

Introduced: 2/1/85
Referred: Labor & Commerce,
Judiciary and Finance

1 IN THE HOUSE

BY SUND AND TAYLOR

2

HOUSE BILL NO. 168

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 work for the general contractor as a
13 specialty contractor unless the person is registered under this chap-
14 ter.

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

16 (b) The commissioner may not issue a certificate of registration
17 or renew the registration of an applicant whose registration has been
18 revoked or suspended or against whom a fine has been imposed under
19 this chapter until the period of revocation or suspension has expired
20 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 shall [WHICH] show the contractor's name, mailing

1 [AND] address, and address of the contractor's principal place of
2 business. Advertising and contracts shall 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 at all times while acting in the capac-
8 ity of a contractor or performing related activities.

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

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

16 * Sec. 5. AS 08.18 is amended by adding new sections to article 3 to
17 read:

18 Sec. 08.18.117. INVESTIGATIONS AND ISSUANCE OF CITATIONS. The
19 department shall provide investigative services to enforce the
20 provisions of this chapter. An employee of the department designated
21 by the commissioner to conduct investigations under this subsection
22 may issue a citation for a violation of this chapter if the employee
23 has probable cause to believe a person has violated this chapter.
24 Each day a violation continues after a citation for the violation has
25 been issued constitutes a separate violation.

26 Sec. 08.18.118. PROCEDURE AND FORM OF CITATION ISSUANCE AND
27 PROCEDURE. (a) A citation issued under this chapter shall be in
28 writing. A person receiving the citation is not required to endorse
29 it.

1 (b) The time specified in the notice to appear on a citation
2 issued under this chapter shall be at least five days, not including
3 weekends and holidays, after the alleged violation or issuance of the
4 citation, whichever is later, unless the person cited requests an
5 earlier hearing.

6 (c) The commissioner is responsible for the issuance of books
7 containing appropriate citations, and shall maintain a record of each
8 book and each citation contained in it. The commissioner shall re-
9 quire and retain a receipt for every book issued to an employee of the
10 department designated by the commissioner to provide investigative
11 services to enforce provisions of this chapter.

12 (d) An employee who issues a citation under this chapter shall
13 deposit the original or a copy of the citation with a court having
14 jurisdiction over the alleged offense. Upon its deposit with the
15 court, the citation may be disposed of only by trial in the court or
16 other official action taken by the magistrate, judge, or prosecutor.
17 The employee who issued the citation may not dispose of it or copies
18 of it or of the record of its issuance except as required under this
19 subsection and (e) of this section.

20 (e) The commissioner shall require the return of a copy of every
21 citation issued under this chapter and of all copies of every citation
22 that has been spoiled or upon which an entry has been made and not
23 issued to an alleged violator. The commissioner shall also maintain
24 in connection with every citation issued a record of the disposition
25 of the charge by the court in which the original or copy of the
26 citation was deposited.

27 (f) If the form of citation issued under this chapter includes
28 the essential facts constituting the offense charged, and if the
29 citation is sworn to as required under the laws of this state for a

1 complaint charging commission of the offense alleged in the citation,
2 then the citation when filed with a court having jurisdiction is
3 considered to be a lawful complaint for the purpose of prosecution.

4 Sec. 08.18.119. FAILURE TO OBEY CITATION. Unless the citation
5 has been voided or otherwise dismissed by the magistrate, judge, or
6 prosecutor, a person who fails to appear in court to answer a citation
7 issued under this chapter, regardless of the disposition of the charge
8 for which the citation was issued, is guilty of a class B misdemeanor.

9 * Sec. 6. AS 08.18.121(f) is repealed and reenacted to read:

10 (f) The commissioner of labor shall notify the department of a
11 violation of this chapter. If the commissioner of labor notifies the
12 department of a violation or if the department otherwise determines
13 that a violation has occurred, the commissioner of commerce and eco-
14 nomic development shall give written notice prohibiting further action
15 by the person as a contractor. The prohibition continues until the
16 person has submitted evidence acceptable to the commissioner of com-
17 merce and economic development showing that the violation has been
18 corrected.

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

20 (g) A person affected by an order issued under this chapter may
21 seek equitable relief preventing the commissioner of commerce and
22 economic development [OF LABOR] from enforcing the order.

23 * Sec. 8. AS 08.18.131 is amended to read:

24 Sec. 08.18.131. INJUNCTION. In an action instituted in the
25 superior court by the commissioner [OF LABOR OR THE COMMISSIONER'S
26 REPRESENTATIVE], a person may be enjoined from acting in the capacity
27 of a contractor in violation of this chapter [MAY BE ENJOINED FROM
28 DOING SO]. In addition to other relief, a civil penalty not to exceed
29 \$250 may be imposed for each violation. Each day that an unlawful act

1 continues constitutes a separate violation.

2 * Sec. 9. AS 08.18.141 is amended to read:

3 Sec. 08.18.141. MISDEMEANOR. A person acting in the capacity of
4 a contractor in violation of this chapter is guilty of a class A
5 misdemeanor.

6 * Sec. 10. AS 08.18 is amended by adding a new section to read:

7 Sec. 08.18.163. PROHIBITION ON STATE LOANS. A state agency,
8 corporation, or authority may not lend money for construction of a
9 project or building that is constructed in violation of AS 08.18.011.
10 The state agency, corporation, or authority shall make reasonable
11 efforts to determine whether construction is proceeding in accordance
12 with AS 08.18.011 before releasing money under a construction loan.

13 * Sec. 11. AS 08.18.171 is amended by adding a new paragraph to read:

14 (4) "department" means the Department of Commerce and
15 Economic Development.

16 * Sec. 12. Sections 1, 2 and 4 - 11 of this Act take effect July 1,
17 1985.

18 * Sec. 13. Section 3 of this Act takes effect July 1, 1986.