

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN ASSEMBLY MAY 29, 2014

AMENDED IN SENATE APRIL 30, 2013

SENATE BILL

No. 315

Introduced by Senator Lieu

February 15, 2013

An act to amend Sections 7011.4, 7027.2, 7028, and 7110.5 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 315, as amended, Lieu. Contractors.

(1) The Contractors' State License Law provides for the licensure and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. The act establishes an enforcement division within the board that is required to enforce prohibitions against unlicensed activity, as specified. The act authorizes persons employed as enforcement representatives in the division to issue written notices to appear in court, as specified.

~~This bill would additionally authorize these enforcement representatives to continue to participate in activities of the Joint Enforcement Strike Force on the Underground Economy, as specified. require that the enforcement division, when participating in the activities of the Joint Enforcement Strike Force on the Underground Economy, be granted free access to all places of labor.~~

(2) The act makes it a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor within this state without having a license, unless particularly exempted.

This bill would instead provide that, unless exempted, it is a misdemeanor for a person to engage in the business of, or act in the capacity of, a contractor within this state if the person is not licensed in accordance with the act, or if the person performs acts covered by the act under a license that is under suspension for specified violations.

(3) The act provides that it is a misdemeanor for any person to advertise for construction or work of improvement unless that person holds a valid license in the classification so advertised, except as specified. However, the act authorizes a person who is not licensed as a contractor to advertise for construction work or work of improvement if he or she states in the advertisement that he or she is not licensed, as specified. The act also exempts from its application any work or operation on one undertaking or project by one or more contracts if the aggregate contract price for labor, materials, and all other items is less than \$500, and the work or operations are casual, minor, or inconsequential.

This bill would authorize a person who is not licensed as a contractor to advertise for construction work or a work of improvement only if the aggregate contract price is less than \$500 and the person states in the advertisement that he or she is not licensed. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(4) The act authorizes the board to appoint a registrar of contractors. Existing law requires the registrar to initiate disciplinary action against a licensee within 30 days of notification by the Labor Commissioner of a finding of a willful or deliberate violation of the Labor Code.

This bill would instead ~~authorize~~ *require* the registrar to initiate disciplinary action against a licensee within 180 days of notification by the Labor Commissioner.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7011.4 of the Business and Professions
2 Code is amended to read:

3 7011.4. (a) Notwithstanding Section 7011, there is in the
4 Contractors' State License Board, a separate enforcement division
5 which shall rigorously enforce this chapter prohibiting all forms
6 of unlicensed activity.

7 (b) Persons employed as enforcement representatives in this
8 division and designated by the Director of Consumer Affairs are
9 not peace officers and are not entitled to safety member retirement
10 benefits. They do not have the power of arrest. However, they may
11 issue a written notice to appear in court pursuant to Chapter 5c
12 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal
13 Code and may continue to participate in activities of the Joint
14 Enforcement Strike Force on the Underground Economy to carry
15 out the duties specified in Section 329 of the Unemployment
16 Insurance Code independent of the Division of Labor Standards
17 Enforcement Code.

18 (c) *When participating in the activities of the Joint Enforcement*
19 *Strike Force on the Underground Economy pursuant to Section*
20 *329 of the Unemployment Insurance Code, the enforcement division*
21 *shall have free access to all places of labor.*

22 SEC. 2. Section 7027.2 of the Business and Professions Code
23 is amended to read:

24 7027.2. Notwithstanding any other provision of this chapter,
25 a person who is not licensed pursuant to this chapter may advertise
26 for construction work or a work of improvement covered by this
27 chapter only if the aggregate contract price for labor, material, and
28 all other items on a project or undertaking is less than five hundred
29 dollars (\$500), and he or she states in the advertisement that he or
30 she is not licensed under this chapter.

31 SEC. 3. Section 7028 of the Business and Professions Code is
32 amended to read:

33 7028. (a) Unless exempted from this chapter, it is a
34 misdemeanor for a person to engage in the business of, or act in
35 the capacity of, a contractor within this state under either of the
36 following conditions:

37 (1) The person is not licensed in accordance with this chapter.

1 (2) The person performs acts covered by this chapter under a
2 license that is under suspension for failure to pay a civil penalty
3 or to comply with an order of correction, pursuant to Section
4 7090.1, or for failure to resolve all outstanding final liabilities,
5 pursuant to Section 7145.5.

6 (b) A first conviction for the offense described in this section
7 is punishable by a fine not exceeding five thousand dollars (\$5,000)
8 or by imprisonment in a county jail not exceeding six months, or
9 by both that fine and imprisonment.

10 (c) If a person has been previously convicted of the offense
11 described in this section, unless the provisions of subdivision (d)
12 are applicable, the court shall impose a fine of 20 percent of the
13 contract price, or 20 percent of the aggregate payments made to,
14 or at the direction of, the unlicensed person, or five thousand
15 dollars (\$5,000), whichever is greater, and, unless the sentence
16 prescribed in subdivision (d) is imposed, the person shall be
17 confined in a county jail for not less than 90 days, except in an
18 unusual case where the interests of justice would be served by
19 imposition of a lesser sentence or a fine. If the court imposes only
20 a fine or a jail sentence of less than 90 days for second or
21 subsequent convictions under this section, the court shall state the
22 reasons for its sentencing choice on the record.

23 (d) A third or subsequent conviction for the offense described
24 in this section is punishable by a fine of not less than five thousand
25 dollars (\$5,000) nor more than the greater amount of ten thousand
26 dollars (\$10,000) or 20 percent of the contract price, or 20 percent
27 of the aggregate payments made to, or at the direction of, the
28 unlicensed person, and by imprisonment in a county jail for not
29 more than one year or less than 90 days. The penalty provided by
30 this subdivision is cumulative to the penalties available under all
31 other laws of this state.

32 (e) A person who violates this section is subject to the penalties
33 prescribed in subdivision (d) if the person was named on a license
34 that was previously revoked and, either in fact or under law, was
35 held responsible for any act or omission resulting in the revocation.

36 (f) If the unlicensed person engaging in the business of or acting
37 in the capacity of a contractor has agreed to furnish materials and
38 labor on an hourly basis, “the contract price” for the purposes of
39 this section means the aggregate sum of the cost of materials and

1 labor furnished and the cost of completing the work to be
2 performed.

3 (g) Notwithstanding any other law, an indictment for any
4 violation of this section by an unlicensed person shall be found,
5 or information or a complaint shall be filed, within four years from
6 the date of the contract proposal, contract, completion, or
7 abandonment of the work, whichever occurs last.

8 (h) For any conviction under this section, a person who utilized
9 the services of the unlicensed person is a victim of crime and is
10 eligible, pursuant to subdivision (f) of Section 1202.4 of the Penal
11 Code, for restitution for economic losses, regardless of whether
12 he or she had knowledge that the person was unlicensed.

13 (i) The changes made to this section by the act adding this
14 subdivision are declaratory of existing law.

15 SEC. 4. Section 7110.5 of the Business and Professions Code
16 is amended to read:

17 7110.5. Upon receipt of a certified copy of the Labor
18 Commissioner's finding of a willful or deliberate violation of the
19 Labor Code by a licensee, pursuant to Section 98.9 of the Labor
20 Code, the registrar ~~may~~ *shall* initiate disciplinary action against
21 the licensee within 180 days of notification.

22 SEC. 5. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.