

WORKING DRAFT

HOUSE BILL NO. _____

Public safety-contractor licensing.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to public safety; providing for the
2 licensing of contractors and subcontractors as specified;
3 providing for suspension, revocation and reinstatement of
4 licenses; specifying unlawful acts; specifying duties of
5 the council on fire prevention and electrical safety in
6 buildings and the state fire marshal; providing penalties;
7 providing an appropriation; authorizing additional
8 positions; and providing for an effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 35-9-143 through 35-9-147 are created
13 to read:

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15 **35-9-143. Definitions.**

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2 (a) As used in W.S. 35-9-143 through 35-9-147:

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4 (i) "Building construction" means the
5 construction, reconstruction, alteration, repair, addition
6 to, subtraction from, improvement of, wrecking or
7 demolition of any building;

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9 (iii) "Building construction contractor" means:

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11 (A) A person who, through his own direct
12 efforts or through labor of others, undertakes building
13 construction for another, under circumstances in which the
14 construction requires a plan review under W.S. 35-9-108; or

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***** STAFF COMMENTS *****

16

**Plan reviews under 35-9-108 are required for new
construction or remodeling of the following:**

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19 (i) Buildings or structures owned or leased by
20 the state or local governmental entities;

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(ii) Public buildings over five thousand (5,000)
square feet of total floor area including
basement;

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(iii) Multistory public buildings;

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(iv) Buildings intended for use as child care
centers housing more than ten (10) children;

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(v) Public bars, public lounges, restaurants,
night clubs, lodge halls, theaters, churches or
public meeting places regardless of size;

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(vi) Public and private aboveground fuel
dispensing facilities.
Remodeling is exempted unless it is over \$25,000;
or affects a built-in fire protection system.

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(B) A person who in any capacity offers to undertake or purports to have the capacity to undertake, building construction for another, under circumstances in which the construction would require a plan review under W.S. 35-9-108.

(iii) "Building construction subcontractor" means a person who, through his own direct efforts or through labor of others, undertakes or offers to undertake building construction upon any of the following for a building construction contractor, under circumstances in which the construction being done by the contractor requires a plan review under W.S. 35-9-108:

(A) Roofing;

(B) Excavation;

(C) Heating or cooling systems;

(D) Ventilation systems;

(E) Plumbing;

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(F) Fire sprinkler or alarm systems;

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(G) Mechanical systems.

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(iv) "Council" means the council on fire prevention and electrical safety in buildings;

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35-9-144. Contractor and subcontractor licensing.

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(a) The council shall:

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(i) Develop or approve standards relating to the necessary training and testing of building construction contractors and subcontractors in this state, including the establishment of minimum educational requirements, in conformance with the standards for certification prescribed by the International Code Council;

(ii) Develop or approve standards relating to the qualifications of building construction contractors and subcontractors, including minimum insurance or other coverage requirements;

1 (iii) Establish procedures for application for
2 licensure as a building construction contractor or
3 subcontractor, including the development or approval of
4 application forms;

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6 (iv) Hear appeals from any denial by the state
7 fire marshal of an application for a contractor's or
8 subcontractor's license;

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10 (v) Suspend or revoke a building construction
11 contractor's or subcontractor's license if, after an
12 opportunity for a contested case hearing in accordance with
13 the Wyoming Administrative Procedure Act and upon a showing
14 by clear and convincing evidence, the council determines
15 that:

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17 (A) Any insurance or other coverage
18 required by rules and regulations promulgated by the has
19 ceased to be in effect;

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21 (B) The building construction contractor or
22 subcontractor has made a misstatement of a material fact
23 during or has failed to pay any required fee in the
24 licensing process; or

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(C) The building construction contractor or subcontractor has been convicted of or engaged in conduct constituting a violation of any laws, ordinances or rules of this state, or any subdivision thereof, which relate to building construction contracting, reflect on the licensee's ability or qualifications to continue contracting or make the licensee a threat to public safety, health or welfare.

(vi) Establish reasonable fees to be charged for application, licensure, renewal and for other purposes pursuant to W.S. 35-9-143 through 35-9-147. Fees established pursuant to this paragraph for application, licensure or renewal shall not exceed four hundred dollars (\$400.00) during any one (1) year period. Licenses issued pursuant to W.S. 35-9-143 through 35-9-147 shall be valid for a period of one (1) year from the date of issuance;

(vii) Exercise such powers and duties as are reasonably necessary to carry out W.S. 35-9-143 through 35-9-147, including adopting rules in accordance with the Wyoming Administrative Procedure Act.

1 (b) The council shall have the power to enter into
2 interstate or intrastate agreements and associations with
3 other councils or boards of licensure for the purpose of
4 establishing reciprocity, developing examinations,
5 evaluating applicants, establishing a tiered system of
6 licenses or other activities to enhance the services of the
7 board to the state, the licensee and the public. If the
8 council determines that another state has substantially
9 equivalent requirements and reciprocity exists between the
10 states, an applicant from such other state may obtain a
11 license to be a building construction contractor or
12 subcontractor in this state.

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14 (c) All fees established and collected pursuant to
15 this section shall be deposited with the state treasurer
16 who shall credit the monies to a contractor licensing
17 account. All monies credited to the account shall be
18 expended only upon appropriation by the legislature to
19 defray costs and expenses incurred in the administration of
20 the duties of the council and the department under W.S. 35-
21 9-143 through 35-9-147. Disbursements from the account
22 shall not exceed the monies credited to it.

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1 **35-9-145. Suspension or revocation of license; public**
2 **list; reinstatement.**

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4 (a) The council shall maintain a list for public
5 inspection of all building construction contractors and
6 subcontractors licensed under W.S. 35-9-143 through 35-9-
7 147 and of those whose licenses have been suspended or
8 revoked.

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10 (b) A building construction contractor or
11 subcontractor licensed pursuant to W.S. 35-9-143 through
12 35-9-147 shall have all rights accorded to persons in
13 contested case hearings pursuant to the Wyoming
14 Administrative Procedure Act, including the right to
15 judicial review.

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17 (c) In addition to other remedies provided by other
18 law to a building construction contractor or subcontractor
19 whose license has been suspended or revoked, the council
20 may reinstate a suspended or revoked license upon a showing
21 that:

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23 (i) The grounds therefore have been eliminated;

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1 (ii) The violation is not likely to reoccur in
2 the future; and

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4 (iii) The public interest is not jeopardized by
5 the reinstatement of the license.

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7 **35-9-146. Unlawful activities; penalties.**

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9 (a) On and after January 1, 2006, it shall be
10 unlawful for:

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12 (i) Any person to engage in the business of, or
13 otherwise act as, a building construction contractor or
14 subcontractor in this state without having a valid license
15 issued pursuant to W.S. 35-9-143 through 35-9-147;

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17 (ii) A building construction contractor to
18 engage a subcontractor to provide services if the work of
19 the subcontractor, requires the subcontractor to be
20 licensed under W.S. 35-9-143 through 35-9-147, unless the
21 subcontractor furnishes satisfactory proof to the
22 contractor that the subcontractor is properly licensed
23 under those provisions.

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1 (b) Any violation of subsection (a) of this section
2 shall be a misdemeanor punishable by a fine of not more
3 than one thousand dollars (\$1,000.00).

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5 **35-9-147. Limitations and exceptions.**

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7 (a) Nothing in W.S. 35-9-143 through 35-9-147 shall be
8 construed to apply to building construction of or related
9 to:

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11 (i) Farms or ranches of forty (40) acres or more
12 on deeded land;

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14 (ii) County memorial hospitals, state-owned
15 health care institutions, hospital districts, private
16 hospitals and other health care facilities, except as
17 permitted pursuant to W.S. 35-9-121.1;

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19 (iii) Mines or their appurtenant facilities, oil
20 field operations, petroleum refineries and liquefied
21 petroleum gas facilities;

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1 (iv) Railway shops, railway buildings (except
2 those used for public assembly, cafeterias, dormitories,
3 etc.), rolling stock and locomotive equipment;

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5 (v) Fertilizer manufacturing facilities,
6 foundries, power plants and other utilities;

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8 (vi) Dams, roads, highways or other works of
9 internal improvement;

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11 (vii) Buildings constructed by a school or
12 community college district as part of an industrial arts
13 curriculum, under the direct supervision of a qualified
14 industrial arts instructor.

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16 (b) No person shall be required to be licensed
17 pursuant to W.S. 35-9-143 through 35-9-147 who:

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19 (i) Performs building construction services as
20 an employee under the direct supervision of a licensed
21 building construction contractor or subcontractor and who
22 has daily wages as his sole compensation;

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1 (ii) Serves as a professional architect or
2 engineer acting solely in his professional capacity;

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4 (iii) Is licensed by the chief electrical
5 inspector under W.S. 35-9-122 and is acting within the
6 scope of that license.

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8 **Section 2.** W.S. 35-9-106 by creating a new subsection
9 (d) and 35-9-107(a) by creating a new paragraph (viii) and
10 (b) by creating a new paragraph (v) are amended to read:

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12 **35-9-106. Powers and duties of council.**

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14 (d) The council shall hear appeals from any person
15 whose application for a contractor or subcontractor license
16 was denied by the state fire marshal.

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18 **35-9-107. Duties and powers of state fire marshal.**

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20 (a) The state fire marshal shall:

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22 (viii) Issue or deny applications for contractor
23 and subcontractor licenses in accordance with rules of the
24 council.

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2 (b) The state fire marshal may:

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4 (v) Recommend to the council the suspension or
5 revocation of a contractor or subcontractor license in
6 accordance with W.S. 35-9-144(a)(iv) and 35-9-145.

7

8 **Section 3.**

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10 (a) There is appropriated from the general fund one
11 hundred eighty thousand dollars (\$180,000.00) to the
12 department of fire prevention and electrical safety for the
13 period beginning July 1, 2005, and ending June 30, 2006, to
14 fund the additional positions authorized by this act and
15 other operation expenses of the council on fire prevention
16 and electrical safety in buildings under this act.

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18 (b) For the period beginning July 1, 2005, and ending
19 June 30, 2006, the department of fire prevention and
20 electrical safety is authorized two (2) additional full-
21 time positions for purposes of this act.

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23 **Section 4.**

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1 (a) The state fire marshal and council on fire
2 prevention and electrical safety in buildings shall begin
3 licensing and performing their duties under this act upon
4 the effective date of this act. However, no person shall
5 be required to be licensed pursuant to this act prior to
6 January 1, 2006.

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8 (b) A person who has acted as a building contractor
9 or subcontractor for a minimum of three (3) consecutive
10 years within this state prior to the effective date of this
11 act shall be licensed by the state fire marshal upon
12 application, payment of the fee established pursuant to
13 W.S. 35-9-143 and proof of any minimum insurance standards
14 adopted by the council pursuant to W.S. 35-9-143. The
15 state fire marshal shall not apply education, training,
16 testing or other standards or requirements developed
17 pursuant to W.S. 35-9-143 to such applicants.

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19 **Section 5.** This act is effective July 1, 2005.

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