~HUMIDITY AND THERMOSTATIC CONTROLS; VENTILATING SYSTEMS~~
10 ~~COMPLETE WITH BLOWERS, DUCTS, PLENUM CHAMBERS, REGISTER,~~
11 ~~WITH OR WITHOUT AIR FILTERS, HUMIDITY AND THERMOSTATIC~~
12 ~~CONTROLS; AIR CONDITIONING SYSTEMS, COMPLETE WITH AIR~~
13 ~~CONDITIONING UNITS, DUCTS, REGISTERS, AIR FILTERS, HUMIDITY~~
14 ~~AND THERMOSTATIC CONTROLS; AND ALL EQUIPMENT FOR AIR~~
15 ~~HEATING, VENTILATING, AND AIR CONDITIONING-AND-AIR-POLLUTION~~
16 ~~CONTROL; BLOWER AND EXHAUST APPLICANCES AND SYSTEMS; AND~~
17 ~~DOMESTIC AND COMMERCIAL FORCED AIR HEATING EQUIPMENT. WARM~~
18 ~~AIR HEATING, VENTILATION, AND AIR CONDITIONING WORK DOES NOT~~
19 ~~INCLUDE ANY PORTABLE HEATING, VENTILATING OR AIR~~
20 ~~CONDITIONING EQUIPMENT, WHICH DOES NOT BECOME AFFIXED TO~~
21 ~~REAL PROPERTY.~~

22 Section 5. There is a new R.C.M. section numbered
23 66-3504 that reads as follows:

24 66-3504. Powers and duties of board. In addition to
25 all other powers and duties conferred and imposed upon the

1 board by law, the board shall have and exercise the
2 following powers and duties:

3 (1) to promulgate rules which it determines to be
4 necessary to carry out the provisions of this act;

5 ~~(2) to conduct hearings on proposed rules and~~
6 ~~provisions of a heating, ventilation, and air conditioning~~
7 ~~code, and to propose rules to the department of~~
8 ~~administration for inclusion in the state building code;~~

9 ~~(3) (2)~~ to hear contested cases coming under the
10 provisions of this act; and

11 ~~(4) (3) to establish equipment fees to be collected~~
12 ~~before installation of heating, ventilation, and air~~
13 ~~conditioning equipment designated by the board TO ESTABLISH~~
14 ~~HOW PERMIT FEES ARE TO BE COLLECTED AND ALLOCATED UNDER~~
15 ~~SECTION 69-2113 APPLICABLE STATE AND LOCAL BUILDING CODES.~~

16 Section 6. There is a new R.C.M. section numbered
17 66-3505 that reads as follows:

18 66-3505. Earmarked account. Money paid for license
19 and equipment fees under this act shall be deposited in an
20 earmarked revenue account for the use of the board, subject
21 to section 82A-1603(6).

22 Section 7. There is a new R.C.M. section numbered
23 66-3506 that reads as follows:

24 66-3506. Examination of applicant for license. An
25 applicant for a license to engage in WARM AIR heating,

1 ventilation, or air conditioning work shall be examined as
2 to his qualifications by the department, subject to section
3 82A-1603(4). The department shall examine each applicant
4 for a license, to determine his qualifications and fitness
5 for carrying on WARM AIR heating, ventilation, or air
6 conditioning work, as a master or journeyman, and if the
7 applicant successfully passes the examination prescribed by
8 the board, then a license shall be issued to the applicant
9 authorizing him to engage in WARM AIR heating, ventilation,
10 or air conditioning work as a master or journeyman in the
11 state, subject to other provisions of this act.

12 Section 8. There is a new R.C.M. section numbered
13 66-3507 that reads as follows:

14 66-3507. Persons exempt from examination. Persons
15 fulfilling the qualifications for applicants for licenses as
16 hereinafter provided prior to July 1, 1975, and who are then
17 actively engaged in WARM AIR heating, ventilation, and sheet
18 metal work, shall not be required to take an examination,
19 but shall be issued a license by the board upon payment of
20 the proper license fee before January 1, 1976, and upon
21 posting a bond as herein provided in the case of a master
22 licensee.

23 Section 9. There is a new R.C.M. section numbered
24 66-3508 that reads as follows:

25 66-3508. Requirements for licensure. The following

1 requirements shall be met by applicants for a state license:

2 (1) ~~Master-mechanics~~ MASTERS shall furnish evidence of
3 five (5) years experience in WARM AIR heating, ventilation,
4 and air conditioning work satisfactory to the board.

5 (2) Journeyman mechanics shall furnish evidence of
6 four (4) years experience in WARM AIR heating, ventilation,
7 and air conditioning work which is satisfactory to the
8 board. This experience requirement may be fulfilled by
9 working four (4) years in any major phase of the WARM AIR
10 heating, ventilation, and air conditioning business, or by
11 completing an apprenticeship program meeting the standards
12 set by the Montana state apprenticeship council or United
13 States department of labor, bureau of apprenticeship, and
14 credit towards this experience requirement may SHALL be
15 given for time spent in attending trade or other schools
16 specializing in training in the WARM AIR heating,
17 ventilation, and air conditioning business and approved by
18 the board.

19 (3) For apprentice mechanics:

20 (a) registration by the board and the Montana
21 apprenticeship council as an apprentice;

22 (b) working under the direct and personal supervision
23 of a duly licensed journeyman, learning the business of WARM
24 AIR heating, ventilation, and air conditioning; and

25 (c) apprentices qualifying hereunder shall be issued

1 apprentice permits by the board.

2 Section 10. There is a new R.C.M. section numbered
3 66-3509 that reads as follows:

4 66-3509. License fees -- EXAMINATION FEES. Each
5 applicant for a master license shall pay a seventy-five
6 dollar (\$75) application fee, and each applicant for a
7 journeyman's license shall pay a thirty-five dollar (\$35)
8 application fee. All licenses and renewals expire on July 1
9 of each year. Renewal fees shall be set annually by the
10 board and may not exceed the application fees. EXAMINATION
11 FEES SHALL BE SET BY THE BOARD BUT NOT TO EXCEED FIFTY
12 DOLLARS (\$50) FOR A MASTER EXAMINATION AND TWENTY-FIVE
13 DOLLARS (\$25) FOR A JOURNEYMAN EXAMINATION.

14 Section 11. There is a new R.C.M. section numbered
15 66-3510 that reads as follows:

16 66-3510. Bond to be deposited with board. A master
17 license may not be issued until the applicant has deposited
18 with the board a bond, approved by the board, in the amount
19 of fifteen thousand dollars (\$15,000), or cash in lieu
20 thereof, running to the state of Montana for the use and
21 benefit of any person who might have a cause of action of
22 any nature arising from or out of work performed or
23 installations of equipment by the master licensee or the
24 firm with which he is associated. Any person having a cause
25 of action may join ~~the-master-licensee~~, the firm with which

1 he THE MASTER is associated and the surety on the bond in
 2 the same action, or may in such action sue either the firm,
 3 ~~the licensee~~, or the surety alone. The term "cause of
 4 action" shall be construed to include claims for expenses
 5 incurred in correcting work which is not in conformance with
 6 the applicable heating, ventilation, and air conditioning
 7 code. THE BOND REQUIREMENT MAY BE WAIVED, IF MASTERS CAN
 8 PROVIDE ADEQUATE LIABILITY INSURANCE, ONE HUNDRED THOUSAND
 9 DOLLARS, (\$100,000) OR MORE, AND FURNISH TO THE BOARD
 10 PRE-CANCELLATION NOTICE, SATISFACTORY TO THE BOARD.

11 Section 12. There is a new R.C.M. section numbered
 12 66-3511 that reads as follows:

13 66-3511. Display of license badge. The board shall
 14 issue a badge LICENSE of a design approved by the board to
 15 each licensee. A person licensed shall display the license
 16 in plain view in his place of business and if he is
 17 performing services away from his place of business, he
 18 shall present identification issued by the board showing his
 19 license number. Licenses are not transferable.

20 Section 13. There is a new R.C.M. section numbered
 21 66-3512 that reads as follows:

22 66-3512. Revocation or suspension of license. Any
 23 licensee who performs, or any master licensee whose
 24 associated firm performs WARM AIR heating, ventilation, and
 25 air conditioning work in any building whatsoever, below the

1 standards set by the applicable WARM AIR heating,
 2 ventilation, and air conditioning code, may have his license
 3 revoked or suspended by the board. Proceedings for the
 4 revocation or suspension of a license may be commenced by
 5 the board upon its own motion, or upon motion of any person.
 6 All complaints must be in writing, verified and filed with
 7 the department. The board may deem the complaint sufficient
 8 as received or require further investigation. When a
 9 complaint is deemed sufficient by the board, it shall
 10 provide for a hearing, at a specified time and place, and
 11 the department shall cause a true copy of notice of hearing
 12 and of the complaint to be served upon the licensee at least
 13 ten (10) days before the day appointed in the order for
 14 hearing.

15 Section 14. There is a new R.C.M. section numbered
 16 66-3513 that reads as follows:

17 66-3513. Unlawful conduct. It shall be unlawful:

18 (1) for any person or firm to perform, or to establish
 19 a place of business to perform, or to advertise for, WARM
 20 AIR heating, ventilation, or air conditioning work for
 21 another unless such person, or a full partner or ten percent
 22 (10%) or more shareholder of such firm, shall have first
 23 obtained a master license hereunder, provided, that any
 24 person who is licensed as a journeyman may perform such work
 25 for a master licensee or a firm with which a master licensee

1 is associated; and

2 (2) for equipment to be installed in this state unless
3 evidence of PERMIT fee payment is attached in the manner
4 prescribed by the board.

5 Section 15. There is a new R.C.M. section numbered
6 66-3514 that reads as follows:

7 66-3514. Penalty. Any person or firm convicted of
8 violating the provisions of section 66-3513 shall be fined
9 not less than twenty dollars (\$20) and not more than five
10 hundred dollars (\$500) for each separate offense. A person
11 engaged in WARM AIR heating, ventilation, or air
12 conditioning work after July 1, 1975, and who applies for a
13 license prior to January 1, 1976, is not in violation of
14 this act until his application for licensure is denied.

15 Section 16. There is a new R.C.M. section numbered
16 66-3515 that reads as follows:

17 66-3515. Exemptions from act. The provisions of this
18 act do not apply ~~to work done by a homeowner on his own~~
19 ~~single family dwelling, provided, however, that this~~
20 ~~provision does not excuse a homeowner from obtaining~~
21 ~~necessary permits and paying inspection and equipment fees.~~
22 OR AFFECT WORK DONE:

23 (A) BY A HOMEOWNER ON EITHER THEIR FAMILY DWELLING OR
24 OUT BUILDINGS OR BOTH OF THEM;

25 (B) TO PROVIDE FUEL OR REFRIGERATION PIPE LINES, WHEN

1 LINES ARE CONNECTED TO THE INSTALLATION OF HEATING,
2 VENTILATING AND AIR CONDITIONING SYSTEMS; OR

3 (C) BY RAILROADS, SMELTERS, MILLS OR REFINERIES ON
4 THEIR PROPERTIES, BY EMPLOYEES.

5 Section 17. Section 69-2111, R.C.M. 1947, is amended
6 to read as follows:

7 "69-2111. Adoption of rules by department. (1) The
8 department shall adopt by reference nationally recognized
9 building codes in whole or in part, amend and repeal rules
10 relating to the construction of all buildings or classes or
11 buildings of the installation of equipment in those
12 buildings, and may by rule prescribe standards or
13 requirements for materials to be used in buildings including
14 provisions dealing with safety and sanitation. The rules,
15 when adopted as provided in this chapter, constitute the
16 "state building code" and shall be acceptable for the
17 buildings to which it is applicable.

18 (2) The department may hold hearings relating to the
19 administration of this act in accordance with the Montana
20 Administrative Procedure Act.

21 (3) Except as provided in subsection (4) of this
22 section, no rule and no amendment or repeal of the state
23 building code shall take effect until after a public hearing
24 by the department.

25 (4) If a hearing has been held by the department of

1 justice with respect to its duties contained in Title 82,
2 chapter 12, the board of plumbers, the department of health
3 and environmental sciences, board of WARM AIR heating,
4 ventilation, and air conditioning, or state electrical
5 board, on a proposed rule relating to building and equipment
6 standards in their respective fields, a public hearing by
7 the department is not required. The proposed rule is
8 effective upon approval of the department and filing with
9 the secretary of state as a part of the state building code.

10 (5) If a rule relating to building or equipment
11 standards is proposed by the department of justice with
12 respect to its duties contained in Title 82, chapter 12,
13 board of plumbers, department of health and environmental
14 sciences, board of WARM AIR heating, ventilation, and air
15 conditioning, or state electrical board which conflicts with
16 the state building code, the department shall modify the
17 proposed rule or the state building code to resolve the
18 conflict after consultation with the state agencies
19 affected."

-End-

HOUSE OF REPRESENTATIVES

Date: March 17, 1975

HOUSE COMMITTEE ON LABOR & EMPLOYMENT RELATIONS AMENDMENTS TO SB 246

1. Amend page 4, section 4, subsection (3), line 6.

Following: "AND REPAIR"

Insert: " : "

2. Amend page 4, section 4, subsection (3), line 7.

Strike: "AIR:"

3. Amend page 12, section 16, subsection (C), line 3.

Following: "SMELTERS,"

Insert: "underground mining operations,"

AND AS SO AMENDED
BE CONCURRED IN

GK/atw

HOUSE OF REPRESENTATIVES

Date: March 26, 1975

HOUSE COMMITTEE ON LABOR & EMPLOYMENT RELATIONS AMENDMENTS TO SB 246

1. Amend page 1, section 1, subsection (1), line 15.

Following: "board of"

Insert: "warm air"

2. Amend the House Committee on Labor & Employment Relations amendments to SB 246, dated March 17, 1975.

Strike: amendment 2 in its entirety.

3. Amend page 4, section 4, subsection (3), line 7.

Following: first word "AIR"

Strike: ":",

4. Amend the floor amendment made by Representative Huennekens, dated March 20, 1975.

Strike: this amendment in its entirety.

5. Amend page 4, section 4, subsection (3), line 21.

Following: "property"

Insert: "; and masonry fireplaces and component parts with masonry flues"

6. Amend the floor amendment made by Representative Kimble, dated March 20, 1975.

Strike: this amendment in its entirety.

7. Amend page 11, section 16, subsection (A), line 24.

Following: "THEM"

Insert: "or person doing routine maintenance in their place of business"

8. Amend page 12, section 16, subsection (C), line 4.

Following: "BY"

Insert: "self or"

9. Amend page 12, section 16, subsection (C), line 4.

Following: "EMPLOYEES"

Insert: "or other businesses doing their own routine
maintenance"

AND AS SO AMENDED

BE CONCURRED IN

GNK/gtw

Gary N. Kimble, Chairman

March 27, 1975

HOUSE OF REPRESENTATIVES

Committee of the Whole Amendment to Labor and Employment relations
Amendments to SENATE BILL NO. 246, dated March 26, 1975.

Amend Amendment No. 7, as follows:

1. Following: "business"
2. Insert: "or rental housing"

AS SO AMENDED

BE CONCURRED IN

SENATE BILL NO. 246

INTRODUCED BY R. SMITH, REGAN, NORMAN, BROWN, JERGESON, LEE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BOARD OF WARM AIR HEATING, VENTILATION, AND AIR CONDITIONING; PROVIDING FOR THE LICENSING OF PERSONS PERFORMING WARM AIR HEATING, VENTILATING, OR AIR CONDITIONING WORK; AND AMENDING SECTION 69-2111, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section numbered 32A-1602.23 that reads as follows:

32A-1602.23. Board of WARM AIR heating, ventilation, and air conditioning -- appointment -- qualifications -- term. (1) There is a state board of WARM AIR heating, ventilation, and air conditioning.

(2) The board consists of ~~eight-(8)~~ SEVEN (7) members, appointed by the governor. The members are:

(a) two (2) master and two (2) journeyman mechanics, who shall be over the age of majority and residents of Montana for at least one (1) year. After the first board, each mechanic shall have been licensed pursuant to this act at least two (2) years immediately preceding his appointment;

(b) ~~one-(1)-licensed--professional--engineer~~ ONE (1)

REPRESENTATIVE OF THE DEPARTMENT OF ADMINISTRATION, CHIEF OF CONSTRUCTION REGULATION BUREAU, WHO SHALL ACT AS SECRETARY;

~~(c) one-(1)-representative-of-the-department-of-health and-environmental-sciences,who-shall-act-as-secretary;~~ ONE (1) ATTORNEY FROM THE DEPARTMENT; AND

(d) one (1) representative of the state fire marshall's office; and

~~(e)--one-(1)-attorney-licensed-to-practice-in--Montana;~~

(3) Each member shall serve for a period of four (4) years, provided, however, that four (4) members of the first board shall serve as follows:

(a) one (1) master and one (1) journeyman for two (2) years; and

(b) one (1) master and one (1) journeyman for three (3) years.

(4) Each member of the board is entitled to twenty-five dollars (\$25) per day for each day served discharging his board duties, together with a per diem and mileage expense allowance pursuant to sections 59-301 and 59-533. NO MEMBER OF THE BOARD SHALL BE ALLOWED COMPENSATION IN ADDITION TO HIS PRESENT COMPENSATION FROM THE STATE.

(5) A majority of the members of the board constitute a quorum necessary for the transaction of business.

(6) The board shall meet at least semi-annually.

REFERENCE BILL

1 Section 2. There is a new R.C.M. section numbered
2 66-3501 that reads as follows:

3 66-3501. Short title. This act is to be known and
4 referred to as the "Heating, Ventilation, and Air
5 Conditioning Act".

6 Section 3. There is a new R.C.M. section numbered
7 66-3502 that reads as follows:

8 66-3502. Purpose. It is hereby declared to be the
9 purpose of this act to protect the people of Montana from
10 health, life, financial, and other hazards resulting from
11 irresponsible service methods, unethical practices, inferior
12 installation, maintenance and repair of WARM AIR heating,
13 ventilation, and air conditioning systems and equipment.

14 Section 4. There is a new R.C.M. section numbered
15 66-3503 that reads as follows:

16 66-3503. Definitions. As used in this act:

17 (1) "Board" means board of WARM AIR heating,
18 ventilation and air conditioning, provided for in section
19 82A-1602.29.

20 (2) "Department" means the department of professional
21 and occupational licensing.

22 (3) ~~Heating, ventilation, and air conditioning work~~
23 ~~means construction, installation, alteration, maintenance~~
24 ~~and repair of all warm air furnaces, stokers, oil-burning,~~
25 ~~solid-fuel-burning, gas-burning, and liquefied-petroleum~~

1 ~~gas-burning and electrical equipment for air heating,~~
2 ~~ventilating, air conditioning and air pollution control,~~
3 ~~blower and exhaust appliances and systems and domestic and~~
4 ~~commercial gas-fired equipment. "WARM AIR HEATING,~~
5 ~~VENTILATION, AND AIR CONDITIONING WORK" MEANS CONSTRUCTION,~~
6 ~~INSTALLATION, ALTERATION, MAINTENANCE AND REPAIR OF ALL~~
7 ~~WARM AIR HEATING SYSTEMS OTHER THAN FIREPLACES~~
8 ~~COMPLETE WITH WARM AIR APPLIANCES, DUCTS, REGISTERS AND~~
9 ~~FLUES WITH OR WITHOUT AIR FILTERS, HUMIDITY AND THERMOSTATIC~~
10 ~~CONTROLS; VENTILATING SYSTEMS COMPLETE WITH BLOWERS, DUCTS,~~
11 ~~PLENUM CHAMBERS, REGISTER, WITH OR WITHOUT AIR FILTERS,~~
12 ~~HUMIDITY AND THERMOSTATIC CONTROLS; AIR CONDITIONING~~
13 ~~SYSTEMS, COMPLETE WITH AIR CONDITIONING UNITS, DUCTS,~~
14 ~~REGISTERS, AIR FILTERS, HUMIDITY AND THERMOSTATIC CONTROLS;~~
15 ~~AND ALL EQUIPMENT FOR AIR HEATING, VENTILATING, AND AIR~~
16 ~~CONDITIONING AND AIR POLLUTION CONTROL; BLOWER AND EXHAUST~~
17 ~~APPLIANCES AND SYSTEMS; AND DOMESTIC AND COMMERCIAL FORCED~~
18 ~~AIR HEATING EQUIPMENT. WARM AIR HEATING, VENTILATION, AND~~
19 ~~AIR CONDITIONING WORK DOES NOT INCLUDE ANY PORTABLE HEATING,~~
20 ~~VENTILATING OR AIR CONDITIONING EQUIPMENT, WHICH DOES NOT~~
21 ~~BECOME AFFIXED TO REAL PROPERTY; AND MASONRY FIREPLACES AND~~
22 ~~COMPONENT PARTS WITH MASONRY FLUES.~~

23 Section 5. There is a new R.C.M. section numbered
24 66-3504 that reads as follows:

25 66-3504. Powers and duties of board. In addition to

1 all other powers and duties conferred and imposed upon the
2 board by law, the board shall have and exercise the
3 following powers and duties:

4 (1) to promulgate rules which it determines to be
5 necessary to carry out the provisions of this act;

6 ~~{2}--to--conduct--hearings--on---proposed---rules---and
7 provisions--of--a--heating,--ventilation,--and--air--conditioning
8 code,--and--to--propose---rules---to---the---department---of
9 administration--for--inclusion--in--the--state--building--code,~~

10 {3}--(2) to hear contested cases coming under the
11 provisions of this act; and

12 ~~{4} (3) to--establish--equipment--fees--to--be--collected
13 before---installation---of--heating,--ventilation,--and--air
14 conditioning--equipment--designated--by--the--board TO ESTABLISH
15 HOW PERMIT FEES ARE TO BE COLLECTED AND ALLOCATED UNDER
16 SECTION-69-2113 APPLICABLE STATE AND LOCAL BUILDING CODES.~~

17 Section 6. There is a new R.C.M. section numbered
18 66-3505 that reads as follows:

19 66-3505. Earmarked account. Money paid for license
20 and equipment fees under this act shall be deposited in an
21 earmarked revenue account for the use of the board, subject
22 to section 82A-1603(6).

23 Section 7. There is a new R.C.M. section numbered
24 66-3506 that reads as follows:

25 66-3506. Examination of applicant for license. An

1 applicant for a license to engage in WARM AIR heating,
2 ventilation, or air conditioning work shall be examined as
3 to his qualifications by the department, subject to section
4 32A-1603(4). The department shall examine each applicant
5 for a license, to determine his qualifications and fitness
6 for carrying on WARM AIR heating, ventilation, or air
7 conditioning work, as a master or journeyman, and if the
8 applicant successfully passes the examination prescribed by
9 the board, then a license shall be issued to the applicant
10 authorizing him to engage in WARM AIR heating, ventilation,
11 or air conditioning work as a master or journeyman in the
12 state, subject to other provisions of this act.

13 Section 8. There is a new R.C.M. section numbered
14 66-3507 that reads as follows:

15 66-3507. Persons exempt from examination. Persons
16 fulfilling the qualifications for applicants for licenses as
17 hereinafter provided prior to July 1, 1975, and who are then
18 actively engaged in WARM AIR heating, ventilation, and sheet
19 metal work, shall not be required to take an examination,
20 but shall be issued a license by the board upon payment of
21 the proper license fee before January 1, 1976, and upon
22 posting a bond as herein provided in the case of a master
23 licensee.

24 Section 9. There is a new R.C.M. section numbered
25 66-3508 that reads as follows:

1 66-3509. Requirements for licensure. The following
2 requirements shall be met by applicants for a state license:

3 (1) ~~Master-mechanics~~ MASTERS shall furnish evidence of
4 five (5) years experience in WARM AIR heating, ventilation,
5 and air conditioning work satisfactory to the board.

6 (2) Journeyman mechanics shall furnish evidence of
7 four (4) years experience in WARM AIR heating, ventilation,
8 and air conditioning work which is satisfactory to the
9 board. This experience requirement may be fulfilled by
10 working four (4) years in any major phase of the WARM AIR
11 heating, ventilation, and air conditioning business, or by
12 completing an apprenticeship program meeting the standards
13 set by the Montana state apprenticeship council or United
14 States department of labor, bureau of apprenticeship, and
15 credit towards this experience requirement may SHALL be
16 given for time spent in attending trade or other schools
17 specializing in training in the WARM AIR heating,
18 ventilation, and air conditioning business and approved by
19 the board.

20 (3) For apprentice mechanics:

21 (a) registration by the board and the Montana
22 apprenticeship council as an apprentice;

23 (b) working under the direct and personal supervision
24 of a duly licensed journeyman, learning the business of WARM
25 AIR heating, ventilation, and air conditioning; and

1 (c) apprentices qualifying hereunder shall be issued
2 apprentice permits by the board.

3 Section 10. There is a new R.C.M. section numbered
4 66-3509 that reads as follows:

5 66-3509. License fees -- EXAMINATION FEES. Each
6 applicant for a master license shall pay a seventy-five
7 dollar (\$75) application fee, and each applicant for a
8 journeyman's license shall pay a thirty-five dollar (\$35)
9 application fee. All licenses and renewals expire on July 1
10 of each year. Renewal fees shall be set annually by the
11 board and may not exceed the application fees. EXAMINATION
12 FEES SHALL BE SET BY THE BOARD BUT NOT TO EXCEED FIFTY
13 DOLLARS (\$50) FOR A MASTER EXAMINATION AND TWENTY-FIVE
14 DOLLARS (\$25) FOR A JOURNEYMAN EXAMINATION.

15 Section 11. There is a new R.C.M. section numbered
16 66-3510 that reads as follows:

17 66-3510. Bond to be deposited with board. A master
18 license may not be issued until the applicant has deposited
19 with the board a bond, approved by the board, in the amount
20 of fifteen thousand dollars (\$15,000), or cash in lieu
21 thereof, running to the state of Montana for the use and
22 benefit of any person who might have a cause of action of
23 any nature arising from or out of work performed or
24 installations of equipment by the master licensee or the
25 firm with which he is associated. Any person having a cause

1 of action may join ~~the-master-licensee~~, the firm with which
 2 ~~he~~ THE MASTER is associated and the surety on the bond in
 3 the same action, or may in such action sue either the firm,
 4 ~~the--licensee~~, or the surety alone. The term "cause of
 5 action" shall be construed to include claims for expenses
 6 incurred in correcting work which is not in conformance with
 7 the applicable heating, ventilation, and air conditioning
 8 code. THE BOND REQUIREMENT MAY BE WAIVED, IF MASTERS CAN
 9 PROVIDE ADEQUATE LIABILITY INSURANCE, ONE HUNDRED THOUSAND
 10 DOLLARS, (\$100,000) OR MORE, AND FURNISH TO THE BOARD
 11 PRE-CANCELLATION NOTICE, SATISFACTORY TO THE BOARD.

12 Section 12. There is a new R.C.M. section numbered
 13 66-3511 that reads as follows:

14 66-3511. Display of license badge. The board shall
 15 issue a badge LICENSE of a design approved by the board to
 16 each licensee. A person licensed shall display the license
 17 in plain view in his place of business and if he is
 18 performing services away from his place of business, he
 19 shall present identification issued by the board showing his
 20 license number. Licenses are not transferable.

21 Section 13. There is a new R.C.M. section numbered
 22 66-3512 that reads as follows:

23 66-3512. Revocation or suspension of license. Any
 24 licensee who performs, or any master licensee whose
 25 associated firm performs WARM AIR heating, ventilation, and

1 air conditioning work in any building whatsoever, below the
 2 standards set by the applicable WARM AIR heating,
 3 ventilation, and air conditioning code, may have his license
 4 revoked or suspended by the board. Proceedings for the
 5 revocation or suspension of a license may be commenced by
 6 the board upon its own motion, or upon motion of any person.
 7 All complaints must be in writing, verified and filed with
 8 the department. The board may deem the complaint sufficient
 9 as received or require further investigation. When a
 10 complaint is deemed sufficient by the board, it shall
 11 provide for a hearing, at a specified time and place, and
 12 the department shall cause a true copy of notice of hearing
 13 and of the complaint to be served upon the licensee at least
 14 ten (10) days before the day appointed in the order for
 15 hearing.

16 Section 14. There is a new R.C.M. section numbered
 17 66-3513 that reads as follows:

18 66-3513. Unlawful conduct. It shall be unlawful:

19 (1) for any person or firm to perform, or to establish
 20 a place of business to perform, or to advertise for, WARM
 21 AIR heating, ventilation, or air conditioning work for
 22 another unless such person, or a full partner or ten percent
 23 (10%) or more shareholder of such firm, shall have first
 24 obtained a master license hereunder, provided, that any
 25 person who is licensed as a journeyman may perform such work

1 for a master licensee or a firm with which a master licensee
2 is associated; and

3 (2) for equipment to be installed in this state unless
4 evidence of PERMIT fee payment is attached in the manner
5 prescribed by the board.

6 Section 15. There is a new R.C.M. section numbered
7 66-3514 that reads as follows:

8 66-3514. Penalty. Any person or firm convicted of
9 violating the provisions of section 66-3513 shall be fined
10 not less than twenty dollars (\$20) and not more than five
11 hundred dollars (\$500) for each separate offense. A person
12 engaged in WARM AIR heating, ventilation, or air
13 conditioning work after July 1, 1975, and who applies for a
14 license prior to January 1, 1976, is not in violation of
15 this act until his application for licensure is denied.

16 Section 16. There is a new R.C.M. section numbered
17 66-3515 that reads as follows:

18 66-3515. Exemptions from act. The provisions of this
19 act do not apply ~~to work done by a homeowner on his own~~
20 ~~single-family dwelling, provided, however, that this~~
21 ~~provision does not excuse a homeowner from obtaining~~
22 ~~necessary permits and paying inspection and equipment fees.~~
23 OR AFFECT WORK DONE:

24 (A) BY A HOMEOWNER ON EITHER THEIR FAMILY DWELLING OR
25 OUTBUILDINGS OR BOTH OF THEM OR PERSON DOING ROUTINE

1 MAINTENANCE IN THEIR PLACE OF BUSINESS OR RENTAL HOUSING; OR
2 MINOR REPAIRS ON RENTAL DWELLINGS.

3 (B) TO PROVIDE FUEL OR REFRIGERATION PIPE LINES, WHEN
4 LINES ARE CONNECTED TO THE INSTALLATION OF HEATING,
5 VENTILATING AND AIR CONDITIONING SYSTEMS; OR

6 (C) BY RAILROADS, SMELTERS, UNDERGROUND MINING
7 OPERATIONS, MILLS OR REFINERIES ON THEIR PROPERTIES, BY SELF
8 OR EMPLOYEES OR OTHER BUSINESSES DOING THEIR OWN ROUTINE
9 MAINTENANCE.

10 Section 17. Section 69-2111, R.C.M. 1947, is amended
11 to read as follows:

12 "69-2111. Adoption of rules by department. (1) The
13 department shall adopt by reference nationally recognized
14 building codes in whole or in part, amend and repeal rules
15 relating to the construction of all buildings or classes or
16 buildings of the installation of equipment in those
17 buildings, and may by rule prescribe standards or
18 requirements for materials to be used in buildings including
19 provisions dealing with safety and sanitation. The rules,
20 when adopted as provided in this chapter, constitute the
21 "state building code" and shall be acceptable for the
22 buildings to which it is applicable.

23 (2) The department may hold hearings relating to the
24 administration of this act in accordance with the Montana
25 Administrative Procedure Act.

1 (3) Except as provided in subsection (4) of this
2 section, no rule and no amendment or repeal of the state
3 building code shall take effect until after a public hearing
4 by the department.

5 (4) If a hearing has been held by the department of
6 justice with respect to its duties contained in Title 32,
7 chapter 12, the board of plumbers, the department of health
8 and environmental sciences, board of WARM AIR heating,
9 ventilation, and air conditioning, or state electrical
10 board, on a proposed rule relating to building and equipment
11 standards in their respective fields, a public hearing by
12 the department is not required. The proposed rule is
13 effective upon approval of the department and filing with
14 the secretary of state as a part of the state building code.

15 (5) If a rule relating to building or equipment
16 standards is proposed by the department of justice with
17 respect to its duties contained in Title 32, chapter 12,
18 board of plumbers, department of health and environmental
19 sciences, board of WARM AIR heating, ventilation, and air
20 conditioning, or state electrical board which conflicts with
21 the state building code, the department shall modify the
22 proposed rule or the state building code to resolve the
23 conflict after consultation with the state agencies
24 affected."

-End-