

SENATE BILL 77

By Norris

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 126, Part 2 and Title 68, Chapter 126, Part 4, relative to manufactured housing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-126-202, is amended by deleting subdivision (3) in its entirety and substituting instead the following language:

(3) "Manufacturer" means any person engaged in manufacturing or assembling new manufactured homes;

SECTION 2. Tennessee Code Annotated, Section 68-126-202, is amended by adding the following language as a new, appropriately designated subdivision:

( ) "Personal use" means property that a person does not use for business purposes and the use of which is not substantially connected with a trade or business or an activity for the production or collection of income;

SECTION 3. Tennessee Code Annotated, Section 68-126-205(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) No person may manufacture, sell, lease, or offer to sell or lease any manufactured home in violation of rules of the commissioner issued to afford reasonable protection to persons and property with respect to the construction, assembly, and sale or lease of such manufactured homes. Compliance with such rules shall be evidenced in the manner required in this part.

SECTION 4. Tennessee Code Annotated, Section 68-126-206(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) It is unlawful to engage in business in this state as a manufacturer or retailer prior to obtaining a license from the commissioner. The commissioner may require of an applicant for a license such information and evidence of qualifications as are reasonably necessary to protect the public safety and welfare. An application for a license shall be submitted on the prescribed form, shall contain the applicant's business tax or privilege tax number, and shall be accompanied by payment of a fee as set by the commissioner by rule, promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. License fees shall be payable annually, and shall not be prorated for portions of a year. All licenses shall expire one (1) year from the date of issuance. The licensing requirements shall not apply to individual employees of a licensed retailer; provided, however, that at least one (1) employee of a licensed retailer who is directly involved in the installation of a manufactured home is required to be certified by the commissioner. In order to obtain such certification, the employee shall have completed a fifteen-hour course and shall have passed an examination in manufactured home installation approved by the commissioner. At least one (1) certified employee shall be physically on site at the time of installation of any manufactured home.

SECTION 5. Tennessee Code Annotated, Section 68-126-212(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) Whoever violates any provision of the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), or any regulation or final order issued under that act, shall be liable for a civil penalty not to exceed one thousand one hundred dollars (\$1,100) for each such violation. Each violation of a provision of such act, or any regulation or order issued under that act, constitutes a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by the act, except that the maximum civil penalty may not exceed one million three hundred seventy-five thousand

dollars (\$1,375,000) for any related series of violations occurring within one (1) year from the date of the first violation.

SECTION 6. Tennessee Code Annotated, Section 68-126-403, is amended by deleting subsection (c) in its entirety and substituting instead the following language:

(c) New homes shall be installed according to the following criteria:

(1) In compliance with manufacturer instructions that are Design Approval Primary Inspection Agency (DAPIA) approved, if provided or available;

(2)

(A) If the manufacturer has not provided or does not make available suitable instructions, then the home shall be installed according to instructions that, at a minimum, meet federal manufactured home installation standards as provided in 24 CFR 3285, promulgated pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.) and are prepared and sealed by an engineer registered in this state; or

(B) If an alternative to subdivision (c)(1) or (c)(2)(A) is required, the installation of the home shall, at a minimum, meet federal manufactured home installation standards as provided in 24 CFR 3285, promulgated pursuant to the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.); and

(3) Installation shall comply with federal emergency management agency regulations applicable to flood zones.

SECTION 7. Tennessee Code Annotated, Section 68-126-404(d), is amended by deleting the subsection in its entirety and substituting instead the following language:

(d)

(1) An application for a license as an installer shall be submitted on a form prescribed by the commissioner, and shall be accompanied by payment of a fee as set by the commissioner by rule, promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. An application for a license as an installer shall be accompanied by a surety bond executed by the applicant as principal and by a surety company qualified to do business in this state as a surety. The bond shall be executed to this state and in favor of any consumer who shall suffer any loss as a result of the violation of this part. The bond shall be in the amount of ten thousand dollars (\$10,000). The license fee shall be paid annually and shall not be prorated for portions of a year. All licenses shall expire one (1) year from the date of issuance.

(2) An application for certification by an employee of an installer shall be submitted on a form prescribed by the commissioner and shall be accompanied by proof of having completed a fifteen-hour course and passed an examination approved by the commissioner covering the installation of manufactured homes. The license fee and bond requirements specified in subdivision (d)(1) shall not apply to applicants for certification. All certifications shall expire one (1) year from the date of issuance.

(3) The application for a license as an installer shall specify each employee who has been certified by the commissioner as having successfully completed the examination for manufactured home retailers and installers, and who will or may be physically on site at the time of setup of any manufactured home.

(4) In addition to the license fee for the issuance of a license as an installer, any installer who fails to renew such installer license on or before its

expiration date or who commences business in this state prior to obtaining a license shall be required to pay a penalty in an amount that the commissioner may determine by duly promulgated rule for acting as an installer without a license.

SECTION 8. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2016, the public welfare requiring it.