

Amendment No. 426

Senate Amendment to Senate Bill No. 397	(BDR 54-304)
Proposed by: Senate 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	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



SENATE BILL NO. 397—SENATOR BROOKS

MARCH 20, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing contractors. (BDR 54-304)

FISCAL NOTE: Effect on Local Government: No.
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; ~~setting forth requirements for contractors entering into certain contracts for work concerning completed single family residences;~~ authorizing a contractor, under certain circumstances, to perform work for which the contractor does not have a license in the applicable classification or subclassification; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires a person to be licensed as a contractor to engage in the business of constructing, altering or repairing any structure or other improvement. (NRS 624.020, 624.700) ~~Existing law also requires, with regard to work concerning a residential pool or spa, that: (1) the contracts for such work contain certain provisions; (2) copies of documents and receipts for money related to such work must be provided by the contractor; (3) certain provisions in contracts for such work render the contract void; and (4) the contractor must obtain all necessary permits. (NRS 624.940) Section 1 of this bill provides substantially similar requirements for work concerning a completed single family residence for which a contractor enters into a contract with the owner of the residence.~~

Existing law also requires the State Contractors' Board to adopt regulations for the classification and subclassification of contractors, and authorizes the Board to limit the field and scope of the operations of a licensed contractor to those in which the contractor is classified. (NRS 624.220) However, existing law provides various exceptions to the licensure requirement for contractors, such as when a person, under certain circumstances, performs work to repair or maintain property when the value of the work, including both labor and materials, is less than \$1,000. (NRS 624.031) Existing law also authorizes a specialty contractor to perform work for which the contractor does not have a license of the appropriate classification or subclassification when that work is incidental and supplemental to the performance of work for which the contractor is appropriately licensed. (NRS 624.220) **Section 4** of this bill authorizes a licensed contractor ~~whether the contractor is a prime contractor or a subcontractor~~ to perform work for which the contractor does not have a license in the applicable classification or subclassification if: (1) the value of the work is less than \$1,000 ~~and~~ **and does not require a permit**; and (2) the work is not of a type performed by a plumbing, electrical, refrigeration or air-conditioning contractor. **Sections 2, 3 and 5** of this bill make conforming changes relating to **section 4**.

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

Section 1. ~~[Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~1. On and after July 1, 2019, any contract entered into between a residential contractor and an owner of a completed single family residence for work concerning the completed single family residence must contain in writing at least the following information:~~

~~(a) The name of the contractor and his or her business address and license number.~~

~~(b) The name and mailing address of the owner and the address or legal description of the property.~~

~~(c) The date of execution of the contract.~~

~~(d) The estimated date of completion of all work to be performed under the contract.~~

~~(e) A description of the work to be performed under the contract.~~

~~(f) The total amount to be paid to the contractor by the owner for all work to be performed under the contract, including all applicable taxes.~~

~~(g) The amount, not to exceed 50 percent of the total contract price, of any initial down payment or deposit paid or promised to be paid to the contractor by the owner before the start of construction.~~

~~(h) A statement that the contractor has provided the owner with the notice and informational form required by NRS 624.600.~~

~~(i) A statement that any additional work to be performed under the contract, whether or not pursuant to a change order, which will require the owner to pay additional money and any other change in the terms in the original contract must be agreed to in writing by the parties and incorporated into the original contract as a change order. A change order is not enforceable against the owner contracting for work concerning the completed single family residence unless the change order clearly sets forth the scope of work to be completed and the price to be charged for the changes and is signed by the owner.~~

~~(j) A plan and scale drawing showing the shape, size, dimensions and the specifications for the construction and equipment for the work specified in the contract, and a description of the work to be done, the materials to be used and the equipment to be installed, and the agreed consideration for the work.~~

~~(k) The dollar amount of any progress payment and the stage of construction at which the contractor will be entitled to collect progress payments during the course of construction under the contract. The schedule of payments must show the amount of each payment as a sum in dollars and cents. The schedule of payments must not provide for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except for an initial down payment or deposit.~~

~~(l) If the contract provides for payment of a commission to a salesperson out of the contract price, a statement that the payment must be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with the provisions of paragraph (k).~~

~~2. Except as otherwise provided in subsection 5, the contract may contain such other conditions, stipulations or provisions as to which the parties may agree.~~

~~3. The contract must contain:~~

~~1 (a) A method whereby the owner may initial provisions of the contract,~~
~~2 thereby indicating that those provisions have been read and are understood.~~

~~3 (b) In close proximity to the signatures of the owner and the contractor, a~~
~~4 notice stating that the owner:~~

~~5 (1) May contact the Board if assistance is needed to clarify any of the~~
~~6 provisions of the contract that the owner does not fully understand; and~~

~~7 (2) Has the right to request a bond for payment and performance if such~~
~~8 a bond is not otherwise required pursuant to NRS 624.270.~~

~~9 4. At the time the owner signs the contract, the contractor shall furnish the~~
~~10 owner a legible copy of all documents signed and a written and signed receipt for~~
~~11 any money paid to the contractor by the owner. All written information provided~~
~~12 in the contract must be printed in at least 10-point bold type.~~

~~13 5. A condition, stipulation or provision in a contract that requires a person~~
~~14 to waive any right provided by this chapter or any regulations adopted pursuant~~
~~15 thereto or relieves a person of an obligation or liability imposed by this chapter or~~
~~16 any regulations adopted pursuant thereto is void. Failure to comply with the~~
~~17 requirements of this section renders a contract void and unenforceable against~~
~~18 the owner.~~

~~19 6. The contractor shall apply for and obtain all necessary permits.] (Deleted~~
~~20 by amendment.)~~

Sec. 2. NRS 624.212 is hereby amended to read as follows:

624.212 1. The Executive Officer, on behalf of the Board, shall issue an order to cease and desist to any person:

(a) Acting as a contractor, including, without limitation, commencing work as a contractor; or

(b) Submitting a bid on a job situated in this State,
↳ without an active license of the proper classification issued pursuant to this chapter. The order must be served personally or by certified mail and is effective upon receipt.

2. If it appears that any person has engaged in acts or practices which constitute a violation of this chapter or the violation of an order issued pursuant to subsection 1, the Board may request the Attorney General, the district attorney of the county in which the alleged violation occurred or the district attorney of any other county in which that person maintains a place of business or resides to apply on behalf of the Board to the district court for an injunction restraining the person from acting in violation of this chapter. Upon a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction may be granted. The Board as plaintiff in the action is not required to prove any irreparable injury.

3. In seeking injunctive relief against any person for an alleged violation of NRS 624.700, it is sufficient to allege that the person did, upon a certain day and in a certain county of this State:

(a) Act as a contractor, including, without limitation, commence work as a contractor; or

(b) Submit a bid on a job situated in this State,
↳ without having an active license of the proper classification issued pursuant to this chapter, without alleging any further or more particular facts concerning the matter.

4. The issuance of a restraining order or an injunction does not relieve the person against whom the restraining order or injunction is issued from criminal prosecution for practicing without a license.

5. If the court finds that a person willfully violated an order issued pursuant to subsection 1, it shall impose a fine of not less than \$250 nor more than \$1,000 for each violation of the order.

6. For the purposes of this section, a person shall be deemed to have an active license of the proper classification if the person has an active license and is performing work in conformity with the requirements of subsection 4 of NRS 624.220.

Sec. 3. NRS 624.215 is hereby amended to read as follows:

624.215 1. For the purpose of classification, the contracting business includes the following branches:

- (a) General engineering contracting.
- (b) General building contracting.
- (c) Specialty contracting.

➤ General engineering contracting and general building contracting are mutually exclusive branches.

2. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works, including irrigation, drainage, water supply, water power, flood control, harbors, railroads, highways, tunnels, airports and airways, sewers and sewage disposal systems, bridges, inland waterways, pipelines for transmission of petroleum and other liquid or gaseous substances, refineries, chemical plants and industrial plants requiring a specialized engineering knowledge and skill, power plants, piers and foundations and structures or work incidental thereto.

3. A general building contractor is a contractor whose principal contracting business is in connection with the construction or remodeling of buildings or structures for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in their construction the use of more than two unrelated building trades or crafts, upon which he or she is a prime contractor and where the construction or remodeling of a building is the primary purpose. Unless he or she holds the appropriate specialty license, a general building contractor may only contract to perform specialty contracting if he or she is a prime contractor on a project. ~~FA~~ *Except as otherwise provided in subsection 4 of NRS 624.220, a general building contractor shall not perform specialty contracting in plumbing, electrical, refrigeration and air-conditioning or fire protection without a license for the specialty. A person who exclusively constructs or repairs mobile homes, manufactured homes or commercial coaches is not a general building contractor.*

4. A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

5. This section does not prevent the Board from establishing, broadening, limiting or otherwise effectuating classifications in a manner consistent with established custom, usage and procedure found in the building trades. The Board is specifically prohibited from establishing classifications in such a manner as to determine or limit craft jurisdictions.

Sec. 4. NRS 624.220 is hereby amended to read as follows:

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which the contractor is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive.

3. A licensed contractor may request that the Board increase the monetary limit on his or her license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. A request submitted pursuant to this section for a single construction project must be submitted to the Board at least 5 working days before the date on which the licensed contractor intends to submit a bid for the project and must be approved by the Board before the submission of a bid by the contractor for the project.

4. Subject to the provisions of regulations adopted pursuant to subsection 5, nothing contained in this section prohibits ~~it~~:

(a) A specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which the specialty contractor is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

(b) ~~it~~ Except as otherwise provided in this paragraph, a licensed contractor ~~whether the contractor is a prime contractor or a subcontractor,~~ from performing work of a type for which the contractor does not have a license in the applicable classification or subclassification if the value of the work is less than \$1,000, including labor and materials, ~~unless~~ and the work does not require a permit. A licensed contractor shall not perform work of a type for which the contractor does not have a license in the applicable classification or subclassification if the work is of a type performed by a plumbing, electrical, refrigeration or air-conditioning contractor.

5. The Board shall adopt regulations establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.

Sec. 5. 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:

(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

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

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

9 4. The sanctions authorized by this section are separate from, and in addition
10 to, any other remedy, civil or criminal, authorized by this chapter.

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

16 *6. For the purposes of this section, a person shall be deemed to have an*
17 *active license of the proper classification if the person has an active license and is*
18 *performing work in conformity with the requirements of subsection 4 of NRS*
19 *624.220.*

20 **Sec. 6.** This act becomes effective on July 1, 2019.