

1 **CONTRACTOR LICENSING AND CONTINUING EDUCATION**

2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Wayne A. Harper**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill amends requirements related to the professional licensing of contractors.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies the requirements for licensure as a contractor, including:
 - 13 • modifying the experience requirement;
 - 14 • adding a 40-hour course of instruction; and
 - 15 • repealing continuing education requirements; and
- 16 ▶ makes technical changes.

17 **Money 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 Laws of Utah 2013, Chapter 36

24 **58-55-302**, as last amended by Laws of Utah 2013, Chapters 57, 426, and 430

25 ~~§→ [—58-55-303, as last amended by Laws of Utah 2013, Chapter 57] ←§~~

26 **58-55-305**, as last amended by Laws of Utah 2013, Chapters 430 and 449

S.B. 186



28 ~~§→ [—58-55-501, as last amended by Laws of Utah 2013, Chapter 57] ←§~~

29 58-55-503, as last amended by Laws of Utah 2013, Chapter 57

30 ~~§→ [REPEALS:~~

31 ~~———58-55-302.5, as last amended by Laws of Utah 2013, Chapter 430] ←§~~



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

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

35 **58-55-102. Definitions.**

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

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

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

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

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

49 (2) "Alarm company agent":

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

52 (b) does not include an individual who:

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

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

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

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

648 (12) This chapter may not be interpreted to create or support an express or implied
 649 independent contractor relationship between an unincorporated entity described in Subsection
 650 (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax
 651 withholding.

652 (13) A Social Security number provided under Subsection (1)(e)(iv) is a private record
 653 under Subsection 63G-2-302(1)(i).

654 ~~§→ [Section 3. Section 58-55-303 is amended to read:~~

655 ~~———— 58-55-303. Term of license -- Expiration -- Renewal.~~

656 ~~———— (1) (a) Each license issued under this chapter shall be issued in accordance with a~~
 657 ~~two-year renewal cycle established by rule.~~

658 ~~———— (b) The division may by rule extend or shorten a renewal period by as much as one year~~
 659 ~~to stagger the renewal cycle it administers.~~

660 ~~———— (c) (i) Notwithstanding a renewal cycle under Subsection (1)(a) or (b), notwithstanding~~
 661 ~~Title 63G, Chapter 4, Administrative Procedures Act, and subject to Subsection (1)(c)(ii), a~~
 662 ~~license is automatically suspended 60 days after the licensee:~~

663 ~~———— (A) becomes, after the time of licensing, an unincorporated entity that is subject to the~~
 664 ~~ownership status report filing requirements of Subsection 58-55-302(10)(a)(i); or~~

665 ~~———— (B) transfers its license to an unincorporated entity that is subject to the ownership~~
 666 ~~status report filing requirements of Subsection 58-55-302(10)(a)(i).~~

667 ~~———— (ii) An automatic suspension does not occur under Subsection (1)(c)(i) if, before the~~
 668 ~~expiration of the 60-day period in Subsection (1)(c)(i):~~

669 ~~———— (A) the licensee submits an application for renewal of the license; and~~

670 ~~———— (B) the division renews the licensee's license pursuant to the licensee's application for~~
 671 ~~renewal;~~

672 ~~———— (iii) Within 30 days after the effective date of a suspension under Subsection (1)(c)(i),~~
 673 ~~the commission shall, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,~~
 674 ~~make a final determination concerning the suspension.~~

675 ~~———— (2) At the time of renewal, the licensee shall show satisfactory evidence of:~~

676 ~~———— (a) continuing financial responsibility as required under Section 58-55-306; and~~

677 ~~———— [(b) for a contractor licensee, completion of six hours of approved continuing~~
 678 ~~education, as required in Section 58-55-302.5; and] ←§~~

679 ~~§→[(c)] (b) if the licensee is an apprentice electrician or plumber, journeyman electrician~~
 680 ~~or plumber, master electrician or plumber, residential journeyman electrician or plumber, or~~
 681 ~~residential master electrician or plumber, completion of the number of hours of continuing~~
 682 ~~education specified under Section 58-55-302.7.~~

683 ~~— (3) Each license automatically expires on the expiration date shown on the license~~
 684 ~~unless the licensee renews the license in accordance with Section 58-1-308.~~

685 ~~— (4) The requirements of Subsection 58-55-302(9) shall also apply to applicants seeking~~
 686 ~~to renew or reinstate a license.~~

687 ~~— (5) In addition to any other requirements imposed by law, if a license has been~~
 688 ~~suspended or revoked for any reason, the applicant:~~

689 ~~— (a) shall pay in full all fines imposed by the division;~~

690 ~~— (b) resolve any outstanding citations or disciplinary actions with the division;~~

691 ~~— (c) satisfy any Section 58-55-503 judgment and sentence or nontrial resolution;~~

692 ~~— (d) complete a new financial responsibility review as required under Section~~
 693 ~~58-55-306, using only titled assets; and~~

694 ~~— (e) pay in full any reimbursement amount as provided in Title 38, Chapter 11,~~
 695 ~~Residence Lien Restriction and Lien Recovery Fund Act.] ←§~~

696 Section 4. Section 58-55-305 is amended to read:

697 **58-55-305. Exemptions from licensure.**

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

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

705 (b) a person engaged in construction or operation incidental to the construction and
 706 repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation
 707 districts, and drainage districts or construction and repair relating to farming, dairying,
 708 agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel
 709 excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction

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

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

807 (n) a person involved in minor electrical work incidental to a mechanical or service
808 installation, including the outdoor installation of an above-ground, prebuilt hot tub;

809 (o) a person who ordinarily would be subject to the electrician licensure requirements
810 under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty
811 contractor license for the electrical work associated with the installation, repair, or maintenance
812 of solar energy panels, may continue the limited electrical work for solar energy panels under a
813 specialty contractor license;

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

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

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

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

822 (i) gas range;

823 (ii) gas dryer;

824 (iii) outdoor gas barbeque; or

825 (iv) outdoor gas patio heater;

826 (r) a person performing maintenance on an elevator as defined in [~~Subsection~~] Section
827 58-55-102[(14)], if the maintenance is not related to the operating integrity of the elevator; and

828 (s) an apprentice or helper of an elevator mechanic licensed under this chapter when
829 working under the general direction of the licensed elevator mechanic.

830 (2) A compliance agency as defined in Section 15A-1-202 that issues a building permit
831 to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall
832 notify the division, in writing or through electronic transmission, of the issuance of the permit.

833 ~~§~~ → [Section 5. Section 58-55-501 is amended to read: ← §

834 ~~§ 58-55-501. Unlawful conduct.~~
835 ~~Unlawful conduct includes:~~
836 ~~(1) engaging in a construction trade, acting as a contractor, an alarm business or~~
837 ~~company, or an alarm company agent, or representing oneself to be engaged in a construction~~
838 ~~trade or to be acting as a contractor in a construction trade requiring licensure, unless the~~
839 ~~person doing any of these is appropriately licensed or exempted from licensure under this~~
840 ~~chapter;~~
841 ~~(2) acting in a construction trade, as an alarm business or company, or as an alarm~~
842 ~~company agent beyond the scope of the license held;~~
843 ~~(3) hiring or employing in any manner an unlicensed person, other than an employee~~
844 ~~for wages who is not required to be licensed under this chapter, to engage in a construction~~
845 ~~trade for which licensure is required or to act as a contractor or subcontractor in a construction~~
846 ~~trade requiring licensure;~~
847 ~~(4) applying for or obtaining a building permit either for oneself or another when not~~
848 ~~licensed or exempted from licensure as a contractor under this chapter;~~
849 ~~(5) issuing a building permit to any person for whom there is no evidence of a current~~
850 ~~license or exemption from licensure as a contractor under this chapter;~~
851 ~~(6) applying for or obtaining a building permit for the benefit of or on behalf of any~~
852 ~~other person who is required to be licensed under this chapter but who is not licensed or is~~
853 ~~otherwise not entitled to obtain or receive the benefit of the building permit;~~
854 ~~(7) failing to obtain a building permit when required by law or rule;~~
855 ~~(8) submitting a bid for any work for which a license is required under this chapter by a~~
856 ~~person not licensed or exempted from licensure as a contractor under this chapter;~~
857 ~~(9) willfully or deliberately misrepresenting or omitting a material fact in connection~~
858 ~~with an application to obtain or renew a license under this chapter;~~
859 ~~(10) allowing one's license to be used by another except as provided by statute or rule;~~
860 ~~(11) doing business under a name other than the name appearing on the license, except~~
861 ~~as permitted by statute or rule;~~
862 ~~(12) if licensed as a specialty contractor in the electrical trade or plumbing trade,~~
863 ~~journeyman plumber, residential journeyman plumber, journeyman electrician, master~~
864 ~~electrician, or residential electrician, failing to directly supervise an apprentice under one's~~ §

865 ~~§→supervision or exceeding the number of apprentices one is allowed to have under the speciality~~
 866 ~~contractor's supervision;~~
 867 ~~——— (13) if licensed as a contractor or representing oneself to be a contractor, receiving any~~
 868 ~~funds in payment for a specific project from an owner or any other person, which funds are to~~
 869 ~~pay for work performed or materials and services furnished for that specific project, and after~~
 870 ~~receiving the funds to exercise unauthorized control over the funds by failing to pay the full~~
 871 ~~amounts due and payable to persons who performed work or furnished materials or services~~
 872 ~~within a reasonable period of time;~~
 873 ~~——— (14) employing an unlicensed alarm business or company or an unlicensed individual~~
 874 ~~as an alarm company agent, except as permitted under the exemption from licensure provisions~~
 875 ~~under Section 58-1-307;~~
 876 ~~——— (15) if licensed as an alarm company or alarm company agent, filing with the division~~
 877 ~~fingerprint cards for an applicant which are not those of the applicant, or are in any other way~~
 878 ~~false or fraudulent and intended to mislead the division in its consideration of the applicant for~~
 879 ~~licensure;~~
 880 ~~——— (16) if licensed under this chapter, willfully or deliberately disregarding or violating:~~
 881 ~~——— (a) the building or construction laws of this state or any political subdivision;~~
 882 ~~——— (b) the safety and labor laws applicable to a project;~~
 883 ~~——— (c) any provision of the health laws applicable to a project;~~
 884 ~~——— (d) the workers' compensation insurance laws of the state applicable to a project;~~
 885 ~~——— (e) the laws governing withholdings for employee state and federal income taxes,~~
 886 ~~unemployment taxes, Social Security payroll taxes, or other required withholdings; or~~
 887 ~~——— (f) reporting, notification, and filing laws of this state or the federal government;~~
 888 ~~——— (17) aiding or abetting any person in evading the provisions of this chapter or rules~~
 889 ~~established under the authority of the division to govern this chapter;~~
 890 ~~——— (18) engaging in the construction trade or as a contractor for the construction of~~
 891 ~~residences of up to two units when not currently registered or exempt from registration as a~~
 892 ~~qualified beneficiary under Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery~~
 893 ~~Fund Act;~~
 894 ~~——— (19) failing, as an original contractor, as defined in Section 38-11-102, to include in a~~
 895 ~~written contract the notification required in Section 38-11-108; ←§~~

896 ~~§→(20) wrongfully filing a preconstruction or construction lien in violation of Section~~
897 ~~38-1a-308;~~
898 ~~[(21) if licensed as a contractor, not completing the approved continuing education~~
899 ~~required under Section 58-55-302.5;]~~
900 ~~[(22)] (21) an alarm company allowing an employee with a temporary license under~~
901 ~~Section 58-55-312 to engage in conduct on behalf of the company outside the scope of the~~
902 ~~temporary license, as provided in Subsection 58-55-312(3)(a)(ii);~~
903 ~~[(23)] (22) an alarm company agent under a temporary license under Section 58-55-312~~
904 ~~engaging in conduct outside the scope of the temporary license, as provided in Subsection~~
905 ~~58-55-312(3)(a)(ii);~~
906 ~~[(24)] (23) (a) an unincorporated entity licensed under this chapter having an individual~~
907 ~~who owns an interest in the unincorporated entity engage in a construction trade in Utah while~~
908 ~~not lawfully present in the United States; or~~
909 ~~(b) an unincorporated entity providing labor to an entity licensed under this chapter by~~
910 ~~providing an individual who owns an interest in the unincorporated entity to engage in a~~
911 ~~construction trade in Utah while not lawfully present in the United States;~~
912 ~~[(25)] (24) an unincorporated entity failing to provide the following for an individual~~
913 ~~who engages, or will engage, in a construction trade in Utah for the unincorporated entity, or~~
914 ~~for an individual who engages, or will engage, in a construction trade in Utah for a separate~~
915 ~~entity for which the unincorporated entity provides the individual as labor:~~
916 ~~(a) workers' compensation coverage:~~
917 ~~(i) to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and~~
918 ~~Title 34A, Chapter 3, Utah Occupational Disease Act; or~~
919 ~~(ii) that would be required under the chapters listed in Subsection [(25)] (24)(a)(i) if~~
920 ~~the unincorporated entity were licensed under this chapter; and~~
921 ~~(b) unemployment compensation in accordance with Title 35A, Chapter 4,~~
922 ~~Employment Security Act, for an individual who owns, directly or indirectly, less than an 8%~~
923 ~~interest in the unincorporated entity, as defined by rule made by the division in accordance with~~
924 ~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act;~~
925 ~~[(26)] (25) the failure of a sign installation contractor or nonelectrical outdoor~~
926 ~~advertising sign contractor, as classified and defined in division rules, to: ←§~~

927 ~~§→(a) display the contractor's license number prominently on a vehicle that:~~
 928 ~~(i) the contractor uses; and~~
 929 ~~(ii) displays the contractor's business name; or~~
 930 ~~(b) carry a copy of the contractor's license in any other vehicle that the contractor uses~~
 931 ~~at a job site, whether or not the vehicle is owned by the contractor;~~
 932 ~~[(27)] (26) (a) an unincorporated entity licensed under this chapter having an individual~~
 933 ~~who owns an interest in the unincorporated entity engage in a construction trade in the state~~
 934 ~~while the individual is using a Social Security number that does not belong to that individual;~~
 935 ~~or~~
 936 ~~(b) an unincorporated entity providing labor to an entity licensed under this chapter by~~
 937 ~~providing an individual, who owns an interest in the unincorporated entity, to engage in a~~
 938 ~~construction trade in the state while the individual is using a Social Security number that does~~
 939 ~~not belong to that individual; or~~
 940 ~~[(28)] (27) a contractor failing to comply with a requirement imposed by a political~~
 941 ~~subdivision, state agency, or board of education under Section 58-55-310.] ←§~~

942 Section 6. Section 58-55-503 is amended to read:

943 **58-55-503. Penalty for unlawful conduct -- Citations.**

944 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
 945 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), ~~(21)~~, (22), (23), (24), (25), (26), ~~or~~ (27), [~~or~~
 946 ~~(28)~~], or Subsection 58-55-504(2), or who fails to comply with a citation issued under this
 947 section after it is final, is guilty of a class A misdemeanor.

948 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an
 949 individual and does not include a sole proprietorship, joint venture, corporation, limited
 950 liability company, association, or organization of any type.

951 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be
 952 awarded and may not accept a contract for the performance of the work.

953 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an
 954 infraction unless the violator did so with the intent to deprive the person to whom money is to
 955 be paid of the money received, in which case the violator is guilty of theft, as classified in
 956 Section 76-6-412.

957 (3) Grounds for immediate suspension of the licensee's license by the division and the

1051 fees and costs shall be awarded.

1052 ~~§~~→ [Section 7. Repeater:

1053 ~~———— This bill repeals:~~

1054 ~~———— Section 58-55-302.5, Continuing education requirements of contractor licensees ==~~

1055 ~~Continuing education courses.] ←§~~

Legislative Review Note
as of 2-12-14 4:12 PM

Office of Legislative Research and General Counsel