

**SECURITY ALARM BUSINESS LICENSING**

**AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Stephen H. Urquhart

---

---

**LONG TITLE**

**General Description:**

This bill modifies the Utah Construction Trades Licensing Act by requiring that a person be licensed in order to work on alarm systems.

**Highlighted Provisions:**

This bill:

▶ requires that work as a security alarm business or company or as an alarm company agent be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in the Utah Construction Trades

Licensing Act;

▶ prohibits employing an unlicensed alarm business or company or an unlicensed individual as an alarm company agent, except under specified exemptions; and

▶ requires an alarm business or company to be licensed to maintain or commence action for collection of compensation for work performed for which a license is required.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 **58-55-305**, as last amended by Laws of Utah 2007, Chapter 186

30 **58-55-501**, as last amended by Laws of Utah 2004, Chapter 45

31 **58-55-604**, as renumbered and amended by Laws of Utah 1994, Chapter 181



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

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

35 **58-55-305. Exemptions from licensure.**

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

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

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

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

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

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

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

59 garages;

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

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

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

66 (ii) ~~[for purposes of]~~ as used in this Subsection (1)(e), "token compensation" means  
67 compensation paid by a sole owner of property exempted from licensure under Subsection  
68 (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

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

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

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

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

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

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

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

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

88 (B) installation, repair, or replacement of a residential or commercial gas appliance or a  
89 combustion system must be performed by a person who has received certification under

90 Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or  
91 58-55-308(3); ~~and~~

92 (C) installation, repair, or replacement of water-based fire protection systems must be  
93 performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;  
94 and

95 (D) work as an alarm business or company or as an alarm company agent shall be  
96 performed by a licensed alarm business or company or a licensed alarm company agent, except  
97 as otherwise provided in this chapter;

98 (i) a person practicing a specialty contractor classification or construction trade which  
99 ~~[is not classified by rule by]~~ the director does not classify by administrative rule as significantly  
100 impacting the public's health, safety, and welfare;

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

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

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

109 (B) a gas appliance or combustion system; and

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

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

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

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

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

120 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator

121 contractors or constructors, or street railway systems; or

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

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

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

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

131 (ii) a licensed contractor obtains the necessary building permits; and

132 (p) a delivery person when replacing any of the following existing equipment with a  
133 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

134 (i) gas range;

135 (ii) gas dryer;

136 (iii) outdoor gas barbeque; or

137 (iv) outdoor gas patio heater.

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

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

146 Section 2. Section **58-55-501** is amended to read:

147 **58-55-501. Unlawful conduct.**

148 Unlawful conduct includes:

149 (1) engaging in a construction trade, acting as a contractor, an alarm business or  
150 company, or an alarm company agent, or representing oneself to be engaged in a construction  
151 trade or to be acting as a contractor in a construction trade requiring licensure, unless the

152 person doing any of these is appropriately licensed or exempted from licensure under this  
153 chapter;

154 (2) acting in a construction trade, as an alarm business or company, or as an alarm  
155 company agent beyond the scope of the license held;

156 (3) hiring or employing in any manner an unlicensed person, other than an employee  
157 for wages who is not required to be licensed under this chapter, to engage in a construction  
158 trade for which licensure is required or to act as a contractor or subcontractor in a construction  
159 trade requiring licensure;

160 (4) applying for or obtaining a building permit either for oneself or another when not  
161 licensed or exempted from licensure as a contractor under this chapter;

162 (5) issuing a building permit to any person for whom there is no evidence of a current  
163 license or exemption from licensure as a contractor under this chapter;

164 (6) applying for or obtaining a building permit for the benefit of or on behalf of any  
165 other person who is required to be licensed under this chapter but who is not licensed or is  
166 otherwise not entitled to obtain or receive the benefit of the building permit;

167 (7) failing to obtain a building permit when required by law or rule;

168 (8) submitting a bid for any work for which a license is required under this chapter by a  
169 person not licensed or exempted from licensure as a contractor under this chapter;

170 (9) willfully or deliberately misrepresenting or omitting a material fact in connection  
171 with an application to obtain or renew a license under this chapter;

172 (10) allowing one's license to be used by another except as provided by statute or rule;

173 (11) doing business under a name other than the name appearing on the license, except  
174 as permitted by statute or rule;

175 (12) if licensed as a specialty contractor in the electrical trade or plumbing trade,  
176 journeyman plumber, residential journeyman plumber, journeyman electrician, master  
177 electrician, or residential electrician, failing to directly supervise an apprentice under one's  
178 supervision or exceeding the number of apprentices one is allowed to have under his  
179 supervision;

180 (13) if licensed as a contractor or representing oneself to be a contractor, receiving any  
181 funds in payment for a specific project from an owner or any other person, which funds are to  
182 pay for work performed or materials and services furnished for that specific project, and after

183 receiving the funds to exercise unauthorized control over the funds by failing to pay the full  
184 amounts due and payable to persons who performed work or furnished materials or services  
185 within a reasonable period of time;

186 (14) employing [~~as~~] an unlicensed alarm business or company or an unlicensed  
187 individual as an alarm company agent, except as permitted under the exemption from licensure  
188 provisions under Section 58-1-307;

189 (15) if licensed as an alarm company or alarm company agent, filing with the division  
190 fingerprint cards for an applicant which are not those of the applicant, or are in any other way  
191 false or fraudulent and intended to mislead the division in its consideration of the applicant for  
192 licensure;

193 (16) if licensed under this chapter, willfully or deliberately disregarding or violating:

194 (a) the building or construction laws of this state or any political subdivision;

195 (b) the safety and labor laws applicable to a project;

196 (c) any provision of the health laws applicable to a project;

197 (d) the workers' compensation insurance laws of the state applicable to a project;

198 (e) the laws governing withholdings for employee state and federal income taxes,  
199 unemployment taxes, FICA, or other required withholdings; or

200 (f) reporting, notification, and filing laws of this state or the federal government;

201 (17) aiding or abetting any person in evading the provisions of this chapter or rules  
202 established under the authority of the division to govern this chapter;

203 (18) engaging in the construction trade or as a contractor for the construction of  
204 residences of up to two units when not currently registered or exempt from registration as a  
205 qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery  
206 Fund Act;

207 (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a  
208 written contract the notification required in Section 38-11-108;

209 (20) wrongfully filing a mechanics' lien in violation of Section 38-1-25; or

210 (21) if licensed as a contractor, not completing a three-hour core education class and an  
211 additional three hours of professional education approved by the division and the Construction  
212 Services Commission within each two-year renewal cycle, beginning with the two-year renewal  
213 cycle that starts July 1, 2005, and ends June 30, 2007 unless an exemption has been granted to

214 the licensee by the Construction Services Commission, with the concurrence of the division,  
215 except that this Subsection (21) is repealed effective July 1, 2010 and its implementation is  
216 subject to the division receiving adequate funding for its implementation through a legislative  
217 appropriation.

218 Section 3. Section **58-55-604** is amended to read:

219 **58-55-604. Proof of licensure to maintain or commence action.**

220 [~~No~~] A contractor or alarm business or company may not act as agent or commence or  
221 maintain any action in any court of the state for collection of compensation for performing any  
222 act for which a license is required by this chapter without alleging and proving that [~~he was a~~  
223 ~~properly~~] the licensed contractor or alarm business or company was appropriately licensed  
224 when the contract sued upon was entered into, and when the alleged cause of action arose.

---

---

**Legislative Review Note**  
as of 2-12-08 1:13 PM

**Office of Legislative Research and General Counsel**



---

---

**S.B. 295 - Security Alarm Business Licensing Amendments**

**Fiscal Note**

2008 General Session

State of Utah

---

---

**State Impact**

Enactment of this bill will not require additional appropriations.

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

---