

1 **OVERSIGHT AND ENFORCEMENT OF WORK**

2 **DONE ON MOBILE HOMES**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed Mayne**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the definition of construction trade in the Utah Construction Trades
10 Licensing Act.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ includes mobile homes within the definition of structures referred to in the Utah
14 Construction Trades Licensing Act, thereby giving the Division of Occupational and
15 Professional Licensing oversight of construction trades that construct, alter,
16 remodel, or repair mobile homes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **58-55-102**, as last amended by Chapters 39 and 75, Laws of Utah 2004

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

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

27 **58-55-102. Definitions.**



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

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

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

33 (i) a person engaged in the manufacture and sale of alarm systems when that person is
34 not engaged in the installation, maintenance, alteration, repair, replacement, servicing, or
35 monitoring of alarm systems, and the manufacture or sale occurs only at a place of business
36 established by the person engaged in the manufacture or sale and does not involve site visits at
37 the place or intended place of installation of an alarm system; or

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

41 (2) "Alarm company agent" means any individual employed within this state by a
42 person engaged in the alarm business.

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

44 (a) detecting and signaling unauthorized intrusion or entry into or onto certain
45 premises; or

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

47 (4) "Apprentice electrician" means a person licensed under this chapter as an
48 apprentice electrician who is learning the electrical trade under approved supervision of a
49 master electrician, residential master electrician, a journeyman electrician, or a residential
50 journeyman electrician.

51 (5) "Apprentice plumber" means a person licensed under this chapter as an apprentice
52 plumber who is learning the plumbing trade under approved supervision of a journeyman
53 plumber.

54 (6) "Approved supervision" means the immediate supervision of apprentices by
55 qualified licensed electricians or plumbers as a part of a planned program of training.

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

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

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

62 (b) the electric control and combustion air supply and venting systems; and

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

64 (9) "Commission" means the Construction Services Commission created under Section
65 58-55-103.

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

67 (a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition
68 to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation
69 or other project, development, or improvement to other than personal property; [~~or~~] and

70 (ii) for purposes of this Subsection (10)(a), a mobile home is considered a structure and
71 not an item of personal property; or

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

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

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

81 (i) a person who builds any structure on his own property for the purpose of sale or
82 who builds any structure intended for public use on his own property;

83 (ii) any person who represents himself to be a contractor by advertising or any other
84 means;

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

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

89 (v) a construction manager who performs management and counseling services on a

90 construction project for a fee.

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

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

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

96 (i) transporting or handling electrical materials;

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

98 (iii) work commonly done by unskilled labor on any installations under the exclusive
99 control of electrical utilities.

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

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

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

105 (14) "Employee" means an individual as defined by the division by rule giving
106 consideration to the definition adopted by the Internal Revenue Service and the Department of
107 Workforce Services.

108 (15) "Engage in a construction trade" means to:

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

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

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

117 (b) Financial responsibility may be determined by an evaluation of the total history
118 concerning the licensee or applicant including past, present, and expected condition and record
119 of financial solvency and business conduct.

120 (17) "Gas appliance" means any device that uses natural gas to produce light, heat,

121 power, steam, hot water, refrigeration, or air conditioning.

122 (18) (a) "General building contractor" means a person licensed under this chapter as a
123 general building contractor qualified by education, training, experience, and knowledge to
124 perform or superintend construction of structures for the support, shelter, and enclosure of
125 persons, animals, chattels, or movable property of any kind or any of the components of that
126 construction except plumbing, electrical work, mechanical work, and manufactured housing
127 installation, for which the general building contractor shall employ the services of a contractor
128 licensed in the particular specialty, except that a general building contractor engaged in the
129 construction of single-family and multifamily residences up to four units may perform the
130 mechanical work and hire a licensed plumber or electrician as an employee.

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

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

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

144 (20) "Immediate supervision" means reasonable direction, oversight, inspection, and
145 evaluation of the work of a person, in or out of the immediate presence of the supervising
146 person, so as to ensure that the end result complies with applicable standards.

147 (21) "Individual" means a natural person.

148 (22) "Journeyman electrician" means a person licensed under this chapter as a
149 journeyman electrician having the qualifications, training, experience, and knowledge to wire,
150 install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

151 (23) "Journeyman plumber" means a person licensed under this chapter as a

152 journeyman plumber having the qualifications, training, experience, and technical knowledge
153 to engage in the plumbing trade.

154 (24) "Master electrician" means a person licensed under this chapter as a master
155 electrician having the qualifications, training, experience, and knowledge to properly plan,
156 layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment
157 for light, heat, power, and other purposes.

158 (25) "Person" means a natural person, sole proprietorship, joint venture, corporation,
159 limited liability company, association, or organization of any type.

160 (26) (a) "Plumbing trade" means the performance of any mechanical work pertaining to
161 the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within
162 three feet beyond the outside walls of buildings of pipes, fixtures, and fittings for:

- 163 (i) delivery of the water supply;
- 164 (ii) discharge of liquid and water carried waste; or
- 165 (iii) the building drainage system within the walls of the building.

166 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes,
167 fixtures and fixture traps, soil, waste and vent pipes, and the building drain and roof drains
168 together with their devices, appurtenances, and connections where installed within the outside
169 walls of the building.

170 (27) (a) "Ratio of apprentices" means, for the purpose of determining compliance with
171 the requirements for planned programs of training and electrician apprentice licensing
172 applications, the shop ratio of apprentice electricians to journeyman or master electricians shall
173 be one journeyman or master electrician to one apprentice on industrial and commercial work,
174 and one journeyman or master electrician to three apprentices on residential work.

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

178 (28) "Residential and small commercial contractor" means a person licensed under this
179 chapter as a residential and small commercial contractor qualified by education, training,
180 experience, and knowledge to perform or superintend the construction of single-family
181 residences, multifamily residences up to four units, and commercial construction of not more
182 than three stories above ground and not more than 20,000 square feet, or any of the components

183 of that construction except plumbing, electrical work, mechanical work, and manufactured
184 housing installation, for which the residential and small commercial contractor shall employ
185 the services of a contractor licensed in the particular specialty, except that a residential and
186 small commercial contractor engaged in the construction of single-family and multifamily
187 residences up to four units may perform the mechanical work and hire a licensed plumber or
188 electrician as an employee.

189 (29) "Residential apprentice plumber" means a person licensed under this chapter as a
190 residential apprentice plumber who is learning the residential plumbing trade while working on
191 residential buildings under the approved supervision of a residential journeyman plumber or a
192 journeyman plumber.

193 (30) "Residential building," as it relates to the license classification of residential
194 apprentice plumber and residential journeyman plumber, means a single or multiple family
195 dwelling of up to four units.

196 (31) "Residential journeyman electrician" means a person licensed under this chapter
197 as a residential journeyman electrician having the qualifications, training, experience, and
198 knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power,
199 and other purposes on buildings using primarily nonmetallic sheath cable.

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

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

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

211 (35) "Specialty contractor" means a person licensed under this chapter under a
212 specialty contractor classification established by rule, who is qualified by education, training,
213 experience, and knowledge to perform those construction trades and crafts requiring

214 specialized skill, the regulation of which are determined by the division to be in the best
215 interest of the public health, safety, and welfare. A specialty contractor may perform work in
216 crafts or trades other than those in which he is licensed if they are incidental to the performance
217 of his licensed craft or trade.

218 (36) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-55-501.

219 (37) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-55-502 and as
220 may be further defined by rule.

221 (38) "Wages" means amounts due to an employee for labor or services whether the
222 amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating
223 the amount.

Legislative Review Note
as of 2-2-05 9:38 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0223

Oversight and Enforcement of Work Done on Mobile Homes

07-Feb-05

12:09 PM

State Impact

Implementation can be handled within existing budgets.

Individual and Business Impact

Persons working on mobile/manufactured homes would be subject to oversight by the Department of Commerce.

Office of the Legislative Fiscal Analyst