



LAWS OF ALASKA

1988

Source

SCS CSHB 472(Fin)

Chapter No.

132

AN ACT

Relating to mechanical administrators and construction contractors; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 8, 1988
Actual Effective Date: Sections 1, 2, 7, and 9 - 11 take effect June 9, 1988; sections 4 - 6, 8, and 12 take effect December 31, 1988; section 3 takes effect July 1, 1989

AN ACT

Relating to mechanical administrators and construction
contractors; and providing for an effective date.

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(28) Board of Mechanical Examiners (AS 08.40.220).

* Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:

(21) Board of Mechanical Examiners (AS 08.40.220) --

June 30, 1992.

* Sec. 3. AS 08.18 is amended by adding a new section to read:

Sec. 08.18.028. MECHANICAL CONTRACTORS. (a) The department may not issue a certificate of registration as a mechanical contractor to an applicant unless the applicant is, or employs, a person currently licensed as a mechanical administrator under AS 08.40.

(b) Each applicant for a mechanical contractor's certificate of registration may employ more than one mechanical administrator.

(c) If the relationship of the only mechanical administrator with a registered mechanical contractor is terminated, the registration is void 30 days after the next regularly scheduled mechanical administrator's examination unless the mechanical contractor has hired a licensed mechanical administrator in the interim.

* Sec. 4. AS 08.18.041 is amended to read:

Sec. 08.18.041. FEES. The department [DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT] shall set registration and renewal fees

Chapter 132

1 under AS 08.01.065 for the following:

- 2 (1) general contractor;
- 3 (2) specialty contractor;
- 4 (3) mechanical contractor.

5 * Sec. 5. AS 08.18.071(b) is amended to read:

6 (b) If the applicant is a general contractor, the amount of the
7 bond shall be \$10,000; if the applicant is a mechanical or specialty
8 contractor, the amount of the bond shall be \$5,000. In lieu of the
9 surety bond the applicant may file with the commissioner a cash depos-
10 it or other negotiable security acceptable to the commissioner in the
11 amount specified for bonds.

12 * Sec. 6. AS 08.18.171(3) is repealed and reenacted to read:

13 (3) "contractor" means a person who, in the pursuit of an
14 independent business, undertakes or offers to perform, or claims to
15 have the capacity to perform, or submits a bid for a project to con-
16 struct, alter, repair, move, or demolish a building, highway, road,
17 railroad, or any type of fixed structure, including excavation and
18 site development and erection of scaffolding; "contractor" includes a
19 general contractor, builder, mechanical contractor, speciality con-
20 tractor, and subcontractor;

21 * Sec. 7. AS 08.18.171 is amended by adding a new paragraph to read:

22 (5) "trade" means a skill used in the field of construc-
23 tion, as defined by regulation by the department.

24 * Sec. 8. AS 08.18.171 is amended by adding new paragraphs to read:

25 (6) "builder" means general contractor;

26 (7) "general contractor" means a contractor whose business
27 operations require the use of more than three trades or the use of
28 mechanical or specialty contractors and subcontractors who are under
29 the supervision of the contractor;

(8) "mechanical contractor" means a contractor whose business operations involve plumbing, pipe fitting, sheet metal, heating, air conditioning, ventilating, or sprinkler and dry chemical fire protection trades in order to install or modify mechanical piping and systems, devices, fixtures, and equipment or other mechanical materials subject to the following codes as published by the International Association of Plumbing and Mechanical Officials or the International Conference of Building Officials:

- (A) Uniform Plumbing Code;
- (B) Uniform Swimming Pool, Spa, and Hot Tub Code;
- (C) Uniform Solar Energy Code; and
- (D) Uniform Mechanical Code;

(9) "specialty contractor" means a contractor, other than a mechanical contractor, whose business operations require the use of not more than three trades.

* Sec. 9. AS 08.40 is amended by adding new sections to read:

ARTICLE 4. MECHANICAL ADMINISTRATORS.

Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-490 is to protect the safety of people and property in the state from the danger of improperly installed or modified mechanical systems by providing a procedure to

(1) assure the public that persons responsible for making mechanical installations in this state are qualified; and

(2) assure that a sufficient number of persons are so qualified.

Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is created the Board of Mechanical Examiners consisting of three members. Each member of the board shall reside in a different judicial district of the state. Two members of the board shall be licensed mechanical

Chapter 132

1 administrators and one member shall be a public member. One of the
2 licensed mechanical administrator members of the board shall be a
3 resident of a community with a population of less than 5,000 persons.

4 (b) The members of the board shall elect one of its members as
5 chair.

6 (c) The board shall meet at least annually. The board may hold
7 other meetings at the call of the chair.

8 Sec. 08.40.230. CATEGORIES OF LICENSES. The board may adopt
9 regulations establishing categories of mechanical administrators,
10 qualifications for those categories, and the content of examinations
11 for applicants for each category.

12 Sec. 08.40.240. REGULATIONS. The board shall adopt regulations
13 under the Administrative Procedure Act (AS 44.62), relating to the ex-
14 amination and licensing of mechanical administrators, the establishing
15 of the continued competency of licensees for license renewal and
16 reinstatement, and the suspension or revocation of licenses.

17 Sec. 08.40.250. EXAMINATIONS. The board shall conduct licensing
18 examinations at least twice each year at appropriate places in the
19 state.

20 Sec. 08.40.260. LICENSE REQUIRED. (a) A person may not act as
21 a mechanical administrator without a license.

22 (b) A person licensed under AS 08.40.210 - 08.40.490 may perform
23 work only in a category for which the person is licensed.

24 Sec. 08.40.270. EXAMINATION OF APPLICANT. (a) Each applican
25 shall be examined to determine the applicant's

26 (1) ability to understand plans, design specifications, an
27 engineering terms commonly used in the mechanical field;

28 (2) knowledge of mechanical installations and piping;

29 (3) familiarity with the requirements of the Unifor

1 Plumbing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform
2 Solar Energy Code, and the Uniform Mechanical Code currently in effect
3 in the state;

4 (4) familiarity with mechanical installation problems and
5 the usages of the trade peculiar to this state; and

6 (5) personal skill and ability.

7 (b) If an applicant for a license submits proof satisfactory to
8 the board that the applicant is licensed as a mechanical administrator
9 or the equivalent by another state or territory, meets qualifications
0 established by the board under AS 08.40.230, and has passed an ex-
amination equivalent to the test administered under (a) of this sec-
tion except insofar as that examination tests knowledge and skill
particularly required to meet the environment and usages of the trade
peculiar to this state, the board shall waive all of the examination
required under (a) of this section except those parts that test knowl-
edge and skill particularly required to meet the environment and
usages of the trade peculiar to this state.

Sec. 08.40.280. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-
TOR. A person may not qualify or operate as a mechanical adminis-
trator for more than one registered contractor, corporation, joint
venture, or other business entity, unless the municipality or communi-
ty where the person qualifies or operates as a mechanical administra-
tor is the principal place of business of fewer than three mechanical
administrators.

Sec. 08.40.290. RENEWAL AND REINSTATEMENT. (a) A license
issued under AS 08.40.210 - 08.40.490 is nontransferable and, unless
revoked or suspended, may be renewed on a date set by the department
upon proof of continued competency.

(b) A lapsed license may be reinstated upon proof of continued

Chapter 132

1 competency by payment of all unpaid renewal fees and any penalty fee
2 established under AS 08.01.100(b), unless the license has been lapsed
3 for more than two years. If a person's license has been lapsed for
4 more than two years, the person is required to take an examination
5 under AS 08.40.270.

6 Sec. 08.40.300. ISSUANCE AND DISPLAY OF LICENSE. An applicant
7 who successfully passes the examination shall receive a certificate of
8 license. The licensee shall prominently display the certificate,
9 while in effect, in the licensee's principal place of business.

10 Sec. 08.40.310. FEES. Each applicant and each licensee shall
11 pay application and renewal fees established under AS 08.01.065.

12 Sec. 08.40.320. DENIAL, SUSPENSION, AND REVOCATION OF LICENSE.

13 (a) The board may take disciplinary action against a licensee or
14 applicant upon a finding that

15 (1) the application is fraudulent or misleading;

16 (2) the licensee has knowingly violated AS 08.40.210 -
17 08.40.490 or an order or regulation of the board or the department; or

18 (3) the licensee is incompetent or has engaged in fraudu-
19 lent practices.

20 (b) Notice of a proposed denial, suspension, or revocation o
21 license shall be in writing and shall state the grounds.

22 (c) Proceedings for the denial, suspension, or revocation of
23 license shall be governed by the Administrative Procedure Act (AS 44.
24 62).

25 Sec. 08.40.330. INVESTIGATIONS. Either the Department of Con
26 merce and Economic Development or the Department of Labor may investi
27 gate alleged or apparent violations of AS 08.40.210 - 08.40.490.
28 department, upon showing proper credentials, may enter, during regul
29 hours of work, a construction site where it appears that mechanic

1 work is being done. A department may make inquiries about the identity
2 of the mechanical administrator or the person acting in the capacity
3 of a mechanical administrator. Upon demand, a mechanical administrator
4 or person acting in the capacity of a mechanical administrator,
5 or that person's representative, shall produce evidence of current
6 licensure.

7 Sec. 08.40.340. ISSUANCE OF CITATIONS. Either the Department of
8 Commerce and Economic Development or the Department of Labor may issue
9 a citation for a violation if there is probable cause to believe a
0 person has violated AS 08.40.210 - 08.40.490. Each day a violation
1 continues after a citation for the violation has been issued constitutes
2 a separate violation.

3 Sec. 08.40.350. PROCEDURE AND FORM OF CITATION. (a) A citation
4 issued under AS 08.40.340 must be in writing. A person receiving the
5 citation is not required to sign a notice to appear in court.

6 (b) The time specified in the notice to appear on a citation
7 issued under AS 08.40.340 must be at least five days, not including
8 weekends and holidays, after the issuance of the citation, unless the
9 person cited requests an earlier hearing.

0 (c) The Department of Commerce and Economic Development and the
1 Department of Labor are responsible for the issuance of books containing
2 appropriate citations, and each shall maintain a record of each
3 book issued and each citation contained in it. Each department shall
4 require and retain a receipt for every book issued to an employee of
5 that department.

6 (d) The department that issues a citation under AS 08.40.340
7 shall deposit the original or a copy of the citation with a court
8 having jurisdiction over the alleged offense. Upon its deposit with
9 the court, the citation may be disposed of only by trial in the court

Chapter 132

1 or other official action taken by the magistrate, judge, or prosecu-
2 tor. The department that issued the citation may not dispose of it or
3 copies of it or of the record of its issuance except as required under
4 this subsection and (e) of this section.

5 (e) The Department of Commerce and Economic Development and the
6 Department of Labor shall require the return of a copy of every cita-
7 tion issued by the respective department under AS 08.40.340 and of all
8 copies of every citation that has been spoiled or upon which an entry
9 has been made and not issued to an alleged violator. The departments
10 shall also maintain, in connection with every citation issued by the
11 respective department, a record of the disposition of the charge by
12 the court where the original or copy of the citation was deposited.

13 (f) If the form of citation issued under AS 08.40.340 includes
14 the essential facts constituting the offense charged, and if the
15 citation is sworn to as required under the laws of this state for a
16 complaint charging commission of the offense alleged in the citation,
17 then the citation when filed with a court having jurisdiction is
18 considered to be a lawful complaint for the purpose of prosecution.

19 Sec. 08.40.360. CEASE AND DESIST ORDER. (a) If the commis-
20 sioner of commerce and economic development determines that a person
21 is acting as a mechanical administrator in violation of AS 08.40.210 .
22 08.40.490 the commissioner may issue a cease and desist order pro-
23 hibiting further action by the person as a mechanical administrator.
24 The cease and desist order remains in effect until the person has
25 submitted evidence acceptable to the commissioner showing that the
26 violation has been corrected.

27 (b) A person affected by an order issued under (a) of thi
28 section may seek equitable relief preventing the commissioner o
29 commerce and economic development from enforcing the order.

1 Sec. 08.40.370. INJUNCTIVE RELIEF. The commissioner of commerce
2 and economic development may seek an injunction in the superior court
3 to enjoin a person from violating AS 08.40.210 - 08.40.490.

4 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates
5 AS 08.40.210 - 08.40.490, or who knowingly violates a regulation or
6 order of the board or the department, is guilty of a misdemeanor, and
7 upon conviction is punishable by a fine of not more than \$300, or by
8 imprisonment for not more than 60 days, or by both.

9 (b) Unless the citation has been voided or otherwise dismissed
0 by the magistrate, judge, or prosecutor, a person who without lawful
1 justification or excuse fails to appear in court to answer a citation
2 issued under AS 08.40.340, regardless of the disposition of the charge
3 for which the citation was issued, is guilty of a class B misdemeanor.

4 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do
5 not apply to a utility, municipality, or local governing body whose
6 employees are engaged in mechanical work on an integral part of a
7 system owned and operated by the utility, municipality, or local
8 governing body.

9 (b) AS 08.40.210 - 08.40.490 do not apply to a person engaged in

0 (1) the manufacture or repair of mechanical apparatus or
1 equipment;

2 (2) mechanical work, the cost of which does not exceed
3 \$50,000, involving residences or small commercial establishments in
4 communities that

5 (A) have a population of under 5,000; or

6 (B) are over 50 miles by air or water transportation
7 from the business place of a mechanical administrator licensed
8 under AS 08.40.210 - 08.40.490;

9 (3) mechanical installation on a single-family residence or

Chapter 132

1 a two-family residence that is not intended for sale at the time of
2 making the installation;

3 (4) installation of water lines or sanitary, storm, or
4 drain sewer lines more than five feet from a building.

5 Sec. 08.40.400. PERSONAL SUPERVISION. A person licensed under
6 AS 08.40.210 - 08.40.490 as a mechanical administrator who contracts
7 to install or modify mechanical piping and systems, devices, fixtures,
8 equipment, or other mechanical materials, shall personally inspect
9 those materials after installation and modification unless the instal-
10 lation or modification amounts to simple or highly standardized work
11 performed in less than 24 man-hours by personnel generally under the
12 supervision of the mechanical administrator.

13 Sec. 08.40.490. DEFINITIONS. In AS 08.40.210 - 08.40.490

14 (1) "department" means the Department of Commerce and
15 Economic Development except where the context otherwise requires;

16 (2) "manufacture" means fabrication or completion of a
17 product or mechanical apparatus exclusive of its completion or instal-
18 lation at a job site;

19 (3) "mechanical administrator" means a person engaged in
20 the business of, or purporting to be engaged in the business of,
21 installing or modifying, or contracting to install or modify, mechan-
22 ical piping and systems, devices, fixtures, equipment, or other mechan-
23 ical materials subject to the Uniform Plumbing Code, Uniform Swimming
24 Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and the Uni-
25 form Mechanical Code as published by the International Association of
26 Plumbing and Mechanical Officials and the International Conference of
27 Building Officials;

28 (4) "mechanical piping" includes piping fixtures, devices,
29 and equipment;

(5) "utility" means every public, cooperative, or other corporation, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls a plant or system for

(A) furnishing, by generation, transmission, or distribution, electrical service, fuel gas service, district heating, sewage disposal, or domestic water service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation.

* Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. A person is eligible for an initial appointment to the Board of Mechanical Examiners, created under sec. 9 of this Act, as a professional member of the board, if at the time of the appointment the person:

(1) understands plans, design specifications, and engineering terms commonly used in mechanical installations and piping;

(2) is familiar with mechanical installations and piping and with mechanical installation problems peculiar to this state;

(3) is familiar with the requirements of the Uniform Plumbing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar Energy Code, and Uniform Mechanical Code that are currently in effect in the state; and

(4) satisfies the qualifications for appointment, other than licensure, as set out in AS 08.40.220, as added by sec. 9 of this Act.

* Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.230, 08.40.270, and 08.40.300, as added by sec. 9 of this Act, a person may qualify for and receive without examination a license as a mechanical administrator in those categories of mechanical administration for which the person is qualified, if the person

Chapter 132

1 (1) has functioned as a mechanical administrator in the state
2 during the two years before the effective date of this section; and

3 (2) applies for licensure before July 1, 1989.

4 (b) A person who applies for licensure under this section is exempt
5 from AS 08.40.260, as added by sec. 9 of this Act, until the person's
6 application has been accepted or rejected by the Board of Mechanical Exam-
7 iners.

8 (c) A license issued under this section is for all purposes a license
9 issued under AS 08.40.300, as added by sec. 9 of this Act.

10 * Sec. 12. TRANSITIONAL PROVISION. In addition to the requirements of
11 AS 08.18.028, as added by sec. 3 of this Act, by July 1, 1989, the follow-
12 ing persons must be, or employ a person who is, a licensed mechanical
13 administrator under AS 08.40, as added by sec. 9 of this Act:

14 (1) a person who is a registered mechanical contractor on Ju-
15 ly 1, 1989;

16 (2) a person who applies before July 1, 1989, to be a registered
17 mechanical contractor and is issued a certificate of registration after
18 July 1, 1989.

19 * Sec. 13. Sections 1, 2, 7, and 9 - 11 of this Act take effect immedi-
20 ately under AS 01.10.070(c).

21 * Sec. 14. Sections 4 - 6, 8, and 12 of this Act take effect
22 December 31, 1988.

23 * Sec. 15. Section 3 of this Act takes effect July 1, 1989.
24
25
26
27
28
29