

Effective 5/13/2014

58-55-501 Unlawful conduct.

Unlawful conduct includes:

- (1) engaging in a construction trade, acting as a contractor, an alarm business or company, or an alarm company agent, or representing oneself to be engaged in a construction trade or to be acting as a contractor in a construction trade requiring licensure, unless the person doing any of these is appropriately licensed or exempted from licensure under this chapter;
- (2) acting in a construction trade, as an alarm business or company, or as an alarm company agent beyond the scope of the license held;
- (3) hiring or employing a person who is not licensed under this chapter to perform work on a project, unless the person:
 - (a) is an employee of a person licensed under this chapter for wages; and
 - (b) is not required to be licensed under this chapter;
- (4) applying for or obtaining a building permit either for oneself or another when not licensed or exempted from licensure as a contractor under this chapter;
- (5) issuing a building permit to any person for whom there is no evidence of a current license or exemption from licensure as a contractor under this chapter;
- (6) applying for or obtaining a building permit for the benefit of or on behalf of any other person who is required to be licensed under this chapter but who is not licensed or is otherwise not entitled to obtain or receive the benefit of the building permit;
- (7) failing to obtain a building permit when required by law or rule;
- (8) submitting a bid for any work for which a license is required under this chapter by a person not licensed or exempted from licensure as a contractor under this chapter;
- (9) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to obtain or renew a license under this chapter;
- (10) allowing one's license to be used by another except as provided by statute or rule;
- (11) doing business under a name other than the name appearing on the license, except as permitted by statute or rule;
- (12) if licensed as a specialty contractor in the electrical trade or plumbing trade, journeyman plumber, residential journeyman plumber, journeyman electrician, master electrician, or residential electrician, failing to directly supervise an apprentice under one's supervision or exceeding the number of apprentices one is allowed to have under the speciality contractor's supervision;
- (13) if licensed as a contractor or representing oneself to be a contractor, receiving any funds in payment for a specific project from an owner or any other person, which funds are to pay for work performed or materials and services furnished for that specific project, and after receiving the funds to exercise unauthorized control over the funds by failing to pay the full amounts due and payable to persons who performed work or furnished materials or services within a reasonable period of time;
- (14) employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except as permitted under the exemption from licensure provisions under Section 58-1-307;
- (15) if licensed as an alarm company or alarm company agent, filing with the division fingerprint cards for an applicant which are not those of the applicant, or are in any other way false or fraudulent and intended to mislead the division in its consideration of the applicant for licensure;
- (16) if licensed under this chapter, willfully or deliberately disregarding or violating:
 - (a) the building or construction laws of this state or any political subdivision;
 - (b) the safety and labor laws applicable to a project;

- (c) any provision of the health laws applicable to a project;
- (d) the workers' compensation insurance laws of the state applicable to a project;
- (e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or
- (f) reporting, notification, and filing laws of this state or the federal government;
- (17) aiding or abetting any person in evading the provisions of this chapter or rules established under the authority of the division to govern this chapter;
- (18) engaging in the construction trade or as a contractor for the construction of residences of up to two units when not currently registered or exempt from registration as a qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act;
- (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a written contract the notification required in Section 38-11-108;
- (20) wrongfully filing a preconstruction or construction lien in violation of Section 38-1a-308;
- (21) if licensed as a contractor, not completing the approved continuing education required under Section 58-55-302.5;
- (22) an alarm company allowing an employee with a temporary license under Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);
- (23) an alarm company agent under a temporary license under Section 58-55-312 engaging in conduct outside the scope of the temporary license, as provided in Subsection 58-55-312(3)(a)(ii);
- (24)
 - (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States; or
 - (b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah while not lawfully present in the United States;
- (25) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or for an individual who engages, or will engage, in a construction trade in Utah for a separate entity for which the unincorporated entity provides the individual as labor:
 - (a) workers' compensation coverage:
 - (i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; or
 - (ii) that would be required under the chapters listed in Subsection (25)(a)(i) if the unincorporated entity were licensed under this chapter; and
 - (b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (26) the failure of a sign installation contractor or nonelectrical outdoor advertising sign contractor, as classified and defined in division rules, to:
 - (a) display the contractor's license number prominently on a vehicle that:
 - (i) the contractor uses; and
 - (ii) displays the contractor's business name; or
 - (b) carry a copy of the contractor's license in any other vehicle that the contractor uses at a job site, whether or not the vehicle is owned by the contractor;

(27)

- (a) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual; or
 - (b) an unincorporated entity providing labor to an entity licensed under this chapter by providing an individual, who owns an interest in the unincorporated entity, to engage in a construction trade in the state while the individual is using a Social Security number that does not belong to that individual;
- (28) a contractor failing to comply with a requirement imposed by a political subdivision, state agency, or board of education under Section 58-55-310; or
- (29) failing to timely comply with the requirements described in Section 58-55-605.

Amended by Chapter 188, 2014 General Session