

HOUSE BILL NO. HB0136

Public safety-contractor licensing.

Sponsored by: Representative(s) Martin, Bagby, Cooper, Gentile, Hastert, Latta and Powers and Senator(s) Caller, Job and Mockler

A BILL

for

1 AN ACT relating to public safety; creating a contractor
2 licensing and building construction authority and division
3 of contractor licensing and building construction within
4 the department of fire prevention and electrical safety;
5 creating the position of chief building inspector;
6 providing duties and powers of the authority and the
7 inspector; granting rulemaking authority; providing for
8 suspension, revocation and reinstatement of licenses;
9 setting limitations; specifying when licensure is required;
10 specifying unlawful acts; providing penalties; providing
11 definitions; making conforming amendments; repealing
12 inconsistent provisions; providing an appropriation; and
13 providing for an effective date.

14

15 *Be It Enacted by the Legislature of the State of Wyoming:*

16

1 **Section 1.** W.S. 35-9-151 through 35-9-155 are created
2 to read:

3

4 **35-9-151. Chief building inspector; powers and**
5 **duties.**

6

7 (a) The chief building inspector shall:

8

9 (i) Be responsible for licensing all building
10 construction contractors and pass on the fitness and
11 qualifications of applicants for licensure;

12

13 (ii) Enforce the minimum requirements for
14 building construction except in municipalities and counties
15 that have received enforcement authority for building
16 construction standards under W.S. 35-9-121;

17

18 (iii) Aid cities, towns, counties and inspectors
19 in understanding current codes published by the
20 International Code Council relating to building
21 construction;

22

1 (iv) Interpret minimum building construction
2 standards and other rules and regulations adopted by the
3 council and the authority;

4

5 (v) Supervise deputy building construction
6 inspectors.

7

8 (b) The chief building inspector and his deputies:

9

10 (i) Shall have the right of ingress or egress to
11 all buildings or other structures owned or leased by the
12 state or local governmental entities during reasonable
13 working hours to make building construction inspections;

14

15 (ii) May inspect any building or structure:

16

17 (A) With a search warrant issued by a
18 district court after a finding of probable cause that there
19 is a violation of state law regarding building
20 construction; or

21

22 (B) At any time during construction and
23 within thirty (30) days after completion of the
24 construction for which a building construction permit was

1 issued or a building construction plan review was
2 performed.

3

4 (iii) Shall inspect any building or structure
5 within ten (10) business days of the request of the owner
6 or the building construction contractor.

7

8 **35-9-152. Contractor licensing and building**
9 **construction authority; powers and duties.**

10

11 (a) The authority shall:

12

13 (i) Develop or approve standards relating to the
14 necessary training and testing of building construction
15 contractors and building inspectors in this state,
16 including the establishment of minimum educational
17 requirements, in conformance with the standards for
18 certification prescribed by the International Code Council;

19

20 (ii) Develop or approve standards relating to
21 the qualifications of building construction contractors,
22 including minimum insurance or other coverage requirements;

23

1 (iii) Establish procedures for application for
2 licensure as a building construction contractor, including
3 the development or approval of application forms;

4
5 (iv) Hear appeals to determine the suitability
6 of alternate materials and type of construction and to
7 interpret from rules of the council regarding building
8 construction;

9
10 (v) Hear appeals from decisions of the chief
11 building inspector, including decisions regarding
12 licensure;

13
14 (vi) Conduct investigations, hold hearings or
15 meetings, administer oaths, take affidavits, summon
16 witnesses and take testimony as to matters coming within
17 the scope of its duties. The authority shall keep a record
18 of its proceedings, which shall be open to public
19 inspection in accordance with W.S. 16-4-201 through
20 16-4-205;

21
22 (vii) Suspend or revoke a building construction
23 contractor's license if, after an opportunity for a
24 contested case hearing in accordance with the Wyoming

1 Administrative Procedure Act and upon a showing by clear
2 and convincing evidence, the authority determines that:

3

4 (A) Any insurance or other coverage
5 required by rules and regulations promulgated by the
6 authority has ceased to be in effect;

7

8 (B) The building construction contractor
9 has made a misstatement of a material fact during or has
10 failed to pay any required fee in the licensing process; or

11

12 (C) The building construction contractor
13 has been convicted of or engaged in conduct constituting a
14 violation of any laws, ordinances or rules of this state,
15 or any subdivision thereof, which relate to building
16 construction contracting, reflect on the licensee's ability
17 or qualifications to continue contracting or make the
18 licensee a threat to public safety, health or welfare.

19

20 (viii) Establish reasonable fees to be charged
21 for application, licensure, renewal and for other purposes
22 pursuant to W.S. 35-9-151 through 35-9-155. Fees
23 established pursuant to this paragraph for application,

1 licensure or renewal shall not exceed four hundred dollars
2 (\$400.00) during any one (1) year period;

3

4 (ix) Exercise such powers and duties as are
5 reasonably necessary to carry out W.S. 35-9-151 through
6 35-9-155, including adopting rules in accordance with the
7 Wyoming Administrative Procedure Act.

8

9 (b) With the consent of the council, the authority
10 shall have the power to enter into interstate or intrastate
11 agreements and associations with other boards of licensure
12 for the purpose of establishing reciprocity, developing
13 examinations, evaluating applicants, establishing a tiered
14 system of licenses or other activities to enhance the
15 services of the authority to the state, the licensee and
16 the public. If the authority determines that another state
17 has substantially equivalent requirements and reciprocity
18 exists between the states, an applicant from such other
19 state may obtain a license to be a building construction
20 contractor in this state.

21

22 (c) All fees established and collected pursuant to
23 this section shall be deposited with the state treasurer
24 who shall credit the monies to a contractor licensing and

1 building construction account. All monies credited to the
2 account shall be expended only upon appropriation by the
3 legislature to defray costs and expenses incurred in the
4 administration of the duties of the authority.
5 Disbursements from the account shall not exceed the monies
6 credited to it.

7

8 **35-9-153. Suspension or revocation of license; public**
9 **list; reinstatement.**

10

11 (a) The authority shall maintain a list for public
12 inspection of all building construction contractors whose
13 licenses have been suspended or revoked.

14

15 (b) A building construction contractor licensed
16 pursuant to W.S. 35-9-151 through 35-9-155 shall have all
17 rights accorded to persons in contested case hearings
18 pursuant to the Wyoming Administrative Procedure Act,
19 including the right to judicial review.

20

21 (c) In addition to other remedies provided by this
22 article or other law to a building construction contractor
23 whose license has been suspended or revoked, the authority

1 may reinstate a suspended or revoked license upon a showing
2 that:

3

4 (i) The grounds therefore have been eliminated;

5

6 (ii) The violation is not likely to reoccur in
7 the future; and

8

9 (iii) The public interest is not jeopardized by
10 the reinstatement of the license.

11

12 **35-9-154. Limitations and exceptions.**

13

14 (a) Nothing in W.S. 35-9-151 through 35-9-155 shall be
15 construed to apply to building construction of or related
16 to:

17

18 (i) Farms or ranches of forty (40) acres or more
19 on deeded land;

20

21 (ii) County memorial hospitals, state-owned
22 health care institutions, hospital districts, private
23 hospitals and other health care facilities, except as
24 permitted pursuant to W.S. 35-9-121.1;

1

2 (iii) Mines or their appurtenant facilities, oil
3 field operations, petroleum refineries and liquefied
4 petroleum gas facilities;

5

6 (iv) Railway shops, railway buildings (except
7 those used for public assembly, cafeterias, dormitories,
8 etc.), rolling stock and locomotive equipment;

9

10 (v) Fertilizer manufacturing facilities,
11 foundries, power plants and other utilities;

12

13 (vi) Dams, roads, highways or other works of
14 internal improvement;

15

16 (vii) Buildings constructed by a school or
17 community college district as part of an industrial arts
18 curriculum, under the direct supervision of a qualified
19 industrial arts instructor. The school or community
20 college district shall have the building construction
21 inspected by the chief building inspector or the home rule
22 authority, whichever has jurisdiction, to ensure compliance
23 with W.S. 35-9-151 through 35-9-155.

24

1 (b) No person shall be required to be licensed
2 pursuant to W.S. 35-9-151 through 35-9-155 who:

3

4 (i) Performs building construction services as
5 an employee under the direct supervision of a licensed
6 building construction contractor and who has daily wages as
7 his sole compensation;

8

9 (ii) Performs building construction services for
10 another in which the costs for labor and materials of the
11 building construction does not exceed two thousand dollars
12 (\$2,000.00);

13

14 (iii) Serves as a professional architect or
15 engineer acting solely in his professional capacity.

16

17 **35-9-155. Unlawful activities; penalties.**

18

19 (a) On and after July 1, 2005, it shall be unlawful
20 for any person to engage in the business of, or otherwise
21 act as, a building construction contractor in this state
22 without having a valid license issued pursuant to W.S.
23 35-9-151 through 35-9-155. It shall be unlawful for a
24 building construction contractor to engage a subcontractor

1 who is required by W.S. 35-9-151 through 35-9-155 to be
2 licensed unless the subcontractor furnishes satisfactory
3 proof to the contractor that the subcontractor is licensed
4 pursuant to W.S. 35-9-151 through 35-9-155.

5

6 (b) Any violation of subsection (a) of this section
7 shall be a misdemeanor punishable by a fine of not more
8 than one thousand dollars (\$1,000.00).

9

10 **Section 2.** W.S. 35-9-102(a)(intro), (xviii), by
11 creating new paragraphs (xx) through (xxii), 35-9-103(a) by
12 creating new paragraphs (v) and (vi), (b), by creating a
13 new subsection (d) and by amending and renumbering (d) as
14 (e), 35-9-105(a) by creating a new paragraph (iii) and (b),
15 35-9-106(a) by creating a new paragraph (iv) and by
16 renumbering (iv) as (v) and (c), 35-9-107(a)(iv), (b)(i) by
17 creating a new subparagraph (E) and (ii) and
18 35-9-108(a)(intro), (b) and (j) are amended to read:

19

20 **35-9-102. Definitions.**

21

22 (a) As used in W.S. 35-9-101 through ~~35-9-130~~
23 35-9-155:

24

1 (xviii) "Remodeling" includes repairing,
2 altering or adding to a building or its electrical,
3 plumbing or mechanical system;

4
5 (xx) "Authority" means the Wyoming contractor
6 licensing and building authority;

7
8 (xxi) "Building construction" means the
9 construction, reconstruction, alteration, repair, addition
10 to, subtraction from, improvement of, wrecking or
11 demolition of any building, excavation or other structure,
12 including plumbing and mechanical works or systems, or to
13 do any part thereof, including the erection of scaffolding
14 or other structures, works or systems in connection
15 therewith;

16
17 (xxii) "Building construction contractor" means:

18
19 (A) A person who undertakes building
20 construction for another, whether through his own direct
21 efforts or through labor of others; or

22

1 (B) Any person who in any capacity
2 undertakes, offers to undertake or purports to have the
3 capacity to undertake building construction for another.

4

5 **35-9-103. Divisions created; council, board and**
6 **authority created.**

7

8 (a) There are created within the department:

9

10 (v) The contractor licensing and building
11 construction division;

12

13 (vi) The contractor licensing and building
14 construction authority.

15

16 (b) The council consists of ~~five (5)~~ seven (7)
17 members appointed by the governor for six (6) year terms
18 which commence on April 1 following appointment. One (1)
19 member shall be appointed to represent each of the
20 following: counties or municipalities, fire fighters, the
21 electrical board, the contractor licensing and building
22 construction authority, an association of architects or an
23 association of general contractors, mechanical contractors
24 and the general public. Vacancies shall be filled for the

1 unexpired term. When new appointments are made, the
2 council shall select a chairman, a vice chairman and a
3 secretary. A quorum consists of ~~three (3)~~ four (4)
4 members. The council shall meet at least twice each year.
5

6 (d) The contractor licensing and building
7 construction authority consists of three (3) members
8 appointed by the governor for six (6) year terms. The
9 initial board shall have one (1) member for six (6) years,
10 one (1) member for four (4) years and one (1) member for
11 two (2) years. One (1) member shall represent general
12 contractors, one (1) member shall represent home building
13 contractors and one (1) member shall represent plumbing
14 contractors. After the initial board, members shall be
15 licensed as required by W.S. 35-9-151 through 35-9-155.
16 Vacancies shall be filled by appointment by the governor
17 for the unexpired term. The authority shall meet within
18 thirty (30) days after the appointment of all its members
19 and thereafter at such other times as may be necessary for
20 the proper performance of its duties, provided that the
21 authority shall meet at least twice each year. When new
22 appointments are made, the authority shall select a
23 chairman and a secretary.
24

1 ~~(d)~~(e) The members of the council, ~~and the~~ board and
2 the authority shall receive compensation, per diem and
3 travel expenses in the same manner and amount as the state
4 legislature while going to, attending or returning from
5 meetings. The governor may remove any council, ~~or board~~ or
6 authority member as provided in W.S. 9-1-202.

7

8 **35-9-105. Division administrators; qualifications.**

9

10 (a) After consultation with the council and the
11 governor, the state fire marshal shall appoint:

12

13 (iii) The chief building inspector who is the
14 administrator of the contractor licensing and building
15 construction division. He shall be a building inspector or
16 building official certified by the International Code
17 Council.

18

19 (b) The chief deputy fire marshal, ~~and the~~ chief
20 electrical inspector and the chief building inspector shall
21 devote full time to the duties of the office and shall be
22 directly responsible to the state fire marshal.

23

24 **35-9-106. Powers and duties of council.**

1

2 (a) The council shall adopt rules and regulations to:

3

4 (iv) Establish minimum building construction
5 standards, including appropriate mechanical and plumbing
6 standards, not exceeding the standards prescribed by the
7 International Building Code, International Mechanical Code
8 and International Plumbing Code;

9

10 ~~(iv)~~ (v) Implement this article.

11

12 (c) Except as provided under W.S. 35-9-124(a) (ii) and
13 35-9-152(a) (iv), the council shall hear appeals to
14 determine the suitability of alternate materials and type
15 of construction and to interpret ~~and grant variances from~~
16 rules and regulations of the council.

17

18 **35-9-107. Duties and powers of state fire marshal.**

19

20 (a) The state fire marshal shall:

21

22 (iv) Inspect each state owned building not under
23 the authority of a local governmental entity pursuant to
24 W.S. 35-9-121(b) and require conformance to the minimum

1 standards of fire prevention, fire protection, building
2 construction and public safety;

3

4 (b) The state fire marshal may:

5

6 (i) Enforce state laws not otherwise enforceable
7 by another state agency concerning:

8

9 (E) Contractor licensing and building
10 construction.

11

12 (ii) Inspect public, business or industrial
13 buildings and require conformance to standards of
14 construction, prevention and safety and of uses of premises
15 as promulgated by the International Fire Code, the
16 International Building Code, the International Mechanical
17 Code, International Plumbing Code and the International
18 Fuel Gas Code;

19

20 **35-9-108. Plan review; procedure; fees.**

21

22 (a) Prior to beginning any new construction, the
23 remodeling of existing buildings except as provided under
24 subsection (q) of this section, or the installation of

1 aboveground flammable or combustible fuel storage tanks,
2 the owner or the owner's designated representative shall
3 submit plans to the state fire marshal for review of the
4 proposed project for compliance with applicable fire,
5 building construction and electrical safety standards for:

6
7 (b) If the state fire marshal does not notify the
8 sender in writing of violations of the fire, building
9 construction or electrical safety standards within twenty-
10 one (21) working days of receiving the plans, they are
11 approved as submitted.

12
13 (j) No new construction or remodeling of buildings or
14 installation of aboveground flammable or combustible fuel
15 storage tanks shall begin until the state fire marshal has
16 approved the plans for compliance with applicable fire,
17 building construction and electrical safety standards.

18
19 **Section 3.**

20
21 (a) There is appropriated from the general fund two
22 million four hundred thousand dollars (\$2,400,000.00) to
23 the department of fire prevention and electrical safety for
24 the period beginning July 1, 2004, and ending June 30,

1 2006, to fund the chief building inspector's position,
2 additional positions authorized by this act and other
3 operation expenses of the contractor licensing and building
4 construction authority created by this act. This
5 appropriation shall be a one-time appropriation and shall
6 not be included within the department of fire prevention
7 and electrical safety's standard budget request for the
8 2006-2007 biennium.

9

10 (b) For the period beginning July 1, 2004, and ending
11 June 30, 2006, the department of fire prevention and
12 electrical safety is authorized fifteen (15) full-time
13 positions for the contractor licensing and building
14 construction authority created by this act. In addition to
15 the chief building inspector, the authority shall employ
16 eight (8) inspectors, two (2) plan reviewers and four (4)
17 support staff.

18

19 **Section 4.**

20

21 (a) This act is effective July 1, 2004.

22

1 (b) The Wyoming contractor licensing and building
2 construction authority may begin licensing and performing
3 its duties under this act upon the effective date of this
4 act. However, no person shall be required to be licensed
5 pursuant to this act prior to July 1, 2005.

6

7

(END)