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Original sponsor: Labor and Commerce Committee

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 487 (L&C)

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  
8 date."

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 contractor,  
8 the amount of the bond shall be \$7,500; if the applicant is a special-  
9 ty contractor, the amount of the bond shall be \$5,000. In lieu of the  
10 surety bond the applicant may file with the commissioner a cash depos-  
11 it or other negotiable security acceptable to the commissioner in the  
12 amount specified for bonds.

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 AS 08.18.171(3) is repealed and reenacted to read:

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

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

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

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

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

1 the supervision of the contractor;

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

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

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

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

18 ARTICLE 4. MECHANICAL ADMINISTRATORS.

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

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

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

27 Sec. 08.40.220. BOARD OF MECHANICAL EXAMINERS. (a) There is  
28 created the Board of Mechanical Examiners consisting of three members.

29 Two members of the board shall be licensed mechanical administrators

1 and one member shall be a public member.

2 (b) The members of the board shall elect one of its members as  
3 chair.

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

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

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

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

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

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

22 Sec. 08.40.270. EXAMINATION OF APPLICANT. (a) Each applicant  
23 shall be examined to determine the applicant's

24 (1) ability to understand plans, design specifications, and  
25 engineering terms commonly used in the mechanical field;

26 (2) knowledge of mechanical installations and piping;

27 (3) familiarity with the requirements of the Uniform Plumb-  
28 ing Code, Uniform Swimming Pool, Spa, and Hot Tub Code, Uniform Solar  
29 Energy Code, and the Uniform Mechanical Code currently in effect in

1 the state;

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

4 (5) personal skill and ability.

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

16 Sec. 08.40.280. ADMINISTRATOR LIMITED TO ONE LICENSED CONTRAC-  
17 TOR. A person may not qualify or operate as a mechanical adminis-  
18 trator for more than one registered contractor, corporation, joint  
19 venture, or other business entity.

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

24 (b) A lapsed license may be reinstated upon proof of continued  
25 competency by payment of all unpaid renewal fees and any penalty fee  
26 established under AS 08.01.100(b), unless the license has been lapsed  
27 for more than two years. If a person's license has been lapsed for  
28 more than two years, the person is required to take an examination  
29 under AS 08.40.270.

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

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

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

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

10                   (1) the application is fraudulent or misleading;

11                   (2) the licensee has knowingly violated AS 08.40.210 -  
12 08.40.490 or a lawful rule, order, or regulation of the board or the  
13 department; or

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

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

18           (c) Proceedings for the denial, suspension, or revocation of a  
19 license shall be governed by the Administrative Procedure Act (AS 44.-  
20 62).

21           Sec. 08.40.330. INVESTIGATIONS. Either the Department of Com-  
22 merce and Economic Development or the Department of Labor may investi-  
23 gate alleged or apparent violations of AS 08.40.210 - 08.40.490. A  
24 department, upon showing proper credentials, may enter, during regular  
25 hours of work, a construction site where it appears that mechanical  
26 work is being done. A department may make inquiries about the identi-  
27 ty of the mechanical administrator or the person acting in the capaci-  
28 ty of a mechanical administrator. Upon demand, a mechanical adminis-  
29 trator or person acting in the capacity of a mechanical administrator,

1 or that person's representative, shall produce evidence of current  
2 licensure.

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

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

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

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

22 (d) The department that issues a citation under AS 08.40.340  
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 prosecu-  
27 tor. The department that issued the citation may not dispose of it or  
28 copies of it or of the record of its issuance except as required under  
29 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 the respective department under AS 08.40.340 and of all  
4 copies of every citation that has been spoiled or upon which an entry  
5 has been made and not issued to an alleged violator. The departments  
6 shall also maintain, in connection with every citation issued by the  
7 respective department, a record of the disposition of the charge by  
8 the court where the original or copy of the citation was deposited.

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

15 Sec. 08.40.360. CEASE AND DESIST ORDER. (a) If the commis-  
16 sioner of commerce and economic development determines that a person  
17 is acting as a mechanical administrator in violation of AS 08.40.210 -  
18 08.40.490 the commissioner may issue a cease and desist order pro-  
19 hibiting further action by the person as a mechanical administrator.  
20 The cease and desist order remains in effect until the person has  
21 submitted evidence acceptable to the commissioner showing that the  
22 violation has been corrected.

23 (b) A person affected by an order issued under (a) of this  
24 section may seek equitable relief preventing the commissioner of  
25 commerce and economic development from enforcing the order.

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

29 Sec. 08.40.380. PENALTIES. (a) A person who knowingly violates

1 AS 08.40.210 - 08.40.490, or who knowingly violates a valid rule,  
2 regulation, or order of the board or the department, is guilty of a  
3 misdemeanor, and upon conviction is punishable by a fine of not more  
4 than \$300, or by imprisonment for not more than 60 days, or by both.

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

10 Sec. 08.40.390. EXCLUSIONS. (a) AS 08.40.210 - 08.40.490 do  
11 not apply to a utility or municipality whose employees are engaged in  
12 mechanical work on an integral part of a system owned and operated by  
13 the utility or municipality.

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

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

17 (2) mechanical work, the cost of which does not exceed  
18 \$5,000, involving residences or small commercial establishments in  
19 communities that

20 (A) have a population of under 500; or

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

24 (3) mechanical installation on a single family residence  
25 that is owned by the installer or a member of the installer's immedi-  
26 ate family and not intended for sale at the time of making the instal-  
27 lation;

28 (4) installation outside of a building of water lines or  
29 sanitary, storm, or drain sewer lines.

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

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

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

12           (2) "manufacture" means fabrication or completion of a  
13 product or mechanical apparatus exclusive of its completion or instal-  
14 lation at a job site;

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

24           (4) "mechanical piping" includes piping fixtures, devices,  
25 and equipment;

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

1 (A) furnishing, by generation, transmission, or dis-  
2 tribution, electrical service, fuel gas service, district heat-  
3 ing, sewage disposal, or domestic water service to the public for  
4 compensation;

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

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

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

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

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

19 \* Sec. 11. LICENSURE BY QUALIFICATION. (a) Notwithstanding AS 08.40.-  
20 230, 08.40.270, and 08.40.300, as added by sec. 9 of this Act, a person may  
21 qualify for and receive without examination a license as a mechanical  
22 administrator in those categories of mechanical administration for which  
23 the person is qualified, if the person

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

26 (2) satisfies the minimum requirements for licensure based on  
27 experience as adopted by regulation by the Board of Mechanical Examiners;  
28 and

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

1 (b) A person who applies for licensure under this section is exempt  
2 from AS 08.40.260, as added by sec. 9 of this Act, until the person's  
3 application has been accepted or rejected by the Board of Mechanical  
4 Examiners.

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

7 \* Sec. 12. TRANSITIONAL PROVISION. In addition to the requirements of  
8 AS 08.18.028, added by sec. 3 of this Act, by July 1, 1989, the following  
9 persons must be, or employ a person who is, a licensed mechanical adminis-  
10 trator under AS 08.40, added by sec. 9 of this Act:

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

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

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

18 \* Sec. 14. Sections 4 - 6, 8, and 12 of this Act take effect Decem-  
19 ber 31, 1988.

20 \* Sec. 15. Section 3 of this Act takes effect July 1, 1989.