



TEXAS DEPARTMENT OF LICENSING AND REGULATION

P.O. Box 12157, Capitol Station • Austin, Texas 78711
512-463-3173 • fax 512-475-2874 • www.license.state.tx.us

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OPINION COMMITTEE

FILE # ML-46469-10

I.D. # 46469

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 787011-2548

RQ-0891-GA

Re: Request for Opinion of the Attorney General on Scope of Licensed Pool-Related Electrical Service Under Occupations Code, Chapter 1305.

Dear General Abbott:

As executive director of the Texas Department of Licensing and Regulation (Department), I respectfully request an opinion concerning provisions of House Bill 1793 and Senate Bill 1982 as adopted by the 81st Legislature, Regular Session pursuant to Texas Government Code § 402.042(b)(2).

The purpose of this opinion request is to determine the following issue: Does Texas Occupations Code § 1305.002(12-a) and related governing provisions limit the work of a residential appliance installer performing pool-related electrical work to residential pools only, or does the scope of the license's authority allow work on both residential and commercial pools?

Background. In 2003, HB 1487 created a statewide license for electricians and included other professions, as codified in Texas Occupations Code Chapter 1305. In 2007, SB 1222 granted authority for residential appliance installers to obtain a limited electrical license to install appliances. In 2009, HB 1973 and SB 1982 authorized the inclusion of pool-related electrical work under the authority of the residential appliance installer license.

Texas Occupations Code § 1305.002(12-a) states:

(12-a) "residential appliance" means a pool-related electrical device, or equipment that:

- (A) is installed as a unit in a single-family or multifamily dwelling that does not exceed four stories;
(B) is directly connected to an electrical circuit; and
(C) performs a specific function.

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One view is that the Texas Occupations Code § 1305.002(12-a), paragraphs (A), (B), and (C) modify both the terms "pool-related electrical device" and "equipment." According to that interpretation, a pool-related electrical device that is installed as a unit in a single-family or multi-family dwelling that does not exceed four stories, is directly connected to an electrical circuit, and performs a specific function is a residential appliance. The significance of this interpretation is that a person licensed as a residential appliance installer is limited to performing pool related electrical work on residential pools only, not commercial pools. The Department recognizes "residential" as being defined by (12-a) (A) as "a single-family or multifamily dwelling that does not exceed four stories."

The Department has been presented with an alternative interpretation for your consideration:

While definitions control and terms are not self-defining, the residential elements are expressly carved out of "pool-related electrical device;" to wit:

§ 1305.002(12-a) "Residential appliance" means a pool-related electrical device, or equipment that:

- (A) is installed as a unit *in a single-family or multifamily dwelling that does not exceed four stories;*
- (B) is directly connected to an electrical circuit; and
- (C) performs a specific function.

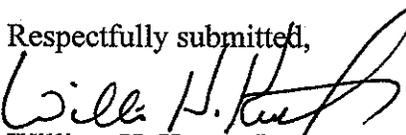
§ 1305.002(15) "Pool-related electrical device" means equipment for a pool that:

- (A) is installed as a unit;
- (B) is directly connected to an electrical circuit; and
- (C) performs a specific function.

Thus, "pool-related electrical device" is a separate and distinct classification from the equipment classification in § 1305.002(12-a). Additionally, the comma after the word "device" in § 1305.002(12-a) underscores – particularly relative to the comparative definition in § 1305.002(15) – the disjunctive separation meant by the word "or," which therefore provides for service for *both* residential and commercial consumers.

Thank you very much for your consideration. If I may be of any further service prior to publication of your Opinion, please contact me at (512) 463-3173 or by email at bill@license.state.tx.us.

Respectfully submitted,



William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

c: C.J. Tredway
1801 Lavaca Street, Suite 13L
Austin, Texas 78701

Steve Koebele
1108 Lavaca Street, Suite 110-484
Austin, Texas 78701