

Senator Wayne A. Harper proposes the following substitute bill:

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: Eric K. Hutchings

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies the requirements for licensure as a contractor, including:

14 • allowing experience in any construction classification to count towards
15 employment experience; and

16 • adding a ~~H~~→ [40] 20 ←~~H~~ -hour course of instruction; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

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



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

27 Section 1. Section **58-55-302** is amended to read:

28 **58-55-302. Qualifications for licensure.**

29 (1) Each applicant for a license under this chapter shall:

30 (a) submit an application prescribed by the division;

31 (b) pay a fee as determined by the department under Section [63J-1-504](#);

32 (c) (i) meet the examination requirements established by rule by the commission with

33 the concurrence of the director, except for the classifications of apprentice plumber and

34 apprentice electrician for whom no examination is required; or

35 (ii) if required in Section [58-55-304](#), the individual qualifier must pass the required

36 examination if the applicant is a business entity;

37 (d) if an apprentice, identify the proposed supervisor of the apprenticeship;

38 (e) if an applicant for a contractor's license:

39 (i) produce satisfactory evidence of financial responsibility, except for a construction

40 trades instructor for whom evidence of financial responsibility is not required;

41 (ii) produce satisfactory evidence of ~~[knowledge and at least]~~;

42 (A) two years full-time paid employment experience in the construction industry,

43 which experience, unless more specifically described in this section, may be related to any

44 contracting classification; and

45 (B) knowledge of the principles of the conduct of business as a contractor, reasonably

46 necessary for the protection of the public health, safety, and welfare;

47 (iii) except as otherwise provided by rule by the commission with the concurrence of

48 the director, complete a $\hat{H} \rightarrow [40] 20 \leftarrow \hat{H}$ -hour course established by rule by the

48a commission with the

49 concurrence of the director, which course may include:

50 (A) construction business practices;

51 (B) bookkeeping fundamentals;

52 (C) mechanics lien fundamentals; and

53 (D) other aspects of business and construction principles considered important by the

54 commission with the concurrence of the director;

55 ~~[(iii)]~~ (iv) (A) be a licensed master electrician if an applicant for an electrical

56 contractor's license or a licensed master residential electrician if an applicant for a residential

57 electrical contractor's license;

58 (B) be a licensed master plumber if an applicant for a plumbing contractor's license or
59 a licensed master residential plumber if an applicant for a residential plumbing contractor's
60 license; or

61 (C) be a licensed elevator mechanic and produce satisfactory evidence of three years
62 experience as an elevator mechanic if an applicant for an elevator contractor's license; and

63 ~~[(iv)]~~ (v) when the applicant is an unincorporated entity, provide a list of the one or
64 more individuals who hold an ownership interest in the applicant as of the day on which the
65 application is filed that includes for each individual:

66 (A) the individual's name, address, birth date, and Social Security number; and

67 (B) whether the individual will engage in a construction trade; and

68 (f) if an applicant for a construction trades instructor license, satisfy any additional
69 requirements established by rule.

70 (2) After approval of an applicant for a contractor's license by the applicable board and
71 the division, the applicant shall file the following with the division before the division issues
72 the license:

73 (a) proof of workers' compensation insurance which covers employees of the applicant
74 in accordance with applicable Utah law;

75 (b) proof of public liability insurance in coverage amounts and form established by rule
76 except for a construction trades instructor for whom public liability insurance is not required;
77 and

78 (c) proof of registration as required by applicable law with the:

79 (i) Utah Department of Commerce;

80 (ii) Division of Corporations and Commercial Code;

81 (iii) Unemployment Insurance Division in the Department of Workforce Services, for
82 purposes of Title 35A, Chapter 4, Employment Security Act;

83 (iv) State Tax Commission; and

84 (v) Internal Revenue Service.

85 (3) In addition to the general requirements for each applicant in Subsection (1),
86 applicants shall comply with the following requirements to be licensed in the following
87 classifications:

88 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:
89 (A) has been a licensed journeyman plumber for at least two years and had two years of
90 supervisory experience as a licensed journeyman plumber in accordance with division rule;
91 (B) has received at least an associate of applied science degree or similar degree
92 following the completion of a course of study approved by the division and had one year of
93 supervisory experience as a licensed journeyman plumber in accordance with division rule; or
94 (C) meets the qualifications determined by the division in collaboration with the board
95 to be equivalent to Subsection (3)(a)(i)(A) or (B).

96 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at
97 least four years of practical experience as a licensed apprentice under the supervision of a
98 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect
99 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current
100 master plumber license under this chapter, and satisfies the requirements of this Subsection
101 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

102 (iii) An individual holding a valid plumbing contractor's license or residential
103 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5,
104 2008:

105 (A) considered to hold a current master plumber license under this chapter if licensed
106 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this
107 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section
108 58-55-303; and

109 (B) considered to hold a current residential master plumber license under this chapter if
110 licensed as a residential plumbing contractor and a residential journeyman plumber, and
111 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of
112 that license under Section 58-55-303.

113 (b) A master residential plumber applicant shall produce satisfactory evidence that the
114 applicant:

115 (i) has been a licensed residential journeyman plumber for at least two years and had
116 two years of supervisory experience as a licensed residential journeyman plumber in
117 accordance with division rule; or

118 (ii) meets the qualifications determined by the division in collaboration with the board

119 to be equivalent to Subsection (3)(b)(i).

120 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

121 (i) successful completion of the equivalent of at least four years of full-time training
122 and instruction as a licensed apprentice plumber under supervision of a licensed master
123 plumber or journeyman plumber and in accordance with a planned program of training
124 approved by the division;

125 (ii) at least eight years of full-time experience approved by the division in collaboration
126 with the Plumbers Licensing Board; or

127 (iii) satisfactory evidence of meeting the qualifications determined by the board to be
128 equivalent to Subsection (3)(c)(i) or (c)(ii).

129 (d) A residential journeyman plumber shall produce satisfactory evidence of:

130 (i) completion of the equivalent of at least three years of full-time training and
131 instruction as a licensed apprentice plumber under the supervision of a licensed residential
132 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in
133 accordance with a planned program of training approved by the division;

134 (ii) completion of at least six years of full-time experience in a maintenance or repair
135 trade involving substantial plumbing work; or

136 (iii) meeting the qualifications determined by the board to be equivalent to Subsection
137 (3)(d)(i) or (d)(ii).

138 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be
139 in accordance with the following:

140 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be
141 under the immediate supervision of a licensed master plumber, licensed residential master
142 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

143 (ii) a licensed apprentice plumber in the fourth through tenth year of training may work
144 without supervision for a period not to exceed eight hours in any 24-hour period, but if the
145 apprentice does not become a licensed journeyman plumber or licensed residential journeyman
146 plumber by the end of the tenth year of apprenticeship, this nonsupervision provision no longer
147 applies.

148 (f) A master electrician applicant shall produce satisfactory evidence that the applicant:

149 (i) is a graduate electrical engineer of an accredited college or university approved by

150 the division and has one year of practical electrical experience as a licensed apprentice
151 electrician;

152 (ii) is a graduate of an electrical trade school, having received an associate of applied
153 sciences degree following successful completion of a course of study approved by the division,
154 and has two years of practical experience as a licensed journeyman electrician;

155 (iii) has four years of practical experience as a journeyman electrician; or

156 (iv) meets the qualifications determined by the board to be equivalent to Subsection
157 (3)(f)(i), (ii), or (iii).

158 (g) A master residential electrician applicant shall produce satisfactory evidence that
159 the applicant:

160 (i) has at least two years of practical experience as a residential journeyman electrician;
161 or

162 (ii) meets the qualifications determined by the board to be equivalent to this practical
163 experience.

164 (h) A journeyman electrician applicant shall produce satisfactory evidence that the
165 applicant:

166 (i) has successfully completed at least four years of full-time training and instruction as
167 a licensed apprentice electrician under the supervision of a master electrician or journeyman
168 electrician and in accordance with a planned training program approved by the division;

169 (ii) has at least eight years of full-time experience approved by the division in
170 collaboration with the Electricians Licensing Board; or

171 (iii) meets the qualifications determined by the board to be equivalent to Subsection
172 (3)(h)(i) or (ii).

173 (i) A residential journeyman electrician applicant shall produce satisfactory evidence
174 that the applicant:

175 (i) has successfully completed two years of training in an electrical training program
176 approved by the division;

177 (ii) has four years of practical experience in wiring, installing, and repairing electrical
178 apparatus and equipment for light, heat, and power under the supervision of a licensed master,
179 journeyman, residential master, or residential journeyman electrician; or

180 (iii) meets the qualifications determined by the division and applicable board to be

181 equivalent to Subsection (3)(i)(i) or (ii).

182 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall
183 be in accordance with the following:

184 (i) A licensed apprentice electrician shall be under the immediate supervision of a
185 licensed master, journeyman, residential master, or residential journeyman electrician. An
186 apprentice in the fourth year of training may work without supervision for a period not to
187 exceed eight hours in any 24-hour period.

188 (ii) A licensed master, journeyman, residential master, or residential journeyman
189 electrician may have under immediate supervision on a residential project up to three licensed
190 apprentice electricians.

191 (iii) A licensed master or journeyman electrician may have under immediate
192 supervision on nonresidential projects only one licensed apprentice electrician.

193 (k) An alarm company applicant shall:

194 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of
195 the applicant who:

196 (A) demonstrates 6,000 hours of experience in the alarm company business;

197 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm
198 company business or in a construction business; and

199 (C) passes an examination component established by rule by the commission with the
200 concurrence of the director;

201 (ii) if a corporation, provide:

202 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
203 of all corporate officers, directors, and those responsible management personnel employed
204 within the state or having direct responsibility for managing operations of the applicant within
205 the state; and

206 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
207 of all shareholders owning 5% or more of the outstanding shares of the corporation, except this
208 shall not be required if the stock is publicly listed and traded;

209 (iii) if a limited liability company, provide:

210 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
211 of all company officers, and those responsible management personnel employed within the

212 state or having direct responsibility for managing operations of the applicant within the state;
213 and

214 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards
215 of all individuals owning 5% or more of the equity of the company;

216 (iv) if a partnership, provide the names, addresses, dates of birth, Social Security
217 numbers, and fingerprint cards of all general partners, and those responsible management
218 personnel employed within the state or having direct responsibility for managing operations of
219 the applicant within the state;

220 (v) if a proprietorship, provide the names, addresses, dates of birth, Social Security
221 numbers, and fingerprint cards of the proprietor, and those responsible management personnel
222 employed within the state or having direct responsibility for managing operations of the
223 applicant within the state;

224 (vi) if a trust, provide the names, addresses, dates of birth, Social Security numbers,
225 and fingerprint cards of the trustee, and those responsible management personnel employed
226 within the state or having direct responsibility for managing operations of the applicant within
227 the state;

228 (vii) be of good moral character in that officers, directors, shareholders described in
229 Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel
230 have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other
231 crime that when considered with the duties and responsibilities of an alarm company is
232 considered by the board to indicate that the best interests of the public are served by granting
233 the applicant a license;

234 (viii) document that none of the applicant's officers, directors, shareholders described
235 in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management
236 personnel have been declared by any court of competent jurisdiction incompetent by reason of
237 mental defect or disease and not been restored;

238 (ix) document that none of the applicant's officers, directors, shareholders described in
239 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are
240 currently suffering from habitual drunkenness or from drug addiction or dependence;

241 (x) file and maintain with the division evidence of:

242 (A) comprehensive general liability insurance in form and in amounts to be established

243 by rule by the commission with the concurrence of the director;

244 (B) workers' compensation insurance that covers employees of the applicant in
245 accordance with applicable Utah law; and

246 (C) registration as is required by applicable law with the:

247 (I) Division of Corporations and Commercial Code;

248 (II) Unemployment Insurance Division in the Department of Workforce Services, for
249 purposes of Title 35A, Chapter 4, Employment Security Act;

250 (III) State Tax Commission; and

251 (IV) Internal Revenue Service; and

252 (xi) meet with the division and board.

253 (l) Each applicant for licensure as an alarm company agent shall:

254 (i) submit an application in a form prescribed by the division accompanied by
255 fingerprint cards;

256 (ii) pay a fee determined by the department under Section [63J-1-504](#);

257 (iii) be of good moral character in that the applicant has not been convicted of a felony,
258 a misdemeanor involving moral turpitude, or any other crime that when considered with the
259 duties and responsibilities of an alarm company agent is considered by the board to indicate
260 that the best interests of the public are served by granting the applicant a license;

261 (iv) not have been declared by any court of competent jurisdiction incompetent by
262 reason of mental defect or disease and not been restored;

263 (v) not be currently suffering from habitual drunkenness or from drug addiction or
264 dependence; and

265 (vi) meet with the division and board if requested by the division or the board.

266 (m) (i) Each applicant for licensure as an elevator mechanic shall:

267 (A) provide documentation of experience and education credits of not less than three
268 years work experience in the elevator industry, in construction, maintenance, or service and
269 repair; and

270 (B) satisfactorily complete a written examination administered by the division
271 established by rule under Section [58-1-203](#); or

272 (C) provide certificates of completion of an apprenticeship program for elevator
273 mechanics, having standards substantially equal to those of this chapter and registered with the

274 United States Department of Labor Bureau Apprenticeship and Training or a state
275 apprenticeship council.

276 (ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed
277 elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing,
278 repairing, or maintaining an elevator, the contractor may:

279 (I) notify the division of the unavailability of licensed personnel; and

280 (II) request the division issue a temporary elevator mechanic license to an individual
281 certified by the contractor as having an acceptable combination of documented experience and
282 education to perform the work described in this Subsection (3)(m)(ii)(A).

283 (B) (I) The division may issue a temporary elevator mechanic license to an individual
284 certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by
285 the appropriate fee as determined by the department under Section [63J-1-504](#).

286 (II) The division shall specify the time period for which the license is valid and may
287 renew the license for an additional time period upon its determination that a shortage of
288 licensed elevator mechanics continues to exist.

289 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
290 division may make rules establishing when Federal Bureau of Investigation records shall be
291 checked for applicants as an alarm company or alarm company agent.

292 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and
293 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
294 Department of Public Safety with the division's request to:

295 (a) conduct a search of records of the Department of Public Safety for criminal history
296 information relating to each applicant for licensure as an alarm company or alarm company
297 agent and each applicant's officers, directors, shareholders described in Subsection
298 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

299 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
300 requiring a check of records of the Federal Bureau of Investigation for criminal history
301 information under this section.

302 (6) The Department of Public Safety shall send to the division:

303 (a) a written record of criminal history, or certification of no criminal history record, as
304 contained in the records of the Department of Public Safety in a timely manner after receipt of

305 a fingerprint card from the division and a request for review of Department of Public Safety
306 records; and

307 (b) the results of the Federal Bureau of Investigation review concerning an applicant in
308 a timely manner after receipt of information from the Federal Bureau of Investigation.

309 (7) (a) The division shall charge each applicant for licensure as an alarm company or
310 alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of
311 performing the records reviews under this section.

312 (b) The division shall pay the Department of Public Safety the costs of all records
313 reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the
314 costs of records reviews under this section.

315 (8) Information obtained by the division from the reviews of criminal history records of
316 the Department of Public Safety and the Federal Bureau of Investigation shall be used or
317 disseminated by the division only for the purpose of determining if an applicant for licensure as
318 an alarm company or alarm company agent is qualified for licensure.

319 (9) (a) An application for licensure under this chapter shall be denied if:

320 (i) the applicant has had a previous license, which was issued under this chapter,
321 suspended or revoked within one year prior to the date of the applicant's application;

322 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

323 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
324 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
325 status, performing similar functions, or directly or indirectly controlling the applicant has
326 served in any similar capacity with any person or entity which has had a previous license,
327 which was issued under this chapter, suspended or revoked within one year prior to the date of
328 the applicant's application;

329 (iii) (A) the applicant is an individual or sole proprietorship; and

330 (B) any owner or agent acting as a qualifier has served in any capacity listed in
331 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under
332 this chapter, suspended or revoked within one year prior to the date of the applicant's
333 application; or

334 (iv) (A) the applicant includes an individual who was an owner, director, or officer of
335 an unincorporated entity at the time the entity's license under this chapter was revoked; and

336 (B) the application for licensure is filed within 60 months after the revocation of the
337 unincorporated entity's license.

338 (b) An application for licensure under this chapter shall be reviewed by the appropriate
339 licensing board prior to approval if:

340 (i) the applicant has had a previous license, which was issued under this chapter,
341 suspended or revoked more than one year prior to the date of the applicant's application;

342 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

343 (B) any corporate officer, director, shareholder holding 25% or more of the stock in the
344 applicant, partner, member, agent acting as a qualifier, or any person occupying a similar
345 status, performing similar functions, or directly or indirectly controlling the applicant has
346 served in any similar capacity with any person or entity which has had a previous license,
347 which was issued under this chapter, suspended or revoked more than one year prior to the date
348 of the applicant's application; or

349 (iii) (A) the applicant is an individual or sole proprietorship; and

350 (B) any owner or agent acting as a qualifier has served in any capacity listed in
351 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under
352 this chapter, suspended or revoked more than one year prior to the date of the applicant's
353 application.

354 (10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status
355 report with the division every 30 days after the day on which the license is issued if the licensee
356 has more than five owners who are individuals who:

357 (A) own an interest in the contractor that is an unincorporated entity;

358 (B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the
359 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the
360 unincorporated entity; and

361 (C) engage, or will engage, in a construction trade in the state as owners of the
362 contractor described in Subsection (10)(a)(i)(A).

363 (ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the
364 licensee shall provide the ownership status report with an application for renewal of licensure.

365 (b) An ownership status report required under this Subsection (10) shall:

366 (i) specify each addition or deletion of an owner:

367 (A) for the first ownership status report, after the day on which the unincorporated
368 entity is licensed under this chapter; and

369 (B) for a subsequent ownership status report, after the day on which the previous
370 ownership status report is filed;

371 (ii) be in a format prescribed by the division that includes for each owner, regardless of
372 the owner's percentage ownership in the unincorporated entity, the information described in
373 Subsection(1)(e)(iv);

374 (iii) list the name of:

375 (A) each officer or manager of the unincorporated entity; and
376 (B) each other individual involved in the operation, supervision, or management of the
377 unincorporated entity; and

378 (iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504
379 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

380 (c) The division may, at any time, audit an ownership status report under this
381 Subsection (10):

382 (i) to determine if financial responsibility has been demonstrated or maintained as
383 required under Section 58-55-306; and

384 (ii) to determine compliance with Subsection 58-55-501 (24), (25), or (27) or
385 Subsection 58-55-502(8) or (9).

386 (11) (a) An unincorporated entity that provides labor to an entity licensed under this
387 chapter by providing an individual who owns an interest in the unincorporated entity to engage
388 in a construction trade in Utah shall file with the division:

389 (i) before the individual who owns an interest in the unincorporated entity engages in a
390 construction trade in Utah, a current list of the one or more individuals who hold an ownership
391 interest in the unincorporated entity that includes for each individual:

392 (A) the individual's name, address, birth date, and Social Security number; and
393 (B) whether the individual will engage in a construction trade; and

394 (ii) every 30 days after the day on which the unincorporated entity provides the list
395 described in Subsection (11)(a)(i), an ownership status report containing the information that
396 would be required under Subsection (10) if the unincorporated entity were a licensed
397 contractor.

398 (b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership
399 status report described in Subsection (11)(a)(ii) or (iii) an unincorporated entity shall pay a fee
400 set by the division in accordance with Section [63J-1-504](#).

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

405 (13) A Social Security number provided under Subsection (1)(e)(iv) is a private record
406 under Subsection [63G-2-302\(1\)\(i\)](#).