

# House Bill 3621

Sponsored by Representative ROBLAN (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes certified backflow tester to test, install, repair and maintain certain backflow assemblies. Exempts employer of certified backflow tester from licensure as plumbing business for backflow assembly work by tester. Exempts certified backflow tester from plumber licensing requirement.

Creates cross-connection and backflow assembly specialty certificate program for journeyman plumbers and apprentice plumbers. Requires specialty certificate program to be operational no later than January 1, 2011.

Restricts testing, installation, repair and maintenance of certain backflow assemblies to plumbers holding cross-connection and backflow assembly specialty certificate. Applies to backflow assembly testing, installation, repair and maintenance work performed on or after July 1, 2011. Makes violation subject to civil penalty, not to exceed \$5,000 per offense or \$1,000 for each day of continuing offense.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to plumbing; creating new provisions; amending ORS 447.060, 448.279 and 693.020; and de-  
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Sections 2 and 3 of this 2010 Act are added to and made a part of ORS**  
6 **chapter 693.**

7 **SECTION 2. (1) The Department of Consumer and Business Services shall offer or ap-**  
8 **prove programs to qualify journeyman plumbers or apprentice plumbers in the inspection of**  
9 **cross-connections and the testing, installation, repair and maintenance of backflow assem-**  
10 **blies.**

11 **(2) Except as provided in this subsection, training and education programs offered or**  
12 **approved under this section must meet or exceed the American Society of Sanitary Engi-**  
13 **neering Series 5000-2009 standards. The department may adopt rules that recognize a later**  
14 **version of, or successor to, the standards specified in this subsection and require that**  
15 **training and education programs meet the standards recognized by department rule.**

16 **(3) A journeyman plumber or apprentice plumber who successfully completes a quali-**  
17 **fication program offered or approved by the department may apply to the State Plumbing**  
18 **Board for a cross-connection and backflow specialty certificate. The board may recognize or**  
19 **require certification by the American Society of Sanitary Engineering or another national**  
20 **organization as evidence of successful program completion. A journeyman plumber or ap-**  
21 **prentice plumber holding a specialty certificate may:**

22 **(a) Conduct a cross-connection inspection;**

23 **(b) Test any backflow assembly;**

24 **(c) Install, repair and maintain any backflow assembly; and**

25 **(d) Engage in other specialized activities for which the program has qualified the certif-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **icate holder, as determined by the board.**

2 **(4) If the board adopts rules under ORS 455.117 to create continuing education require-**  
 3 **ments for holders of cross-connection and backflow assembly specialty certificates, the de-**  
 4 **partment shall offer or approve programs sufficient to allow holders of the certificates to**  
 5 **obtain the required continuing education.**

6 **(5) The department may charge reasonable fees for programs offered by the department**  
 7 **under this section and for the approval of programs offered by other providers. The board**  
 8 **may charge reasonable fees for cross-connection and backflow assembly specialty certificate**  
 9 **applications and for the issuance or renewal of the specialty certificates.**

10 **SECTION 3. (1) Except as provided in this section, a person must be a journeyman**  
 11 **plumber or apprentice plumber who holds a cross-connection and backflow assembly spe-**  
 12 **cialty certificate issued by the State Plumbing Board in order to test, install, repair or**  
 13 **maintain a backflow assembly, if the assembly:**

14 **(a) Is larger than one-half inch interior diameter; or**

15 **(b) Serves a structure other than a one or two family dwelling.**

16 **(2) Subsection (1) of this section does not apply to the testing, installation, repair or**  
 17 **maintenance of a backflow assembly for irrigation systems or ornamental water features:**

18 **(a) By a tester certified under ORS 448.279 who is an employee of a landscape contracting**  
 19 **business licensed under ORS 671.560; or**

20 **(b) By a journeyman plumber or apprentice plumber.**

21 **SECTION 4. ORS 447.060 is amended to read:**

22 **447.060. (1) ORS 447.010 to 447.156 do not apply to a person:**

23 **(a) Engaging in plumbing work when not so engaged for hire.**

24 **(b) Using the services of regular employees in performing plumbing work for the benefit of**  
 25 **property owned, leased or operated by the person. For purposes of this paragraph, “regular**  
 26 **employee” means a person who is subject to the provisions of ORS 316.162 to 316.221 and who has**  
 27 **completed a withholding exemptions certificate required by ORS 316.162 to 316.221.**

28 **(c) Using the services of an employee or contractor of a utility company, energy service provider**  
 29 **or water supplier to install an approved low-flow showerhead or faucet aerator in existing plumbing**  
 30 **fixtures. The devices installed under this paragraph are exempt from the certification, permit and**  
 31 **inspection requirements of ORS 447.010 to 447.156 and ORS chapter 693.**

32 **(2) A landscape contracting business licensed under ORS 671.560 is not required to be licensed**  
 33 **under ORS 447.010 to 447.156 to **test**, install, repair or maintain backflow assemblies for irrigation**  
 34 **systems and ornamental water features if the work is performed by an individual who is licensed**  
 35 **as required by ORS 671.615 and is an owner or employee of the landscape contracting business. The**  
 36 **repair and maintenance of the backflow assembly must be performed by a tester certified under ORS**  
 37 **448.279. The licensing exemption established under this subsection does not exempt the landscape**  
 38 **contracting business from the inspection and permit requirements of ORS 447.010 to 447.156.**

39 **(3) A landscape contracting business licensed under ORS 671.560 or a construction con-**  
 40 **tractor licensed under ORS 701.021 (2) is not required to be licensed under ORS 447.010 to**  
 41 **447.156 to test, install, repair or maintain backflow assemblies installed in lines one-half inch**  
 42 **or less interior diameter that serve one and two family dwellings, if the work is performed**  
 43 **by a tester certified under ORS 448.279. The licensing exemptions established under this**  
 44 **subsection do not exempt a landscape contracting business or construction contractor from**  
 45 **the inspection and permit requirements of ORS 447.010 to 447.156.**

1           [(3)] (4) This section applies to any person, including but not limited to, individuals, corpo-  
 2           rations, associations, firms, partnerships, joint stock companies, public and municipal corporations,  
 3           political subdivisions, this state, the federal government and state or federal agencies.

4           **SECTION 5.** ORS 448.279 is amended to read:

5           448.279. (1) The Oregon Health Authority by rule shall establish a certification program for  
 6           persons who inspect cross-connections or test backflow assemblies. The program shall include mini-  
 7           mum qualifications necessary for a person to be certified to:

8           (a) Conduct a cross-connection inspection; and

9           [(b) Test a backflow assembly.]

10          **(b) Test, install, repair and maintain backflow assemblies:**

11          **(A) In lines one-half inch or less interior diameter that serve one and two family**  
 12          **dwelling; or**

13          **(B) Subject to the limitations described in ORS 447.060 (2), for irrigation systems and**  
 14          **ornamental water features.**

15          (2) Except for an employee of a water supplier as defined in ORS 448.115, a person certified  
 16          under this section must:

17          (a) Become licensed as a construction contractor with the Construction Contractors Board as  
 18          provided under ORS chapter 701; or

19          (b) Be employed by a landscape contracting business licensed under ORS 671.510 to 671.760.

20          (3) In conjunction with the certification program established under subsection (1) of this section,  
 21          the authority may establish and collect a fee from an individual requesting certification under the  
 22          program. A fee imposed under this subsection:

23          (a) Is not refundable; and

24          (b) May not exceed the cost of administering the certification program of the authority for  
 25          which purpose the fee is established, as authorized by the Legislative Assembly within the budget  
 26          of the authority and as the budget may be modified by the Emergency Board.

27          (4) The authority may not require a journeyman plumber licensed under ORS chapter 693 or an  
 28          apprentice plumber, as defined in ORS 693.010, to obtain a certification for testing, **installing, re-**  
 29          **pairing or maintaining** backflow assemblies [*under the program established*] **described** under this  
 30          section.

31          (5) All moneys collected by the Oregon Health Authority under this section shall be deposited  
 32          in the General Fund to the credit of an account of the authority. Such moneys are continuously  
 33          appropriated to the Oregon Health Authority to pay the cost of administering the certification pro-  
 34          gram established pursuant to this section and the cost of administering water system cross-  
 35          connection and backflow assembly programs.

36          **SECTION 6.** ORS 693.020 is amended to read:

37          693.020. (1) Except as provided in subsection (2) of this section, this chapter does not apply to:

38          (a) A person working on a building or premises owned by the person, regardless of whether the  
 39          person holds a license under this chapter, if the person complies with all the rules adopted under  
 40          this chapter and ORS 447.010 to 447.156 and ORS chapter 455.

41          (b) A person testing, repairing, servicing, maintaining, installing or replacing new or existing  
 42          potable water pump equipment not exceeding seven and one-half horsepower on residential property  
 43          and piping between the pumps and storage tanks for the pumps, regardless of whether the person  
 44          holds any license under this chapter.

45          (c) A person installing exterior storm drains that are not connected to a sanitary sewer or

1 combination sanitary storm sewer.

2 (d) An employee or contractor of a utility, energy service provider or water supplier who is in-  
 3 stallng an approved low-flow showerhead or faucet aerator in existing plumbing fixtures. The de-  
 4 vices installed under this paragraph are exempt from the certification, permit and inspection  
 5 requirements of this chapter and ORS 447.010 to 447.156.

6 (e) A person who owns, leases or operates residential property and who repairs, or uses regular  
 7 employees to repair, existing plumbing on property owned, leased or operated by the person, re-  
 8 gardless of whether the person or employee holds a license under this chapter. As used in this  
 9 paragraph:

10 (A) "Repair" means the act of replacing or putting together plumbing parts that restore the  
 11 existing plumbing system to a safe and sanitary operating condition.

12 (B) "Regular employee" means a person who is subject to the provisions of ORS 316.162 to  
 13 316.221 and who has completed a withholding exemptions certificate required by the provisions of  
 14 ORS 316.162 to 316.221.

15 (f) A person installing plumbing in a prefabricated structure, as defined in ORS 455.010, that is  
 16 designed for residential use and intended for delivery in another state.

17 **(g) A person certified under ORS 448.279, when performing work authorized under ORS**  
 18 **448.279.**

19 (2) Subsection (1)(a) to (d) of this section does not allow a person other than a journeyman  
 20 plumber or apprentice plumber to install, remodel or alter plumbing in a commercial or industrial  
 21 building being constructed or offered for sale, exchange, rent or lease. As used in this subsection,  
 22 "install, remodel or alter" means activities that involve installations or changes to the plumbing  
 23 inside a wall, floor, crawl space or ceiling, or a change in the configuration of a plumbing system.

24 (3) This section applies to any person, including but not limited to individuals, corporations,  
 25 associations, firms, partnerships, joint stock companies, public and municipal corporations, political  
 26 subdivisions, this state and any agencies thereof and the federal government and any agencies  
 27 thereof.

28 (4) Except as provided in subsection (1)(d) of this section, nothing in this section exempts a  
 29 person from the plumbing inspection requirements of ORS 447.010 to 447.156.

30 **SECTION 7. (1) The Department of Consumer and Business Services shall offer or ap-**  
 31 **prove sufficient qualification programs under section 2 of this 2010 Act no later than January**  
 32 **1, 2011, to enable journeyman plumbers and apprentice plumbers who successfully complete**  
 33 **the programs to meet American Society of Sanitary Engineering Series 5000-2009 standards.**  
 34 **This subsection does not limit the authority of the department to offer or approve additional**  
 35 **programs after January 1, 2011.**

36 **(2) The State Plumbing Board shall make cross-connection and backflow specialty cer-**  
 37 **tificates available to applicants under section 2 of this 2010 Act beginning no later than**  
 38 **January 1, 2011.**

39 **(3) Section 3 of this 2010 Act and the amendments to ORS 447.060, 448.279 and 693.020 by**  
 40 **sections 4, 5 and 6 of this 2010 Act apply to backflow assembly testing, installation, repair**  
 41 **and maintenance work performed on or after July 1, 2011.**

42 **SECTION 8. This 2010 Act being necessary for the immediate preservation of the public**  
 43 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**  
 44 **on its passage.**