

Offered: 5/4/85
Referred: Finance

Original sponsors: Sund, Taylor
and Boucher

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 168 (Judiciary)

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 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 commissioner a cash
15 deposit or other negotiable security acceptable to the commissioner
16 [OF COMMERCE,] in the amount specified for bonds.

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

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

29 Sec. 08.18.117. ISSUANCE OF CITATIONS. Either the Department of

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

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

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

14 (c) The Department of Commerce and Economic Development and the
15 Department of Labor are responsible for the issuance of books contain-
16 ing appropriate citations, and each shall maintain a record of each
17 book issued and each citation contained in it. Each department shall
18 require and retain a receipt for every book issued to an employee of
19 that department.

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

28 (e) The Department of Commerce and Economic Development and the
29 Department of Labor shall require the return of a copy of every

1 citation issued by the respective department under this chapter, and
2 of all copies of every citation that has been spoiled or upon which an
3 entry has been made and not issued to an alleged violator. The
4 departments shall also maintain, in connection with every citation
5 issued by the respective department, a record of the disposition of
6 the charge by the court where the original or copy of the citation was
7 deposited.

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

14 Sec. 08.18.119. FAILURE TO OBEY CITATION. Unless the citation
15 has been voided or otherwise dismissed by the magistrate, judge, or
16 prosecutor, a person who without lawful justification or excuse fails
17 to appear in court to answer a citation issued under this chapter, re-
18 gardless of the disposition of the charge for which the citation was
19 issued, is guilty of a class B misdemeanor.

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

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

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

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

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

6 Sec. 08.18.131. INJUNCTION. In an action instituted in the
7 superior court by the Department of Commerce and Economic Development
8 or the Department of Labor, the court may enjoin [COMMISSIONER OF
9 LABOR OR THE COMMISSIONER'S REPRESENTATIVE,] a person from acting in
10 the capacity of a contractor in violation of this chapter. In
11 addition to other relief, the court may impose a civil penalty of not
12 more than \$250 for each violation. Each day that an unlawful act
13 continues constitutes a separate violation [MAY BE ENJOINED FROM DOING
14 SO].

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

16 Sec. 08.18.141. MISDEMEANOR. (a) A contractor or a person
17 acting in the capacity of a contractor in violation of AS 08.18.011
18 [THIS CHAPTER] is guilty of a class B misdemeanor. A person who
19 violates another provision of this chapter is guilty of a violation
20 punishable under AS 12.

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

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

25 (4) "department" means the Department of Commerce and
26 Economic Development, unless the context indicates otherwise.

27 * Sec. 11. Sections 1, 2 and 4 - 10 of this Act take effect July 1,
28 1985.

29 * Sec. 12. Section 3 of this Act takes effect July 1, 1986.

1 * Sec. 13. Section 4 of this Act applies to general contractor and
2 specialty contractor licenses that are issued or renewed by the Department
3 of Commerce and Economic Development after July 1, 1985.