**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3432**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Spires

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Introduced in the House on February 4, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Contractors

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/4/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-04-09.docx)‑10

2/4/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\02-04-09.docx)‑11

**VERSIONS OF THIS BILL**

[2/4/2009](file:///p:\pprever\2009-10\3432_20090204.docx)

**A** **BILL**

TO AMEND SECTION 40‑11‑200, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PENALTIES FOR PRACTICING OR ATTEMPTING TO PRACTICE AS A CONTRACTOR WITHOUT A LICENSE, SO AS TO PROVIDE A PERSON WHO ENGAGES IN THIS PRACTICE OR WHO UNDER A FALSE PRETENSE USES IMPERMISSIBLY ANOTHER PERSON’S VALID CONTRACTOR’S LICENSE TO PRACTICE OR ATTEMPT TO PRACTICE AS A CONTRACTOR MUST PAY A FINE OF TWENTY‑FIVE THOUSAND DOLLARS AND IS GUILTY OF A FELONY FOR WHICH IF CONVICTED HE MUST SERVE ONE YEAR IN PRISON; TO AMEND SECTION 40‑11‑100, RELATING TO ADMINISTRATIVE PENALTIES THE DEPARTMENT OF LABOR, LICENSING AND REGULATION MAY IMPOSE FOR A VIOLATION OF THE LAW GOVERNING THE LICENSURE OF CONTRACTORS, SO AS TO PROVIDE NO MORE THAN TWO HUNDRED TWENTY‑FIVE THOUSAND DOLLARS IN PENALTIES MAY BE ASSESSED AGAINST AN ENTITY OR INDIVIDUAL IN A DAY, AND THAT AN ADMINISTRATIVE PENALTY IMPOSED FOR A FIRST OFFENSE MAY NOT EXCEED TWENTY‑FIVE THOUSAND DOLLARS; AND TO AMEND SECTION 40‑11‑110, RELATING TO CIVIL PENALTIES FOR A PERSON WHO VIOLATES A PROVISION REGARDING THE LICENSURE OF CONTRACTORS, SO AS TO PROVIDE THE SOUTH CAROLINA CONTRACTORS’ LICENSING BOARD MAY IMPOSE A PENALTY OF UP TO TWENTY‑FIVE THOUSAND DOLLARS FOR A VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑11‑200 of the 1976 Code is amended to read:

“Section 40‑11‑200. (A) A person who practices or offers to practice in this State in violation of this chapter; ~~or~~without a license or under the false pretense of impermissibly using another licensee’s license; or who knowingly submits false information for the purpose of obtaining a license is guilty of a ~~misdemeanor~~felony and~~,~~ upon conviction~~,~~ must be imprisoned ~~not more than~~for one year ~~or~~and fined ~~not more than~~twenty‑five thousand dollars.

(B) It is a violation of this chapter for an awarding authority, owner, contractor, or an agent of an authority, owner, or contractor to consider a bid, sign a contract, or allow a contractor to begin work unless the bidder or contractor has first obtained the licenses required by this chapter. ~~Bids~~A bid or ~~contracts~~contract submitted by ~~contractors may~~a contractor must not be reconsidered or resubmitted to an awarding authority, contractor, or owner if the contractor was not properly licensed at the time the initial bid or contract was submitted.

(C) ~~Charges under this section may be preferred by~~ The board ~~by delivering~~promptly must deliver evidence of a violation of this section to ~~a~~the solicitor or ~~a~~ magistrate having jurisdiction.

(D) Upon conviction under this section, ~~the fines and assessments~~a fine or assessment imposed by ~~a~~the court must be administered pursuant to Sections 14‑1‑205, 14‑1‑206, 14‑1‑207, 14‑1‑208, and 14‑1‑209.”

SECTION 2. Section 40‑11‑100 of the 1976 Code is amended to read:

“Section 40‑11‑100. (A) The department may refer ~~any reports of violations~~a report of a violation of this chapter and Article 1, Chapter 1 of this title or ~~any reports of violations of regulations~~a report of a violation promulgated under this chapter directly to the board; ~~or~~ may issue an administrative ~~citations~~citation and cease and desist ~~orders~~order in person or by certified mail; and may assess an administrative ~~penalties~~penalty against ~~any~~an entity or individual, including an unlicensed ~~contractors~~contractor, for a ~~violations~~violation of this chapter as specified by the board.

(B) Separate citations may be issued and separate administrative penalties may be assessed for each violation, ~~however,~~but no more than ~~two thousand five hundred~~two hundred twenty‑five thousand dollars in administrative penalties may be assessed against an entity or an individual ~~per~~in a day.

(C) An administrative ~~penalties~~penalty authorized under this section ~~are~~is separate from and in addition to ~~all other remedies, either~~another civil or criminal penalty.

(D) An administrative ~~penalties~~penalty assessed pursuant to this section may not exceed the following limits:

(1) for a first offense, not more than a ~~five‑hundred~~twenty‑five thousand dollar penalty;

(2) for a second offense in a five‑year period, the citation must be referred to the board for action in accordance with Section 40‑11‑110.

(E) An entity or individual assessed an administrative ~~penalties~~penalty may appeal ~~those penalties~~that penalty to the board within fifteen days of ~~receipt of~~receiving the citation. If an appeal is filed, the department shall schedule a hearing before the board, which shall make a determination in the matter. If ~~no~~an appeal is not filed, the citation is ~~deemed~~considered a final order and the administrative ~~penalties~~penalty must be paid within thirty days of ~~receipt of~~receiving the citation.”

SECTION 3. Section 40‑11‑110(C)of the 1976 Code is amended to read:

“(C) The board may, in addition to all other disciplinary actions, require a licensee, certificate holder, or other entity or individual to pay a civil penalty of up to twenty‑five thousand dollars for each violation of this chapter or ~~of~~ a regulation promulgated under this chapter and may order an unlicensed contractor to cease and desist from violating a provision of this chapter.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor.

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