

**HB**

**255**

<TARGET><BILL>HB 255</BILL><SUBJECT>HB  
255</SUBJECT><COMM>HL&C30</COMM></TARGET>



# Representative Chris Tuck

## House Majority Leader

Alaska State Legislature

District 23 - Representing Dimond Estates, Foxridge, Taku,  
Campbell, Northwood and Windemere

### MEMORANDUM

January 23, 2018

**TO:** Representative Sam Kito III  
Chair, Labor & Commerce Committee

**FROM:** Rep. Chris Tuck  
House Majority Leader

**SUBJ:** Hearing Request for House Bill 255

C.T.

I respectfully request a hearing for House Bill 255: Plumbing and Electric Certificate of Fitness.

House Bill 255 will change enforcement policies for individuals performing electrical or plumbing work without a valid certificate of fitness. Current enforcement techniques are ineffective, and the revisions proposed in this legislation will give the Department of Labor a way of enforcing certificate of fitness requirements.

Included in the bill packet:

- House Bill 255
- Sponsor Statement
- Sectional Analysis

If you have any questions please feel free to contact me or my staff Kendra Kloster at 465-3579.

Thank you for your consideration.



# Representative Chris Tuck

House Majority Leader

Serving House District 23 • Dimond Estates, Foxridge, Taku, Campbell, Northwood, and Windemere

## House Bill 255 Certificate of Fitness Sectional Analysis

**Section 1:** repeals and reenacts AS 18.62.010 to reorganize the section and to add the prohibition against employers using employees without a required certificate of fitness. The employer prohibition already exists in current statute (AS 18.62.080).

**Section 2:** amends AS 18.62.070 to reword the section for clarity.

**Section 3:** amends AS 18.62.080 to change the punishment for operating without a required certificate of fitness from a misdemeanor to a violation.

**Section 4:** adds four new sections to AS 18.62 to address the citations issued under 18.62.080 (Section 3) and civil penalties.

Section 18.62.090 gives the department the ability to issue a citation.

Section 18.62.100 outlines the procedure for issuing a citation.

Section 18.62.110 outlines the amount of and the procedure for administering a civil penalty.

Section 18.62.190 defines terms for use in this chapter.

Session (January-April):  
State Capitol, Room 204  
Juneau, AK 99801-1182  
Phone (907) 465-2095

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Interim (May-December):  
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# Representative Chris Tuck

House Majority Leader

Serving House District 23 • Dimond Estates, Foxridge, Taku, Campbell, Northwood, and Windemere

## House Bill 255 Certificate of Fitness Sponsor Statement

House Bill 255 will change enforcement policies for individuals performing electrical or plumbing work without a valid certificate of fitness. Current enforcement techniques are ineffective, and the revisions proposed in this legislation will give the Department of Labor a substantive way of enforcing certificate of fitness requirements.

A certificate of fitness is issued by the Mechanical Inspection section of the Division of Labor Safety & Standards in the Department of Labor and Workforce Development, and is essentially an occupational license for performing electrical or plumbing work. Alaska statute prohibits individuals from performing these types of work without a valid certificate of fitness.

The current enforcement for operating without a valid certificate of fitness is ineffective. AS 18.62.080 states that it is a misdemeanor to perform work requiring a certificate of fitness without having one. However, enforcement requires filing a written complaint through the Department of Law and taking the matter to the superior court, and often these offenses are too minor to merit the interest of the District Attorney's office. The department's other enforcement option is to issue a civil order to cease and desist, which carries no punitive sanction, and so provides little motivation for the offender to remedy the situation. Therefore, offenders often go unpunished.

House Bill 255 will change the penalty from a misdemeanor to a violation, which will allow the department to issue citations and civil penalties to individuals and to employers using employees who are operating without a valid certificate. New sections of statute added by this legislation give the department authority to issue citations, outline the procedures for issuing citations, and set the amount of and the procedure for administering civil penalties. The penalty is set at \$125 for an individual and \$250 for an employer for a first offense, and \$250 for an individual and \$500 for an employer for subsequent offenses.

Changing the penalty from a rarely-enforced misdemeanor to the graduated enforcement steps of civil penalties and citations will provide more effective motivation for individuals and employers in the electrical and plumbing industries to comply with certificate of fitness requirements, and ensure public safety. Thank you for your support of HB 255.

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# Fiscal Note

State of Alaska  
2018 Legislative Session

Bill Version: HB 255  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB255-DOLWD-MI-01-26-18  
Title: PLUMBING/ELECTRIC CERTIFICATE OF  
FITNESS  
Sponsor: TUCK  
Requester: (H) Labor & Commerce

Department: Department of Labor and Workforce Development  
Appropriation: Labor Standards and Safety  
Allocation: Mechanical Inspection  
OMB Component Number: 346

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

|                               | FY2019<br>Appropriation<br>Requested | Included in<br>Governor's<br>FY2019<br>Request | Out-Year Cost Estimates |            |            |            |            |            |
|-------------------------------|--------------------------------------|--|-------------------------|------------|------------|------------|------------|------------|
|                               |                                      |  | FY 2019                 | FY 2020    | FY 2021    | FY 2022    | FY 2023    | FY 2024    |
| <b>OPERATING EXPENDITURES</b> |                                      |  |                         |            |            |            |            |            |
| Personal Services             |                                      |  |                         |            |            |            |            |            |
| Travel                        |                                      |  |                         |            |            |            |            |            |
| Services                      |                                      |  |                         |            |            |            |            |            |
| Commodities                   |                                      |  |                         |            |            |            |            |            |
| Capital Outlay                |                                      |  |                         |            |            |            |            |            |
| Grants & Benefits             |                                      |  |                         |            |            |            |            |            |
| Miscellaneous                 |                                      |  |                         |            |            |            |            |            |
| <b>Total Operating</b>        | <b>0.0</b>                           | <b>0.0</b>                                     | <b>0.0</b>              | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Fund Source (Operating Only)**

|              |            |            |            |            |            |            |            |            |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|
| None         |            |            |            |            |            |            |            |            |
| <b>Total</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

**Positions**

|           |  |  |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |  |  |

**Change in Revenues**

|                    |             |            |             |             |             |             |             |             |
|--------------------|-------------|------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1250 UGF Rev (UGF) | 17.0        |            | 17.0        | 17.0        | 17.0        | 17.0        | 17.0        | 17.0        |
| <b>Total</b>       | <b>17.0</b> | <b>0.0</b> | <b>17.0</b> | <b>17.0</b> | <b>17.0</b> | <b>17.0</b> | <b>17.0</b> | <b>17.0</b> |

**Estimated SUPPLEMENTAL (FY2018) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2019) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version/comments:**

Not applicable, intital version.

|  |                             |
|--|-----------------------------|
| Prepared By: <u>Deborah Kelly, Director</u>                  | Phone: <u>(907)465-4855</u> |
| Division: <u>Labor Standards and Safety</u>                  | Date: <u>01/25/2018</u>     |
| Approved By: <u>Greg Cashen, Acting Commissioner</u>         | Date: <u>01/26/18</u>       |
| Agency: <u>Department of Labor and Workforce Development</u> |                             |

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2018 LEGISLATIVE SESSION

BILL NO. HB 255

**Analysis**

This legislation gives the department the ability to issue citations and administer civil penalties to individuals and to employers using employees who are operating without a valid certificate of fitness where one is required. The proposed penalty for a first offense is \$125 for an individual engaging in work and \$250 for an employer. The proposed penalty for a subsequent offense is \$250 for an individual engaging in work and \$500 for an employer.

Using FY13 to FY17 information on the number of individuals and employers working without appropriate certificates of fitness, the department estimates that this legislation will result in an additional \$17,000 in revenue to the general fund each year. Actual revenue will vary based on the amount of penalties issued.

Provided below is the methodology used for estimating the annual revenue increase.

46 individuals engaging in work without a valid certificate - 1st offense x \$125 penalty = \$5,750  
5 individuals engaging in work without a valid certificate - subsequent offense x \$250 penalty = \$1,250  
22 employers using workers without a valid certificate - 1st offense x \$250 penalty = \$5,500  
9 employers using workers without a valid certificate - subsequent offense x \$500 penalty = \$4,500

\$5,750  
\$1,250  
\$5,500  
+ \$4,500  
-----  
\$17,000

**International Brotherhood of Electrical Workers**  
Local 1547

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**DAVE REAVES**  
BUSINESS MANAGER • FINANCIAL SECRETARY

**KNUTE ANDERSON**  
PRESIDENT



February 2, 2018

To: Chair and members of House Labor & Commerce Committee

Re: HB 255 Plumbing/Electrical Certificate of Fitness

Honorable committee members:

First of all, thank you for the opportunity for public testimony on this bill.

I am writing this letter in support of HB 255 because it makes enforcement of COF requirements more reasonable for the AK Department of Labor. This is necessary to ensure legal installations for plumbing and electrical work throughout the state.

With this bill reducing penalties from a misdemeanor to a citation, it is a fairer bill from a worker's standpoint. Its fairness is further enhanced by penalizing the employer and not just the employee for work that is performed without a COF.

I've heard some concern while in the halls of the Capitol about this bill going after the worker. I would strongly disagree that is the case. This bill does the right thing by seeking to facilitate enforcement where work is performed illegally. If workers do not want to be penalized, then they simply should not be performing certificated work without the proper COF.

My reasoning here is based on the same reasoning for requiring COFs which is absolutely about SAFETY. The protection of life and property is the main purpose behind the codes followed by plumbers and electricians, and I believe this bill is directly in line with those objectives.

We urge you to vote in favor of this bill. Thank you for your time and consideration with this matter.

Respectfully,

Rodney Hesson  
Assistant Business Manager  
IBEW Local 1547  
Juneau office

# International Brotherhood of Electrical Workers

## Local 1547

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**DAVE REAVES**  
BUSINESS MANAGER • FINANCIAL SECRETARY

**KNUTE ANDERSON**  
PRESIDENT



February 2, 2018

RE: HB 255 Plumbing/Electrical Certificate of Fitness

Dear Chairman and Members of Labor of Commerce Committee,

Thank you for the opportunity to provide public testimony.

I am writing in support of HB 255 because I believe it maintains safety standards, provides essential consumer protections and is good public policy.

First, it streamlines the process and gives the Alaska Department of Labor Office of Mechanical Inspection the ability to deal with violators in a quick and cost-effective manner. Currently, there is virtually no way to enforce willful or repeat offenders. People in the industry have realized there are no teeth in enforcement and continue to operate with impunity knowing they cannot be stopped. The Department of Labor can either write a cease and desist letter or go through the expensive and cumbersome process of asking a district attorney to prosecute for a misdemeanor. This bill provides a very low-cost enforcement tool for the department and uses proven tools similar to contractor licensing enforcement with an appeal process.

Secondly, by requiring a Certificate of Fitness, this bill ensures that work is done by a qualified and trained professional. It gives the consumer the guarantee that the work being done is not substandard and dangerous, thus ensuring the protection of both lives and property.

On behalf of the more than 4,000 members of the International Brotherhood of Electrical Workers statewide, I urge you to support this bill.

Thank you for your time and consideration.

Respectfully,

Dave Reaves  
Business Manager  
IBEW Local 1547



# International Union of Operating Engineers

LOCAL 302 • Washington • Alaska • Idaho • AFL-CIO

Daren Konopaski, *Business Manager & General Vice President*

February 9, 2018

House Labor & Commerce

State Capitol Room 403

Juneau AK, 99801

RE: HB 255 Certificate of Fitness

Dear Representatives of the House Labor & Commerce Committee:

The International Union of Operating Engineers Local 302 is in opposition to HB255. We believe that employees shouldn't be punished by State officials for doing what their employer has directed them to do. This statute forces the employee to decide between being fined by the state for doing the work or be fired by his employer for not doing the work. Furthermore, previously approved revisions of this law changed some general scopes of work to mandate a certification of fitness. This causes confusion, and in many cases, the employee may not know the need for having a certificate to do this type of work. This is commonly found in the excavation and backfilling of electrical ditches for empty conduit. An electrical ditch is the ONLY ditch required to have a certificate of fitness. However, digging and backfilling sewer, water, fiber optic, and around live electrical wire uses the same techniques without needing a certificate of fitness. Since this law is not common practice, employees assigned to do this work do not understand they have done anything wrong. Therefore the Employer should be responsible for ensuring the employee has all the required certificates to do the work.

Our goal is to not see the employee get punished for doing his/her work and would like to see the citation be reduced to a stern warning for the first violation and a \$50 citation for the second violation.

Thank you for your time and consideration with this matter.

Respectfully,

Corey Baxter  
District Representative  
IUOE Local 302

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Sean Jeffries, *President* • Jason Alward, *Vice President*

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adopted

30-LS0454\O.1  
Bannister  
2/5/18

AMENDMENT

#1

OFFERED IN THE HOUSE

TO: HB 255

1 Page 2, lines 14 - 15:

2 Delete "[, EITHER AN EMPLOYER OR EMPLOYEE,]"

3 Insert ", other than [EITHER] an [EMPLOYER OR] employee,"

4

5 Page 2, lines 17 - 18:

6 Delete "BY A FINE OF NOT MORE THAN \$500]"

7 Insert "]" by a fine of not more than \$500"

