

Introduced: 1/30/85  
Referred: Labor & Commerce,  
Judiciary and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 151

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to construction contractors; and  
7 providing for an effective date."

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

9 \* Section 1. AS 08.18.011 is amended by adding a new subsection to  
10 read:

11 (b) A general contractor may not allow a person required to be  
12 registered under this chapter to begin work for the general contractor  
13 as a specialty contractor unless the person is registered under this  
14 chapter.

15 \* Sec. 2. AS 08.18.031 is amended by adding a new subsection to read:

16 (b) The department may not issue a certificate of registration  
17 to, or renew the registration of, an applicant whose registration has  
18 been revoked or suspended, or against whom a fine has been imposed  
19 under this chapter, until the period of revocation or suspension has  
20 expired and any fine has been paid.

21 \* Sec. 3. AS 08.18.051 is amended to read:

22 Sec. 08.18.051. IDENTIFICATION REQUIREMENTS [REGISTERED NAME].

23 (a) Except as provided otherwise by [STATE] law, a [NO] person who  
24 has registered under one name as required by this chapter may not act  
25 in the capacity of a contractor under any other name unless that name  
26 also is registered.

27 (b) All advertising, contracts, correspondence, cards, signs,  
28 posters, papers and documents prepared by a contractor for the con-  
29 tracting business must [WHICH] show the contractor's name, mailing

1 [AND] address, and address of the contractor's principal place of  
2 business. Advertising and contracts must also include the contrac-  
3 tor's registration number [SHALL SHOW THE NAME AND ADDRESS AS REGIS-  
4 TERED UNDER THIS CHAPTER].

5 (c) Individual contractors and partners, associates, agents,  
6 salesmen, solicitors, officers and employees of contractors shall use  
7 their true names and addresses, and the true name of the contractor  
8 firm, at all times while acting in the capacity of a contractor or  
9 performing related activities.

10 \* Sec. 4. AS 08.18.071(b) is amended to read:

11 (b) If the applicant is a general contractor, the amount of the  
12 bond shall be \$10,000 [\$5,000]; if the applicant is a specialty con-  
13 tractor the amount of the bond shall be \$5,000 [\$2,000]. In lieu of  
14 the surety bond, the applicant may file with the department [COMIS-  
15 SIONER] a cash deposit or other negotiable security acceptable to the  
16 department [COMMISSIONER OF COMMERCE,] in the amount specified for  
17 bonds.

18 \* Sec. 5. AS 08.18 is amended by adding new sections to article 3 to  
19 read:

20 Sec. 08.18.116. INVESTIGATIONS. Either the Department of Com-  
21 merce and Economic Development or the Department of Labor may investi-  
22 gate alleged or apparent violations of this chapter. These depart-  
23 ments, upon showing proper credentials, may enter, during regular  
24 hours of work, any construction site at which it appears that con-  
25 tracting work is being done. The departments may make inquiries as to  
26 the identity of the contractor or the person acting in the capacity of  
27 a contractor. Upon demand, a contractor or person acting in the  
28 capacity of a contractor, or that person's representative, shall  
29 produce evidence of current registration.

1           Sec. 08.18.117. ISSUANCE OF CITATIONS. Either the Department of  
2 Commerce and Economic Development or the Department of Labor may issue  
3 a citation for a violation if there is probable cause to believe a  
4 person has violated this chapter. Each day a violation continues  
5 after a citation for the violation has been issued constitutes a  
6 separate violation.

7           Sec. 08.18.118. PROCEDURE AND FORM OF CITATION ISSUANCE. (a) A  
8 citation issued under this chapter must be in writing. A person  
9 receiving the citation may not be required to sign a promise to appear  
10 in court.

11           (b) The time specified in the notice to appear on a citation  
12 issued under this chapter must be at least five days, not including  
13 weekends and holidays, after the issuance of the citation, unless the  
14 person cited requests an earlier hearing.

15           (c) The Department of Commerce and Economic Development and the  
16 Department of Labor are each responsible for the issuance of books  
17 containing appropriate citations, and shall maintain a record of each  
18 book the respective department issues, and each citation contained in  
19 it. Each department shall require, and retain, a receipt for every  
20 book issued to an employee of the respective department designated to  
21 provide investigative services to enforce provisions of this chapter.

22           (d) The department that issues a citation under this chapter  
23 shall deposit the original or a copy of the citation with a court  
24 having jurisdiction over the alleged offense. Upon its deposit with  
25 the court, the citation may be disposed of only by trial in the court  
26 or other official action taken by the magistrate, judge, or prose-  
27 cutor. The department that issued the citation may not dispose of it  
28 or copies of it, or of the record of its issuance, except as required  
29 under this subsection and (e) of this section.

1 (e) The Department of Commerce and Economic Development and the  
2 Department of Labor shall require the return of a copy of every cita-  
3 tion issued by an employee of the respective department under this  
4 chapter, and of all copies of every citation that has been spoiled or  
5 upon which an entry has been made and not issued to an alleged viola-  
6 tor. The departments shall also maintain, in connection with every  
7 citation issued by an employee of the respective department, a record  
8 of the disposition of the charge by the court in which the original or  
9 copy of the citation was deposited.

10 (f) If the form of citation issued under this chapter includes  
11 information and is sworn to as required under the laws of this state  
12 in respect to a complaint charging commission of the offense alleged  
13 in the citation, then the citation when filed with a court having  
14 jurisdiction is considered to be a lawful complaint for the purpose of  
15 prosecution.

16 Sec. 08.18.120. FAILURE TO OBEY CITATION. Unless the citation  
17 has been voided or otherwise dismissed by the magistrate, judge, or  
18 prosecutor, a person who fails to appear in court to answer a citation  
19 issued under this chapter, regardless of the disposition of the charge  
20 for which the citation was issued, is guilty of a class B misdemeanor.

21 \* Sec. 6. AS 08.18.121(f) is amended to read:

22 (f) If the Department [COMMISSIONER] of Labor [LABOR] or the  
23 Department of Commerce and Economic Development determines that a  
24 contractor or a person [IS] acting in the capacity of [AS] a contrac-  
25 tor, is in violation of this chapter, that department may, [THE COM-  
26 MISSIONER SHALL] give written notice prohibiting further action by the  
27 person as a contractor. The prohibition continues until the person  
28 has submitted evidence acceptable to that department [THE COMMISSIONER  
29 OF LABOR] showing that the violation has been corrected.

1 \* Sec. 7. AS 08.18.121(g) is amended to read:

2 (g) A person affected by an order issued under this chapter may  
3 seek equitable relief preventing the Department [COMMISSIONER] of  
4 Labor [LABOR] or the Department of Commerce and Economic Development  
5 from enforcing the order.

6 \* Sec. 8. AS 08.18.131 is amended to read:

7 Sec. 08.18.131. INJUNCTION AND PENALTIES. (a) In an action  
8 instituted in the superior court by the Department of Commerce and  
9 Economic Development or the Department [COMMISSIONER] of Labor [LABOR  
10 OR THE COMMISSIONER'S REPRESENTATIVE], a contractor or a person acting  
11 in the capacity of a contractor in violation of this chapter may be  
12 enjoined from doing so.

13 (b) In addition to other relief or any criminal penalties that  
14 might apply, a civil penalty not to exceed \$250 may be imposed for  
15 each violation of this chapter. Each day that an unlawful act contin-  
16 ues after an injunction has been issued constitutes a separate vio-  
17 lation.

18 \* Sec. 9. AS 08.18.141 is amended to read:

19 Sec. 08.18.141. MISDEMEANOR. (a) A contractor or a person  
20 acting in the capacity of a contractor in violation of AS 08.18.011 is  
21 guilty of a class B misdemeanor. A person who violates any other  
22 provision of this chapter is guilty of a violation punishable under  
23 AS 12.

24 (b) Criminal prosecution for a violation of this chapter does  
25 not preclude the Department of Commerce and Economic Development or  
26 the Department of Labor from seeking any available civil remedies.

27 \* Sec. 10. AS 08.18.171 is amended by adding a new paragraph to read:

28 (4) "department" means, unless the text reads otherwise,  
29 the Department of Commerce and Economic Development.

1 \* Sec. 11. Sections 1, 2 and 4 -- 10 of this Act take effect imme-  
2 diately in accordance with AS 01.10.070(c).

3 \* Sec. 12. Section 3 of this Act takes effect January 1, 1986.