

AMENDED IN ASSEMBLY JULY 2, 2014  
AMENDED IN ASSEMBLY JUNE 18, 2014  
AMENDED IN ASSEMBLY MAY 29, 2014  
AMENDED IN SENATE APRIL 30, 2013

**SENATE BILL**

**No. 315**

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**Introduced by Senator Lieu**

February 15, 2013

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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 *all forms of* unlicensed activity, as specified. The act authorizes persons employed as enforcement representatives in the division *and designated by the Director of Consumer Affairs* to issue written notices to appear in court, as specified.

This bill would additionally 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. *The bill would make other technical, nonsubstantive changes to these provisions.*

(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 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 that~~ shall rigorously enforce this chapter prohibiting all  
6 forms of unlicensed activity.

7 (b) Persons employed as enforcement representatives ~~in this~~  
8 ~~division of the Contractors' State License Board~~ and designated  
9 by the Director of Consumer Affairs ~~are not peace officers and are~~  
10 ~~not entitled to safety member retirement benefits. They do not~~  
11 ~~have the power of arrest. However, they may shall have the~~  
12 *authority to* issue a written notice to appear in court pursuant to  
13 Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2  
14 of the Penal Code. *An employee so designated is not a peace officer*  
15 *and is not entitled to safety member retirement benefits as a result*  
16 *of that designation. He or she does not have the power of arrest.*

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

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

23 7027.2. Notwithstanding any other provision of this chapter,  
24 a person who is not licensed pursuant to this chapter may advertise  
25 for construction work or a work of improvement covered by this  
26 chapter only if the aggregate contract price for labor, material, and  
27 all other items on a project or undertaking is less than five hundred  
28 dollars (\$500), and he or she states in the advertisement that he or  
29 she is not licensed under this chapter.

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

32 7028. (a) Unless exempted from this chapter, it is a  
33 misdemeanor for a person to engage in the business of, or act in  
34 the capacity of, a contractor within this state under either of the  
35 following conditions:

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

37 (2) The person performs acts covered by this chapter under a  
38 license that is under suspension for failure to pay a civil penalty

1 or to comply with an order of correction, pursuant to Section  
2 7090.1, or for failure to resolve all outstanding final liabilities,  
3 pursuant to Section 7145.5.

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

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

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

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

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

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

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

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

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

15 7110.5. Upon receipt of a certified copy of the Labor  
16 Commissioner's finding of a willful or deliberate violation of the  
17 Labor Code by a licensee, pursuant to Section 98.9 of the Labor  
18 Code, the registrar shall initiate disciplinary action against the  
19 licensee within 180 days of notification.

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