

SENATE, No. 3259

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Allows HVACR businesses offering employee stock option plans to use certain individuals as bona fide representatives.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning exemptions for bona fide representatives of
2 heating, ventilating, air conditioning, and refrigeration
3 contractors, and amending P.L.2007, c.211.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.2007, c.211 (C.45:16A-2) is amended to
9 read as follows:

10 2. As used in this act:

11 "Board" means the State Board of Examiners of Heating,
12 Ventilating, Air Conditioning and Refrigeration Contractors
13 established pursuant to P.L.2007, c.211 (C.45:16A-1 et seq.).

14 "Bona fide representative" means, except as otherwise provided
15 herein, a Master HVACR contractor who has not less than one
16 percent ownership of the issued and outstanding shares of stock in a
17 corporation, or not less than one percent ownership of the capital of
18 a partnership, or not less than one percent ownership of any other
19 firm or legal entity engaged in HVACR contracting in this State. A
20 "bona fide representative" means, with respect to a corporation,
21 partnership, or other firm or legal entity engaged in HVACR
22 contracting in this State which generates more than 65 percent of its
23 gross revenue from sources other than HVACR contracting, or with
24 respect to a publicly-traded corporation, including its wholly-owned
25 subsidiaries, or a business offering an employee stock option plan
26 whose principal business in this State is HVACR contracting: in the
27 case of a sole proprietorship, the owner; in the case of a partnership,
28 a partner; in the case of a limited liability company, a manager; or
29 in the case of a corporation, an executive officer.

30 "Director" means the Director of the Division of Consumer
31 Affairs in the Department of Law and Public Safety.

32 "Heating, ventilating, air conditioning and refrigeration" or
33 "HVACR" means the process of treating and protecting the
34 environment by the responsible handling, dispensing, collecting and
35 cleaning of chlorofluorocarbons and other refrigerants in stationary
36 sources, and controlling the temperature, humidity and cleanliness
37 of air by using the "wet," "dry," "radiant," "conduction,"
38 "convection," "direct," or "indirect" method or combination of
39 methods, including those which utilize solar energy, to meet the
40 environmental requirements of a designated area. "HVACR" also
41 means the installation, servicing, connecting, maintenance or repair
42 of the following:

43 power boiler systems, hydronic heating systems, fire tube and
44 water tube boilers, pressure steam and hot water boilers, furnaces
45 and space heaters, and appurtenances utilizing electric, fossil fuel,

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 wood pellets or solar energy, other than those appurtenances
2 utilized solely for the purpose of heating potable water;

3 warm air heating or refrigeration and evaporative cooling
4 systems, ventilation and exhaust systems, dust collectors, air
5 handling equipment, heating or cooling coils, air or refrigerant
6 compressors, chillers, cooling towers, evaporators, condensers,
7 plenums, fans, blowers, air cleaners, mechanical ventilation for
8 radon mitigation, humidifiers, filters, louvers, mixing boxes and
9 appurtenances; hydronic heating and chilled water pipe, condensate
10 piping not discharged into a sanitary sewer, valves, fittings, burners
11 and piping, hydronic heating, expansion tanks, pumps, gauges,
12 humidity and thermostatic controls;

13 natural or manufactured gas piping on the load side of a meter;
14 supply water piping to equipment being served from an existing
15 dedicated source connected downstream from an approved
16 backflow preventer, except in replacement cases, the installation of
17 the required approved backflow device downstream from a pre-
18 existing valve; and pneumatic controls and control piping, for the
19 control of air, liquid, or gas temperatures, radiators, convectors, unit
20 cabinet heaters, or fan coil units; and pneumatic controls and
21 control piping, of automatic oil, gas or coal burning equipment,
22 mechanical refrigeration equipment, gasoline or diesel oil
23 dispensing equipment and in replacement cases only, the connection
24 thereof of the wiring from an electrical service disconnect box of
25 adequate size to accommodate the equipment and controls and
26 previously dedicated to that equipment, and the testing and
27 balancing of air and hydronic systems, but does not include the
28 design or preparation of specifications for equipment or systems to
29 be installed that are within the practice of professional engineering
30 as defined in subsection (b) of section 2 of P.L.1938, c.342 (C.45:8-
31 28).

32 "HVACR apprentice" means a person who is enrolled in an
33 HVACR apprenticeship or other training program, including, but
34 not limited to steamfitter, pipefitter or sheet metal apprenticeship
35 programs, approved by the United States Department of Labor and
36 who engages in the installation, alteration, repair, service, or
37 renovation of HVACR systems under the supervision of a Master
38 HVACR contractor as part of that apprenticeship or other training
39 program and who has studied and performed the majority of
40 "HVACR" as defined in this section.

41 "Heating, ventilating, air conditioning and refrigeration
42 contracting" means undertaking or advertising to undertake, for a
43 fixed price, fee, commission, or gain of whatever nature, the
44 planning, laying out, installation, construction, maintenance,
45 service, repair, alteration or modification to any portion of any
46 system, product or equipment or appurtenances used for the
47 environmental needs or control of any heating, ventilating, air
48 conditioning and refrigeration system.

1 "Master heating, ventilating, air conditioning and refrigeration
2 contractor" means any person, firm, partnership, corporation or
3 other legal entity licensed according to the provisions of P.L.2007,
4 c.211 (C.45:16A-1 et seq.). which obtains a pressure seal pursuant
5 to sections 24 and 25 of P.L.2007, c.211 (C.45:16A-24 and
6 C.45:16A-25) and which advertises, undertakes or offers to
7 undertake for another the planning, laying out, supervising,
8 installing, servicing or repairing of HVACR systems, apparatus or
9 equipment. In order to act as a "Master HVACR contractor," an
10 individual shall be a bona fide representative of the legal entity
11 licensed pursuant to the provisions of this act, and shall have
12 studied and performed the majority of "HVACR" as defined in this
13 section.

14 "HVACR journey person" means any person who installs, alters,
15 repairs, services or renovates HVACR systems in accordance with
16 standards, rules and regulations established by the board, who
17 works under the supervision of a Master HVACR contractor, and
18 who has studied and performed the majority of "HVACR" as
19 defined in this section.

20 "One percent ownership" means that a bona fide representative is
21 entitled to one percent of any net profits from a business, owns one
22 percent equity in a Master HVACR contractor, and is entitled to one
23 percent of the net proceeds from the sale of a business in the event
24 of the sale of the business. If the Master HVACR contractor is a
25 corporation, the bona fide representative owns stock equaling one
26 percent equity interest, and, if there is more than one class of stock,
27 the stock owned by the bona fide representative is the highest level
28 stock with full voting rights.

29 "Retrofit" means a change in design, construction or equipment
30 already in operation in order to incorporate later improvements.

31 "Replacement" means a change of equipment with the same type
32 or similar equipment.

33 "Undertake or offer to undertake for another" means a contractor
34 who is listed in a public bid as the proposed subcontractor by the
35 contractor placing the bid for an HVACR contract.

36 "Barbecue appliance" means an appliance that cooks food by
37 applying heat as a result of burning solid fuel, gas fuel, natural gas,
38 propane gas, wood fuel, or pellet fuel.

39 "Hearth product appliance" means a fireplace, fireplace insert,
40 stove, or log set that offers a decorative view of flames and may be
41 fueled by solid fuel, gas fuel, natural gas, propane gas, wood fuel,
42 or pellet fuel, and may include a passive or powered air vent heated
43 by flames, a convection chamber for the purpose of heating the
44 room air by the means of gravity, or a manufacturer approved or
45 supplied fan.

46 "Hearth professional work" means the installation, replacement,
47 connection, venting, inspection, repair, maintenance, or servicing of
48 hearth product appliances, barbecue appliances, outdoor patio

1 appliances, and decorative space heater appliances, and shall
2 include the installation, inspection, repair, or servicing of vents,
3 vent connectors, masonry, metal and factory built chimney and vent
4 systems, and natural or manufactured gas piping on the load side of
5 the meter.

6 "Licensed Master Hearth Specialist" means a person who holds a
7 current, valid license to engage in hearth professional work
8 pursuant to P.L.2019, c.260 (C.45:16A-29 et al.).

9 "Outdoor patio appliance" means an appliance that is located
10 outdoors and may be fueled by solid fuel, gas fuel, natural gas,
11 propane gas, wood fuel, or pellet fuel, including free standing,
12 mounted, or built-in appliances, stoves, fireplaces, fire pits, inserts,
13 and gas logs.

14 "Decorative Space heater appliance" means an appliance that
15 offers a decorative view of flames and provides heat to the
16 immediate area by the means of thermal radiation or convection,
17 and includes free standing, mounted, or built-in appliances, stoves,
18 fireplaces, inserts, and gas logs, and may be fueled by solid fuel,
19 gas fuel, natural gas, propane gas, wood fuel, or pellet fuel.

20 (cf: P.L.2019, c.125, s.1)

21
22 2. This act shall take effect immediately.
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24

25 STATEMENT

26
27 This bill adds heating, ventilating, air conditioning, and
28 refrigeration (HVACR) businesses with employee stock option
29 plans as a type of HVACR business that is permitted to use, as a
30 bona fide representative, an owner in the case of a sole
31 proprietorship; a partner in the case of a partnership; a manager in
32 the case of a limited liability company; or an executive officer in
33 the case of a corporation. Under the bill, HVACR businesses may
34 operate as ESOP-based businesses and would not be required to
35 have a bona fide representative who owns at least one percent of the
36 issued and outstanding shares of stock in a corporation, or not less
37 than one percent ownership of the capital of a partnership, or not
38 less than one percent ownership of any other firm or legal entity
39 engaged in HVACR contracting in this State.