

**HOUSE . . . . . No. 342**

By Mr. Walsh of Boston, petition of Martin J. Walsh and others relative to the licensing sheet metal workers and sheet metal contractors. Consumer Protection and Professional Licensure.

**The Commonwealth of Massachusetts**

PETITION OF:

Martin J. Walsh	William N. Brownsberger
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In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE LICENSING 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  
2 by inserting at the end thereof the following new section:—  
3 Section 100. There shall be a board of state examiners of sheet  
4 metal workers to consist of seven members who shall be citizens of  
5 the Commonwealth, one of whom shall be the commissioner of  
6 public health or his designee, one of whom shall be the commis-  
7 sioner of public safety or his designee and seven persons to be  
8 appointed by the governor, two whom shall be a journeyperson sheet  
9 metal worker with at least 10 years of practical experience and who  
10 is a wage earner, two one of whom shall be sheet metal contractor  
11 with at least 10 years of practical experience in the design, fabrica-  
12 tion, and installation of air handling systems, including ductwork,  
13 one of whom shall be a representative of the public subject to the  
14 provisions of Section 9B. The board of state sheet metal workers  
15 shall establish the requirements for licensure, fees, and standards for  
16 the licensure, and professional and ethical conduct in accordance  
17 with the provisions of this chapter, shall authorize and conduct  
18 appropriate examinations to determine the qualifications of

19 applicants to be licensed, which shall include setting reasonable fees  
20 for the examination, and grant licenses to who applicants qualify  
21 under this chapter and Chapter 112 and met the requirements of the  
22 board's rules and regulations. As the term of office of a member  
23 expires, the governor shall appoint a successor to serve for three  
24 years. The governor shall designate the chairperson of the board and  
25 may, at any time, change such designation.

1 SECTION 2. Chapter 112 of the General Laws is hereby amended  
2 by adding at the end thereof the following new Sections:—

3 Section 237. As used in this Section and Sections 237 to 250,  
4 inclusive, the following words shall, unless the context requires oth-  
5 erwise, have the following meanings:—

6 “Examiners”, the board of state examiners of plumbers, gas fit-  
7 ters, and sheet metal workers appointed under Section 100 of  
8 Chapter 13.

9 “Journeyman sheet metal worker”, any person who has com-  
10 pleted a 5 year apprentice program or who has 5 years of experience  
11 performing sheet metal work as described in Section 238, and who  
12 has passed an examination and been issued a license as provided in  
13 this chapter.

14 “Sheet metal worker apprentice”, any person at least 18 years of  
15 age who is learning or working at the business of sheet metal work  
16 under the direct supervision of a sheet metal contractor or jour-  
17 neyperson sheet metal worker and under a registered, apprentice pro-  
18 gram approved by the board.

19 “Sheet metal contractor”, a person having a regular place of busi-  
20 ness and who, by him or herself or a journeyman sheet metal  
21 worker in his or her employ, performs sheet metal work.

22 Section 238. No person shall engage to work as a journeyman  
23 sheet metalworker nor shall any person advertise or represent in any  
24 form or matter that he or she is a journeyman sheet metalworker  
25 unless that person possesses and carries on his or her person a valid  
26 license issued by the examiners as provided in this chapter and carry  
27 said license at all times when engaged in the business and practice of  
28 sheet metal work. A license is required for the manufacturing, fabri-  
29 cation, assembling, handling, erection, installation, dismantling, con-  
30 ditioning, adjustment, alteration, repairing, and servicing of all  
31 ferrous or non-ferrous metal work and all other materials in lieu

32 thereof and all air-veyor systems and including, but not limited, to  
33 air handling systems regardless of the material used, including  
34 specifically the handling, fabricating, setting, installation, assem-  
35 bling, dismantling, adjustment, alteration, reconditioning, repairing  
36 of all ductwork; installation of fans, sheaves, belt guards, dampers,  
37 louvers, screens, registers, grilles, diffusers, sound traps, attenuators,  
38 mixing boxes, access doors related to air handling systems,  
39 breaching, hoods, and any and all appurtenances relating to a  
40 H.V.A.C and exhaust system, architectural sheet metal work,  
41 including flashings, which are “through-wall”, gutters, downspouts,  
42 coping, fascia, metal roofing, soffits, and other appurtenances  
43 relating to the Sheet Metal Industry, the testing, adjusting, and bal-  
44 ancing of all air-handling equipment and ductwork, the fabrication  
45 and installation of kitchen hoods, kitchen vents, bathroom exhaust  
46 vents, fans, stainless steel counter tops, and commercial kitchen  
47 equipment installed in buildings accessible to the public, which  
48 includes but is not limited to hotels, restaurants, hospitals, educa-  
49 tional facilities, office buildings, and retail stores; and provided that  
50 said regulations shall not be in conflict with conducted by a license  
51 pipefitter or gasfitter under Chapter 13, Chapter 142 and Chapter  
52 146.

53 Section 239. No corporation, firm, association, or partnership  
54 shall engage in business, advertise, make application for and take out  
55 permits, bid for work, or represent itself as a sheet metal contractor  
56 unless a licensed sheet metal contractor, as provided in this chapter,  
57 is continuously engaged in the supervision of such entity’s installa-  
58 tion, maintenance, and repair of ductwork and such licensed con-  
59 tractor is an officer of such corporation, a partner in such  
60 partnership, or a similarly authorized principal of any such firm,  
61 association, or other entity, or said entity shall possess a valid sheet  
62 metal contractor’s license, as applicable, duly issued by the board of  
63 examiners as further described in Chapter 13 and this chapter. No  
64 corporation, firm, association, partnership, or other entity which  
65 engages in, offers to engage in, or represents that it engages in air  
66 distribution systems installation, maintenance, or repair ductwork in  
67 the Commonwealth shall be permitted to incorporate, form, qualify  
68 to do business, or otherwise register with the secretary of state’s  
69 office until and unless that office shall have first received a written  
70 confirmation from the board of examiners that all requisite licenses

71 to be issued have been so issued and remain in good standing. Upon  
72 a person's application of any of the above entities in form and sub-  
73 stance prescribed by the board of examiners and this chapter, and  
74 receipt of the fee for such application and license which shall be  
75 equal to the fee for a sheet metal contractor's license, as the same  
76 may be amended from time to time, the board of examiners shall  
77 issue the applicant entity a license as a sheet metal contractor, as  
78 applicable. Such contractor's license shall specify the name of the  
79 entity holding the license and shall state that such license holder  
80 shall have a licensed sheet metal contractor, who shall be continu-  
81 ously engaged in the supervision of such entity's installation, main-  
82 tenance, and repair ductwork, and who shall be an officer of such  
83 corporation, a partner in such partnership, or a similarly authorized  
84 principal of any such firm, association, or other entity, or shall be  
85 continuously employs at all times while holding such license a duly  
86 licensed sheet metal contractor, as applicable, as provided in this  
87 chapter, who shall be continuously engaged in the supervision of  
88 such entity's installation, maintenance, and repair ductwork.

89 The sheet metal contractor's license shall entitle the entity holding  
90 the same to engage in business, advertise, bid for work, or represent  
91 itself as a sheet metal contractor and shall also entitle such entity to  
92 make application for and take out permits through its duly autho-  
93 rized officer or similarly authorized principal as well as through the  
94 duly licensed sheet metal contractor continuously employed by such  
95 entity as stated above, as the case may be. Such sheet metal contrac-  
96 tor's license shall not, however, in and of itself permit a principal,  
97 officer, employee, or agent of the entity holding such license to indi-  
98 vidually engage in installation, maintenance, or repair ductwork as  
99 described above unless such principal, officer, employee, or agent is  
100 individually licensed to do so. Any work engaged in, advertised for,  
101 applied for by permit, bid for, or represented to be permissible, shall  
102 be solely of the type for which the licensed sheet metal contractor  
103 who serves as an officer or similarly authorized principal of the  
104 entity who is continuously employed by the entity holding a sheet  
105 metal contractor's licenses, is duly licensed to perform. Any licensed  
106 sheet metal contractor who serves as an officer or similarly autho-  
107 rized principal of such an entity or who is continuously employed by  
108 an entity holding a contractor's license shall represent the interests  
109 of one such entity and only one such entity at any given time as

110 described above. In the event that the licensed sheet metal contractor  
111 described above shall cease to be an officer or similarly authorized  
112 principal of one of the entities described above or shall cease to be  
113 continuously employed by an entity holding a contractor's license  
114 for any reason whatsoever, such entity shall provide written notice of  
115 the same to the board of examiners no more than 14 days after the  
116 effective date of the occurrence of the cessation. Any entity so  
117 affected shall provide written notice to the board of examiners speci-  
118 fying the licensed sheet metal contractor who shall replace the  
119 departed licensed sheet metal contractor, as applicable, referenced  
120 above no more than 45 days after the effective date of occurrence of  
121 such cessation. The board may revoke the license of any licensee  
122 which willful violates this Section.

123 Section 240. The examiners may make such rules as they deem  
124 proper for the performance of their duties and rules governing the  
125 qualifications of applicants for examination, which shall take effect  
126 when approved by the general court and by the department of public  
127 health. They shall examine each person who applies to be licensed as  
128 a journeyperson sheet metal worker, and each applicant who applies  
129 to be licensed as a sheet metal contractor, as to his or her practical  
130 knowledge of sheet metal work as defined in this chapter. They shall  
131 subject each applicant to a practical test satisfactory to the examiner,  
132 who, if satisfied of his competence, shall issue to him a license as  
133 applied for. They shall hold frequent examinations in the city of  
134 Boston, and also at such other convenient places within the Com-  
135 monwealth as they deem necessary. Public notice shall be given of  
136 all examinations. Every application for examination shall be in the  
137 handwriting of the applicant who shall be notified by the examiners  
138 of the time and place of examination. The examiners may, without  
139 payment of any fee, issue a probationary license in force for six  
140 months to a person who, having worked as an apprentice, or under a  
141 verbal agreement for instruction, for not less than three years, pre-  
142 sents an application therefore with the signed endorsement of his  
143 employer agreeing to be responsible for all work done under the  
144 license and to have the licensee, at the expiration of the license, pre-  
145 sent himself for examination as a journeyman. They shall grant a  
146 credit of five per cent to the examination standing of each applicant  
147 who is a veteran, as defined in clause 43 of Section 7 of Chapter 4.

148 Section 241. The board shall establish rules and regulation for  
149 applicants to undergo an examination to be a journey person sheet  
150 metal worker, pursuant to Section 240, and the applicant shall  
151 demonstrate by the applicant that he or she has participated in a  
152 registered apprenticeship program for at least 5 years prior to the  
153 filing of the application, and the applicant shall provide to the board  
154 an affidavit or affidavits of his or her former employers or the  
155 director of the registered apprenticeship program, or other reason-  
156 ably satisfactory evidence showing that the applicant has satisfacto-  
157 rily completed the apprenticeship training program, or the  
158 application is accompanied by an affidavit or other reasonably satis-  
159 factory evidence showing that the applicant possesses a certificate of  
160 license issued under the laws of another state specifying such person  
161 as a journey person, and meet any other requirements that the board  
162 may adopt. Applicants must have their applications filed with the  
163 board of examiners at least 15 days prior to the examination date.  
164 Upon passage of the journey person sheet metal worker's test, the  
165 payment of a license fee, and satisfying the rules and regulations for  
166 licensure by the board, the journey person sheet metal worker's  
167 license shall be issued by the board.

168 Section 242. The board shall establish rules and regulation for  
169 applicants to undergo an examination to be a sheet metal contractor,  
170 pursuant to

171 Section 240 and 241, and the applicant must be a licensed jour-  
172 ney person sheet metal work licensed for not less than 3 years. Appli-  
173 cants must file an application with the board at least 15 days prior to  
174 the examination date. Upon passing the sheet metal contractor's test,  
175 the payment of a license fee and satisfying the rules and regulations  
176 to be licensed by the board, the contractor license shall be issued by  
177 the board. Section 243. The board shall establish rules, regulations  
178 and licensure for a registered sheet metal worker apprentice pro-  
179 gram. The board shall maintain a record of active license sheet metal  
180 work apprentice programs. The board shall establish fines and penal-  
181 ties should a sheet metal worker apprentice program licensee violate  
182 the said rules and regulations; provided further, that the board may  
183 suspend or revoke a journey person sheet metal worker's license for  
184 the willful abuse or misuse of the sheet metal worker apprentice pro-  
185 gram. The examiners may formulate rules and regulations for on-the  
186 -job programs relative to the sheet metal work apprentice program.

187 Section 244. Upon payment to the board of a fee and the submis-  
188 sion of a written application provided by said board, the board shall  
189 issue a journeyperson sheet metal workers license or a sheet metal  
190 contractor to a person who holds a valid license or registration  
191 issued by another jurisdiction which has standards substantially  
192 equivalent to or exceeding the standards of the Commonwealth, as  
193 determined by said board.

194 Section 245. The fee for the journeyperson sheet metal worker  
195 license, sheet metal contractor, and sheet metal worker apprentice or  
196 for any biennial renewal thereof, and for any examination therefor  
197 shall be determined annually by the commissioner of administration  
198 under the provision of Section 3B of Chapter 7 for the filing thereof.

199 Section 246. Every person engaged in the business of a jour-  
200 neyperson sheet metal worker or sheet metal worker contractor not  
201 lawfully registered or licensed every person engaging in or working  
202 in the business of sheet metal work is forbidden to do so under Sec-  
203 tions 237 to 246 and every person so licensed violating any provi-  
204 sion of Sections one to fifteen, inclusive, of this chapter or any  
205 ordinance, by-law, rule or regulation made thereunder, shall be pun-  
206 ished by a fine not exceeding one hundred dollars. Any city or town  
207 subject to the preceding Sections of this chapter neglecting to  
208 comply with any of its provisions shall forfeit \$50 to the Common-  
209 wealth for each month during which such neglect continues. Section  
210 247. If, in the opinion of such inspector of buildings, if any, other-  
211 wise of the board of health, of a town, the holder of a license or cer-  
212 tificate violates any statute, ordinance, by-law, rule or regulation  
213 relative to sheet metal worker, said inspector or board of health of  
214 the town where such violation is committed shall give notice thereof  
215 to the examiners.

216 Section 248. Section 16 of Chapter 142 of the General Laws is  
217 hereby amended in line 5 after the words "liquefied petroleum gas  
218 installer" the following words "or as a journeyperson sheet metal  
219 worker or as a sheet metal contractor or as an apprentice sheet metal  
220 worker".

221 Section 249. Notwithstanding the provisions of any general or  
222 special law to the contrary, no licensed journeyperson sheet metal  
223 worker and sheet metal contractor, shall be issued a permit for the  
224 performance of sheet metal work, pursuant to this chapter unless the  
225 licensee has a current liability insurance policy including completed

226 operations coverage, which has been issued by an insurance com-  
227 pany licensed to do business within the Commonwealth, or other  
228 type of indemnity against liability providing substantially equivalent  
229 coverage, or a bond. The licensee shall check the appropriate block  
230 on the uniform application to perform plumbing and gas work. In  
231 lieu of such insurance requirement, plumbing and gas inspectors  
232 shall accept the signature of the owner or his agent on the uniform  
233 application for a permit to perform plumbing or gas work upon the  
234 property of said owner.

235 Section 250. The examiners shall formulate rules relative to the  
236 construction, alteration, repair and inspection of all plumbing and  
237 gas fitting work in buildings owned, used and constructed by the  
238 Commonwealth and in buildings owned, used and constructed by the  
239 University of Massachusetts Building Authority, Massachusetts  
240 Turnpike Authority, Massachusetts Bay Transportation Authority,  
241 Massachusetts Port Authority, Metropolitan district commission and  
242 the government center commission, subject to the approval of the  
243 department of public health, and all plans for plumbing and gas fit-  
244 ting in such buildings shall be subject to the approval of the exam-  
245 iners.

246 Section 251. Whoever violates any provision of these provisions  
247 shall be punished by a fine of not more than \$50. Inspectors of  
248 buildings or other proper authorities shall cause the provisions of  
249 said Sections to be enforced.

1 SECTION 3. Notwithstanding the provisions of Section 100 of  
2 Chapter 13 of the General Laws to the contrary, for a period of one  
3 year after the effective date of said Section the initial journeyman  
4 sheet metal worker to the board of examiners of sheet metal workers  
5 shall not be required, at the time of their initial appointment, to be  
6 licensed to practice journeyman sheet metal work pursuant to the  
7 provisions Sections 3, 4B, and 4C of Chapter 142 of the General  
8 Laws, if they are of good moral character, have been engaged in the  
9 practice of journeyman sheet metal working for compensation for  
10 not less than 10 years prior to the effective date of this Section.

1 SECTION 4. Notwithstanding any general or special law to the  
2 contrary, the board of state examiners of sheet metal workers may  
3 issue journeyman sheet metal worker or sheet metal contractor

4 without examination to an applicant who meets the requirements of  
5 Sections 237 to 249 of Chapter 112 of the General Laws and pro-  
6 vides to the board's satisfaction that he is and actually has been in  
7 the paid professional practice for 5 years out of the last 10 years in  
8 the field of sheet metal work, preceding the effective date of this act.  
9 The board in its discretion may waive the education requirements for  
10 an applicant if it determines that an applicant's combined profes-  
11 sional and education credentials meet the intent of this act. The pro-  
12 visions of this Section shall expire one year following the effective  
13 date of this act.