

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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. The bill would impose a civil penalty, as specified, on an applicant who provides false information with respect to an application, and would authorize certain persons to obtain an injunction under specified circumstances.~~

~~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.~~

~~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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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.

1 (c) Enhanced local licensing of businesses that provide
2 gardening or landscape maintenance services, along with a program
3 that identifies vehicles used by those engaged in gardening or
4 landscape maintenance services, will significantly reduce
5 unlicensed contracting and underground economic activities.

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

8
9 CHAPTER 25. GARDENING OR LANDSCAPE MAINTENANCE
10 SERVICES

11
12 22756. The following definitions apply for purposes of this
13 chapter:

14 (a) “Board” means the ~~Contractors~~ *Contractors’* State License
15 Board.

16 (b) “CSLL” means the ~~Contractors~~ *Contractors’* State License
17 Law set forth in Chapter 9 (commencing with Section 7000) of
18 Division 3.

19 (c) “Gardening or landscape maintenance services” includes
20 any of the following activities:

21 (1) Mowing grass.

22 (2) Edging.

23 (3) Pruning of shrubs and trees less than 15 feet in height.

24 (4) Watering of lawns, shrubs, or trees.

25 (5) Applying lawn and garden chemicals and fertilizers.

26 (6) Removing clippings, leaves, and other garden debris.

27 22756.1. (a) On and after July 1, 2012, a city, county, or city
28 and county shall not issue or renew a local business license to
29 provide gardening or landscape maintenance services unless the
30 applicant provides the following:

31 (1) Evidence of workers’ compensation insurance coverage for
32 his or her employees, if any, or a signed statement of the facts
33 exempting him or her from the requirement of having that
34 coverage:

35 (2) Either of the following documents:

36 (A) Proof of current licensure as a contractor by the board.

37 (B) Signed acknowledgment, on a form provided by the board,
38 of the following matters:

39 (i) It is unlawful for a person without a license issued by the
40 board who engages in gardening or landscape maintenance services

1 to make permanent improvements to real property or to repair any
2 improvements to real property unless the total cost of the
3 improvements or repairs is less than five hundred dollars (\$500),
4 including labor and materials.

5 (ii) A violation of the CSLL is a misdemeanor, and a repeated
6 violation of the CSLL is punishable by imprisonment in a county
7 jail for up to one year and by a monetary fine of up to ten thousand
8 dollars (\$10,000) or 20 percent of the aggregate payments received
9 by the violator.

10 (iii) An unlicensed person who performs works of improvement
11 requiring a license issued by the board may not bring a lawsuit to
12 recover money from the owner of the improved property, and a
13 property owner who has paid money for any work of improvement
14 or repair requiring a license issued by the board may bring a lawsuit
15 to require the unlicensed person who performed the work to return
16 any money he or she received for that work.

17 (b) The city, county, or city and county shall retain the records
18 submitted pursuant to subdivision (a) and shall make them available
19 for inspection by the public. The city, county, or city and county
20 shall electronically file with the board records submitted to it
21 pursuant to subdivision (a).

22 (c) ~~A violation of this section by an~~ An applicant for a local
23 business license or for renewal of that license *who provides false*
24 *information with respect to the application* shall be subject to a
25 civil penalty of not more than one thousand dollars (\$1,000). In
26 addition, a person authorized to bring a civil action for injunctive
27 relief under Section 7028.4 may bring an action to enjoin a
28 ~~violation of this section~~ *person from providing gardening or*
29 *landscape maintenance services without a valid license*, and the
30 court shall award attorney's fees and costs to the prevailing party
31 in an action brought by a contractor licensed by the board, an
32 association of contractors, or a consumer.

33 ~~22756.2. (a) On or after July 1, 2012, a city, county, or city~~
34 ~~and county that issues a local business license to a person engaging~~
35 ~~in gardening or landscape maintenance services shall require each~~
36 ~~of those licensees to display prominently a designated type of~~
37 ~~sticker or other indicia in each motor vehicle he or she uses in the~~
38 ~~jurisdiction while providing those services if the licensee has no~~
39 ~~employees and is exempt from having workers' compensation~~
40 ~~insurance coverage.~~

1 ~~(b) Subdivision (a) applies to a person licensed by the board if~~
2 ~~he or she is engaged in providing gardening or landscape~~
3 ~~maintenance services.~~

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

8 ~~(d) (1) A violation of this section is an infraction punishable~~
9 ~~by a fine of not less than two hundred fifty dollars (\$250) and not~~
10 ~~more than one thousand dollars (\$1,000). In addition, a violation~~
11 ~~of the section is subject to a civil penalty of not more than one~~
12 ~~thousand dollars (\$1,000).~~

13 ~~(2) A person authorized to bring a civil action for injunctive~~
14 ~~relief under Section 7028.4 may bring an action to enjoin a~~
15 ~~violation of this section, and the court shall award attorney's fees~~
16 ~~and costs to the prevailing party in an action brought by a~~
17 ~~contractor licensed by the board, an association of contractors, or~~
18 ~~a consumer.~~

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

22 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution for certain~~
24 ~~costs that may be incurred by a local agency or school district~~
25 ~~because, in that regard, this act creates a new crime or infraction,~~
26 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
27 ~~or infraction, within the meaning of Section 17556 of the~~
28 ~~Government Code, or changes the definition of a crime within the~~
29 ~~meaning of Section 6 of Article XIII B of the California~~
30 ~~Constitution.~~

31 ~~However, if the Commission on State Mandates determines that~~
32 ~~this act contains other costs mandated by the state, reimbursement~~
33 ~~to local agencies and school districts for those costs shall be made~~
34 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
35 ~~4 of Title 2 of the Government Code.~~

36 ~~SEC. 3. If the Commission on State Mandates determines that~~
37 ~~this act contains costs mandated by the state, reimbursement to~~
38 ~~local agencies and school districts for those costs shall be made~~

- 1 *pursuant to Part 7 (commencing with Section 17500) of Division*
- 2 *4 of Title 2 of the Government Code.*

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