

Original sponsors: Boyer, Boucher
and Ellis

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 472 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to mechanical administrators and
7 construction contractors; and providing for an effective date."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 08.01.010 is amended by adding a new paragraph to read:
11 (28) Board of Mechanical Examiners (AS 08.40.220).
12 * Sec. 2. AS 08.03.010(c) is amended by adding a new paragraph to read:
13 (21) Board of Mechanical Examiners (AS 08.40.220) --
14 June 30, 1992.
15 * Sec. 3. AS 08.18 is amended by adding a new section to read:
16 Sec. 08.18.028. MECHANICAL CONTRACTORS. (a) The department may
17 not issue a certificate of registration as a mechanical contractor to
18 an applicant unless the applicant is, or employs, a person currently
19 licensed as a mechanical administrator under AS 08.40.
20 (b) Each applicant for a mechanical contractor's certificate of
21 registration may employ more than one mechanical administrator.
22 (c) If the relationship of the only mechanical administrator
23 with a registered mechanical contractor is terminated, the registra-
24 tion is void 30 days after the next regularly scheduled mechanical
25 administrator's examination unless the mechanical contractor has hired
26 a licensed mechanical administrator in the interim.
27 * Sec. 4. AS 08.18.041 is amended to read:
28 Sec. 08.18.041. FEES. The department [DEPARTMENT OF COMMERCE
29 AND ECONOMIC DEVELOPMENT] shall set registration and renewal fees

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 AS 08.18.171(3) is repealed and reenacted to read: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;

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

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

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

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

17 ARTICLE 4. MECHANICAL ADMINISTRATORS.

18 Sec. 08.40.210. PURPOSE. The purpose of AS 08.40.210 - 08.40.-
19 490 is to protect the safety of people and property in the state from
20 the danger of improperly installed or modified mechanical systems by
21 providing a procedure to

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

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

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

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 applicant
25 shall be examined to determine the applicant's

26 (1) ability to understand plans, design specifications, and
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 Uniform

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
10 established by the board under AS 08.40.230, and has passed an ex-
11 amination equivalent to the test administered under (a) of this sec-
12 tion except insofar as that examination tests knowledge and skill
13 particularly required to meet the environment and usages of the trade
14 peculiar to this state, the board shall waive all of the examination
15 required under (a) of this section except those parts that test knowl-
16 edge and skill particularly required to meet the environment and
17 usages of the trade peculiar to this state.

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

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

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

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 of
21 license shall be in writing and shall state the grounds.

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

25 Sec. 08.40.330. INVESTIGATIONS. Either the Department of Com-
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. A
28 department, upon showing proper credentials, may enter, during regular
29 hours of work, a construction site where it appears that mechanical

1 work is being done. A department may make inquiries about the identi-
2 ty of the mechanical administrator or the person acting in the capaci-
3 ty of a mechanical administrator. Upon demand, a mechanical adminis-
4 trator 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
10 person has violated AS 08.40.210 - 08.40.490. Each day a violation
11 continues after a citation for the violation has been issued consti-
12 tutes a separate violation.

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

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

20 (c) The Department of Commerce and Economic Development and the
21 Department of Labor are responsible for the issuance of books contain-
22 ing appropriate citations, and each shall maintain a record of each
23 book issued and each citation contained in it. Each department shall
24 require and retain a receipt for every book issued to an employee of
25 that department.

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

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 this
28 section may seek equitable relief preventing the commissioner of
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
10 by the magistrate, judge, or prosecutor, a person who without lawful
11 justification or excuse fails to appear in court to answer a citation
12 issued under AS 08.40.340, regardless of the disposition of the charge
13 for which the citation was issued, is guilty of a class B misdemeanor.

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

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

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

22 (2) mechanical work, the cost of which does not exceed
23 \$50,000, involving residences or small commercial establishments in
24 communities that

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

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

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

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, mechani-
22 cal 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;

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

5 (A) furnishing, by generation, transmission, or dis-
6 tribution, electrical service, fuel gas service, district heat-
7 ing, sewage disposal, or domestic water service to the public for
8 compensation;

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

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

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

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

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

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

25 * Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.-
26 230, 08.40.270, and 08.40.300, as added by sec. 9 of this Act, a person may
27 qualify for and receive without examination a license as a mechanical
28 administrator in those categories of mechanical administration for which
29 the person is qualified, if the person

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.