

1 **CONSTRUCTION TRADES LICENSING ACT AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Keven J. Stratton

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of Title 58, Chapter 55, Utah Construction Trades
10 Licensing Act, relating to an alarm business or company.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that an alarm business or company does not include a person engaged in
14 the manufacture or sale of alarm systems unless:

15 • that person is also engaged in the installation, maintenance, alteration, repair,
16 replacement, servicing, or monitoring of alarm systems;

17 • the manufacture or sale occurs at a location other than a place of business
18 established by the person engaged in the manufacture or sale; or

19 • the manufacture or sale involves site visits at the place or intended place of
20 installation of an alarm system; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **58-55-102**, as last amended by Laws of Utah 2013, Chapter 36

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

31 Section 1. Section **58-55-102** is amended to read:

32 **58-55-102. Definitions.**

33 In addition to the definitions in Section **58-1-102**, as used in this chapter:

34 (1) (a) "Alarm business or company" means a person engaged in the sale, installation,
35 maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system,
36 except as provided in Subsection (1)(b).

37 (b) "Alarm business or company" does not include:

38 (i) a person engaged in the manufacture [~~and~~] or sale of alarm systems [~~when~~] unless:

39 (A) that person is [~~not~~] also engaged in the installation, maintenance, alteration, repair,
40 replacement, servicing, or monitoring of alarm systems[~~;~~ and];

41 (B) the manufacture or sale occurs [~~only~~] at a location other than a place of business
42 established by the person engaged in the manufacture or sale [~~and does not involve~~]; or

43 (C) the manufacture or sale involves site visits at the place or intended place of
44 installation of an alarm system; or

45 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who
46 is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring
47 of the alarm system owned by that owner.

48 (2) "Alarm company agent":

49 (a) except as provided in Subsection (2)(b), means any individual employed within this
50 state by an alarm business; and

51 (b) does not include an individual who:

52 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement,
53 servicing, or monitoring of an alarm system; and

54 (ii) does not, during the normal course of the individual's employment with an alarm
55 business, use or have access to sensitive alarm system information.

56 (3) "Alarm system" means equipment and devices assembled for the purpose of:

57 (a) detecting and signaling unauthorized intrusion or entry into or onto certain

58 premises; or

59 (b) signaling a robbery or attempted robbery on protected premises.

60 (4) "Apprentice electrician" means a person licensed under this chapter as an
61 apprentice electrician who is learning the electrical trade under the immediate supervision of a
62 master electrician, residential master electrician, a journeyman electrician, or a residential
63 journeyman electrician.

64 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
65 plumber who is learning the plumbing trade under the immediate supervision of a master
66 plumber, residential master plumber, journeyman plumber, or a residential journeyman
67 plumber.

68 (6) "Approved continuing education" means instruction provided through courses
69 under a program established under Subsection 58-55-302.5(2).

70 (7) "Board" means the Electrician Licensing Board, Alarm System Security and
71 Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

72 (8) "Combustion system" means an assembly consisting of:

73 (a) piping and components with a means for conveying, either continuously or
74 intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the
75 appliance;

76 (b) the electric control and combustion air supply and venting systems, including air
77 ducts; and

78 (c) components intended to achieve control of quantity, flow, and pressure.

79 (9) "Commission" means the Construction Services Commission created under Section
80 58-55-103.

81 (10) "Construction trade" means any trade or occupation involving:

82 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
83 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
84 or other project, development, or improvement to other than personal property; and

85 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as

86 defined in Section 15A-1-302; or

87 (b) installation or repair of a residential or commercial natural gas appliance or
88 combustion system.

89 (11) "Construction trades instructor" means a person licensed under this chapter to
90 teach one or more construction trades in both a classroom and project environment, where a
91 project is intended for sale to or use by the public and is completed under the direction of the
92 instructor, who has no economic interest in the project.

93 (12) (a) "Contractor" means any person who for compensation other than wages as an
94 employee undertakes any work in the construction, plumbing, or electrical trade for which
95 licensure is required under this chapter and includes:

96 (i) a person who builds any structure on the person's own property for the purpose of
97 sale or who builds any structure intended for public use on the person's own property;

98 (ii) any person who represents that the person is a contractor by advertising or any
99 other means;

100 (iii) any person engaged as a maintenance person, other than an employee, who
101 regularly engages in activities set forth under the definition of "construction trade";

102 (iv) any person engaged in any construction trade for which licensure is required under
103 this chapter; or

104 (v) a construction manager who performs management and counseling services on a
105 construction project for a fee.

106 (b) "Contractor" does not include an alarm company or alarm company agent.

107 (13) (a) "Electrical trade" means the performance of any electrical work involved in the
108 installation, construction, alteration, change, repair, removal, or maintenance of facilities,
109 buildings, or appendages or appurtenances.

110 (b) "Electrical trade" does not include:

111 (i) transporting or handling electrical materials;

112 (ii) preparing clearance for raceways for wiring; or

113 (iii) work commonly done by unskilled labor on any installations under the exclusive

114 control of electrical utilities.

115 (c) For purposes of Subsection (13)(b):

116 (i) no more than one unlicensed person may be so employed unless more than five
117 licensed electricians are employed by the shop; and

118 (ii) a shop may not employ unlicensed persons in excess of the five-to-one ratio
119 permitted by this Subsection (13)(c).

120 (14) "Elevator" has the same meaning as defined in Section [34A-7-202](#), except that for
121 purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline
122 platform lift.

123 (15) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under
124 this chapter that is engaged in the business of erecting, constructing, installing, altering,
125 servicing, repairing, or maintaining an elevator.

126 (16) "Elevator mechanic" means an individual who is licensed under this chapter as an
127 elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing,
128 repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

129 (17) "Employee" means an individual as defined by the division by rule giving
130 consideration to the definition adopted by the Internal Revenue Service and the Department of
131 Workforce Services.

132 (18) "Engage in a construction trade" means to:

133 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged
134 in a construction trade; or

135 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person
136 to believe one is or will act as a contractor.

137 (19) (a) "Financial responsibility" means a demonstration of a current and expected
138 future condition of financial solvency evidencing a reasonable expectation to the division and
139 the board that an applicant or licensee can successfully engage in business as a contractor
140 without jeopardy to the public health, safety, and welfare.

141 (b) Financial responsibility may be determined by an evaluation of the total history

142 concerning the licensee or applicant including past, present, and expected condition and record
143 of financial solvency and business conduct.

144 (20) "Gas appliance" means any device that uses natural gas to produce light, heat,
145 power, steam, hot water, refrigeration, or air conditioning.

146 (21) (a) "General building contractor" means a person licensed under this chapter as a
147 general building contractor qualified by education, training, experience, and knowledge to
148 perform or superintend construction of structures for the support, shelter, and enclosure of
149 persons, animals, chattels, or movable property of any kind or any of the components of that
150 construction except plumbing, electrical work, mechanical work, work related to the operating
151 integrity of an elevator, and manufactured housing installation, for which the general building
152 contractor shall employ the services of a contractor licensed in the particular specialty, except
153 that a general building contractor engaged in the construction of single-family and multifamily
154 residences up to four units may perform the mechanical work and hire a licensed plumber or
155 electrician as an employee.

156 (b) The division may by rule exclude general building contractors from engaging in the
157 performance of other construction specialties in which there is represented a substantial risk to
158 the public health, safety, and welfare, and for which a license is required unless that general
159 building contractor holds a valid license in that specialty classification.

160 (22) (a) "General engineering contractor" means a person licensed under this chapter as
161 a general engineering contractor qualified by education, training, experience, and knowledge to
162 perform construction of fixed works in any of the following: irrigation, drainage, water, power,
163 water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports
164 and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring
165 specialized engineering knowledge and skill, piers, and foundations, or any of the components
166 of those works.

167 (b) A general engineering contractor may not perform construction of structures built
168 primarily for the support, shelter, and enclosure of persons, animals, and chattels.

169 (23) "Immediate supervision" means reasonable direction, oversight, inspection, and

170 evaluation of the work of a person:

171 (a) as the division specifies in rule;

172 (b) by, as applicable, a qualified electrician or plumber;

173 (c) as part of a planned program of training; and

174 (d) to ensure that the end result complies with applicable standards.

175 (24) "Individual" means a natural person.

176 (25) "Journeyman electrician" means a person licensed under this chapter as a

177 journeyman electrician having the qualifications, training, experience, and knowledge to wire,

178 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

179 (26) "Journeyman plumber" means a person licensed under this chapter as a

180 journeyman plumber having the qualifications, training, experience, and technical knowledge

181 to engage in the plumbing trade.

182 (27) "Master electrician" means a person licensed under this chapter as a master

183 electrician having the qualifications, training, experience, and knowledge to properly plan,

184 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment

185 for light, heat, power, and other purposes.

186 (28) "Master plumber" means a person licensed under this chapter as a master plumber

187 having the qualifications, training, experience, and knowledge to properly plan and layout

188 projects and supervise persons in the plumbing trade.

189 (29) "Person" means a natural person, sole proprietorship, joint venture, corporation,

190 limited liability company, association, or organization of any type.

191 (30) (a) "Plumbing trade" means the performance of any mechanical work pertaining to

192 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within

193 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

194 (i) delivery of the water supply;

195 (ii) discharge of liquid and water carried waste; or

196 (iii) the building drainage system within the walls of the building.

197 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,

198 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains
199 together with their devices, appurtenances, and connections where installed within the outside
200 walls of the building.

201 (31) (a) "Ratio of apprentices" means, for the purpose of determining compliance with
202 the requirements for planned programs of training and electrician apprentice licensing
203 applications, the shop ratio of apprentice electricians to journeyman or master electricians shall
204 be one journeyman or master electrician to one apprentice on industrial and commercial work,
205 and one journeyman or master electrician to three apprentices on residential work.

206 (b) On-the-job training shall be under circumstances in which the ratio of apprentices
207 to supervisors is in accordance with a ratio of one-to-one on nonresidential work and up to
208 three apprentices to one supervisor on residential projects.

209 (32) "Residential and small commercial contractor" means a person licensed under this
210 chapter as a residential and small commercial contractor qualified by education, training,
211 experience, and knowledge to perform or superintend the construction of single-family
212 residences, multifamily residences up to four units, and commercial construction of not more
213 than three stories above ground and not more than 20,000 square feet, or any of the components
214 of that construction except plumbing, electrical work, mechanical work, and manufactured
215 housing installation, for which the residential and small commercial contractor shall employ
216 the services of a contractor licensed in the particular specialty, except that a residential and
217 small commercial contractor engaged in the construction of single-family and multifamily
218 residences up to four units may perform the mechanical work and hire a licensed plumber or
219 electrician as an employee.

220 (33) "Residential building," as it relates to the license classification of residential
221 journeyman plumber and residential master plumber, means a single or multiple family
222 dwelling of up to four units.

223 (34) "Residential journeyman electrician" means a person licensed under this chapter
224 as a residential journeyman electrician having the qualifications, training, experience, and
225 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,

226 and other purposes on buildings using primarily nonmetallic sheath cable.

227 (35) "Residential journeyman plumber" means a person licensed under this chapter as a
228 residential journeyman plumber having the qualifications, training, experience, and knowledge
229 to engage in the plumbing trade as limited to the plumbing of residential buildings.

230 (36) "Residential master electrician" means a person licensed under this chapter as a
231 residential master electrician having the qualifications, training, experience, and knowledge to
232 properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus
233 and equipment for light, heat, power, and other purposes on residential projects.

234 (37) "Residential master plumber" means a person licensed under this chapter as a
235 residential master plumber having the qualifications, training, experience, and knowledge to
236 properly plan and layout projects and supervise persons in the plumbing trade as limited to the
237 plumbing of residential buildings.

238 (38) "Residential project," as it relates to an electrician or electrical contractor, means
239 buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules
240 and regulations governing this work, including the National Electrical Code, and in which the
241 voltage does not exceed 250 volts line to line and 125 volts to ground.

242 (39) "Sensitive alarm system information" means:

243 (a) a pass code or other code used in the operation of an alarm system;

244 (b) information on the location of alarm system components at the premises of a
245 customer of the alarm business providing the alarm system;

246 (c) information that would allow the circumvention, bypass, deactivation, or other
247 compromise of an alarm system of a customer of the alarm business providing the alarm
248 system; and

249 (d) any other similar information that the division by rule determines to be information
250 that an individual employed by an alarm business should use or have access to only if the
251 individual is licensed as provided in this chapter.

252 (40) (a) "Specialty contractor" means a person licensed under this chapter under a
253 specialty contractor classification established by rule, who is qualified by education, training,

254 experience, and knowledge to perform those construction trades and crafts requiring
255 specialized skill, the regulation of which are determined by the division to be in the best
256 interest of the public health, safety, and welfare.

257 (b) A specialty contractor may perform work in crafts or trades other than those in
258 which the specialty contractor is licensed if they are incidental to the performance of the
259 specialty contractor's licensed craft or trade.

260 (41) "Unincorporated entity" means an entity that is not:

- 261 (a) an individual;
- 262 (b) a corporation; or
- 263 (c) publicly traded.

264 (42) "Unlawful conduct" is as defined in Sections [58-1-501](#) and [58-55-501](#).

265 (43) "Unprofessional conduct" is as defined in Sections [58-1-501](#) and [58-55-502](#) and as
266 may be further defined by rule.

267 (44) "Wages" means amounts due to an employee for labor or services whether the
268 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
269 the amount.