

WORKING DRAFT

HOUSE BILL NO. _____

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 creating a division of contractor licensing; providing an
8 appropriation; authorizing additional positions; and
9 providing for an effective date.

10

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

12

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

15

1 **35-9-143. Definitions.**

2

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

4

5 (i) "Building construction" means the
6 construction, reconstruction, alteration, repair, addition
7 to, subtraction from, improvement of, wrecking or
8 demolition of any building, excavation or other structure,
9 including plumbing and mechanical works or systems, or to
10 do any part thereof, including the erection of scaffolding
11 or other structures, works or systems in connection
12 therewith;

13

14 (ii) "Building construction contractor" means:

15

16 (A) A person who, through his own direct
17 efforts or through labor of others, undertakes building
18 construction for another; or

19

20 (B) A person who in any capacity offers to
21 undertake or purports to have the capacity to undertake,
22 building construction for another.

23

1 (iii) "Building construction subcontractor"
2 means a person who, through his own direct efforts or
3 through labor of others, undertakes or offers to undertake
4 building construction for a building construction
5 contractor.

6

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

9

10 **35-9-144. Contractor and subcontractor licensing.**

11

12 (a) The council shall:

13

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

20

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

1

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

6

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

10

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

17

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

21

22 (B) The building construction contractor or
23 subcontractor has made a misstatement of a material fact

1 during or has failed to pay any required fee in the
2 licensing process; or

3

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

12

13 (vi) Establish reasonable fees to be charged for
14 application, licensure, renewal and for other purposes
15 pursuant to W.S. 35-9-143 through 35-9-147. Fees
16 established pursuant to this paragraph for application,
17 licensure or renewal shall not exceed four hundred dollars
18 (\$400.00) during any one (1) year period. Licenses issued
19 pursuant to W.S. 35-9-143 through 35-9-147 shall be valid
20 for a period of one (1) year from the date of issuance;

21

22 (vii) Exercise such powers and duties as are
23 reasonably necessary to carry out W.S. 35-9-143 through

1 35-9-147, including adopting rules in accordance with the
2 Wyoming Administrative Procedure Act.

3

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

16

17 (c) All fees established and collected pursuant to
18 this section shall be deposited with the state treasurer
19 who shall credit the monies to a contractor licensing
20 account. All monies credited to the account shall be
21 expended only upon appropriation by the legislature to
22 defray costs and expenses incurred in the administration of
23 the duties of the council and the contractor licensing
24 division under W.S. 35-9-143 through 35-9-147.

1 Disbursements from the account shall not exceed the monies
2 credited to it.

3

4 **35-9-145. Suspension or revocation of license; public**
5 **list; reinstatement.**

6

7 (a) The council shall maintain a list for public
8 inspection of all building construction contractors and
9 subcontractors licensed under W.S. 35-9-143 through 35-9-
10 147 and of those whose licenses have been suspended or
11 revoked.

12

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

19

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

1

2 (i) The grounds therefore have been eliminated;

3

4 (ii) The violation is not likely to reoccur in
5 the future; and

6

7 (iii) The public interest is not jeopardized by
8 the reinstatement of the license.

9

10 **35-9-146. Unlawful activities; penalties.**

11

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

14

15 (i) Any person to engage in the business of, or
16 otherwise act as, a building construction contractor or
17 subcontractor in this state without having a valid license
18 issued pursuant to W.S. 35-9-143 through 35-9-147, or a
19 valid license or permit issued by a municipality or county.20 **A person licensed or granted a permit by a municipality or**
21 **county to act as a building construction contractor shall**
22 **be authorized to act pursuant to that license or permit**
23 **only within the boundaries of the entity issuing the**
24 **license or permit;**

1

2 (ii) A building construction contractor to
3 engage a subcontractor to provide services if the work of
4 the subcontractor, requires the subcontractor to be
5 licensed under W.S. 35-9-143 through 35-9-147, unless the
6 subcontractor furnishes satisfactory proof to the
7 contractor that the subcontractor is properly licensed
8 under those provisions **or under a license or permit issued**
9 **by a municipality or county. A person licensed or granted**
10 **a permit by a municipality or county to act as a building**
11 **construction subcontractor shall be authorized to act**
12 **pursuant to that license or permit only within the**
13 **boundaries of the entity issuing the license or permit;**

14

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

18

19 **35-9-147. Limitations and exceptions.**

20

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

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1 (i) Farms or ranches of forty (40) acres or more
2 on deeded land;

3

4 (ii) County memorial hospitals, state-owned
5 health care institutions, hospital districts, private
6 hospitals and other health care facilities, except as
7 permitted pursuant to W.S. 35-9-121.1;

8

9 (iii) Mines or their appurtenant facilities, oil
10 field operations, petroleum refineries and liquefied
11 petroleum gas facilities;

12

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

16

17 (v) Fertilizer manufacturing facilities,
18 foundries, power plants and other utilities;

19

20 (vi) Dams, roads, highways or other works of
21 internal improvement;

22

23 (vii) Buildings constructed by a school or
24 community college district as part of an industrial arts

1 curriculum, under the direct supervision of a qualified
2 industrial arts instructor;

3

4 **(viii) Building construction for which the**
5 **compensation received by the building construction**
6 **contractor for the entire building construction project**
7 **does not exceed two thousand dollars (\$2,000.00).**

8

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

11

12 (i) Performs building construction services as
13 an employee under the direct supervision of a licensed
14 building construction contractor or subcontractor and who
15 has daily wages as his sole compensation;

16

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

19

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

23

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

4

5 **35-9-103. Divisions created; council, board and**
6 **authority created.**

7

8 (a) There are created within the department:

9

10 (v) The contractor licensing division.

11

12 (b) The council consists of ~~five (5)~~ seven (7)
13 members appointed by the governor for six (6) year terms
14 which commence on April 1 following appointment. One (1)
15 member shall be appointed to represent each of the
16 following: counties or municipalities, fire fighters, the
17 electrical board, an association of architects, ~~or~~ an
18 association of general contractors, mechanical contractors
19 and the general public. Vacancies shall be filled for the
20 unexpired term. When new appointments are made, the
21 council shall select a chairman, a vice chairman and a
22 secretary. A quorum consists of ~~three (3)~~ four (4)
23 members. The council shall meet at least twice each year.

24

1 **35-9-105. Division administrators; qualifications.**

2

3 (a) After consultation with the council and the
4 governor, the state fire marshal shall appoint:

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6 (iii) The administrator of the contractor
7 licensing division.

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9 (b) The chief deputy fire marshal, ~~and~~ the chief
10 electrical inspector and the administrator of the
11 contractor licensing division shall devote full time to the
12 duties of the office and shall be directly responsible to
13 the state fire marshal.

14

15 **35-9-106. Powers and duties of council.**

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

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21 **35-9-107. Duties and powers of state fire marshal.**

22

23 (a) The state fire marshal shall:

24

1 (viii) Issue or deny applications for contractor
2 and subcontractor licenses in accordance with rules of the
3 council.

4
5 (b) The state fire marshal may:

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

10
11 **Section 3.**

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

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

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Section 4.

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