

ASSEMBLY BILL

No. 465

Introduced by Assembly Member Bill Berryhill

February 15, 2011

An act to add Chapter 25 (commencing with Section 22756) to Division 8 of the Business and Professions Code, relating to gardening or landscape maintenance services.

LEGISLATIVE COUNSEL'S DIGEST

AB 465, as introduced, Bill Berryhill. Gardening or landscape maintenance services: regulation.

Existing law provides for the regulation of the operation of various businesses.

This bill would, on and after July 1, 2012, provide for the regulation of gardening or landscape maintenance services, as defined. The bill would require a local jurisdiction to obtain from an applicant for issuance or renewal of a business license who provides gardening or landscape maintenance services, (1) documentation that he or she has workers' compensation coverage or is exempt from those coverage requirements and proof of current licensure as a contractor issued by the Contractors' State License Board, or (2) a signed acknowledgment of the consequences of performing the duties of a contractor without a license. The bill would also require that a person with a business license issued by the local jurisdiction who engages in gardening or landscape maintenance services to prominently display a sticker or other indicia in his or her motor vehicle if he or she has no employees and is exempt from workers' compensation insurance coverage requirements. The bill would make a violation of certain of these requirements an infraction and would provide additional remedies for their violation.

Because the bill would make a violation of specified provisions a crime and would specify additional duties for local jurisdictions, it would impose a state-mandated local program.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. The Legislature finds and declares the following:

2 (a) Businesses offering gardening or landscape maintenance
3 services often operate in the underground economy and engage in
4 unlicensed contracting activity.

5 (b) Underground businesses that contract for works of
6 improvements without a required license and fail to deduct payroll
7 taxes and to provide coverage to their employees for job-related
8 injuries harm consumers and create unfair competition for
9 employers who comply with laws regulating their business
10 activities.

11 (c) Enhanced local licensing of businesses that provide
12 gardening or landscape maintenance services, along with a program
13 that identifies vehicles used by those engaged in gardening or
14 landscape maintenance services, will significantly reduce
15 unlicensed contracting and underground economic activities.

16 SEC. 2. Chapter 25 (commencing with Section 22756) is added
17 to Division 8 of the Business and Professions Code, to read:

18

19 CHAPTER 25. GARDENING OR LANDSCAPE MAINTENANCE
20 SERVICES

21

22 22756. The following definitions apply for purposes of this
23 chapter:

- 1 (a) “Board” means the Contractors State License Board.
- 2 (b) “CSLL” means the Contractors State License Law set forth
- 3 in Chapter 9 (commencing with Section 7000) of Division 3.
- 4 (c) “Gardening or landscape maintenance services” includes
- 5 any of the following activities:
 - 6 (1) Mowing grass.
 - 7 (2) Edging.
 - 8 (3) Pruning of shrubs and trees less than 15 feet in height.
 - 9 (4) Watering of lawns, shrubs, or trees.
 - 10 (5) Applying lawn and garden chemicals and fertilizers.
 - 11 (6) Removing clippings, leaves, and other garden debris.
- 12 22756.1. (a) On and after July 1, 2012, a city, county, or city
- 13 and county shall not issue or renew a local business license to
- 14 provide gardening or landscape maintenance services unless the
- 15 applicant provides the following:
 - 16 (1) Evidence of workers’ compensation insurance coverage for
 - 17 his or her employees, if any, or a signed statement of the facts
 - 18 exempting him or her from the requirement of having that
 - 19 coverage:
 - 20 (2) Either of the following documents:
 - 21 (A) Proof of current licensure as a contractor by the board.
 - 22 (B) Signed acknowledgment, on a form provided by the board,
 - 23 of the following matters:
 - 24 (i) It is unlawful for a person without a license issued by the
 - 25 board who engages in gardening or landscape maintenance services
 - 26 to make permanent improvements to real property or to repair any
 - 27 improvements to real property unless the total cost of the
 - 28 improvements or repairs is less than five hundred dollars (\$500),
 - 29 including labor and materials.
 - 30 (ii) A violation of the CSLL is a misdemeanor, and a repeated
 - 31 violation of the CSLL is punishable by imprisonment in a county
 - 32 jail for up to one year and by a monetary fine of up to ten thousand
 - 33 dollars (\$10,000) or 20 percent of the aggregate payments received
 - 34 by the violator.
 - 35 (iii) An unlicensed person who performs works of improvement
 - 36 requiring a license issued by the board may not bring a lawsuit to
 - 37 recover money from the owner of the improved property, and a
 - 38 property owner who has paid money for any work of improvement
 - 39 or repair requiring a license issued by the board may bring a lawsuit

1 to require the unlicensed person who performed the work to return
2 any money he or she received for that work.

3 (b) The city, county, or city and county shall retain the records
4 submitted pursuant to subdivision (a) and shall make them available
5 for inspection by the public. The city, county, or city and county
6 shall electronically file with the board records submitted to it
7 pursuant to subdivision (a).

8 (c) A violation of this section by an applicant for a local business
9 license or for renewal of that license shall be subject to a civil
10 penalty of not more than one thousand dollars (\$1,000). In addition,
11 a person authorized to bring a civil action for injunctive relief
12 under Section 7028.4 may bring an action to enjoin a violation of
13 this section, and the court shall award attorney's fees and costs to
14 the prevailing party in an action brought by a contractor licensed
15 by the board, an association of contractors, or a consumer.

16 22756.2. (a) On or after July 1, 2012, a city, county, or city
17 and county that issues a local business license to a person engaging
18 in gardening or landscape maintenance services shall require each
19 of those licensees to display prominently a designated type of
20 sticker or other indicia in each motor vehicle he or she uses in the
21 jurisdiction while providing those services if the licensee has no
22 employees and is exempt from having workers' compensation
23 insurance coverage.

24 (b) Subdivision (a) applies to a person licensed by the board if
25 he or she is engaged in providing gardening or landscape
26 maintenance services.

27 (c) The city, county, or city and county shall provide the licensee
28 with the sticker or indicia required by subdivision (a) and may
29 impose a fee on the licensee in an amount that does not exceed the
30 costs it incurred to produce the sticker or indicia.

31 (d) (1) A violation of this section is an infraction punishable
32 by a fine of not less than two hundred fifty dollars (\$250) and not
33 more than one thousand dollars (\$1,000). In addition, a violation
34 of the section is subject to a civil penalty of not more than one
35 thousand dollars (\$1,000).

36 (2) A person authorized to bring a civil action for injunctive
37 relief under Section 7028.4 may bring an action to enjoin a
38 violation of this section, and the court shall award attorney's fees
39 and costs to the prevailing party in an action brought by a

1 contractor licensed by the board, an association of contractors, or
2 a consumer.

3 (3) The city, county, or city and county shall suspend for a
4 period of one year the license of a person who violates this section
5 three or more times.

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for certain
8 costs that may be incurred by a local agency or school district
9 because, in that regard, this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty for a crime
11 or infraction, within the meaning of Section 17556 of the
12 Government Code, or changes the definition of a crime within the
13 meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.