

# Meeting Documents



## Members Only Legislative, Regulatory and Licensing Update

**October 24, 2019**

**Boxborough Regency Hotel | Boxboro, MA | 5:00 pm - 8:00 pm**

**H199 -- An Act Relative to Refrigeration Technicians -----1**

**ACA/NE Testimony on H199 -----4**

### **BBRS Amendments**

**R403 Systems – Duct testing -----6**

**R403 Systems – Mechanical Ventilation-----8**

**Questions for the Refrigeration Board -----10**

### **Construction Supervisor License for HVAC Memorandum**

**from Attorney David Kerrigan -----11**

# HOUSE . . . . . No. 199

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## The Commonwealth of Massachusetts

PRESENTED BY:

***David Biele***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to refrigeration technicians.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>David Biele</i>	<i>4th Suffolk</i>
<i>Peter Capano</i>	<i>11th Essex</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>
<i>Nick Collins</i>	<i>First Suffolk</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>
<i>Paul R. Feeney</i>	<i>Bristol and Norfolk</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>

# HOUSE . . . . . No. 199

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By Mr. Biele of Boston, a petition (accompanied by bill, House, No. 199) of David Biele and others relative to the licensing of refrigeration technicians working on residential or light commercial refrigeration systems. Consumer Protection and Professional Licensure.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 2815 OF 2017-2018.]

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-First General Court  
(2019-2020)  
\_\_\_\_\_

An Act relative to refrigeration technicians.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 81 of Chapter 146 of the General Laws is hereby amended by  
2     inserting the following new definition:-

3           “Residential/Light Commercial Refrigeration”, the installation, repair, replacement,  
4     maintenance of any refrigerant containing part of any refrigerant system of less than ten ton  
5     capacity.

6           SECTION 2. Chapter 146 is further amended by inserting the following new section:-

7           Section 82 ½. The bureau shall adopt regulations for the examining and licensing of  
8     refrigeration technicians working on residential or light commercial refrigeration systems of less

9     than ten tons. Provider, however, that licensing fees collected for this license shall be placed in a  
10    retained revenue account to hire qualified inspectors to enforce the provisions of this section.

11           SECTION 3. This act shall take effect upon its passage.



11 Robert Toner Blvd., # 234 | North Attleboro, MA 02763 | Phone: 508-839-3407 | [www.acane.org](http://www.acane.org)

Testimony Submitted by

Catherine Flaherty, Executive Director

Air Conditioning Association of New England (ACA/NE)

Monday, June 24, 2019

Joint Committee on Consumer Protection and Professional Licensure

**H199 - An Act relative to refrigeration technicians**

Senator Feeney, Representative Chan, members of the Committee, thank you for allowing me to submit this testimony in opposition to H.199, An Act relative to refrigeration technicians.

My name is Catherine Flaherty. I am the executive director of the Air Conditioning Association of New England (ACA/NE).

ACA/NE is a non-profit trade association for heating, ventilating, air conditioning and refrigeration contractors. ACA/NE represents and serves companies that design, install, service and repair air conditioning, heating, refrigeration, air purification, ventilating systems, plumbing, piping, sheet metal and energy management systems of all sizes and complexities. In addition, membership includes manufacturers of equipment, wholesalers and distributors of equipment, vocational and technical schools, and others with an interest in the HVAC/R industry.

H.199 will require HVAC contractors to obtain a refrigeration license.

ACA/NE is opposed to the passage H.199. Our members are concerned that if this bill passes, HVAC contractors will no longer be able to do what they presently do every day and have done for many years without a license.

Most residential and small commercial systems are limited to 5 tons or less and an exemption exists for work under 10 tons.

HVAC technicians may already acquire numerous licenses including those for Plumbers and Gas Fitters, Oil Burner, Unrestricted Refrigeration, Electricians, and Pipe Fitters. Plus HVAC technicians are required to have a sheet metal license if they do duct work.

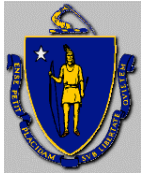
If HVAC technicians are required to obtain a refrigeration license they will also have to pay for all the renewals and the continuing education for the new license, which is considerable. For example, a technician who wants to obtain a sheet metal license must complete 8,000 hours of sheet metal experience, over no less than five years and complete 750 hours of Board-approved education. This industry like many other trades is suffering from a shortage of workers. This legislation would add to the labor crisis.

If H.199 passes, it could take 8-10 years for a worker to be completely licensed to install a residential system including a minimum of 3 years for a restricted license in sheet metal and a five-year apprenticeship in refrigeration. The time can't be concurrent.

ACA/NE members believe that this legislation would further restrict the industry with this licensing requirement. This requirement seems overly burdensome and outside the intent of Governor Baker's Executive Order # 562 to reduce unnecessary regulatory burdens.

ACA/NE respectfully asks that the Committee reject this legislative proposal.

Thank you again for the opportunity to present the residential HVAC industry's position on H.199.



**The Commonwealth of Massachusetts**  
**Office of Public Safety & Inspections**  
**Board of Building Regulations and Standards**  
**One Ashburton Place - Room 1301**  
**Boston, MA 02108**

**780 CMR - MASSACHUSETTS BUILDING CODE - AMENDMENT PROPOSAL FORM**

<b>Code</b> (Indicate with an 'x')	<input type="checkbox"/> Ninth Edition Base <input type="checkbox"/> Ninth Edition One- and Two-Family Dwellings <input checked="" type="checkbox"/> IECC Amendments	<i>State Use Only</i>	
<b>Date:</b> 8/22/2018	<b>N1103.3.3 (R403.3.3)</b>	<b>Date Received:</b>	
<b>Code Section:</b>	<b>R403 SYSTEMS - Duct testing</b>	<b>Code Change Number::</b>	
<b>Name and company affiliation if any:</b> Air Conditioning Association of New England, Inc.			
<b>Address:</b> 11 Robert Tower Blvd. #234 North Attleboro, MA 02763		<b>Telephone:</b> 508-839-3407  <b>Email:</b> cflaherty@acane.org	

Indicate with an 'x' the type of amendment proposed:

☒ Change Section    
 ☐ Add new section    
 ☐ Delete section and substitute    
 ☐ Delete section; no substitute  
☐ Other, Explain:

**Please type below the proposed amendment.** If you propose to change a section, please copy the original text from the appropriate 2015 I-code and/or Massachusetts amendment. Indicate with strike out the text you propose to delete and add new text in either *italic* or **red** font. Also you please provide justification of your proposal as a second page and include information on the **Introduction and Background** of your proposal, **Pro and Con Reasons for Adoption** of it, a summary of estimated **Costs for Building Owners**, and **Life Safety Benefits** for building occupants. Also, please indicate whether or not the proposal has been presented to the International Code Council (ICC) for consideration. If not, please explain why the proposal is unique to Massachusetts. When complete email this file to [Cesar.Lastra@state.ma.us](mailto:Cesar.Lastra@state.ma.us). Please use additional pages if necessary.

Post-construction or rough-in testing and verification shall be done by a HERS Rater, HERS Rating Field Inspector, ~~or~~ an applicable BPI Certified Professional **or a Professionally Competent Licensed Sheet Metal Worker.**

**Introduction and Background:**

We feel that this amendment in its current form, does not produce the intended results. Licensed HVAC/Sheet Metal professionals possess the prerequisite knowledge and are uniquely equipped with the necessary tools to test duct system leakage rates.

**Pro and Con Reasons for Adoption: Pros: Cons:**

1. This amendment is in direct conflict with the Massachusetts General Laws. Duct testing is by statute the domain of the Sheet Metal Board. (See supporting document (1) on the next page).
2. This amendment is impractical. It places a burden on people who are not always equipped to do such work, like having a tall ladder.

3. It unnecessarily imposes additional costs on consumers by duplicating services that in many cases were already done by the HVAC people.
4. It greatly inconveniences the consumer by imposing one more sub-contractor and at least one more inspection and requiring the consumer to take additional days off from work. It is hard to schedule HERS Raters around the customer's needs.
5. This amendment contradicts State Law regarding licensing and singles out one trade (sheet metal workers) from checking and testing their own work. Other trades can test their own work.
6. The AHJ has no power to enforce the provision in this amendment on persons not licensed under the BBRS. HERS Raters and BPI persons hold certifications that are not under the jurisdiction of the Commonwealth.
7. The IECC 2015 and IRC 2015 model codes are purposely neutral on the qualifications required for testing a ducted system. Ma. State law is very clear on this same question; it is the work of a licensed sheet metal worker.
8. It should be noted that the ICC Model Codes have clear statements of intent. (See supporting document (2) below

#### Costs to Building Owners:

This will decrease the cost to the building owner.

#### Life Safety Benefits:

The adoption of this amendment has no impact on the Life Safety Benefits.

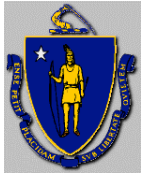
#### Supporting Documents:

- (1) *HOUSE- No. 4804 (excerpt)*  
*In the Year Two Thousand and Eight*  
*AN ACT RELATIVE TO THE LICENSING OF SHEET METAL WORKERS AND SHEET METAL CONTRACTORS.*  
*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*
- 1 SECTION 1. Chapter 13 of the General Laws is hereby amended by inserting at the end*  
*There of the following section:—.....*  
18 *“Sheet metal”, manufacturing, fabrication, assembling, han-*  
19 *dling, erection, installation, dismantling, conditioning, adjustment,*  
20 *alteration, repairing, and servicing of all commercial and indus-*  
21 *trial air-veyor systems including, but not limited, air handling sys-*  
22 *tems regardless of the material used, including specifically the*  
*handling, fabricating, setting, installation, assembling, disman-*  
24 *tling, adjustment, alteration, reconditioning, repairing of all duct-*  
25 *work; installation of fans, sheaves, belt guards, dampers, louvers,*  
26 *screens, registers, grilles, diffusers, sound traps, attenuators,*  
27 *mixing boxes, access doors related to air handling systems,*  
28 *breaching, hoods, and any and all appurtenances relating to*  
29 *heating, ventilation, air conditioning and exhaust systems, com-*  
30 *mercial and industrial architectural sheet metal water shed roof*  
31 *systems, **the testing, adjusting, and balancing of all air-handling***  
32 ***equipment and ductwork**, the fabrication and installation of com-*  
33 *mercial and industrial kitchen hoods, kitchen vents, bathroom*  
34 *exhaust vents and fans.*

(2) **N1101.2 (R101.3) Intent.**

This code shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective. **This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.**





**The Commonwealth of Massachusetts**  
**Office of Public Safety & Inspections**  
**Board of Building Regulations and Standards**  
**One Ashburton Place - Room 1301**  
**Boston, MA 02108**

**780 CMR - MASSACHUSETTS BUILDING CODE - AMENDMENT PROPOSAL FORM**

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<b>Date:</b> 8/22/2018	<b>N1103.6.2</b>	<b>Date Received:</b>	
<b>Code Section:</b>	<b>R403 SYSTEMS - Mechanical Ventilation</b>	<b>Code Change Number::</b>	
<b>Name and company affiliation if any:</b> Air Conditioning Association of New England, Inc. (ACA/NE)			
<b>Address:</b> 11 Robert Tower Blvd #234 North Attleboro, MA 02763		<b>Telephone:</b> 508-839-3407  <b>Email:</b> cflaherty@acane.org	

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Installed performance of the mechanical ventilation system shall be tested and verified by a HERS Rater, HERS Rater Field Inspector, ~~or~~ an applicable BPI Certified Professional **or a Professionally Competent Licensed Sheet Metal Worker**, and measured using a flow hood, flow grid, or other air flow measuring device in accordance with RESNET Standard Chapter 8 or ACCA Standard 5.

**Introduction and Background:**

We feel that this amendment in its current form, does not produce the intended results. Licensed HVAC/Sheet Metal professionals possess the prerequisite knowledge and are uniquely equipped with the necessary tools to test duct system leakage rates.

**Pro and Con Reasons for Adoption: Pros: Cons:**

- This amendment is in direct conflict with the Massachusetts General Laws. Duct testing is by statute the domain of the Sheet Metal Board. (See supporting document on the next page).**

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5. This amendment singles out one trade from checking and testing their own work. All other trades are allowed to test their own work.
6. The AHJ has no power to enforce the provision in this amendment on persons not licensed under the BBRs. HERS Raters and BPI persons hold certifications that are not under the jurisdiction of the Commonwealth.
7. The IECC 2015 and IRC 2015 model codes are purposely neutral on the qualifications required for testing the performance of the mechanical ventilation system. Ma. State law is very clear on this same question; it is the work of a licensed sheet metal worker.

#### Costs to Building Owners:

This will decrease the cost to the building owner.

#### Life Safety Benefits:

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#### Supporting Documents:

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## Questions for the Refrigeration Board

1. Why are some contractors getting fined?
2. What prompts these inspections?
3. Do contractors need a Contractors License in addition to the Refrigeration Technician License?
4. Do I need continuing education hours before I am given a Contractors License?
5. I was told I could no longer take the refrigeration test unless the company I work for has a registered Apprenticeship Program with the state. I have taken the test before. Why is that?
6. My school does not break down the electrical hours required to take the test. Is there a way around that?
7. How do I get approved for the Apprenticeship Program?
8. Do I need my license number displayed on the truck?

**M E M O R A N D U M**

**TO:** ACA NE Members  
**FROM:** David R. Kerrigan, Legal Counsel to ACA NE Board  
**DATE:** October 24, 2019  
**SUBJECT:** Construction Supervisor License for HVAC

ACA NE proposes to create a class of construction supervisor's licenses for HVAC work, a new CSL HVAC license designation. This is to be accomplished by filing a request with the State Board of Building Regulations and Standards to amend the Building Code, 780 C.M.R. 110.R5 to include a designation of construction supervisor license - HVAC in a license designation table.

After receipt of the request, the BBRS publishes notice of its intent to amend the regulation, receives comments, and would likely conduct a public hearing. The process can take several months, but it is done through the Board, not through the Legislature.

There are two primary goals for ACA NE to propose this amendment. First, after the license is created, ACA NE will work with the BBRS to standardize the permit application process for HVAC work, with the goal of eliminating the ad hoc requirements local building inspectors impose upon ACA NE members. Second, there have been efforts over the years to license HVAC work under other boards, such as the Bureau of Pipefitters, Refrigeration Technicians and Sprinkler fitters, and this process should end those other efforts.

If this is successful, there are a number of requirements which would then apply to this construction supervisor license designation. A partial list includes:

- Licensees must submit an application and have at least three years of experience in the field.
- The BBRS would administer a test and determine a successful exam score.
- A majority vote of the members of the BBRS would be needed to grant a license to the applicant.
- The licenses would be good for three years initially and then renewable after every two years.
- The licensee is subject to oversight by the BBRS and can face reprimand, suspension or revocation for making false statements, violating the building code, working without a permit, or other violations.

There are also responsibilities for this CSL, including:

- Licensees are completely responsible for all work they are supervising.
- A licensed construction supervisor shall be present on the site at some point to approve construction involving various work, and the license holder shall be completely responsible for work which they are supervising.
- The licensee would be subject to continuing education requirements. The current requirement for specialty licenses, such as this proposed designation, is 6 hours every two years.