

WATER WELL AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Darin G. Peterson

LONG TITLE

General Description:

This bill amends provisions related to water well drilling.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "well drilling";
- ▶ amends well drilling licensing and construction provisions; and
- ▶ amends well drilling bonding provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-305, as last amended by Chapter 104, Laws of Utah 2003

73-3-24, as last amended by Chapter 25, Laws of Utah 1987

73-3-25, as last amended by Chapters 25 and 161, Laws of Utah 1987

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-55-305** is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

- (a) an authorized representative of the United States government or an authorized

employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or

employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Subsection 73-3-24(3), hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on construction work incidental to their own business;

(d) sole owners of property engaged in building:

(i) no more than one residential structure per year and no more than three residential structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure;

(ii) for purposes of this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided

by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$1,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work;

(ii) notwithstanding Subsection (1)(h)(i):

(A) work in the plumbing and electrical trades must be performed by a licensed electrician or plumber except as otherwise provided in this section; and

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system must be performed by a person who has received certification under Subsection 58-55-308(2);

(i) a person practicing a specialty contractor classification or construction trade which is not classified by rule by the director as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k) (i) a person engaged in minor plumbing work incidental to the replacement or repair of a fixture or an appliance in a residential or small commercial building, or structure used for

agricultural use, as defined in Section 58-56-4, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system;

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by or under contract with:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation; and

(o) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits.

(2) (a) A compliance agency as defined in Subsection 58-56-3(4) that issues a building permit to any person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the

permit.

(b) The division shall evaluate the effectiveness of the notification requirement under Subsection (2)(a) and report its findings, including any recommendations for modification to or termination of the requirement, to the Legislature's Business and Labor Interim Committee prior to the 2008 General Session.

Section 2. Section **73-3-24** is amended to read:

73-3-24. Definitions.

As used in this chapter:

(1) "Well" means an excavation or opening into the ground made by digging, boring, drilling, jetting, driving, or any other artificial method for utilizing or monitoring underground waters.

(2) "Well driller" means any person that constructs a well for compensation or otherwise.

(3) "Well drilling" means the act of drilling, constructing, repairing, [or] renovating, deepening, cleaning, developing, or abandoning a well~~[, including all incidental work]~~.

Section 3. Section **73-3-25** is amended to read:

73-3-25. Wells driller's license -- Bond -- Revocation or suspension for noncompliance.

(1) (a) Every person that constructs a well in the state shall obtain a license from the state engineer.

(b) The state engineer shall enact rules defining the form, the expiration date, and the renewal cycle of the application for a license.

(c) ~~[All well]~~ Well drillers' licenses ~~[expire on the 31st day of December following their issuance and]~~ are not transferable. The state engineer shall enact rules for well construction according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) (i) ~~[No]~~ A person ~~[may construct]~~ who constructs a well in this state ~~[without]~~ must first [obtaining] obtain a license as provided in this section.

(ii) ~~[No]~~ Before a well driller's license will be issued ~~[without]~~, the applicant ~~[filing a~~

~~\$5,000 penal]~~ must file a well driller bond with the state engineer.

(iii) The bond shall be made payable to the Office of the State Engineer.

(iv) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the state engineer may make rules to set the amount, form, and general administrative requirements of a well driller bond. Proper compliance with the provisions of this section and the rules enacted under the authority of this section are required to obtain or renew a license.

(b) (i) Well drillers shall comply with the rules enacted by the state engineer under this chapter.

(ii) If the state engineer determines, following an investigation, that the licensee has failed to comply with these rules, the state engineer may revoke or suspend the license, and exact the bond and deposit the money as a nonlapsing dedicated credit.

(iii) The state engineer may expend the funds to investigate or correct any deficiencies which could adversely affect the public interest resulting from noncompliance with the rules promulgated under this chapter by any well driller.

(iv) The state engineer may refuse to issue a license to a well driller if it appears that there has been a violation of the rules or a failure to comply with Section 73-3-22.