

OCCUPATIONS CODE

TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE A. OCCUPATIONS RELATED TO WATER

CHAPTER 1902. WATER WELL PUMP INSTALLERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1902.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) Repealed by Acts 2003, 78th Leg., ch. 816, Sec. 20.008(1); Acts 2003, 78th Leg., ch. 1276, Sec. 14A.421.

(3) "Council" means the Texas Water Well Drillers Advisory Council.

(4) "Department" means the Texas Department of Licensing and Regulation.

(4-a) "Executive director" means the executive director of the department.

(5) "Installer" means a person who installs or repairs well pumps and equipment. The term does not include a person who:

(A) installs or repairs well pumps and equipment on the person's own property for the person's own use; or

(B) assists in pump installation under the direct supervision of an installer and is not primarily responsible for the installation.

(6) "Person" means an individual, firm, partnership, association, corporation, or other private legal entity.

(7) "Pollution" means a change to the physical, thermal, chemical, or biological quality of water in a way that:

(A) makes the water harmful to humans, animals, vegetation, or property; or

(B) impairs the public enjoyment of water for a reasonable purpose.

(8) "Pump installation" means the procedures employed in the placement and preparation for operation of equipment and materials used to obtain water from a well, including:

(A) construction involved in making the well and

establishing seals and safeguards as necessary to protect the water from contamination; and

(B) repairs to an existing pump.

(9) "Well" means a water well, injection well, dewatering well, or monitoring well, as those terms are defined by Section 1901.001. The term does not include an injection water source well regulated under Section 91.101, Natural Resources Code.

(10) "Well pumps and equipment" means equipment and materials used to obtain water from a well, including the seals and safeguards necessary to protect the water from contamination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.001, 20.008(1), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.421(a), (b), eff. Sept. 1, 2003.

Sec. 1902.002. LIABILITY UNDER LAW. A person is not relieved from liability under law by obtaining a license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER B. ADMINISTRATION AND LICENSING PROGRAMS

Sec. 1902.051. LICENSING. (a) The department, with the advice of the council, shall prepare licensing examinations.

(b) The department shall evaluate the qualifications of license applicants.

(c) The executive director shall issue licenses to applicants who qualify.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.002, eff. Sept. 1, 2003.

Sec. 1902.052. RULES. (a) The commission shall adopt rules as necessary to enforce this chapter.

(b) The commission may not adopt a rule under this chapter that:

(1) regulates the installation or repair of well pumps

and equipment by:

(A) a person on property the person owns or controls for the person's own use;

(B) an employee of a person described by Paragraph (A); or

(C) a person who is not hired or compensated and who acts on behalf of a person described by Paragraph (A); or

(2) requires a person who owns or controls property or possesses a well to complete, repair, or retrofit the well to any standard other than a standard in effect at the time the well was originally completed unless the well is found to be a threat to public health and safety or to water quality.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.003, eff. Sept. 1, 2003.

Sec. 1902.053. WATER WELL DRILLERS ACCOUNT. (a) The department shall deposit money collected under this chapter to the credit of the water well drillers account in the general revenue fund. Money deposited in that account under this section may be used only to administer this chapter.

(b) The department shall allocate not more than 20 percent of the money in the account to cover the department's administrative costs.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.054. REGISTER OF LICENSE HOLDERS. The department shall maintain a current register of license holders.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.055. TRANSFER OF FUNCTIONS. If the functions necessary to the proper implementation of duties under this chapter are transferred to another entity, the powers and duties under this chapter are transferred to that entity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 1902.151. LICENSE REQUIRED. A person may not act or offer to act as an installer unless the person holds a license issued by the executive director under rules adopted under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.060, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.423, eff. Sept. 1, 2003.

Sec. 1902.152. LICENSE APPLICATION; EXAMINATION FEE. (a) An application for a license must contain:

- (1) the applicant's name;
- (2) the applicant's business address;
- (3) the applicant's permanent mailing address; and
- (4) any other information required by the department.

(b) An applicant must pay to the department an examination fee at the time the application is submitted.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.004, eff. Sept. 1, 2003.

Sec. 1902.153. APPRENTICE PUMP INSTALLER PROGRAM. The commission by rule shall establish an apprentice pump installer program.

Added by Acts 2015, 84th Leg., R.S., Ch. 1013 (H.B. 930), Sec. 5, eff. September 1, 2015.

Sec. 1902.154. LICENSE FEE. A person who qualifies for a license must pay to the department the license fee set by the commission.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.155. LICENSE EXPIRATION; RENEWAL. (a) A license issued under this chapter expires annually. On or before the license expiration date, a license holder must pay an annual renewal fee to the department.

(b) Repealed by Acts 2003, 78th Leg., ch. 816, Sec. 20.008(3).

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.008(3), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.424(a), eff. Sept. 1, 2003.

Sec. 1902.158. LICENSE NOT TRANSFERABLE. A license is not transferable or assignable.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.159. REPLACEMENT OF LOST OR DESTROYED LICENSE. On application and payment of a fee, the department shall issue a duplicate license to replace a lost or destroyed license.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.161. EXEMPTION: DEWATERING WELL PUMPS AND EQUIPMENT. The licensing requirements of this subchapter do not apply to a person who installs or repairs well pumps and equipment to remove water for the purpose of constructing a highway, road, bridge, drainage, or underground utility project.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER STATE. The commission may adopt rules allowing waiver of a license requirement for an applicant who is licensed in another state that has license requirements substantially equivalent to those of this state.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.005, eff. Sept. 1, 2003.

SUBCHAPTER E. EXAMINATION

Sec. 1902.201. EXAMINATION. The department shall offer examinations for a license under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1013 (H.B. 930), Sec. 6, eff. September 1, 2015.

Sec. 1902.202. CONTENTS OF EXAMINATION. The department shall design written examinations to disqualify a person who lacks the knowledge of pump installation to the extent that pump installation by the person would create a serious risk of polluting fresh water.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.203. GRADING OF EXAMINATION. The department shall administer examinations so that a person grading an examination does not know the identity of the person taking the examination.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER F. PRACTICE BY LICENSE HOLDER

Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An installer shall install or repair pumps under standards and procedures adopted by the commission with the advice of the council.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.006, eff. Sept. 1, 2003.

Sec. 1902.252. NOTICE REGARDING INJURIOUS WATER; REPAIR OR COMPLETION OF WELL. (a) An installer shall notify the department and the landowner or person having a pump installed or repaired on encountering water injurious to vegetation, land, or other water.

(b) To avoid injury or pollution, the installer shall repair or properly complete the well under standards and procedures adopted by the commission.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 20.007, eff. Sept. 1, 2003.

Sec. 1902.253. NOTICE REGARDING ABANDONED OR DETERIORATED WELL. An installer who knows of an abandoned or deteriorated well as defined by Section 1901.255 shall notify the landowner or person who possesses the well that the well must be plugged or capped to avoid injury or pollution.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1902.401. CIVIL PENALTY. A person who violates this chapter or a rule adopted under this chapter is subject to a civil penalty of not less than \$200 or more than \$1,000 for each day of noncompliance or each act of noncompliance as determined by the court.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT PROVISIONS. (a) The executive director may bring an action to enjoin a person from violating this chapter.

(b) The executive director may enforce by injunction or other appropriate remedy in a court any rule, decision, determination, or order adopted or entered under this chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.061, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.431, eff. Sept. 1, 2003.

Sec. 1902.403. VENUE. The executive director may bring an action in:

- (1) Travis County; or
- (2) the county in which:
 - (A) the offending activity occurred; or
 - (B) the person engaging in the activity resides.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.062, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.431, eff. Sept. 1,

2003.

Sec. 1902.404. ACTION BY ATTORNEY GENERAL. (a) On request, the attorney general shall represent the department in an action under Section [1902.402](#).

(b) At the request of the executive director, the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and a civil penalty, as authorized by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by Acts 2003, 78th Leg., ch. 816, Sec. 26.063, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.432, eff. Sept. 1, 2003.