

HOUSE BILL 3153
By Turner M

AN ACT to amend Tennessee Code Annotated, Title 62,
Chapter 45, to enact the "Welder's Licensing Act
of 2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 45, is amended by adding Sections 2 through 16 of this act as a new part.

SECTION 2. This part shall be known and may be cited as the "Welder's Licensing Act of 2006".

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Board" means the state board for licensing contractors pursuant to §62-6-104; and

(2) "Licensed welder" means any person who performs any welding work and who is required to be registered under the provisions of this part.

SECTION 4. Nothing in this part shall be construed to provide that a licensed welder is a contractor. It is the intent of this part to provide that a licensed welder is subject to the jurisdiction of the board solely for the purposes of licensure and disciplinary proceedings. No licensed welder shall be authorized to use the appellation "contractor" or any other designation that gives or is designed to give the impression that a licensed welder is a contractor unless the licensed welder also holds a valid contractor's license issued by the board.

SECTION 5.

(a) Except as provided in subsection (b):

(1) Any person engaged in welding work in this state shall be required to submit evidence of qualification to engage in welding, and shall be licensed as provided in this part;

(2) It is unlawful for any person to engage in or offer to engage in welding work in this state unless such person has been duly licensed under the provisions of this part, or licensed in a municipality or county that issues licenses to persons to perform welding work only in such municipality or county; and

(3)

(A) Any person engaged in welding work, including a person that engages in welding work on residential construction on private property for the purposes of resale, lease, rent or any other similar purpose, shall be required to submit evidence of qualification to engage in welding work, and shall be licensed.

(B)

(i) A person who does not have a license is authorized to engage in welding work only if employed by a licensed welder, a licensed welding contractor or any other entity approved by the board.

(ii) Any single residence homeowner is exempt from the licensed welding requirements of this part for purposes of performing welding work on such homeowner's own residence.

SECTION 6.

(a) The board may promulgate such rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, which it deems necessary to effectuate the provisions of this part.

(b) The board may also prescribe forms required for the administration of this part.

SECTION 7.

(a)

(1) After January 1, 2007, once a person obtains the minimum two thousand (2000) hours of welding experience satisfactory to the board as required in this part, such person desiring to engage in welding work as a licensed welder in this state shall make written application to the board on such forms as are prescribed by the board. The application shall be accompanied by a non-refundable application fee.

(2) If the application is satisfactory to the board, then the applicant shall take an examination to determine the applicant's qualifications. The board shall charge each applicant an examination fee as set by the board for each examination. The board may administer an appropriate examination or may contract for the administration of such examination.

(3) If the results of the examination of an applicant are satisfactory to the board, then the board may issue to the applicant a license authorizing the applicant to perform welding services as provided in this part and charge a fee for such license.

(4) The board may also issue a license without an examination to a person who has been issued a license by a municipality or county if such person has obtained the minimum two thousand (2,000) hours of welding experience in the municipality or county, provided the test required by the municipality or county is satisfactory to the board. In such case, the examination fee shall be waived by the board. The license issued to such person shall indicate that the

person is not automatically permitted to work in any municipality or county which issues its own license to engage in welding work in such municipality or county.

(5) Except as provided in this part, if the welder's license was issued to a person pursuant to subdivision (a)(2) or (a)(4) herein, once such person submits credible evidence to the board that the person has a minimum of four thousand (4,000) hours of welding experience satisfactory to the board, the board shall issue a license to such person, if the application is satisfactory to the board, which permits the person to perform welding services in any municipality, metropolitan government or county in Tennessee; provided, however, that for purposes for this subdivision (a)(5), such licensee shall pay any local licensing fees in effect on the date the license issued pursuant to this subdivision (a)(5) is applied for.

(b) The board may issue a welder's license to a person without requiring an examination as provided in this part if such person makes an application to the board, and:

(i) Evidence is provided to the board that such person has been engaged in welding work in this state; and

(ii) All fees relative to the operation of such applicant's welding work have been paid to the appropriate agencies when the application is filed in accordance with the provisions of this subsection.

The license issued pursuant to this subsection (b) shall indicate that the person is not automatically permitted to work in any municipality or county which issues its own license to engage in welding work in such municipality or county.

(c) Persons making application for a license shall provide proof of experience as required by the board, and such welding experience shall not be less than two thousand (2,000) hours.

(d) The exemption provisions for licensure in §62-6-103(a)(2) and (3) shall apply to licensed welders.

(e)

(1) Notwithstanding any provision of this part to the contrary, a license shall not be required for a person to engage in welding work in any municipality or county that issues licenses to persons to perform welding work only in such municipality or county; provided, however, that such welding work may be used toward accumulating the minimum two thousand (2,000) hours to obtain licensure as a limited license welder.

(2) A current copy of a license or certification issued by any county or municipality of this state is evidence that such applicant has, by examination by an official of such county or municipality, demonstrated the qualifications required to perform such welding work within its jurisdiction and has been actively engaged in such business.

(f) Any welder required to be licensed pursuant to this part, who requests a welding inspection, must have first been issued a license by the board or by a municipality or county. If a municipality or county provides welding inspection services, then the welding inspection shall be provided by such municipality or county.

(g)

(1) The board shall develop a system for inspectors, when welding inspection services are not provided by a municipality or county, to report any

problems they may encounter with the workmanship or conduct of a licensed welder.

(2) Inspectors working under the direction of the contractor's licensing board shall inspect licensed welder's work.

(3) The board shall develop an appropriate system and fee structure to be charged for inspections performed by inspectors working under the direction of the contractor's licensing board, in order to effectuate the inspection provisions of this part prior to January 1, 2012.

(h) Notwithstanding subdivisions (a)-(g), nothing in this part shall prohibit a city or county from adopting and enforcing stricter testing or experience requirements, or both, for a person to engage in welding work within the jurisdiction of such city or county; provided, however, that once an individual passes the license issued by the board to perform welding services statewide, and such individual meets the stricter requirements, then the individual may perform welding services in any municipality, metropolitan government or county in this state.

SECTION 8. The provisions of the Uniform Administrative Procedures Act, compiled in title 4, part 5, govern all matters and procedures respecting the hearing and judicial review of any contested case, as defined therein, arising under this part.

SECTION 9.

(a) The board shall prescribe fees for the application, examination, issuance and renewal of welders' licenses. Such fees shall be in an amount that provides for the cost of administering the licensing and regulation of welders. Fees shall be adjusted as necessary to provide that the licensing of welders is fiscally self-sufficient and that revenues from fees do not exceed necessary and required expenditures.

(b) In no event shall the fee for an initial license exceed seventy-five dollars (\$75) or fifty dollars (\$50.00) for subsequent renewal of such license.

SECTION 10.

(a) The board may refuse to issue or renew a license and revoke or suspend the welder's license for faulty workmanship as determined by the board, or for gross negligence, incompetency, fraud, dishonest dealing or misconduct in performing welding work.

(b) The board may refuse to issue or renew a license and revoke or suspend a license of any person for lack of expertise, submission of false evidence with regard to any application for license or renewal, conviction of a felony, or any other conduct which constitutes improper, fraudulent or dishonest dealing, or any other violation of this part.

(c) In addition to or in lieu of any other lawful disciplinary action, the board may assess a civil penalty against any licensed welder or any person required to be licensed as a welder for each separate violation of this part.

SECTION 11. A duplicate license to replace any license lost, destroyed or mutilated may be issued subject to the rules and regulations of the board.

SECTION 12.

(a) A license expires on the last day of the twenty-fourth month following its issuance or renewal, and becomes invalid on such date unless renewed.

(b) Renewal notices shall be mailed ninety (90) days prior to the expiration date of the license. Such renewal must be received by the board thirty (30) days prior to the expiration of such license and shall be accompanied by a renewal fee.

(c) It is the duty of the board to notify by mail every person licensed under this part of the date of expiration of the license and the amount of the fee required for its renewal. Such notice shall be mailed in accordance with this part.

(d) The fee to be paid for the renewal of a license after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed. The maximum fee for a delayed renewal shall not exceed twice the normal fee.

(e) No licensed welder shall be qualified to receive a renewal license when such licensed welder has failed to comply with the provisions of this part for a period of one (1) year, and in such event the licensed welder, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license.

SECTION 13. Any person who engages or offers to engage in welding work without a license as required by this part, or who violates the provisions of this part or any rule or regulation duly promulgated under this part, commits a Class A misdemeanor.

SECTION 14. The board shall inquire into the identity of any person operating under this part and shall prosecute any person violating the provisions of this part.

SECTION 15.

(a) In order to secure the effective enforcement of this part, jurisdiction is conferred on the chancery court of this state to grant injunctive relief against any person or legal entity undertaking to perform welding work in violation of this part.

(b) Any expenses incurred, including but not limited to those involving depositions, travel expenses or attorney fees, required for the prosecution of the suit, shall be paid in the same manner as other expenses incurred by the board.

SECTION 16. No person shall be required to post a bond, provide a financial statement or a letter of reference in order to obtain a license as a welder.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.