

N.D.A.G. Letter to Leingang (April 15, 1987)

April 15, 1987

Mr. Robert J. Leingang
Secretary-Inspector
North Dakota State Plumbing Board
204 West Thayer Avenue
Bismarck, ND 58501

Dear Mr. Leingang:

Thank you for your letter of March 31, 1987, concerning the installation of household water heaters.

North Dakota law, as found at N.D.C.C. § 43-18-11.1, provides that employees of dealers in household appliances need not be licensed when installing household appliances. There is no definition of the term "household appliances" within this statute.

This statute was passed by the 1975 Legislative Assembly and was identified as House Bill No. 1147. 1975 N.D. Sess. Laws 399. As part of the same bill, the North Dakota Legislature enacted N.D.C.C. § 43-09-16, providing categories of persons who are not required to hold an electrician's license. One group of such persons exempt from the electrician's license requirement are employees of dealers in household appliances. In the bill, the Legislature mentioned several household appliances, including "water heaters."

I am attaching a copy of the legislative history of House Bill No. 1147 as provided to us by Legislative Counsel. The discussions before the legislative committees considering House Bill No. 1147 indicate several references as to water heaters.

The term "household appliances" appears twice within House Bill No. 1147. The first time the term appears it is accompanied by examples including "water heaters." The second time it appears, with respect to N.D.C.C. § 43-18-11.1, it does not appear with any examples. It would not be logical to conclude that the Legislature intended water heaters to fall within the first reference to household appliances, but not the second reference. Based upon the obvious legislative intent behind the passage of House Bill No. 1147, I conclude that a household water heater is a household appliance.

Although a water heater may be considered to be a household appliance, that is not to say that the installation of all water heaters is exempt. To be exempt from the license requirements of N.D.C.C. § 43-18-11.1, it must be determined (1) whether the necessary plumbing work is incidental to the installation of the appliance and (2) whether the work could be performed by a plumber's apprentice. The determination of whether the work is incidental to the installation and whether the work could be performed by a plumber's apprentice is a factual question that must be determined by the Plumbing Board.

The final question in your letter is whether the exemption provided in N.D.C.C. § 43-18-11.1 would apply to commercial water heaters. Nowhere in the plumbers' code is there any exception for commercial appliances.

I hope this information is helpful to you.

Sincerely,

Nicholas J. Spaeth

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Enclosures