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COMMITTEE REPORT

April 1, 2014

**H. 4574**

Introduced by Reps. Hardwick and W.J. McLeod

S. Printed 4/1/14--S.

Read the first time March 5, 2014.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 4574) to amend Section 40‑23‑20, Code of Laws of South Carolina, 1976, relating to definitions concerning the Environmental Certification Board, so as to revise and add, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

THOMAS C. ALEXANDER for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Department of Labor, Licensing and Regulation

Department of Health and Environmental Control (DHEC)

The departments estimate this bill will have no fiscal impact on the state general fund or on federal and/or other funds.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND SECTION 40‑23‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE ENVIRONMENTAL CERTIFICATION BOARD, SO AS TO REVISE AND ADD DEFINITIONS; TO AMEND SECTION 40‑23‑90, RELATING TO BOARD INVESTIGATIONS OF COMPLAINTS AGAINST LICENSEES, SO AS TO CHANGE THE MANNER IN WHICH AN INITIAL COMPLAINT MAY BE REFERRED TO AN INVESTIGATOR; TO AMEND SECTION 40‑23‑95, RELATING TO REFERRALS OF VIOLATIONS FROM THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO THE BOARD, SO AS TO ELIMINATE THE AUTHORITY OF THE BOARD WITH RESPECT TO REPORTS OF CERTAIN VIOLATIONS THAT DO NOT ALLEGE UNLICENSED PRACTICE; TO AMEND SECTION 40‑23‑230, RELATING TO LICENSEES, SO AS TO ELIMINATE A PROVISION THAT ENABLES CERTAIN LICENSEES FROM OBTAINING CLASS “A” OR CLASS “B” WELL DRILLER LICENSES WHEN MEETING CERTAIN CRITERIA; TO AMEND SECTION 40‑23‑300, RELATING TO CERTIFICATION CLASSES OF WATER TREATMENT OPERATORS, SO AS TO REVISE CRITERIA FOR TRAINEE WATER OPERATORS AND CLASS “E” WATER TREATMENT OPERATORS; TO AMEND SECTION 40‑23‑310, RELATING TO WATER DISTRIBUTION SYSTEM OPERATOR LICENSES, SO AS TO REVISE CRITERIA FOR TRAINEE WATER DISTRIBUTION SYSTEM OPERATOR AND A CLASS “D” WATER DISTRIBUTION SYSTEM OPERATOR; TO AMEND SECTION 40‑23‑320, RELATING TO LICENSURE AS A CLASS “C” ENVIRONMENTAL, COASTAL, OR ROCK WELL DRILLER, SO AS TO REPLACE THE REQUIREMENT OF HAVING AT LEAST ONE YEAR OF EXPERIENCE AS AN APPRENTICE WITH AT LEAST ONE YEAR OF EXPERIENCE AS A CLASS “D” WELL DRILLER; AND TO AMEND SECTION 40‑23‑340, RELATING TO RESTRICTIONS ON WELL DRILLERS ACCORDING TO CLASSIFICATION OF THE WELL DRILLER, SO AS TO REVISE RESTRICTIONS ON CLASS “D” AND CLASS “C” WELL DRILLERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑23‑20 of the 1976 Code is amended to read:

“Section 40‑23‑20. When used in this chapter:

(1) ‘Abate’ or ‘abatement’ refers to actions taken to ameliorate or correct conditions requiring remediation as defined in this section.

(2) ‘Accessible supervision’ means the supervisor is on‑site or immediately available to supervised persons via telephone, radio, or other electronic means.

(3) ‘Board’ means the South Carolina Environmental Certification Board.

(4) ‘Bored’ means a large diameter well, commonly greater than or equal to twenty‑four inches in diameter, which is typically installed at a very shallow depth and constructed of rock, concrete, or ceramic material.

(5) ‘Certificate of Registration’, ‘Certificate’, or ‘License’ means a serially numbered document issued by the board, containing the name of the person registered, certified, or licensed and the date of registration, certification, or licensing and certifying that the person named is authorized to practice a profession regulated by the board as specified on said document.

(6) ‘Coastal well’ means an opening into the ground, which qualifies as a ‘well’ of Type II, III, IV, or V construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method into unconsolidated materials, and that does not qualify as an environmental well.

(7) ‘Director’ means the Director of Labor, Licensing and Regulation.

(8) ‘Direct push technology’ means the creation of a man‑made opening in the earth through the use of mechanical means wherein a tool is forced or hammered into the earth. Direct push technology includes but is not limited to cone penetrometers.

(9) ‘Direct supervision’ means supervision provided by a licensee who must:

(a) be on‑site or immediately available to supervise persons by means of telephone, radio, or other electronic means; and

(b) maintain continued involvement in appropriate aspects of each professional activity of the supervisee.

(10) ‘Environmental systems operator’ is a generic term for any occupation licensed by the board.

(~~9~~11) ‘Environmental well’ means an opening into the ground which qualifies as a ‘well’ of Type I, II, III, IV, or V construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method for obtaining a sample of underground waters or soils for environmental or geological investigation or research or for environmental remediation, where the depth of the opening is reasonably likely to penetrate the water table.

~~(10)~~ ~~‘Environmental systems operator’ is a generic term for any occupation licensed by the board.~~

(12) ‘Explorational boring’ means a borehole for the purpose of subsurface, mineral investigation, exploration, and mineral sampling that can be converted later to measure groundwater levels.

(~~11~~13) ‘Human consumption’ means water used for drinking, bathing, cooking, dishwashing, maintaining oral hygiene, or other similar uses.

(~~12~~14) ‘Licensed activity’ means any operation, function, or action of any kind in which one may not engage, or offer to engage, without a license issued pursuant to this chapter.

(~~13~~15) ‘Licensee’ means a person currently or previously authorized to practice a licensed activity pursuant to this chapter and includes a person holding a license, permit, certification, or registration granted pursuant to this chapter.

(~~14~~16) ‘Operator’ when used in reference to public water or wastewater treatment means a person employed in a public water treatment facility or public wastewater treatment plant whose duties include alteration of the physical, chemical, or bacteriological characteristics of water or wastewater. When used in reference to public water distribution, ‘operator’ means a person employed in a public water distribution system whose duties include making process control and system integrity decisions about water quality or quantity that affect public health.

(~~15~~17) ‘Person’ means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, government agency, trust, estate, joint structure company, or any other legal entity or its legal representative, agent, or assigns.

~~(16)~~ ~~Reserved.~~

~~(17)~~ ~~Reserved.~~

(18) ‘Public wastewater treatment plant’ means that portion of any system that treats domestic or industrial waste and that alters physical, chemical, or bacteriological characteristics before placing the waste into any receiving waters.

(19) ‘Public water distribution system’ means that portion of a public water system that is utilized for the delivery of water for human consumption, whether bottled, piped, or delivered through some other constructed conveyance, up to the point of consumer or owner connection.

(20) ‘Public water system’ means:

(a) any publicly or privately owned waterworks system which provides water, whether bottled, piped, or delivered through some other constructed conveyance, for human consumption, including the source of supply whether the source of supply is of surface or subsurface origin;

(b) all structures and appurtenances used for the collection, treatment, storage, or distribution of water delivered to point of meter of consumer or owner connection;

(c) any part or portion of the system, including any water treatment facility, which in any way alters the physical, chemical, radiological, or bacteriological characteristics of the water; however, a public water system does not include a water system serving a single private residence or dwelling. A separately owned system with its source of supply from another waterworks system must be a separate public water system. A connection to a system that delivers water by a constructed conveyance other than a pipe must not be considered a connection if:

(i) the water is used exclusively for purposes other than residential uses consisting of drinking, bathing, and cooking or similar uses;

(ii) the Department of Health and Environmental Control determines that alternative water sources to achieve the equivalent level of public health protection provided by the applicable State Primary Drinking Water Regulations is provided for residential or similar uses for drinking or cooking; or

(iii) the Department of Health and Environmental Control determines the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass‑through entity, or the user to achieve the equivalent level or protection provided by the applicable State Primary Drinking Water Regulations.

(21) ‘Public water system treatment facility’ means that portion of a public water system that alters the physical, chemical, or bacteriological characteristics of water furnished to the public for human consumption, whether the source of supply is of surface or subterranean origin.

(22) ‘Remediation’ means the correction, repair, restoration, or any other action taken in order to bring any condition or circumstance into compliance with a statute, standard, or regulation.

(23) ‘Rock well’ means an opening into the ground, which qualifies as a ‘well’ of Type I construction as defined in this section, that is made by boring, drilling, jetting, driving, direct push technology, or any other method into consolidated materials, and that does not qualify as an environmental well.

(24) ‘Safe Drinking Water Act’ means Article 1, Chapter 55, Title 44.

(25) ‘Soil sampling’ means the extraction of soils from beneath the surface of the earth by mechanical means for the purpose of environmental or geological investigation or research or for environmental remediation, where the depth of the opening is reasonably likely to penetrate the water table.

(26) ‘Well’ means a manmade horizontal, vertical, or angled opening in the ground made by digging, boring, drilling, jetting, driving, direct push technology, or any other method through which water is injected or withdrawn from beneath the surface of the earth for the purpose of human consumption, irrigation, industrial or commercial processes, or construction of closed loop systems. The duration of, existence of, or use of any well is of no consequence for purposes of this definition. For purposes of this chapter, wells are categorized by the following types of construction:

(a) Construction Type I: open hole wells into bedrock aquifers;

(b) Construction Type II: screened, natural filter wells into unconsolidated aquifers;

(c) Construction Type III: screened, artificial filter wells into unconsolidated aquifers including, but not limited to, gravel pack filters;

(d) Construction Type IV: open hole wells into limestone aquifers;

(e) Construction Type V: bored wells;

(f) Construction Type VI: environmental wells of any other construction method.

(27) ‘Well drilling category’ means the taxonomy of well drilling licenses according to the type of well a licensee is authorized to construct including, but not limited to, environmental wells, coastal wells, rock wells, and bored wells.

~~(28)~~ ~~‘Exploration boring’ means a borehole for the purpose of subsurface, mineral investigation, exploration, and mineral sampling that can be converted later to measure groundwater levels.~~”

SECTION 2. Section 40‑23‑90 of the 1976 Code is amended to read:

“Section 40‑23‑90. Presentation of results of an investigation and proceedings pursuant to this chapter must be conducted as provided in Section 40‑1‑90. The board may receive complaints by any person against a licensee and may require the complaints to be submitted in writing, specifying the exact charge or charges and to be signed by the initial complainant. Upon receipt of an initial complaint, ~~the board administrator,~~ where appropriate, the initial complaint may ~~refer the complaint~~ be referred to an investigator of the department, who shall investigate the allegations in the complaint. The results of any investigation must be reported to the board. If from these results it appears a violation has occurred or a licensee has become unfit to practice, the board may authorize the department to issue a formal complaint for disciplinary action as authorized by Section 40‑1‑120 or 40‑23‑120.”

SECTION 3. Section 40‑23‑95(A) of the 1976 Code is amended to read:

“(A) ~~The department may refer reports of violations of this chapter and Article 1, Chapter 1 or of any associated regulations, except for unlicensed practice violations, directly to the board pursuant to Section 40‑23‑90. In the alternative,~~ The department may issue administrative citations and cease and desist orders, in person or by certified mail, and may assess administrative penalties against any person for a violation of this chapter.”

SECTION 4. Section 40‑23‑230 of the 1976 Code is amended to read:

“(A) The board may issue a license to an applicant if he satisfies all licensure requirements of this chapter. A license confers a personal right and is not transferable, and the issuance of a license is evidence that the person is entitled to all rights and privileges of a licensee while the license remains current and unrestricted. A license is the property of the State and upon suspension or revocation must be returned to the board immediately.

(B) A license issued under this chapter is renewable:

(1) as provided for in Section 40‑1‑30;

(2) upon the payment of a renewal fee; and

(3) upon the fulfillment of continuing education as determined by the board in regulation.

(C) The department may reinstate the license of a licensee who allows his license to lapse by failing to renew the license as provided in this section if the licensee:

(1) makes payment of a reinstatement fee and the current renewal fee;

(2) files an application for renewal within three hundred sixty‑five days of the date on which the license expired; and

(3) demonstrates he complies with the current continuing education requirements of the prior licensing period or that he complies with the current continuing education requirements after the department renews his license, provided he does not engage in licensed activity until he has completed the continuing education requirement.

(D) A licensee shall ensure that the board administrator has the licensee’s correct official mailing address of record and that the administrator is expressly and specifically notified in writing and in a timely manner of any change in the licensee’s official mailing address.

~~(E)~~ ~~As of the effective date of this chapter, a person who possesses a current well driller license from the board is eligible to receive a:~~

~~(1) Class A well driller license if the licensee:~~

~~(a) files an application with the board for grandfather status within ninety days of the effective date of this section;~~

~~(b) provides proof that the applicant is in compliance with the bonding requirements of this chapter; and~~

~~(c) has conducted or supervised well drilling in the State for five or more years;~~

~~(2) Class B well driller license in one or more of the well drilling categories if the licensee:~~

~~(a) files an application with the board for grandfather status within ninety days of the effective date of this section;~~

~~(b) provides proof that the applicant is in compliance with the bonding requirements of this chapter;~~

~~(c) provides proof that he has for at least three years constructed or supervised at least twenty wells in each category for which licensure status is sought; or~~

~~(d) provides, in the case of persons who do not meet the minimum requirements for a Class B well driller, proof of construction or supervision of at least twenty‑five wells in the category for which licensure status is sought and experience, training, and education suitable for practicing in the requested well drilling category.~~”

SECTION 5. Section 40‑23‑300(B)(1) and (2) of the 1976 Code is amended to read:

“(1) To be licensed by the board as a Trainee Water Treatment Operator, an applicant must~~:~~

~~(a)~~ ~~be at least eighteen years of age;~~

~~(b)~~ ~~have completed high school or the equivalent; and~~

~~(c)~~ submit an application on forms approved by the board and the prescribed fee.

(2) To be licensed by the board as a Class ‘E’ Water Treatment Operator, an applicant must:

(a) hold a valid Trainee Operator license;

(b) have completed high school or the equivalent;

(~~b~~c) pass an examination approved by the board;

(~~c~~d) have completed at least six months of actual operating experience as an operator of a public water treatment facility; and

(~~d~~e) submit an application on forms approved by the board and the prescribed fee.”

SECTION 6. Section 40‑23‑310(B)(1) and (2) of the 1976 Code is amended to read:

“(1) To be licensed by the board as a Trainee Water Distribution System Operator, an applicant must~~:~~

~~(a)~~ ~~be at least eighteen years of age;~~

~~(b)~~ ~~have completed high school or the equivalent; and~~

~~(c)~~ submit an application on forms approved by the board and the prescribed fee.

(2) To be licensed by the board as a Class ‘D’ Water Distribution System Operator, an applicant must:

(a) hold a valid Trainee Operator license;

(b) have completed high school or the equivalent;

(~~b~~c) pass an examination approved by the board;

(~~c~~d) have completed at least one year of actual operating experience as an operator of a public water distribution system facility; and

(~~d~~e) submit an application on forms approved by the board and the prescribed fee.”

SECTION 7. Section 40‑23‑320(C)(3) of the 1976 Code is amended to read:

“(3) complete at least one year of experience as ~~an apprentice~~ a Class ‘D’ well driller, primarily spent in installing wells of the well drilling category for which Class ‘C’ status is sought;”

SECTION 8. Section 40‑23‑340(B)(1) and (2) of the 1976 Code is amended to read:

“(1) A Class ‘D’ well driller may not engage in the construction of wells that are not within the well drilling category for which the ~~apprentice~~ Class ‘D’ well driller is licensed. Further, ~~an apprentice~~ a Class ‘D’ well driller may practice only as a bona fide employee of a Class ‘A’ or Class ‘B’ driller, and under ~~accessible~~ direct supervision of a Class ‘A’, Class ‘B’, or Class ‘C’ driller who is licensed to practice in the same well drilling category of the Class ‘D’ driller.

(2) A Class ‘C’ well driller may not engage in the construction of or supervise the construction of wells that are not within the well drilling category for which the Class ‘C’ driller is licensed. Further, a Class ‘C’ driller may practice only as a bona fide employee and under the ~~general~~ direct supervision of a Class ‘A’ or Class ‘B’ driller who is licensed to practice in the same well drilling category of the Class ‘C’ driller.”

SECTION 9. This act takes effect upon approval by the Governor.

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