

A bill for an act
relating to occupations; creating the Board of Thermal System Insulation;
licensing contractors; requiring rules; providing penalties; proposing coding for
new law as Minnesota Statutes, chapter 326C.

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

Section 1. **[326C.01] DEFINITIONS.**

Subdivision 1. **Scope.** As used in this chapter, the terms in this section have the meanings given.

Subd. 2. **Board.** "Board" means the Board of Thermal System Insulation established under section 326C.02.

Subd. 3. **Building.** "Building" means a commercial, industrial, or government building, structure, or facility, as defined by the commissioner of labor and industry by rule.

Subd. 4. **Commercial insulation contractor.** "Commercial insulation contractor" means a person who employs thermal system insulators to work on a building, structure, or facility other than an industrial building, structure, or facility.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of labor and industry.

Subd. 6. **Industrial insulation contractor.** "Industrial insulation contractor" means a person who employs thermal system insulators to work on refineries, power houses, nuclear facilities, ethanol plants, water treatment plants, chemical plants, or any other industrial facility.

Subd. 7. **Journeyman insulator.** "Journeyman insulator" means a person who installs, renovates, replaces, or maintains thermal system insulation in heating, ventilation, cooling, plumbing, and refrigeration systems.

Subd. 8. **License.** "License" means a certificate issued under section 326C.03.

Subd. 9. **Licensee.** "Licensee" means the holder of a license.

Subd. 10. **Thermal system insulation.** "Thermal system insulation" means any product used in a heating, ventilation, cooling, plumbing, or heating or cooling refrigeration system to insulate the outside of any hot or cold surface on or in a commercial or industrial building, structure, or facility, as defined by the commissioner by rule, but does not include a residential building. For the purposes of this chapter, "thermal system insulation" does not include sheet-metal ductwork with a cross-sectional area of less than 150 square inches, and metallic insulation covers of .020 inches and heavier.

Sec. 2. **[326C.02] BOARD OF THERMAL SYSTEM INSULATION.**

Subdivision 1. **Composition; term.** (a) The Board of Thermal System Insulation consists of nine members. Seven members must be appointed by the governor with the advice and consent of the senate. Appointments of members by the governor must be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. One member shall be the commissioner of health or the commissioner of health's designee, who shall be a voting member. Of the seven appointed members, the composition is as follows:

(1) two members must be licensed journeyman insulators with at least ten years of experience in thermal system insulation;

(2) one member must be a representative of a commercial insulation contractor;

(3) one member must be a representative of an industrial insulation contractor;

(4) one member must be an architect with experience in thermal system insulation;

(5) one member must be a mechanical engineer with experience in thermal system insulation; and

(6) one member must be a public member as defined by section 214.02.

The following must be appointed for an initial term to end on December 31, 2011: one journeyman insulator, one commercial or industrial contractor, and the architect member. The remaining appointed members of the board must be appointed for an initial term to end on December 31, 2012.

(b) The architect member must possess and maintain a current Minnesota architect's license for the duration of the architect's term. The mechanical engineer member must possess and maintain a current Minnesota professional engineering license for the duration

of the mechanical engineer's term. The journeyman insulator members must acquire and maintain a Minnesota journeyman insulator's license within six months after the board and the commissioner make the licenses available.

(c) All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member who does not maintain membership qualification status ends on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(d) For appointed members, except the initial terms designated in paragraph (a), each term is three years with the terms ending on December 31. Members appointed by the governor are limited to three consecutive terms. The governor shall reappoint the current members, all or in part, or appoint replacement members with the advice and consent of the senate. Midterm vacancies must be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term must be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers, duties, administrative support.** (a) The board has the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers and the meeting dates of the board and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the thermal system insulation code that must be followed in this state and any amendments to it;

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) adopt rules that regulate the licensure and registration of journeyman insulators;

(6) adopt rules regarding continuing education for journeyman insulators;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 8 that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed thermal system insulation services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) approve license reciprocity agreements;

4.1 (10) select from its members individuals to serve on any other state advisory council,
4.2 board, or committee; and

4.3 (11) recommend the fees for licenses and certifications.

4.4 (b) Except for the powers granted to the board, the commissioner shall administer
4.5 and enforce the provisions of this chapter and any rules adopted under it.

4.6 (c) The board shall comply with section 15.0597, subdivisions 2 and 4.

4.7 (d) The commissioner shall provide staff support to the board. The support includes
4.8 professional, legal, technical, and clerical staff necessary to perform rulemaking and other
4.9 duties assigned to the board. The commissioner shall supply necessary office space and
4.10 supplies to assist the board in its duties.

4.11 Subd. 3. **Compensation.** (a) Members of the board may be compensated at a rate
4.12 of \$55 per day spent on board activities, when authorized by the board, plus expenses in
4.13 the same manner and amount as authorized by the commissioner's plan adopted under
4.14 section 43A.18, subdivision 2 . Members who, as a result of time spent attending board
4.15 meetings, incur child-care expenses that would not otherwise have been incurred, may be
4.16 reimbursed for those expenses upon board authorization.

4.17 (b) Members who are state employees or employees of the political subdivisions
4.18 of the state must not receive the daily payment for activities that occur during working
4.19 hours for which they are compensated by the state or political subdivision. However, a
4.20 state or political subdivision employee may receive the daily payment if the employee
4.21 uses vacation time or compensatory time accumulated in accordance with a collective
4.22 bargaining agreement or compensation plan for board activities. Members who are state
4.23 employees or employees of the political subdivisions of the state may receive the expenses
4.24 provided for in this subdivision unless the expenses are reimbursed by another source.
4.25 Members who are state employees or employees of political subdivisions of the state
4.26 may be reimbursed for child-care expenses only for time spent on board activities that
4.27 are outside their working hours.

4.28 (c) The board shall adopt internal standards prescribing what constitutes a day spent
4.29 on board activities for purposes of making daily payments under this subdivision.

4.30 Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be
4.31 removed by the governor at any time (1) for cause, after notice and hearing, or (2) after
4.32 missing three consecutive meetings. The chair of the board shall inform the governor of an
4.33 appointed member missing the three consecutive meetings. After the second consecutive
4.34 missed meeting and before the next meeting, the secretary of the board shall notify the
4.35 appointed member in writing that the member may be removed for missing the next
4.36 meeting. In the case of a vacancy on the board, the governor shall, with the advice

and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

Subd. 5. Membership vacancies within three months of appointment.

Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of the Secretary of State, choose a new member from the applications on hand and need not repeat the process.

Subd. 6. Officers; quorum; voting. (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order, revised, unless otherwise specified by the bylaws.

(b) Each thermal system insulation code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board must be included in the next thermal system insulation code rulemaking proceeding initiated by the board. If a thermal system insulation code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the thermal system insulation code amendment must not be included in the next thermal system insulation code rulemaking proceeding initiated by the board.

(c) Each proposed rule or rule amendment considered by the board that receives an affirmative majority vote of all the voting members of the board must be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment must not be included in the next rulemaking proceeding initiated by the board.

Subd. 7. Board meetings. (a) The board shall meet and organize within 30 days of appointment of its members. The board shall meet at least quarterly at a time and place to be determined by the board. Notice and conduct of all meetings are governed by chapter 13D and the bylaws.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. Complaints. (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the commissioner to provide thermal system insulation services, the performance or offering to perform thermal system insulation services requiring licensure by an unlicensed person, or thermal system insulation code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days

after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

Subd. 11. **Consultation.** The board may consult with engineering authorities and other organizations concerned with health and safety issues related to thermal system insulation.

Sec. 3. [326C.03] JOURNEYMAN INSULATOR LICENSE REQUIREMENTS.

Subdivision 1. **License required.** (a) No person shall install, renovate, replace, or maintain thermal system insulation as a journeyman insulator unless licensed by the commissioner.

(b) Individuals must meet all of the following three requirements in order to acquire a journeyman insulator license from the commissioner:

(1) completion of 8,000 hours of experience installing, renovating, removing, or maintaining thermal system insulation, verified by the individual's employer or employers;

(2) four years experience installing, renovating, removing, or maintaining thermal system insulation, verified by the individual's employer or employers; and

(3) successful passage of the thermal system insulation examination. The board will recommend the contents and administration of the exam. The commissioner shall issue rules governing the content and administration of the exam based on the board's recommendations. The commissioner shall administer the thermal system examination.

Subd. 2. **Fee.** Individuals wishing to obtain a journeyman insulator's license shall pay a fee of \$50 to the commissioner.

Subd. 3. **Exceptions.** Subdivision 1 does not apply to individuals who make only minor repairs to thermal system insulation. The board shall define "minor repairs."

Subd. 4. **Continuing education requirement.** Licensed journeyman insulators must earn a minimum of eight hours of continuing education credits per year. The board shall recommend, and the commissioner shall adopt, rules governing continuing education for journeyman insulators.

Subd. 5. **Renewal.** All licensed individuals must renew their licenses annually. The renewal fee is \$50. An individual or contractor who fails to renew a license before 30 days after the expiration or registration of the license must submit a late fee equal to one year's

license fee in addition to the full renewal fee. Fees for renewed licenses or registrations are not prorated. An individual or contractor who fails to renew a license by the expiration date is unlicensed until the license is renewed.

Sec. 4. [326C.04] REGISTRATION REQUIREMENT FOR UNLICENSED INDIVIDUALS.

Subdivision 1. **Registration required for unlicensed individuals.** Individuals lacking a thermal system insulation journeyman license who install, renovate, replace, or maintain thermal system insulation in heating, ventilation, cooling, plumbing, and refrigeration systems must:

(1) register with the commissioner and pay a \$25 fee; or

(2) be employed as a registered apprentice in the thermal insulation trade under an apprenticeship agreement approved by the commissioner under Minnesota Rules, part 5200.0300.

The board shall prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals.

Subd. 2. **Direct supervision; ratios.** (a) Each unlicensed individual installing, renovating, removing, or maintaining thermal system insulation in heating, ventilation, cooling, plumbing, and refrigeration systems, shall work under the direct supervision of licensed journeyman insulators.

(b) On any project, the ratio of licensed journeyman insulators to each unlicensed individual installing, renovating, removing, or maintaining thermal system insulation in heating, ventilation, cooling, plumbing, and refrigeration systems, must be one licensed journeyman to one unlicensed individual, and thereafter three licensed journeyman to each unlicensed individual.

Subd. 3. **Application; renewal.** Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be effective for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past-due renewal fee plus a late fee of \$25.

Sec. 5. [326C.05] RECIPROCITY WITH OTHER STATES.

9.1 Subdivision 1. **Reciprocity.** The commissioner may waive a licensing requirement
9.2 under section 326C.04 for any individual who is licensed as a journeyman insulator in
9.3 another state.

9.4 Subd. 2. **Requirements.** A nonresident individual wishing to work as a journeyman
9.5 insulator in Minnesota must be licensed as a journeyman insulator in another state, apply
9.6 to the commissioner, and pay a \$50 fee.

9.7 **Sec. 6. [326C.06] TEMPORARY AND EMERGENCY LICENSES.**

9.8 The commissioner may adopt rules establishing standards and procedures for the
9.9 issuance of temporary and emergency licenses for journeyman insulators. The rules must
9.10 provide that a temporary or emergency license issued under this section is valid for a
9.11 period of 30 days.

9.12 **Sec. 7. [326C.07] INSPECTION.**

9.13 Except where a political subdivision has by ordinance provided for thermal system
9.14 insulation inspection similar to that provided in this chapter, every new thermal system
9.15 insulation installation, renovation, removal, or maintenance, except minor repair work as
9.16 defined by the board by rule, may be inspected for compliance with accepted standards of
9.17 construction for safety to life and property.

9.18 **Sec. 8. [326C.08] PENALTIES.**

9.19 Subdivision 1. **License suspension.** The commissioner may suspend or revoke the
9.20 license of a license holder for any violation of this chapter or any rules adopted under it.

9.21 Subd. 2. **Civil penalty.** The commissioner may impose a civil penalty on any person
9.22 or entity violating this chapter or any rules adopted under it.

9.23 Subd. 3. **Fines.** The commissioner may impose fines of up to \$500 per violation to
9.24 any person or entity violating this chapter or any rules adopted under it.

9.25 **Sec. 9. EFFECTIVE DATE.**

9.26 This act is effective January 1, 2009.