



Offered: 2/25/85  
Referred: Judiciary and Finance

Original sponsors: Sund, Taylor  
and Boucher

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 168 (L&C)

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 at which it appears that contract-  
24        ing 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 the department designated by the commissioner to provide investigative  
20 services to enforce provisions of this chapter.

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

29 (e) The Department of Commerce and Economic Development and the

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

9 (f) If the form of citation issued under this chapter 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. 08.18.119. FAILURE TO OBEY CITATION. Unless the citation  
16 has been voided or otherwise dismissed by the magistrate, judge, or  
17 prosecutor, a person who without lawful justification or excuse fails  
18 to appear in court to answer a citation issued under this chapter, re-  
19 gardless of the disposition of the charge for which the citation was  
20 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 or the Department  
23 of Commerce and Economic Development [LABOR] determines that a con-  
24 tractor or a person [IS] acting in the capacity of [AS] a contractor,  
25 is in violation of this chapter, that department may [THE COMMISSIONER  
26 SHALL] give written notice to the person prohibiting further action by  
27 the person as a contractor. The prohibition continues until the  
28 person has submitted evidence acceptable to that department [THE  
29 COMMISSIONER 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 of Labor or the  
4 Department of Commerce and Economic Development [COMMISSIONER OF  
5 LABOR] from enforcing the order.

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

7 Sec. 08.18.131. INJUNCTION. In an action instituted in the  
8 superior court by the commissioner [OF LABOR OR THE COMMISSIONER'S  
9 REPRESENTATIVE], a person may be enjoined from acting in the capacity  
10 of a contractor in violation of this chapter [MAY BE ENJOINED FROM  
11 DOING SO]. In addition to other relief, a civil penalty not to exceed  
12 \$250 may be imposed for each violation. Each day that an unlawful act  
13 continues constitutes a separate violation.

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

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

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

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

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

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

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

29 \* Sec. 13. Section 4 of this Act applies to general contractor and

1 specialty contractor licenses that are issued or renewed by the Department  
2 of Commerce and Economic Development after July 1, 1985.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

<p><b>REQUEST</b>                  Bill/Resolution No.: <u>CSHB 168 (L&amp;C)</u>                  Title: <u>Act relating to</u>                  Construction Contractors;                  Sponsor: <u>Representative Sund</u>                  Requestor: <u>House Finance Committee</u>                  Date of Request: <u>March 19, 1985</u></p>	<p><b>FISCAL DETAIL</b>                  Agency Affected: <u>Commerce &amp; Economic Dev.</u>                  Program Category Affected: _____                  Consumer Protection                  BRU, Program or Subprogram(s) Affected: _____</p>
---	---

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES		69.3	96.9	101.7	106.8	112.2
200 TRAVEL		13.8	15.7	16.5	17.3	18.2
300 CONTRACTUAL		22.8	23.9	25.1	26.4	27.7
400 SUPPLIES		2.7	3.8	4.0	4.2	4.4
500 EQUIPMENT		8.4	-0-	-0-	-0-	-0-
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>117.0</b>	<b>140.3</b>	<b>147.3</b>	<b>154.7</b>	<b>162.5</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	117.0	140.3	147.3	154.7	162.5
FEDERAL FUNDS					
OTHER					
<b>TOTAL</b>	<b>117.0</b>	<b>140.3</b>	<b>147.3</b>	<b>154.7</b>	<b>162.5</b>

**POSITIONS:**

FULL-TIME	2.0	2.0	2.0	2.0	2.0
PART-TIME	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-

**ANALYSIS:** Attach a separate page if necessary

See page 2 Attached for analysis.

Prepared By: Al Adams - Chairman  
 Division: House Finance Committee

Phone: 465-3706  
 Date: March 19, 1985

Approved by Commissioner: \_\_\_\_\_  
 Agency: \_\_\_\_\_

Date: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Current revenues generated by licensing fees charged construction contractors approximate \$436.7. HB 78 provides for additional revenues should costs exceed those presently incurred.

This note provides two positions, one in Anchorage and one in Fairbanks to implement the citation procedure. Existing Headquarters staff from Juneau will service Southeast.

COST ANALYSIS FY 86 - Variable costs @ 9 months.

	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>
100	Investigator I - 28.0	Investigator III 41.3 <sup>(1)</sup>	-0-
200	3.3	5.0	5.0
300	7.0	9.8 (1)	6.0
400	0.9	0.9	0.9
500	4.2	4.2	-0-

(1) Fairbanks office stands alone, hence higher level investigator and cost of new office space.

HOUSE JOURNAL

House Finance Committee  
Letter of Intent  
for  
CSHB 168 (Labor and Commerce)

This bill intends to expand the enforcement authority over contractors by both the Department of Labor and the Department of Commerce and Economic Development. It is the intent that funds provided by the fiscal note be shared by both departments taking into account existing enforcement personnel, capabilities, and office locations.



---

Al Adams, Chairman  
House Finance Committee

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

R.O. 3-20-85

*Rec'd  
5-7-85*

Revision Date:

REQUEST SCS CSHB 168 (Jud)  
Bill/Resolution No.:  
Title: "An Act relating to  
 construction contractors..."  
Sponsor: Sund and Taylor  
Requestor: Senate Judiciary  
Date of Request: 5/4/85

FISCAL DETAIL  
Agency Affected: Labor  
Program Category Affected: Public  
 Protection  
BRU, Program or Subprogram(s) Affected:  
 Labor Standards & Safety  
Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

*R. Bacolas*

Prepared By: Robert J. Bacolas, Sr.  
 Division: Labor Standards & Safety

Phone: 465-4870

Date: 5/4/85

Approved by Commissioner: Jim Robison  
 Agency: Labor

*Jim Robison*

Date: 5/4/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Pouch V  
Juneau, Alaska 99811

Alaska State Legislature  
House of Representatives

Phone:  
(907) 465-3892



Labor and Commerce Committee

Letter of Intent

CSHB 168 (L&C)

This bill intends to expand the enforcement authority over contractors to include both the Department of Labor and the Department of Commerce and Economic Development. Depending on the level of enforcement activity that it is determined the Departments will share, the \$253,300 fiscal note from the Department of Commerce may not apply.

A handwritten signature in cursive script, appearing to read "Mike A.", written over a horizontal line.

Representative Mike Navarre, Chairman  
House Labor and Commerce Committee  
February 22, 1985

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CS HB 168 (L&C)  
 Title: "An Act relating to  
 construction contractors..."  
 Sponsor: Sund and Taylor  
 Requestor: House Finance  
 Date of Request: 3/14/85

FISCAL DETAIL

Agency Affected: Labor  
 Program Category Affected: Public  
 Protection  
 BRU, Program or Subprogram(s) Affected:  
 Labor Standards & Safety  
 Wage and Hour Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

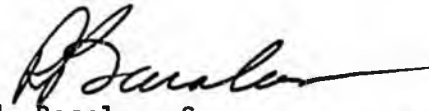
FUNDING: (Thousands of Dollars)

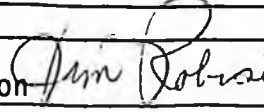
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: <sup>MB</sup> Robert J. Bacolas, Sr.  Phone: 465-4870  
 Division: Labor Standards & Safety Date: 3/14/85

Approved by Commissioner: <sup>MB</sup> Jim Robison  Date: 3/14/85  
 Agency: Labor

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

HB 168

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: CSHB 168  
 Title: An Act relating to  
Construction Contractors  
 Sponsor: Rep. Sund  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Economic Dev.  
 Program Category Affected: \_\_\_\_\_  
Consumer Protection  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Occupational Licensing

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES						
200 TRAVEL		151.8	159.4	167.4	175.8	184.6
300 CONTRACTUAL		40.8	42.8	45.0	47.2	49.6
400 SUPPLIES		31.8	33.4	35.1	36.8	38.7
500 EQUIPMENT		3.6	3.8	4.0	4.2	4.4
600 LAND & STRUCTURES		13.1	0	0	0	0
700 GRANTS, CLAIMS		12.2	0	0	0	0
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>253.3</b>	<b>239.4</b>	<b>251.5</b>	<b>264.0</b>	<b>277.3</b>

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>		0	0	0	0	0
----------------	--	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		253.3	239.4	251.5	264.0	277.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>253.3</b>	<b>239.4</b>	<b>251.5</b>	<b>264.0</b>	<b>277.3</b>

**POSITIONS:**

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

This bill will enhance the enforcement of unlicensed construction contractors by implementing a citation procedure. The positions requested would provide additional support to the joint enforcement efforts of the Department of Labor and the Department of Commerce and Economic Development. The bill also requires violators to be answerable to a court of law, and makes unlicensed activity a "Class B" misdemeanor.

Prepared By: Jennifer Strickler, Management Analyst Phone: 465-2144  
 Division: Occupational Licensing Date: 2-21-85

Approved by Commissioner: Loren H. Lounsbury Date: 2/21/85  
 Agency: Commerce and Economic Development

**Distribution (by Agency preparing fiscal note):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

1.	POSITION TITLE INVESTIGATOR III - Juneau				RANGE/STEP 18A	DARG. UNIT GGU	PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				<p>This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violations of AS 08.18, throughout the Southeast area of the State.</p>					
5.	PERSONAL SERVICES		2	AMOUNT 3						
6.	Salary		37.4							
7.	Benefits		6.0							
8.	Supplemental Benefits		2.3							
9.	Fixed Benefits		2.7							
10.	TOTAL PERSONAL SERVICES	01		48.4						
11.	Travel	02		12.5						
12.	Contractual	03		10.2						
13.	Commodities	04		1.2						
14.	Equipment	05		4.7						
15.	Other			4.1						
16.	TOTAL COST			81.1						
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		C.F. Hatch 1003								
19.		General Funds 1004		81.1						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR BRU USE ONLY										
KEY NUMBER _____										

REQUEST FOR  
NEW POSITION

AGENCY Commerce & Economic Development  
PROGRAM Consumer Protection  
BRU Occupational Licensing  
COMPONENT Investigations

Page 1 of 3  
Revised Date \_\_\_\_\_

FY 86

1.	POSITION TITLE INVESTIGATOR III - Fairbanks			RANGE/STEP 18A	BARC. UNIT GGU	PAGE/LINE	COY.	APPROV.	DIS/JP.
2.	TYPE OF POSITION PFT	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION JBA	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	Type of Expenditure			AMOUNT	<p>This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been by increased investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violations of AS 08.18, throughout the Northern Interior of the State.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	42.8							
6.	Benefits	6.9							
7.	Supplemental Benefits	2.6							
8.	Fixed Benefits	2.7							
9.	TOTAL PERSONAL SERVICES	01	55.0						
10.	Travel	02	15.8						
11.	Contractual	03	11.6						
12.	Commodities	04	1.2						
13.	Equipment	05	4.2						
14.	Other		4.5						
15.	TOTAL COST		92.3						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		C.F. Match	1003						
18.		General Funds	1004	92.3					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR BSM USE ONLY									
KEY NUMBER _____									

REQUEST FOR  
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Consumer Protection

BRU Occupational Licensing

COMPONENT Investigations

FY 86

Page 2 of 3

Revised Date \_\_\_\_\_

1.	POSITION TITLE INVESTIGATOR III - Anchorage			RANGE/STEP 18A	DEPT. UNIT GGU	PAGE/LINE	COY.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRIU PRIORITY	LOCATION EBA	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position is necessary to implement the provisions of the Construction Contractors Bill as it relates to public protection, investigations and enforcement of the new statute. The new statute addresses a more active and positive approach to eliminate the existing problem of unlicensed contractors.</p> <p>Current resources from the Department of Labor, Division of Labor Standards and Safety, and the Department of Commerce and Economic Development, Division of Occupational Licensing, for enforcement have been overburdened and limited to the more serious violations. This has been caused by increased investigations and enforcement in the many other licensing and inspection areas.</p> <p>This position would conduct investigations into violations of AS 08.18, throughout the South Central and Western areas of the State.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	37.4							
6.	Benefits	6.0							
7.	Supplemental Benefits	2.3							
8.	Fixed Benefits	2.7							
9.	TOTAL PERSONAL SERVICES	01	48.4						
10.	Travel	02	12.5						
11.	Contractual	03	10.0						
12.	Commodities	04	1.2						
13.	Equipment	05	4.2						
14.	Other		3.6						
15.	TOTAL COST		79.9						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		79.9					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR BSM USE ONLY KEY NUMBER _____									

REQUEST FOR  
NEW POSITION

AGENCY Commerce & Economic Development

PROGRAM Consumer Protection

BRIU Occupational Licensing

COMPONENT Investigations

**FY 86**

Page 3 of 3

Revised Date \_\_\_\_\_

Bill No.

Committee Substitute for House Bill No. 168 (L&C)

Date

March 14, 1985

Title

"An Act relating to construction contractors; and providing for an effective date."

Contact:

Eileen Plate  
465-2700  
Robert J. Bacolas  
465-4870

Committee Substitute for House Bill No. 168 seeks to strengthen the contractor licensing enforcement powers of the Department of Labor and the Department of Commerce and Economic Development.


In addition to increasing the bonding requirements for both general and speciality contractors, the bill provides for the issuance of citations, the assessment of civil penalties, and the imposition of injunctive relief for violations of the contractor licensing laws.

The provisions of this bill are designed to combat the proliferation of unlicensed contractors in the state in order to better protect the public from unlicensed and unbonded construction contractors.

A section-by-section analysis of this bill is attached.

The Department of Labor supports passage of this bill. It will not have a fiscal impact on the Department.

APPROVED:

  
Jim Robison, Commissioner  
Department of Labor

February 18, 1985

SUMMARY OF CONSUMER COMPLAINTS  
INVOLVING CONTRACTOR DISPUTES  
Received by the Consumer Protection Section  
Department of Law

Fiscal year 1984

We received a total of 136 consumer complaints in FY 84 that involved a contractor or specialty contractor. Six of those consumer complaint files are still pending in our section.

We recovered a total of \$15,423.30 for consumers on these complaints. We estimate that we recover only about 10% to 20% of the money consumers claim is due them in these types of complaints, so that the amount actually claimed as consumer loss is estimated to have been approximately \$75,000 - \$150,000. Because of our questionable jurisdiction over real property transactions we believe many consumers do not file complaints with our office who otherwise would. Our overall recovery rate on all types of consumer complaints is near 50%.

Fiscal year 1985

To date in FY 85 we have received 114 consumer complaints and have recovered \$15,448.31 for consumers. Of the 114 complaints filed in FY 85, 41 are still pending. We estimate the total value of these 114 claims as \$60,000 - \$100,000 on the same basis as explained in the FY 84 summary.

## FOOTNOTES

<sup>1</sup>Applicants for contracting licenses must provide proof of liability insurance. In Washington and Alaska, applicants must carry a minimum of \$20,000 for property damage and \$100,000 for personal injury or death of more than one person.

<sup>2</sup>AS 8.18.171 defines "general contractor" as a contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor". Contractors are persons who undertake or bid for projects to construct, alter, repair, move or demolish a building, highway, road, railroad, or a type of fixed structure, including excavation, site development and erection of scaffolds.

<sup>3</sup>No contracting license is required for projects costing less than \$200. A bond of three to ten times this amount is required for the licensing of applicants who have been a party to business infractions resulting in the revocation of their own or other contractors' licenses. Swimming pool contractors must post a bond of \$10,000.

<sup>4</sup>If the responsible managing employee of a construction firm does not himself own at least 20 percent of the interest in the firm, the managing employee may be required to post a \$5,000 "qualifying individual" bond in addition to the \$5,000 licensing bond.

<sup>5</sup>The bond takes the form of a Deposit to the Homeowners Construction Lien Recovery Fund. The amount of the bond is usually \$50. Michigan requires a \$1,000 bond before licensing nonresident electricians.

<sup>6</sup>No contracting license is required for public works projects costing under \$5,000.

<sup>7</sup>Bonds are required for residential construction (building projects of up to four residential units). All construction trades satisfy the bond requirement for residential construction through the Builders Board.

<sup>8</sup>Washington plumbers must post bonds and apply for contracting licenses as general contractors if they let bids, supervise workers or perform more than two specialty trades.

# AIECA

ALASKA  
INDEPENDENT  
ELECTRICAL  
CONTRACTORS  
ASSOCIATION

The Honorable Mike Navarre  
Chairman, House Labor & Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Chairman Navarre,

28 February 1985

We write to express our concern portions of HB 151 and HB 168, which are similar bills relating to registration of construction contractors.

We are the largest segment of the electrical business in Alaska; the Independents. We run fleets of trucks, print letterhead, business cards, invoices, and advertisements which would all be affected by section 2., AS 08.18.051 (b).

We are in complete accord with the Governor's comments in his memo of transmittal, where he expresses concern for the Alaskan consumer who is constantly threatened by unregistered, unscrupulous and untraceable "contractors" who perform shoddy or incomplete work. The ability to trace these people and bring about a settlement is a difficult and frustrating matter.

Our concern is that we do not feel that the portions noted above are going to make any special dent in the problem. Those of us who DO have insurance, ARE bonded and ARE registered and licensed, will, of course, comply with whatever is passed into law.....but what will the effect be on the "hit-and-run" contractor? ABSOLUTELY NOTHING! It's a parallel to the theory that if we registered guns, that all the criminals would then come in and register theirs.

What this amendment would do, is to penalize the law-abiding, and not begin to approach the real problem....which is a severe and uniform shortage of State Inspectors and Investigators, and a severe shortage of people to prosecute the few cases they do catch.

What this bill would do is to force us all to spend about \$1,000 in stationary, business cards, invoices, statements, checks, receipts, change order forms, purchase orders and the like, and then another \$1,000 or more to paint new signs on our fleets.

*There is NO RELATIONSHIP between what is painted on the side of our trucks and enabling the State to catch the unlicensed contractor.*

Charter Members: ALL PHASE ELECTRIC, B & E ELECTRIC, DINGBAT ELECTRIC, FUCHS ELECTRIC, HUSKY ELECTRIC, INDEPENDENT ELECTRIC, RAINBOW ELECTRIC, RAVEN ELECTRIC, RICHCREEK ELECTRIC, TANNER & SONS ELECTRIC, YELLOW ELECTRIC, LTD.



pp 2 of 2  
AIECA to House L & C  
28 February 1985

We note that many phone books have just been published, so Yellow page advertising must wait until next February or so to change, so even the portions that will be adopted will have a delay in them. How much better, then, to have language which allows us to do our printing AS PRESENT STOCKS ARE DEPLETED!

We note additionally that the text of the bill says nothing at all about what size or where the information will be placed on such signs/vehicles, so we could comply with 1/2" lettering, thus thwarting even the intent. We relate this latter item to show that we feel that it is not completely thought out, and needs work in any event.

*in S. Times report 7/1/82*

RECOMMENDATIONS: 1. Allow for present stocks of printed materials to be exhausted and that only NEW printing and NEW ads be required to come into compliance.....say with an absolute cutoff of 01 January 1987. 2. EXEMPT VEHICLES!

Several of our firms have subsidiary divisions and operate in several locations. Literal compliance with the bill would require 3 or 4 addresses, several names, several phone numbers and in some cases 2 or 3 license numbers. The result will be a mess that no one will read, no one can understand, no one can retain, and most of us cannot afford.

Thank you in advance for your consideration of our comments. We would be pleased to assist you if it would be appropriate.



DON TANNER  
President

cy to: Governor Sheffield

LICENSING AND BONDING OF CONTRACTORS IN NINE STATES

	<u>Electrical work</u>	<u>Plumbing</u>	<u>General Building Contracting</u>	<u>Specialty Contracting</u>
Alaska <sup>1,2</sup>	license bond (\$2,000)	license bond (\$2,000)	license bond (\$5,000)	license bond (\$2,000)
California <sup>3,4</sup>	license bond (\$5,000)	license bond (\$5,000)	license bond (\$5,000)	license bond (\$5,000)
Colorado	license ---	license ---	--- ---	--- ---
Idaho	license ---	license bond (\$2,000)	license for public works ---	license for public works ---
Michigan <sup>5</sup>	license bond (\$50 or \$1,000)	license ---	license for residential constr. ---	license for residential constr. bond (\$50)
Montana <sup>6</sup>	license ---	license ---	license for public works ---	license for public works ---
Ohio	--- ---	--- ---	--- ---	--- ---
Oregon <sup>1,7</sup>	license bond for residential constr.(\$5,000)	license bond for residential constr. (\$5,000)	license for residential constr. bond (\$5,000)	license for residential constr. bond (\$5,000)
Washington <sup>1,8</sup>	license bond (\$3,000)	license bond as general contractor(\$6,000)	license bond (\$6,000)	license bond (\$4,000)

Footnotes: See Next Page

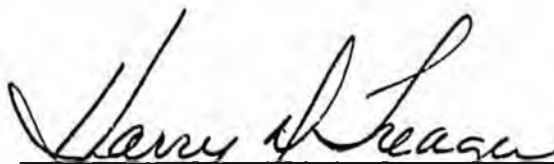
CSHB 168 (L & C): An Act relating to Construction Contractors; and providing for an effective date.

The Department of Commerce and Economic Development supports CSHB 168 (L & C).

The committee substitute provides the Department of Commerce and Economic Development and the Department of Labor the authority to enforce unlicensed activity with a strong citation program.

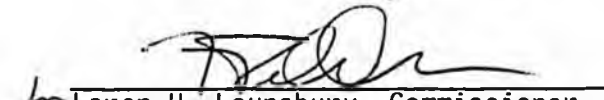
Unlicensed activity in the area of construction contractors has been a rapidly growing problem. A joint effort by the departments will strengthen enforcement ability.

The bill also increases bonding requirements and adds additional requirements to mandate that a contractor identify the principal place of business, mailing address and license number.



Harry D. Treager, Director  
Division of Occupational Licensing

DATE: February 22, 1985



Loren H. Lounsbury, Commissioner  
Department of Commerce & Economic  
Development

DATE: 2/26/85

March 8, 1985

HB168

An act relating to construction contractors and providing for an effective date.

OVERVIEW prepared by Rep. John Sund's office

#### HISTORY OF THE BILL

All entities wishing to work as contractor must have a license. General contractors must have a \$5,000 bond and specialty contractors must have a \$2,000 bond.

No protection is provided to the consumer who receives shoddy work from an unlicensed contractor. He is likely to find that the contractor has left the state and did not post a bond. Also, an unlicensed contractor who does not comply with the law can operate more cheaply and is likely to outbid a licensed contractor.

Enforcement is the job of the Department of Commerce and Economic Development. However, enforcement has been lax for two reasons:

- 1) a lack of enforcement powers. Cease and desist orders can be issued to a contractor who does not have proper bonding or a license, but criminal prosecution is rare.
- 2) a lack of personnel. Once a cease and desist order has been issued, the investigator might not return to the site until work has been completed and the contractor has left. The department is not able to effectively monitor contractors at their current staffing level.

HB610, introduced in 1984, began as a vehicle for creating a Board of Builders and, as CSHB610, focused on changes which were substantially similar to HB168. HB610 passed the House with a vote of 34 yeas and 6 nays and was left in the Senate upon adjournment.

#### PURPOSE OF THE BILL

To work as a contractor, the individual or company must be licensed. A general contractor must post a \$10,000 bond and a specialty contractor must post a \$5,000 bond. This essentially doubles the current level required and will assure more adequate compensation for unacceptable work, since the licensing procedure in itself does not guarantee competency.

A contractor must show his registration number in all ads. This is intended to heighten consumer awareness of licensing and bonding requirements when choosing a contractor.

The Department of Commerce and Economic Development and the Department of Labor will have citation authority. They will have the authority to enter work sites to inspect licenses. Working without a license will be a Class B misdemeanor.

A \$253,000 fiscal note provide 3 Investigator III positions, in Juneau, Anchorage and Fairbanks, to enforce contractor requirements. These provisions will strengthen the enforcement of current regulations.

Committee Substitute for  
House Bill 168 (L&C)  
Section-by-Section Analysis

Section 1 imposes criminal and civil liability upon a general contractor for allowing an unlicensed specialty contractor to work for him or her. The unlicensed specialty contractor, of course, would also be in violation of the law as provided by existing statutes [AS 08.18.011(a)].

Section 2 prohibits registration during the period of a previous revocation or suspension of a contractor's license and until a fine imposed under this chapter has been paid.

Section 3 adds the requirement that all advertising, contracts, correspondence, cards, signs, posters, papers, and documents prepared by a contractor for the contractor's business include the mailing address and the address of his or her principal place of business, in addition to the already-required name and address. The bill also adds a new requirement that all advertising and contracts include the contractor's registration number.

Section 4 increases the bonding amount required for general contractors from \$5,000 to \$10,000 and for specialty contractors from \$2,000 to \$5,000.

Section 5 gives authority to investigators from the Department of Commerce and Economic Development and the Department of Labor to enter construction sites and issue citations for violations of the construction contracting laws, with special emphasis placed on licensing violations. The form and issuance of citation will be similar to that used by peace officers in their issuance of fish and game citations, park citations and traffic citations. Commerce and Labor investigators will not have the authority to arrest, however.

Sections 6 and 7 of the bill work to give separate enforcement authority to the Department of Labor and the Department of Commerce and Economic Development in the issuance of a stop order.

Section 8 establishes that both departments can institute an injunctive proceeding in the Superior Court. It also sets out that, in addition to other relief and any criminal penalties that may be imposed, a civil penalty not to exceed \$250 may be imposed for each violation as AS 08.18, and that each day an unlawful act continues after an injunction has been issued constitutes a separate violation.

Section 9 provides that an unlicensed person acting in the capacity of a contractor, or a general contractor who hires an unlicensed specialty contractor, is guilty of a class B misdemeanor. A class B misdemeanor carries maximum penalties of 90 days in jail and \$1,000 fine. A criminal prosecution under AS 08.18 does not preclude the department from seeking civil remedies, as well. All other violations of AS 08.18, such as

failure to put a mailing address on a business card, will be considered a violation and subject to a fine of no more than \$300.

Sections 10-12 pertain to definitions and effective dates. The amendments made by section 3 would require reprinting of documents used by contractors. Accordingly, the July 1, 1986 effective date for that section will allow current supplies to be used and arrangements to be made for reprinting.

Sec. 08.18.011. Registration required. It is unlawful for a person to submit a bid or work as a contractor until that person has been issued a certificate of registration by the Department of Commerce and Economic Development. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered. (§ 2 ch 100 SLA 1968)

Revisor's notes. — In light of the changes made by ch. 218, SLA 1976, "Department of Commerce and Economic Development" was substituted for "Department of Commerce" in the first sentence.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Anyone engaged in building trades must be charged with awareness of the pervasive system of licenses and permits designed to enhance the public safety and confidence in the industry. Sumner Dev. Corp. v. Shivers, Sup. Ct. Op.

No. 984 (File No. 2036), 517 P.2d 757 (1974).

Cited in Industrial Power & Lighting Corp. v. Western Modular Corp., Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Sec. 08.18.021. Application for registration. (a) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the commissioner and which shall include the following information pertaining to the applicant:

- (1) employer social security number;
- (2) type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty;
- (3) the name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation.

(b) The information contained in the application shall be a matter of public record and open to public inspection. (§ 2 ch 100 SLA 1968)

NOTES TO DECISIONS

Cited in Industrial Power & Lighting Corp. v. Western Modular Corp., Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Sec. 08.18.026. Electrical contractors. (a) The department may not issue a certificate of registration as an electrical contractor to an applicant unless the applicant is, or employs, a person currently licensed as an electrical administrator under AS 08.40.

§ 08

(b) trat (c) regi 30 ( elec inte

Ec redr: remc

Qu No. (1978) Ci:

S. for each rent The trat chap SLA

Ed amer stitu the f. Ed

S. shal (1) (2) (§ 2

Qu Alas. 3076

S. stat.

(b) Each applicant for an electrical contractor's certificate of registration may employ more than one electrical administrator.

(c) If the relationship of the only electrical administrator with a registered electrical contractor is terminated, the registration is void 30 days after the next regularly scheduled examination unless the electrical contractor has hired a licensed electrical administrator in the interim. (§ 1 ch 53 SLA 1977)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Quoted in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).  
Corp. v. Western Modular Corp., Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Cited in Industrial Power & Lighting

Sec. 08.18.031. Certificate of registration — Issuance, duration, renewal. A certificate of registration expires on December 31 of each year following the date of issuance or renewal and shall be renewed under the same requirements as for an original registration. The commissioner shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter. (§ 2 ch 100 SLA 1968; am § 1 ch 49 SLA 1972; am § 1 ch 108 SLA 1982)

Effect of amendments. — The 1982 amendment, effective June 15, 1982, substituted "December 31" for "June 30" in the first sentence.

SLA 1982, provides: "Notwithstanding the provisions of AS 08.18.031 as amended in sec. 1 of this Act, a certificate of registration or renewal issued during calendar year 1982 expires December 31, 1983."

Editor's notes. — Section 5, ch. 108,

Sec. 08.18.041. Registration and renewal fees. The applicant shall pay to the commissioner a registration or renewal fee as follows:

- (1) general contractor . . . . . \$100
  - (2) specialty contractor . . . . . 50
- (§ 2 ch 100 SLA 1968)

NOTES TO DECISIONS

Quoted in Balboa Ins. Co. v. Senco Alas., Inc., Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

Sec. 08.18.051. Registered name. Except as provided otherwise by state law, no person who has registered under one name as required by

this chapter may act in the capacity of a contractor under any other name unless that name also is registered. All advertising, contracts, correspondence, cards, signs, posters, papers and documents prepared by a contractor which show the contractor's name and address shall show the name and address as registered under this chapter. Individual contractors and partners, associates, agents, salesmen, solicitors, officers and employees of contractors shall use their true names and addresses at all times while acting in the capacity of a contractor or performing related activities. (§ 2 ch 100 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.18.061. Requirements of political subdivision.** A contractor who is licensed by the state under this chapter may not be required to give bond in applying for or holding a license issued by a political subdivision. (§ 2 ch 100 SLA 1968).

#### Article 2. Bond and Insurance.

Section	Section
71. Bond required	101. Insurance required
81. Claims against contractor	111. Advertising bond and insurance
91. Cancellation of bond	115. Return of cash deposit

**Sec. 08.18.071. Bond required.** (a) Each applicant shall, at the time of applying for a certificate of registration, file with the commissioner a surety bond running to the State of Alaska conditioned upon the applicant's promise to pay

(1) all taxes and contributions due the state and political subdivisions,

(2) all persons furnishing labor or material or renting or supplying equipment to the applicant, and

(3) all amounts that may be adjudged against the applicant by reason of negligent or improper work or breach of contract in the conduct of the contracting business or by reason of damage to public facilities occurring in the course of a construction project.

(b) If the applicant is a general contractor the amount of the bond shall be \$5,000; if the applicant is a specialty contractor the amount of the bond shall be \$2,000. In lieu of the surety bond the applicant may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner of commerce, in the amount specified for bonds.

(c) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or the commissioner. No action may be commenced upon the bond later than three years after its cancellation. (§ 2 ch 100 SLA 1968; am § 1 ch 15 SLA 1977)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

## NOTES TO DECISIONS

Material and equipment excluded from operation of section. — AS 08.18.161(5), which makes the chapter inapplicable to materials and equipment not incorporated or consumed in the construction of a structure, operates to exclude such material and equipment from the operation of this section and AS 08.18.081. *Balboa Ins. Co. v. Senco Alas., Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).  
Cited in *Allison v. State*, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

**Sec. 08.18.081. Claims against contractor.** (a) A person having a claim against a contractor for any of the items referred to in AS 08.18.071 may bring suit upon the bond in the superior court of the judicial district in which the work is done or of any judicial district in which jurisdiction of the contractor may be obtained. A copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed and the commissioner shall maintain a record, available for public inspection, of all suits commenced. Two additional copies shall be served upon the director of the division of insurance with the payment of \$5 to the director taxable as costs in the action. This service upon the director shall constitute service on the surety and the director shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received. The surety upon the bond is not liable in an aggregate amount in excess of that named in the bond, but in case claims pending at any one time exceed the amount of the bond, the claims shall be satisfied from the bond in the following order:

- (1) labor, including employee benefits;
- (2) taxes and contributions due the state, city and borough, in that order;
- (3) material and equipment;
- (4) claims for breach of contract;
- (5) repair of public facilities.

(b) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit, in accordance with the priorities set out in (a) of this section. (§ 2 ch 100 SLA 1968; am § 9 ch 127 SLA 1974)

## NOTES TO DECISIONS

Material and equipment excluded from operation of section. — AS 08.18.161(5), which makes the chapter inapplicable to materials and equipment not incorporated or consumed in the construction of a structure, operates to exclude such material and equipment from the operation of AS 08.18.071 and this sec-

tion. Balboa Ins. Co. v. Senco Alas., Inc.,  
Sup. Ct. Op. No. 1468 (File No. 3076), 567  
P.2d 295 (1977).

Cited in Industrial Power & Lighting

Corp. v. Western Modular Corp., Sup. Ct.  
Op. No. 2259 (File Nos. 4163, 4176), 623  
P.2d 291 (1981).

**Sec. 08.18.091. Cancellation of bond.** Nothing in this chapter impairs the right of a bonding company to cancel its bond of a contractor for lawful reasons. (§ 2 ch 100 SLA 1968)

**Sec. 08.18.101. Insurance required.** Each applicant, at the time of applying for registration, shall file with the commissioner satisfactory evidence that the applicant has in effect public liability and property damage insurance covering the applicant's contracting operations in the sum of not less than \$20,000 for damage to property, \$50,000 for injury, including death, to any one person and \$100,000 for injury, including death, to more than one person. (§ 2 ch 100 SLA 1968)

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

#### NOTES TO DECISIONS

Stated in Balboa Ins. Co. v. Senco Alas., Inc., Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

**Sec. 08.18.111. Advertising bond and insurance.** Contractors may not advertise that they are bonded and insured simply because they have complied with the bond and insurance requirements of this chapter. (§ 2 ch 100 SLA 1968)

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.18.115. Return of cash deposit.** (a) A contractor who has filed a cash deposit and who ceases doing business as a contractor may request the return of as much of that cash deposit as is held by the commissioner by

(1) filing a notarized statement with the commissioner that the contractor has ceased doing business as a contractor; and

(2) filing a notarized statement with the commissioner at least three years after filing the statement in (1) of this subsection which

(A) requests return of the cash deposit;

(B) certifies that the former contractor has not been engaged in business as a contractor for at least three years; and

(C) certifies that to the best of the contractor's knowledge no action has been commenced upon the cash deposit which has not been dismissed or reduced to a final judgment which has been satisfied.

(b) The commissioner, after paying any judgments against the cash deposit under AS 08.18.081(b), shall return the remainder of a former contractor's cash deposit to the contractor if

- (1) the former contractor has complied with (a) of this section; and
- (2) no action has been commenced upon the cash deposit which has not been dismissed or reduced to a final judgment which has been satisfied. (§ 2 ch 15 SLA 1977)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Article 3. Enforcement.**

Section	Section
121. Suspension and revocation of registration	141. Misdemeanor
131. Injunction	151. Legal actions by contractor

**Sec. 08.18.121. Suspension and revocation of registration.** (a) If the insurance required in AS 08.18.101 ceases to be in effect, the registration of the contractor shall be suspended until the insurance has been reinstated.

(b) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposit so that there is not in effect a bond undertaking or cash deposit in the full amount prescribed in AS 08.18.071, the registration of the contractor involved shall be suspended until the bond liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(c) If a bonding company cancels its bond of a contractor the contractor's registration shall be revoked. The contractor may again obtain registration by complying with the requirements of this chapter.

(d) If a licensed contractor fails to fulfill the contractor's obligations as set out in AS 08.18.071 the contractor's license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions the contractor's license may be permanently revoked.

(e) Proceedings to suspend or revoke a license issued under this chapter are governed by the Administrative Procedure Act (AS 44.62).

(f) If the commissioner of labor determines that a person is acting as a contractor in violation of this chapter, the commissioner shall give written notice prohibiting further action by the person as a contractor. The prohibition continues until the person has submitted evidence acceptable to the commissioner of labor showing that the violation has been corrected.

(g) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner of labor from enforcing the order. (§ 2 ch 100 SLA 1968; am § 1 ch 37 SLA 1971)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.18.131. Injunction.** In an action instituted in the superior court by the commissioner of labor or the commissioner's representative, a person acting in the capacity of a contractor in violation of this chapter may be enjoined from doing so. (§ 2 ch 100 SLA 1968; am § 2 ch 37 SLA 1971)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 08.18.141. Misdemeanor.** A person acting in the capacity of a contractor in violation of this chapter is guilty of a misdemeanor. (§ 2 ch 100 SLA 1968)

**Sec. 08.18.151. Legal actions by contractor.** A person acting in the capacity of a contractor may not bring an action in a court of this state for the collection of compensation for the performance of work or for breach of a contract for which registration is required under this chapter without alleging and proving that the contractor was a registered contractor at the time of contracting for the performance of the work. (§ 2 ch 100 SLA 1968)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity

with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

#### NOTES TO DECISIONS

**Strict construction.** — This section causes the forfeiture of an otherwise valid claim. Because of this, it will not be given a broad or liberal construction. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Public policy precludes giving this statute anything but a literal reading; it would be unfair to prevent one from recovering damages for the torts of another simply because his contract is unenforceable. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

**Contract to purchase prefabricated modular homes.** — A contract to purchase prefabricated modular homes was, from the standpoint of the purchaser, a contract for which registration was required within the meaning of this section when the purchaser was not exempt under the provisions of AS 08.18.161. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Stated in *Balboa Ins. Co. v. Senco Alas., Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

**Collateral references.** — Recovery back of money paid to unlicensed person required by law to have occupation or busi-

ness license or permit to make contract. 74 ALR3d 637.

## Article 4. General Provisions.

## Section

161. Exemptions

171. Definitions

**Sec. 08.18.161. Exemptions.** This chapter does not apply to:

(1) an authorized representative of the United States government, the State of Alaska, or a political subdivision or agency of the state;

(2) an officer of a court when acting within the scope of office;

(3) a public utility operating under the regulations of the public service commission in construction, maintenance or development work incidental to its own business;

(4) a construction, repair or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning or other operation of a petroleum or gas well or a surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) the sale or installation of finished products, materials or articles of merchandise which are not actually fabricated into and do not become a permanent, fixed part of a structure;

(6) construction, alteration, or repair of personal property;

(7) construction, alteration, or repair carried on within the boundaries of a site under legal jurisdiction of the federal government;

(8) a person who only furnished materials, supplies or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) work on one project under one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than \$10,000, this work being considered as of a casual, minor, or inconsequential nature; this exemption does not apply when the work is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or when the work is divided into contracts of amounts less than \$10,000 for the purpose of evasion of this chapter or otherwise; this exemption does not apply to a person who advertises or puts out a sign or card or other device which might indicate to the public that the person is a contractor, or that the person is qualified to engage in the contracting business; a contractor who performs work priced at \$2,500 or more, under this exemption, shall nevertheless keep in force public liability and property damage insurance with coverage in at least the amounts set out in AS 08.18.101;

(10) an owner who contracts for a project with a registered contractor;

(11) a person working on that person's own property, whether occupied by the person or not, and a person working on that person's own residence, whether owned by the person or not;

(12) an owner or tenant of commercial property who uses the owner's or tenant's own employees to do maintenance, repair and alteration work upon that property;

(13) an owner who acts as his or her own contractor and in doing so hires workmen on an hourly basis, hires subcontractors, purchases materials and as such, sees to the paying for all labor, subcontractors and materials; in this case, the owner shall be limited to construction of one home, duplex, triplex, four-plex, or one commercial building per year;

(14) a person performing construction work incidental to farming, dairying, agriculture, horticulture, stock or poultry raising, mining, logging, fishing, clearing or other work upon the land in rural districts for fire prevention purposes, or access road building, unless the person is a licensee. (§ 2 ch 100 SLA 1968; am § 1 ch 51 SLA 1976; am §§ 2, 3 ch 108 SLA 1982)

**Effect of amendments.** — The 1982 amendment, effective June 15, 1982, substituted "\$2,500" for "\$1,000" near the end of paragraph (9) and "one home, duplex, triplex, four-plex" for "home or duplex" near the end of paragraph (13).

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

#### NOTES TO DECISIONS

**Material and equipment excluded from operation of AS 08.18.071 and AS 08.18.081.** — Paragraph (5) of this section, which makes the chapter inapplicable to materials and equipment not incorporated or consumed in the construction of a structure, operates to exclude such material and equipment from the operation of AS 08.18.071 and AS 08.18.081. *Balboa Ins. Co. v. Senco Alas., Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

Paragraph (5) bars the claim of an equipment supplier against a construction contractor's registration bond when the equipment has not been fabricated into a structure, but rather has become part of the contractor's capital equipment. *Balboa Ins. Co. v. Senco Alas., Inc.*, Sup. Ct. Op. No. 1468 (File No. 3076), 567 P.2d 295 (1977).

**Paragraph (8) interpreted.** — Paragraph (8) of this section exists in substantially identical form in statutes in California and Washington, and has been interpreted there to exempt from registration one who prefabricates but does not install materials which become a part of real property. The supreme court of Alaska finds this interpretation persuasive. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

**Contract to purchase prefabricated modular homes.** — A contract to purchase prefabricated modular homes was, from the standpoint of the purchaser, a contract for which registration was required within the meaning of AS 08.18.151 when the purchaser was not exempt under the provisions of this section. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Because a manufacturer of modular homes had no installation responsibilities under its contract, it was not required to register under this chapter in order to obtain payment in compensation for its performance of that contract. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

**Owner-builders constructing more than one building per year.** — To construe "undertake" in AS 08.18.171(2) in the narrower sense of a contractual undertaking would exempt all professional builders who build on their own property for eventual resale. Such a result is plainly not contemplated by the statute since paragraph (13) of this section specifically exempts an owner-builder who constructs one building per year. By clear implication such owner-builders would be covered by the statute except for this

exemption, and owner-builders who build more than one building per year are covered by the statute. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

Applied in *Olsen & Sons Logging, Ltd. v. Owens*, Sup. Ct. Op. No. 2033 (File Nos. 3758, 4558), 607 P.2d 949 (1980).

Sec. 08.18.171. Definitions. In this chapter

(1) "Commissioner," unless the text reads otherwise, means the commissioner of the Department of Commerce and Economic Development;

(2) "contractor" means a person who, in the pursuit of an independent business, undertakes or offers to perform, or claims to have the capacity to perform, or submits a bid for a project to construct, alter, repair, move or demolish a building, highway, road, railroad, or any type of fixed structure, including excavation and site development and erection of scaffolding; a "general contractor" is a contractor whose business operations require the use of more than two distinct trades whose work the general contractor superintends; the terms "general contractor" and "builder" are synonymous; a "specialty contractor" is a contractor whose operations do not fall within the definition of "general contractor."

(3) "cash deposit" means a cash deposit or other negotiable security filed with the commissioner in lieu of a surety bond under AS 08.18.071(b). (§ 2 ch 100 SLA 1968; am § 3 ch 37 SLA 1971; am § 41 ch 218 SLA 1976; am § 3 ch 15 SLA 1977)

NOTES TO DECISIONS

"Contractor". — This section defines "contractor" by the nature of the work performed. *Sumner Dev. Corp. v. Shivers*, Sup. Ct. Op. No. 984 (File No. 2036), 517 P.2d 757 (1974).

If the work falls within a single craft classification, done under the supervision of a general contractor, the person doing the work is nevertheless a "contractor" for the purposes of the statute, although he may be referred to as a "specialty contractor." *Sumner Dev. Corp. v. Shivers*, Sup. Ct. Op. No. 984 (File No. 2036), 517 P.2d 757 (1974).

That a contract between the parties denominated a construction company a subcontractor is immaterial. *Sumner Dev. Corp. v. Shivers*, Sup. Ct. Op. No. 984 (File No. 2036), 517 P.2d 757 (1974).

One who merely furnished material to an owner or contractor is generally not a "contractor" under statutes similar to Alaska's licensing act. *Olsen & Sons Logging, Ltd. v. Owens*, Sup. Ct. Op. No. 2033 (File Nos. 3758, 4558), 607 P.2d 949 (1980).

"Undertakes". — The word "undertakes" as it is used in paragraph (2) of this section is not limited to a contractual undertaking, but must be understood in the more general sense of setting about, engaging in, or entering upon an activity described by the statute. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No. 2259 (File Nos. 4163, 4176), 623 P.2d 291 (1981).

To construe "undertake" in paragraph (2) in the narrower sense of a contractual undertaking would exempt all professional builders who build on their own property for eventual resale. Such a result is plainly not contemplated by the statute since AS 08.18.161(13) specifically exempts an owner-builder who constructs one building per year. By clear implication such owner-builders would be covered by the statute except for this exemption, and owner-builders who build more than one building per year are covered by the statute. *Industrial Power & Lighting Corp. v. Western Modular Corp.*, Sup. Ct. Op. No.

so  
ses  
ors  
ion  
per

ing,  
ing,  
icts  
son  
2,

was  
s to  
mity  
r 58,

ated  
pur-  
was,  
er, a  
was  
AS  
not  
sec-  
rp. v.  
No.  
d 291

dular  
ilities  
ed to  
er to  
or its  
strial  
stern  
(File  
1).  
more  
- To  
71(2)  
actual  
profes-  
own  
result  
statute  
ection  
r who  
clear  
ld be  
r this



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 20, 1985

MEMORANDUM

TO: Representative John Sund

FROM: Nancy Pease *Nancy Pease*  
Legislative Analyst

RE: Licensing and Bonding of Contractors: Update  
Research Request 85-180

Kitty Rodriguez of your staff requested an update of Research Request 83-251, "Licensing and Bonding of Contractors in Other States." I have contacted each of the eight states originally surveyed and amended the summary table accordingly (see attachment).

Licensing requirements do not appear to have changed in the eight states surveyed. Of the eight states surveyed, only Ohio has no state licensing or bonding requirements for contractors. However, Ohio counties and municipalities may license and bond contractors. Michigan and Oregon license general and specialty contractors for residential construction but not for commercial construction. Idaho and Montana contractors must be state-licensed in order to bid for public works contracts let by the state, federal or local governments but not for contracts with the private sector. Several states exempt contractors from obtaining licenses for jobs below a designated cost limit. California waives contractor licensing requirements for jobs costing less than \$200 while Montana waives licensing requirements for public works jobs costing less than \$5,000.

As noted in the earlier memorandum, licensing requirements vary considerably from trade to trade and state to state. Several states, including Alaska, Washington and Oregon, register as contractors persons who are not personally qualified in skilled trades for which they will be contracting. These contractors may be required to hire or subcontract a qualified, licensed specialty tradesman as a condition of the contracting license. Alaska, Washington and Oregon require contracting license applicants to provide proof of liability insurance in addition to a surety bond or assignment of savings. In Alaska and Washington, applicants must carry a minimum coverage of \$20,000 for property damage and \$100,000 for personal injury to more than one person.

Representative Sund  
February 20, 1985  
Page 2

The summary table shows several changes in bond requirements. Washington has increased the amount of the bonds required of general and specialty construction contractors. Oregon now requires a \$5,000 bond for all residential contractors; previously the bond amount varied for general and specialty contracting. Michigan no longer requires a \$2,000 bond for specialty contractors but does require a \$50 deposit to the Construction Lien Recovery Fund for each specialty trade a contractor practices. Michigan also requires a \$1,000 bond before licensing nonresident electricians.

I hope this information is helpful. If you have further questions, please let us know.

NP

Attachments

Offered: 2/25/85  
Referred: Judiciary and Finance

Original sponsors: Sund, Taylor  
and Boucher

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 168 (L&C)

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 03.18.011 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 at which it appears that contract-  
24       ing 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 the department designated by the commissioner to provide investigative  
20 services to enforce provisions of this chapter.

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

29 (e) The Department of Commerce and Economic Development and the

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

9 (f) If the form of citation issued under this chapter 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. 08.18.119. FAILURE TO OBEY CITATION. Unless the citation  
16 has been voided or otherwise dismissed by the magistrate, judge, or  
17 prosecutor, a person who without lawful justification or excuse fails  
18 to appear in court to answer a citation issued under this chapter, re-  
19 gardless of the disposition of the charge for which the citation was  
20 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 or the Department  
23 of Commerce and Economic Development [LABOR] determines that a con-  
24 tractor or a person [IS] acting in the capacity of [AS] a contractor,  
25 is in violation of this chapter, that department may [THE COMMISSIONER  
26 SHALL] give written notice to the person prohibiting further action by  
27 the person as a contractor. The prohibition continues until the  
28 person has submitted evidence acceptable to that department [THE  
29 COMMISSIONER 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 of Labor or the  
4 Department of Commerce and Economic Development [COMMISSIONER OF  
5 LABOR] from enforcing the order.

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

7 Sec. 08.18.131. INJUNCTION. In an action instituted in the  
8 superior court by the commissioner [OF LABOR OR THE COMMISSIONER'S  
9 REPRESENTATIVE], a person may be enjoined from acting in the capacity  
10 of a contractor in violation of this chapter [MAY BE ENJOINED FROM  
11 DOING SO]. In addition to other relief, a civil penalty not to exceed  
12 \$250 may be imposed for each violation. Each day that an unlawful act  
13 continues constitutes a separate violation.

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

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

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

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

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

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

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

29 \* Sec. 13. Section 4 of this Act applies to general contractor and

1 specialty contractor licenses that are issued or renewed by the Department  
2 of Commerce and Economic Development after July 1, 1985.

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.