
ASSEMBLY BILL NO. 251—ASSEMBLYMEN CARRILLO, BROOKS,
FRIERSON; AIZLEY, ANDERSON, BENITEZ-THOMPSON,
BUSTAMANTE ADAMS, FLORES, MUNFORD AND NEAL

MARCH 10, 2011

JOINT SPONSOR: SENATOR MANENDO

Referred to Committee on Commerce and Labor

SUMMARY—Provides penalties for certain actions by contractors
against persons who are older or vulnerable.
(BDR 54-670)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to contractors; prohibiting certain actions by a
contractor against persons who are older or vulnerable;
providing penalties; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a contractor is subject to disciplinary action, including an
2 administrative fine of not more than \$10,000, for certain misrepresentations relating
3 to services or repairs. (NRS 624.30165) Additionally, certain violations by a
4 contractor who performs work concerning a residential pool or spa are
5 misdemeanors on a first offense, gross misdemeanors on a second offense and class
6 E felonies on a third or subsequent offense. (NRS 624.965) **Section 1** of this bill
7 makes certain misrepresentations relating to services or repairs made by a
8 contractor to a person who is vulnerable or a person who is 60 years of age or older
9 a misdemeanor on a first offense, a gross misdemeanor on a second offense and a
10 class E felony on a third or subsequent offense. **Section 2** of this bill provides an
11 additional penalty for certain violations by a contractor who performs work
12 concerning a residential pool or spa if the violation is committed against a person
13 who is vulnerable or a person who is 60 years of age or older.



* A B 2 5 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 624.300 is hereby amended to read as follows:
2 624.300 1. Except as otherwise provided in subsections 3 and
3 5, the Board may:
4 (a) Suspend or revoke licenses already issued;
5 (b) Refuse renewals of licenses;
6 (c) Impose limits on the field, scope and monetary limit of the
7 license;
8 (d) Impose an administrative fine of not more than \$10,000;
9 (e) Order a licensee to repay to the account established pursuant
10 to NRS 624.470, any amount paid out of the account pursuant to
11 NRS 624.510 as a result of an act or omission of that licensee;
12 (f) Order the licensee to take action to correct a condition
13 resulting from an act which constitutes a cause for disciplinary
14 action, at the licensee's cost, that may consist of requiring the
15 licensee to:
16 (1) Perform the corrective work himself or herself;
17 (2) Hire and pay another licensee to perform the corrective
18 work; or
19 (3) Pay to the owner of the construction project a specified
20 sum to correct the condition; or
21 (g) Issue a public reprimand or take other less severe
22 disciplinary action, including, without limitation, increasing the
23 amount of the surety bond or cash deposit of the licensee,
24 ➤ if the licensee commits any act which constitutes a cause for
25 disciplinary action.
26 2. If the Board suspends or revokes the license of a contractor
27 for failure to establish financial responsibility, the Board may, in
28 addition to any other conditions for reinstating or renewing the
29 license, require that each contract undertaken by the licensee for a
30 period to be designated by the Board, not to exceed 12 months, be
31 separately covered by a bond or bonds approved by the Board and
32 conditioned upon the performance of and the payment of labor and
33 materials required by the contract.
34 3. If a licensee violates:
35 (a) The provisions of NRS 624.3014, subsection 2 or 3 of NRS
36 624.3015, subsection 1 of NRS 624.302 or subsection 1 of NRS
37 624.305, the Board may impose for each violation an administrative
38 fine in an amount that is not more than \$50,000.
39 (b) The provisions of subsection 4 of NRS 624.3015:
40 (1) For a first offense, the Board shall impose an
41 administrative fine of not less than \$1,000 and not more than
42 \$50,000, and may suspend the license of the licensee for 6 months;



(2) For a second offense, the Board shall impose an administrative fine of not less than \$5,000 and not more than \$50,000, and may suspend the license of the licensee for 1 year; and

(3) For a third or subsequent offense, the Board shall impose an administrative fine of not less than \$10,000 and not more than \$50,000, and may revoke the license of the licensee.

(c) The provisions of NRS 624.30165 and the statement or representation which is the basis of the violation is made to a person who is 60 years of age or older or to a vulnerable person, in addition to any action taken pursuant to subsection 1, the licensee:

(1) For a first offense, is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, and may be further punished by imprisonment in the county jail for not more than 6 months;

(2) For the second offense, is guilty of a gross misdemeanor and shall be punished by a fine of not less than \$2,000 or more than \$4,000, and may be further punished by imprisonment in the county jail for not more than 1 year; and

(3) For the third or subsequent offense, is guilty of a class E felony and shall be punished by a fine of not less than \$5,000 or more than \$10,000, and may be further punished by imprisonment in the state prison for not less than 1 year and not more than 4 years.

4. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to subsection 3. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the licensee; and

(c) Any history of previous violations of the provisions of this chapter committed by the licensee.

5. If a licensee is prohibited from being awarded a contract for a public work pursuant to NRS 338.017, the Board may suspend the license of the licensee for the period of the prohibition.

6. If a licensee commits a fraudulent act which is a cause for disciplinary action under NRS 624.3016, the correction of any condition resulting from the act does not preclude the Board from taking disciplinary action.

7. If the Board finds that a licensee has engaged in repeated acts that would be cause for disciplinary action, the correction of any resulting conditions does not preclude the Board from taking disciplinary action pursuant to this section.

8. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a



1 license by a licensee, does not deprive the Board of jurisdiction to
2 proceed with any investigation of, or action or disciplinary
3 proceeding against, the licensee or to render a decision suspending
4 or revoking the license.

5 9. The Board shall not issue a private reprimand to a licensee.

6 10. An order that imposes discipline and the findings of fact
7 and conclusions of law supporting that order are public records.

8 11. An administrative fine imposed pursuant to this section or
9 NRS 624.341 or 624.710 plus interest at a rate that is equal to the
10 prime rate at the largest bank in this State, as determined by the
11 Commissioner of Financial Institutions on January 1 or July 1, as
12 appropriate, immediately preceding the date of the order imposing
13 the administrative fine, plus 4 percent, must be paid to the Board
14 before the issuance or renewal of a license to engage in the business
15 of contracting in this State. The interest must be collected from the
16 date of the order until the date the administrative fine is paid.

17 12. All fines and interest collected pursuant to this section must
18 be deposited with the State Treasurer for credit to the Construction
19 Education Account created pursuant to NRS 624.580.

20 *13. As used in this section, "vulnerable person" has the*
21 *meaning ascribed to it in subsection 7 of NRS 200.5092.*

22 **Sec. 2.** NRS 624.965 is hereby amended to read as follows:

23 624.965 1. A violation of any provision of NRS 624.900 to
24 624.965, inclusive, or any regulation adopted by the Board with
25 respect to contracts for work concerning a residential pool or spa by
26 a contractor constitutes cause for disciplinary action pursuant to
27 NRS 624.300.

28 2. It is unlawful for a person to violate any provision of NRS
29 624.900 to 624.965, inclusive.

30 3. Any person who violates any provision of NRS 624.900 to
31 624.965, inclusive:

32 (a) For a first offense, is guilty of a misdemeanor and shall be
33 punished by a fine of not more than \$1,000, and may be further
34 punished by imprisonment in the county jail for not more than 6
35 months.

36 (b) For the second offense, is guilty of a gross misdemeanor and
37 shall be punished by a fine of not less than \$2,000 nor more than
38 \$4,000, and may be further punished by imprisonment in the county
39 jail for not more than 1 year.

40 (c) For the third or subsequent offense, is guilty of a class E
41 felony and shall be punished by a fine of not less than \$5,000 nor
42 more than \$10,000 and may be further punished by imprisonment in
43 the state prison for not less than 1 year and not more than 4 years.

44 4. *Any person who violates any provision of NRS 624.900 to*
45 *624.965, inclusive, if the violation is committed against a person*



1 *who is 60 years of age or older or against a vulnerable person,*
2 *shall, in addition to the penalty prescribed by subsection 3 for the*
3 *crime, be punished, if the crime is a misdemeanor or gross*
4 *misdemeanor, by imprisonment in the county jail for a term equal*
5 *to the term of imprisonment prescribed by subsection 3 for the*
6 *crime and, if the crime is a felony, by imprisonment in the state*
7 *prison for a minimum term of not less than 1 year and a*
8 *maximum term of not more than 20 years. Any term of*
9 *imprisonment imposed pursuant to this subsection runs*
10 *consecutively with the sentence prescribed by the court for the*
11 *crime. This subsection does not create a separate offense but*
12 *provides an additional penalty for the primary offense, whose*
13 *imposition is contingent upon the finding of the prescribed fact.*

14 5. The imposition of a penalty provided for in this section is
15 not precluded by any disciplinary action taken by the Board against
16 a contractor pursuant to the provisions of NRS 624.300 to 624.305,
17 inclusive.

18 6. As used in this section, "vulnerable person" has the
19 meaning ascribed to it in subsection 7 of NRS 200.5092.

20 **Sec. 3.** NRS 193.169 is hereby amended to read as follows:

21 193.169 1. A person who is sentenced to an additional term
22 of imprisonment pursuant to the provisions of subsection 1 of NRS
23 193.161, NRS 193.162, 193.163, 193.165, 193.166, 193.167,
24 193.1675, 193.168, subsection 1 of NRS 193.1685, NRS 453.3335,
25 453.3345, 453.3351 , ~~for~~ subsection 1 of NRS 453.3353 *or*
26 *subsection 4 of NRS 624.965* must not be sentenced to an additional
27 term of imprisonment pursuant to any of the other listed sections
28 even if the person's conduct satisfies the requirements for imposing
29 an additional term of imprisonment pursuant to another one or more
30 of those sections.

31 2. A person who is sentenced to an alternative term of
32 imprisonment pursuant to subsection 3 of NRS 193.161, subsection
33 3 of NRS 193.1685 or subsection 2 of NRS 453.3353 must not be
34 sentenced to an additional term of imprisonment pursuant to
35 subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165,
36 193.166, 193.167, 193.1675, 193.168, 453.3335, 453.3345 , ~~for~~
37 453.3351 *or subsection 4 of NRS 624.965* even if the person's
38 conduct satisfies the requirements for imposing an additional term
39 of imprisonment pursuant to another one or more of those sections.

40 3. This section does not:

41 (a) Affect other penalties or limitations upon probation or
42 suspension of a sentence contained in the sections listed in
43 subsection 1 or 2.

44 (b) Prohibit alleging in the alternative in the indictment or
45 information that the person's conduct satisfies the requirements of



- 1 more than one of the sections listed in subsection 1 or 2 and
- 2 introducing evidence to prove the alternative allegations.
- 3 **Sec. 4.** This act becomes effective on July 1, 2011.

