

Amendment No. 82

Assembly Amendment to Assembly Bill No. 203

(BDR 54-660)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MSN/TMC



Date: 4/1/2011

A.B. No. 203—Revises provisions governing the unlawful use of a contractor's license. (BDR 54-660)



ASSEMBLY BILL NO. 203—ASSEMBLYMEN CARRILLO, KIRKPATRICK,
BROOKS; DALY, ELLISON, HANSEN AND SEGERBLOM

FEBRUARY 23, 2011

JOINT SPONSOR: SENATOR MANENDO

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the unlawful use of a contractor's license. (BDR 54-660)

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: No.

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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; requiring the State Contractors' Board to issue or authorize the issuance of a written administrative citation to a person who acts as a contractor without an active license of the proper classification; ~~increasing the penalty for certain violations of provisions relating to the unlawful use of a license;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Contractors' Board to issue a written administrative citation if the Board, based upon a preponderance of the evidence, has reason to believe that a person has violated any provision of statute or any administrative regulation governing contractors. (NRS 624.341) ~~Section 1 of this~~ ***This*** bill requires the Board to issue such a citation if a person has acted as a contractor without an active license of the proper classification.

~~Existing law establishes criminal penalties for violations of certain provisions governing contractors. (NRS 624.750) Such violations include, without limitation, misusing a contractor's license, such as acting as a contractor without a license or conspiring with an unlicensed person to perform an unauthorized act, allowing a license to be used by someone who is not licensed and, unless exempt, engaging in the business of or acting as a contractor or submitting a bid on a job without having an active license. (NRS 624.3014, 624.305, 624.700) A first violation of those provisions is a misdemeanor, the second violation is a gross misdemeanor and a third or subsequent violation is a category E felony. (NRS 624.750) Section 2 of this bill increases the penalty for a first or second violation of those provisions so that the first and second violations are gross misdemeanors punishable by a fine of not more than \$10,000, and section 2 further authorizes imprisonment in the county jail for up to 1 year for such violations. The third or a subsequent violation remains a category E felony.~~

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

Section 1. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has ~~{committed an}~~ :

(a) *Acted as a contractor without an active license of the proper classification issued pursuant to this chapter, the Board or its designee, as appropriate, shall issue or authorize the issuance of a written administrative citation to the person.*

(b) *Committed any other* act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person.

2. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine not to exceed \$50,000, except as otherwise provided in subsection 1 of NRS 624.300; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

~~{2-}~~ 3. If a written citation issued pursuant to ~~{subsection 1-}~~ *this section* includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the person receives the citation, and specifically describe the action required to be taken.

~~{3-}~~ 4. The sanctions authorized by ~~{subsection 1-}~~ *this section* are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

~~{4-}~~ 5. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 2. ~~{NRS 624.750 is hereby amended to read as follows:~~

~~624.750 1. It is unlawful for a person to commit any act or omission described in subsection 1 of NRS 624.3012, subsection 2 of NRS 624.3013, NRS 624.3014 or subsection 1, 3 or 7 of NRS 624.3016.~~

~~2. Unless a greater penalty is otherwise provided by a specific statute, any person who violates {subsection 1, NRS 624.305, subsection 1 of NRS 624.700 or} subsection 1 of NRS 624.3012, subsection 2 of NRS 624.3013, subsection 1, 3 or 7 of NRS 624.3016 or NRS 624.720 or 624.740:~~

~~(a) 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.~~

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

~~(c) For the third or subsequent offense, is guilty of a category E felony and shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and may~~

1 ~~be further punished by imprisonment in the state prison for not less than 1 year and~~
2 ~~not more than 4 years.~~

3 ~~3. Any person who violates NRS 624.3014 or 624.305 or subsection 1 of~~
4 ~~NRS 624.700.~~

5 ~~(a) For a first or second offense, is guilty of a gross misdemeanor and shall~~
6 ~~be punished by a fine of not less than \$2,000 nor more than \$10,000 and may be~~
7 ~~further punished by imprisonment in the county jail for not more than 1 year.~~

8 ~~(b) For the third or subsequent offense is guilty of a category E felony and~~
9 ~~shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and~~
10 ~~may be further punished by imprisonment in the state prison for not less than 1~~
11 ~~year and not more than 4 years.~~

12 ~~4. It is unlawful for a person to receive money for the purpose of obtaining or~~
13 ~~paying for services, labor, materials or equipment if the person:~~

14 ~~(a) Willfully fails to use that money for that purpose by failing to complete the~~
15 ~~improvements for which the person received the money or by failing to pay for any~~
16 ~~services, labor, materials or equipment provided for that construction; and~~

17 ~~(b) Wrongfully diverts that money to a use other than that for which it was~~
18 ~~received.~~

19 ~~[4.] 5. Unless a greater penalty is otherwise provided by a specific statute,~~
20 ~~any person who violates subsection [3.] 4.~~

21 ~~(a) If the amount of money wrongfully diverted is \$1,000 or less, is guilty of a~~
22 ~~gross misdemeanor and shall be punished by a fine of not less than \$2,000 nor more~~
23 ~~than \$4,000, and may be further punished by imprisonment in the county jail for not~~
24 ~~more than 1 year.~~

25 ~~(b) If the amount of money wrongfully diverted is more than \$1,000, is guilty~~
26 ~~of a category E felony and shall be punished by a fine of not less than \$5,000 nor~~
27 ~~more than \$10,000, and may be further punished by imprisonment in the state~~
28 ~~prison for not less than 1 year and not more than 4 years.~~

29 ~~[5.] 6. Imposition of a penalty provided for in this section is not precluded by~~
30 ~~any disciplinary action taken by the Board against a contractor pursuant to the~~
31 ~~provisions of NRS 624.300 to 624.305, inclusive.] (Deleted by amendment.)~~