

Introduced by

Senators Klein, Magrum, Myrdal, Vedaa

Representatives Nelson, Weisz

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century
2 Code, relating to regulation of onsite wastewater treatment system installers; to amend and
3 reenact ~~section~~sections 23-35-02.2, 43-18.2-01, and 43-18.2-03 of the North Dakota Century
4 Code, relating to the onsite wastewater recycling treatment technologies guide, permits for
5 installation of an onsite wastewater treatment system, ~~and~~ investigation of onsite wastewater
6 treatment systems, and sewer and water installers; to repeal section 23-35-02.3 of the North
7 Dakota Century Code, relating to the onsite wastewater recycling technical committee; to
8 provide a penalty; and to provide an effective date.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 23-35-02.2 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **23-35-02.2. Public health units to adopt Adoption of onsite wastewater recycling**
13 **treatment technologies guide - Issuance of permit for onsite wastewater treatment**
14 **system installation - Inspection - Penalty.**

- 15 1. Each public health unit and board of health shall adopt, administer, and enforce the
16 statewide technical guide for onsite wastewater recycling treatment technologies and
17 sewage distribution technologies established by the onsite wastewater recycling
18 technical committee board.
- 19 2. In accordance with the statewide technical guide for onsite wastewater recycling
20 treatment technologies, a public health unit or board of health shall issue a permit for
21 installation of an onsite wastewater treatment system.
- 22 3. A person may not install an onsite wastewater treatment system without a permit
23 issued under this section. If the public health unit or board of health denies a permit

1 under this section, the denial must be in writing and accompanied by findings of fact
2 supporting the decision to deny the permit.

3 4. A public health unit and board of health may inspect a newly constructed onsite
4 wastewater treatment system. If, upon inspection the public health unit or board of
5 health determines any part of the system is not constructed in accordance with the
6 minimum standards of the statewide technical guide, the permit applicant or installer,
7 or both, shall correct the defects. A system may not be placed in service until all
8 defects have been corrected.

9 5. A public health unit and board of health shall receive and investigate a report of
10 unsanitary conditions in existence at an onsite wastewater system site or that any
11 construction or work ~~regulated~~~~enforced~~ under this section is dangerous; unsafe;
12 unsanitary; a nuisance; a risk to life, health, or property; or otherwise in violation of the
13 statewide technical guide.

14 6. The public health unit or board of health may charge a fee, not to exceed one hundred
15 dollars, for issuance of a permit, conducting an inspection, reviewing a plan,
16 evaluating a site, filing a variance request, and filing an appeal under this section.

17 7. Violation of the statewide technical guide for onsite wastewater recycling treatment
18 technologies is an infraction for each violation. ~~Each day a violation continues is~~
19 ~~considered a separate offense.~~

20 **SECTION 2. AMENDMENT.** Section 43-18.2-01 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-18.2-01. Definitions.**

23 In this chapter, unless the context or subject matter otherwise requires:

- 24 1. "Board" means the state board of plumbing.
- 25 2. "Sewer and water contractor" means any person who installs, plans, and manages the
26 installation and repair of building sewer and water service.
- 27 3. "Sewer and water installation" means the installation of building sewer and water
28 service and the repair of existing building sewer and water service.
- 29 4. "Sewer and water installer" means any person, other than a sewer and water
30 contractor, who installs and repairs building sewer and water service.

1 5. "Sewer and water service" does not include installing an onsite wastewater treatment
2 system.

3 **SECTION 3. AMENDMENT.** Section 43-18.2-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-18.2-03. Licenses.**

6 ~~No~~A person, ~~firm, corporation, or limited liability company~~, except ~~plumbers~~a plumber
7 holding a valid ~~licenses~~license under chapter 43-18, may not engage in the business of sewer
8 and water contractor or sewer and water installer unless registered and licensed by the board ~~to~~
9 ~~do so~~under this chapter. ThisA license issued under this chapter allows the licensee to do
10 plumbing necessary for sewer and water installation. This chapter does not regulate the
11 installation of an onsite wastewater treatment system.

12 **SECTION 4.** A new chapter to title 43 of the North Dakota Century Code is created and
13 enacted as follows:

14 **Definitions.**

15 As used in this chapter:

- 16 1. "Board" means the onsite wastewater board.
- 17 2. "Board of health" has the meaning provided under section 23-35-01.
- 18 3. "Licensee" means an installer issued a license under this chapter.
- 19 4. "Public health unit" has the meaning provided under section 23-35-01.
- 20 5. "Regulatory authority" means a public health unit or board of health.

21 **Board - Appointment.**

- 22 1. Beginning on the effective date of this Act, the onsite wastewater board is comprised
23 of the onsite wastewater recycling technical committee established under section
24 23-35-02.3.
- 25 2. Beginning August 1, 2024, the governor shall replace the members of the board with
26 five~~one~~ representative of a public health unit who is not an installer, and three
27 licensees, all of whom must be actively practicing installers. The director of the
28 department of environmental quality or the director's designee shall serve as an ex
29 officio member. The terms of office of the initial appointed members must be
30 staggered so no more than two terms expire on the thirty-first day of July of each year
31 and thereafter the term of each member is three years. Each member shall qualify by

1 taking the oath required of civil officers and shall hold office until a successor is
2 appointed. The governor shall replace a vacancy on the board by appointment for the
3 unexpired term. The governor may remove ~~a~~an appointed member from the board
4 upon a showing of good cause.

5 **Board powers and duties.**

6 1. The board shall:

7 a. Adopt rules to implement this chapter, including setting education and experience
8 qualifications for licensure and continuing education requirements for licensure
9 renewal.

10 b. Issue a license to a qualified applicant who pays the required fee.

11 c. Elect from its membership a presiding officer and a secretary.

12 2. The board may hire an executive director or other staff to assist the board with
13 administration of this chapter.

14 **Application.**

15 This chapter applies to the installation of all onsite wastewater treatment systems within the
16 state.

17 **Licensure required - Penalty.**

18 Beginning January 1, 2025, a person may not engage in installing an onsite wastewater
19 treatment system unless licensed by the board. A violation of this section is an infraction.

20 **Exemptions.**

21 The board shall establish by rule exemptions to the licensure requirements of this chapter
22 which address installations for new construction. The rules adopted under this section may
23 distinguish between the type of system being installed and may require a property owner to
24 attend a board-approved training as a condition to perform the work.

25 **Licensure - Fees.**

26 The board shall issue the following licenses to a qualified applicant who pays the required
27 fee:

28 1. An apprentice installer license, which qualifies the licensee to work under a level one,
29 two, or three license holder. The fee for licensure and license renewal as an
30 apprentice installer is twenty-five dollars per year.

- 1 2. A level one installer license, which qualifies the licensee to install a septic tank and
2 conventional trench system. The fee for licensure and license renewal as a level one
3 installer is two hundred twenty-five dollars per year.
- 4 3. A level two installer license, which qualifies the licensee to install multiple tanks,
5 mounds, at-grades, beds, and pressurized systems with pumps. The fee for licensure
6 and license renewal as a level two installer is two hundred twenty-five dollars per year.
- 7 4. A level three master level installer license, which qualifies the licensee to install
8 commercial systems, industrial systems, and systems that accept more than two
9 thousand five hundred gallons [9463.53 liters] per day. The fee for licensure and
10 license renewal as a level three master level installer is two hundred twenty-five
11 dollars per year.

12 **Licensure of out-of-state installers.**

13 The board shall issue a license to an applicant who is licensed as an installer by an out-of-
14 state jurisdiction if the applicant is in good standing in the out-of-state jurisdiction.

15 **Regulatory authority.**

16 A licensed installer shall comply with the statewide technical guide for onsite wastewater
17 recycling treatment technologies adopted by the regulatory authority when installing an onsite
18 wastewater treatment system.

19 **Disciplinary actions.**

20 Installation of an onsite wastewater treatment system by a licensee in violation of this
21 chapter or rules adopted by the board is cause for revocation of, suspension of, or refusal to
22 renew a license. Disciplinary actions must be conducted in accordance with chapter 28-32.

23 **Statewide technical guide.**

- 24 1. The board shall develop and publish a statewide guide for onsite wastewater recycling
25 treatment technologies for adoption by regulatory authorities under section 23-35-02.2.
- 26 2. At a minimum, the statewide technical guide for onsite wastewater recycling treatment
27 technologies must address:
 - 28 a. A standardized onsite wastewater treatment system permit form.
 - 29 b. The length of time a permit is valid following issuance.
 - 30 c. Circumstances under which a registered professional engineer shall prepare
31 plans and specifications.

- 1 d. The minimum size lot in which a new onsite wastewater treatment system may
2 be installed.
- 3 e. The terms under which a septic tank may be abandoned.
- 4 f. The minimum requirements for an onsite wastewater treatment system soil
5 treatment area.
- 6 g. Circumstances under which special systems of treatment and disposal may be
7 provided.
- 8 h. Circumstances under which the regulatory authority may issue a variance.
- 9 i. The process for appeal of an order or determination of the regulatory authority.
- 10 j. Circumstances under which a regulatory authority may suspend or revoke a
11 permit.
- 12 k. Circumstances under which a regulatory authority may issue an order to cease
13 and desist.

14 **SECTION 5. REPEAL.** Section 23-35-02.3 of the North Dakota Century Code is repealed.

15 **SECTION 6. EFFECTIVE DATE.** ~~Section~~Sections 1, 2, and 3 of this Act ~~becomes~~become
16 effective January 1, 2025, and section ~~35~~ of this Act becomes effective August 1, 2024.