

CONSTRUCTION TRADES LICENSE

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: D. Chris Buttars

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Construction Trades Licensing Act.

Highlighted Provisions:

This bill:

- ▶ requires those licensed as contractors to display prominently a copy of their license on their motorized vehicles and mobile, motorized equipment;
- ▶ provides a penalty for a violation of that requirement; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-311, as renumbered and amended by Laws of Utah 2000, Chapter 317

58-55-503, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section **58-55-311** is amended to read:



28 **58-55-311. Evidence of licensure.**

29 (1) An individual licensed as an alarm company agent shall:

30 [~~(+)~~] (a) carry a copy of the individual's license on the individual's person at all times
31 while acting as a licensee; and

32 [~~(2)~~] (b) display the license upon the request of a peace officer, a representative of the
33 division, or a representative of a customer of the alarm company.

34 (2) A person licensed as a contractor shall prominently display a copy of the person's
35 license on:

36 (a) each motorized vehicle that the person owns or operates as a contractor; and

37 (b) each piece of mobile, motorized equipment that the person owns or operates as a
38 contractor.

39 Section 2. Section **58-55-503** is amended to read:

40 **58-55-503. Penalty for unlawful conduct -- Citations.**

41 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),
42 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), or (15), or Subsection 58-55-504(2), or who fails
43 to comply with a citation issued under this section after it is final, is guilty of a class A
44 misdemeanor.

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

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

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

54 (3) Grounds for immediate suspension of the licensee's license by the division and the
55 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section
56 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,
57 report to, or notify the division with respect to any matter for which application, notification, or
58 reporting is required under this chapter or rules adopted under this chapter, including applying

59 to the division for a new license to engage in a new specialty classification or to do business
60 under a new form of organization or business structure, filing with the division current
61 financial statements, notifying the division concerning loss of insurance coverage, or change in
62 qualifier.

63 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
64 violated the provisions of Subsection 58-55-308(2) [~~or Subsections~~], 58-55-311(2),
65 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or [~~Subsection~~] 58-55-504(2), or any
66 rule or order issued with respect to these subsections, and that disciplinary action is
67 appropriate, the director or the director's designee from within the division shall promptly issue
68 a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a
69 stipulated settlement, or notify the person to appear before an adjudicative proceeding
70 conducted under Title 63G, Chapter 4, Administrative Procedures Act.

71 [(i)] (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
72 [~~Subsection~~] 58-55-311(2), 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or
73 [~~Subsection~~] 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or
74 by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this
75 Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from
76 violating Subsection 58-55-308(2), [~~Subsection~~] 58-55-501(1), (2), (3), (9), (10), (12), (14),
77 (19), or (21), 58-55-311(2), or [~~Subsection~~] 58-55-504(2).

78 [(i)] (iii) Except for a cease and desist order, the licensure sanctions cited in Section
79 58-55-401 may not be assessed through a citation.

80 [(iii)] (iv) (A) A person who receives a citation or is fined for violating Subsection
81 58-55-501(21) may also be issued a cease and desist order from engaging in work to be
82 performed by a contractor licensed under this chapter unless the person meets the continuing
83 education requirement within 30 days after receipt of the citation or fine.

84 (B) The order, if issued, shall be removed upon the person's completion of the
85 continuing education requirement.

86 (C) This Subsection (4)(a)[(iii)](iv) is repealed effective July 1, 2010.

87 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
88 violation, including a reference to the provision of the chapter, rule, or order alleged to have
89 been violated.

90 (ii) The citation shall clearly state that the recipient must notify the division in writing
91 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
92 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

93 (iii) The citation shall clearly explain the consequences of failure to timely contest the
94 citation or to make payment of any fines assessed by the citation within the time specified in
95 the citation.

96 (c) Each citation issued under this section, or a copy of each citation, may be served
97 upon a person upon whom a summons may be served:

98 (i) in accordance with the Utah Rules of Civil Procedure;

99 (ii) personally or upon the person's agent by a division investigator or by a person
100 specially designated by the director; or

101 (iii) by mail.

102 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
103 citation was issued fails to request a hearing to contest the citation, the citation becomes the
104 final order of the division and is not subject to further agency review.

105 (ii) The period to contest a citation may be extended by the division for cause.

106 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
107 the license of a licensee who fails to comply with a citation after it becomes final.

108 (f) The failure of an applicant for licensure to comply with a citation after it becomes
109 final is a ground for denial of license.

110 (g) No citation may be issued under this section after the expiration of six months
111 following the occurrence of any violation.

112 (h) Fines shall be assessed by the director or the director's designee according to the
113 following:

114 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

115 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

116 and

117 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
118 \$2,000 for each day of continued offense.

119 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
120 Subsection (4)(~~†~~)(h), an offense constitutes a second or subsequent offense if:

121 (A) the division previously issued a final order determining that a person committed a
122 first or second offense in violation of Subsection 58-55-308(2), [Subsection] 58-55-311(2),
123 58-55-501(1), (2), (3), (9), (10), (12), (14), or (19), or [Subsection] 58-55-504(2); or

124 (B) (I) the division initiated an action for a first or second offense;

125 (II) no final order has been issued by the division in the action initiated under
126 Subsection (4)(i)(i)(B)(I);

127 (III) the division determines during an investigation that occurred after the initiation of
128 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
129 violation of the provisions of Subsection 58-55-308(2), [Subsection] 58-55-311(2),
130 58-55-501(1), (2), (3), (9), (10), (12), (14), or (19), or [Subsection] 58-55-504(2); and

131 (IV) after determining that the person committed a second or subsequent offense under
132 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
133 Subsection (4)(i)(i)(B)(I).

134 (ii) In issuing a final order for a second or subsequent offense under Subsection
135 (4)(i)(i), the division shall comply with the requirements of this section.

136 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
137 into the Commerce Service Fund.

138 (b) A penalty which is not paid may be collected by the director by either referring the
139 matter to a collection agency or bringing an action in the district court of the county in which
140 the person against whom the penalty is imposed resides or in the county where the office of the
141 director is located.

142 (c) A county attorney or the attorney general of the state is to provide legal assistance
143 and advice to the director in any action to collect the penalty.

144 (d) In an action brought to enforce the provisions of this section, reasonable [attorney's]
145 attorney fees and costs shall be awarded.

Legislative Review Note
as of 1-29-10 2:31 PM

Office of Legislative Research and General Counsel

S.B. 75 - Construction Trades License Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will generate \$10,100 per year in revenue to the General Fund beginning in FY 2011. Expected revenue from fines to the Commerce Service Fund is estimated at \$50,000 annually. Additional inspection efforts will require an appropriation of \$39,900 annually to the Department of Commerce. Commerce Service Fund revenue and spending affect the annual transfer to the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$10,100	\$10,100
Commerce Service Fund	\$0	\$39,900	\$39,900	\$0	\$0	\$0
Total	\$0	\$39,900	\$39,900	\$0	\$10,100	\$10,100

Individual, Business and/or Local Impact

Licensed businesses and individuals will be required to incur the costs of copying and displaying their licenses or the penalty for noncompliance.