

Representative Darin G. Peterson proposes the following substitute bill:

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:



26 **58-55-305. Exemptions from licensure.**

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

30 (a) an authorized representative of the United States government or an authorized
31 employee of the state or any of its political subdivisions when working on construction work of
32 the state or the subdivision, and when acting within the terms of the person's trust, office, or
33 employment;

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

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

42 (d) sole owners of property engaged in building:

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

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

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

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

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

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

60 (A) minimal in value when compared with the fair market value of the services
61 provided by the person;

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

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

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

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

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

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

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

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

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

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

88 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
89 repair of a fixture or an appliance in a residential or small commercial building, or structure
90 used for agricultural use, as defined in Section 58-56-4, provided that no modification is made
91 to:

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

93 (B) a gas appliance or combustion system;

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

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

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

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

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

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

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

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

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

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

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

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

119 the permit.

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

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

125 **73-3-24. Definitions.**

126 As used in this chapter:

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

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

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

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

135 **73-3-25. Wells driller's license -- Bond -- Revocation or suspension for**
136 **noncompliance.**

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

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

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

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

147 (ii) ~~[No]~~ Before a well driller's license will be issued ~~[without]~~, the applicant ~~[filing a~~
148 ~~\$5,000 penal]~~ must file a well driller bond with the state engineer.

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

150 (iv) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

151 the state engineer may make rules to set the amount, form, and general administrative
152 requirements of a well driller bond. Proper compliance with the provisions of this section and
153 the rules enacted under the authority of this section are required to obtain or renew a license.

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

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

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

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