

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 262

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO CONSTRUCTION; INCREASING THE MINIMUM AMOUNT A
HANDYMAN MAY MAKE BEFORE A CONTRACTOR'S LICENSE IS REQUIRED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 60-13-3 NMSA 1978 (being Laws 1978,
Chapter 66, Section 1, as amended) is amended to read:

"60-13-3. DEFINITION--CONTRACTOR.--As used in the
Construction Industries Licensing Act, "contractor":

A. means [~~any~~] a person who undertakes, offers to
undertake by bid or other means or purports to have the
capacity to undertake, by [~~himself~~] the person alone or through
others, contracting. Contracting includes constructing,
altering, repairing, installing, [~~or~~] demolishing, leveling,
clearing or excavating any:

(1) road, highway, bridge, parking area or

underscored material = new
[bracketed material] = delete

- 1 related project;
- 2 (2) building, stadium or other structure;
- 3 (3) airport, subway or similar facility;
- 4 (4) park, trail, bridle path, athletic field,
5 golf course or similar facility;
- 6 (5) dam, reservoir, canal, ditch or similar
7 facility;
- 8 (6) sewerage or water treatment facility,
9 power generating plant, pump station, natural gas compressing
10 station or similar facility;
- 11 (7) sewerage, water, gas or other pipeline;
- 12 (8) transmission line;
- 13 (9) radio, television or other tower;
- 14 (10) water, oil or other storage tank;
- 15 (11) shaft, tunnel or mining appurtenance;
- 16 (12) [~~leveling or clearing~~] land;
- 17 (13) [~~excavating~~] earth;
- 18 (14) air conditioning, conduit, heating or
19 other similar mechanical works;
- 20 (15) electrical wiring, plumbing or plumbing
21 fixture, consumers' gas piping, gas appliances or water
22 conditioners; or
- 23 (16) similar work, structures or installations
24 [~~which~~] that are covered by applicable codes adopted under the
25 provisions of the Construction Industries Licensing Act;

.189145.1

underscoring material = new
[bracketed material] = delete

1 B. includes subcontractor and specialty contractor;

2 C. includes a construction manager who coordinates
3 and manages the building process; who is a member of the
4 construction team with the owner, architect, engineer and other
5 consultants required for the building project; and who utilizes
6 ~~[his]~~ the construction manager's skill and knowledge of general
7 contracting to develop schedules, prepare project construction
8 estimates, study labor conditions and advise concerning
9 construction; and

10 D. does not include:

11 (1) ~~[any]~~ a person who merely furnishes
12 materials or supplies at the site without fabricating them
13 into, or consuming them in the performance of, the work of a
14 contractor;

15 (2) ~~[any]~~ a person who drills, completes,
16 tests, abandons or operates ~~[any]~~ a petroleum, gas or water
17 well; ~~[or]~~ services equipment and structures used in the
18 production and handling of ~~[any]~~ a product incident to the
19 production of ~~[any]~~ petroleum, gas or water wells, excluding
20 ~~[any]~~ a person performing duties normally performed by
21 electrical, mechanical or general contractors; or ~~[who]~~
22 performs geophysical or similar exploration for oil, gas or
23 water;

24 (3) a public utility or rural electric
25 cooperative that constructs, reconstructs, operates or

.189145.1

underscoring material = new
[bracketed material] = delete

1 maintains its plant or renders authorized service by the
2 installation, alteration or repair of facilities, up to and
3 including the meters, which facilities are an integral part of
4 the operational system of the public utility or rural electric
5 cooperative; provided that the construction of a building by a
6 public utility or rural electric cooperative or the
7 installation or repair of ~~any~~ a consumer gas or electrical
8 appliance not an integral part of the operational system makes
9 a public utility or rural electric cooperative a contractor for
10 that purpose;

11 (4) a utility department of ~~any~~ a
12 municipality or local public body rendering authorized service
13 by the installation, alteration or repair of facilities, up to
14 and including the meters, which facilities are an integral part
15 of the operational system of the utility department of the
16 municipality;

17 (5) ~~any~~ a railroad company;

18 (6) a telephone or telegraph company or rural
19 electric cooperative that installs, alters or repairs
20 electrical equipment and devices for the operation of signals
21 or the transmission of intelligence where that work is an
22 integral part of the operation of a communication system owned
23 and operated by a telephone or telegraph company or rural
24 electric cooperative in rendering authorized service;

25 (7) a pipeline company that installs, alters

.189145.1

underscored material = new
[bracketed material] = delete

1 or repairs electrical equipment and devices for the operation
2 of signals or the transmission of intelligence where that
3 service is an integral part of the operation of the
4 communication system of that pipeline company and is not for
5 hire or for the use of the general public, or ~~any~~ a pipeline
6 company ~~which~~ that installs, alters or repairs plumbing
7 fixtures or gas piping where the work is an integral part of
8 installing and operating the system owned or operated by the
9 pipeline company in rendering its authorized service;

10 (8) ~~any~~ a mining company, gas company or oil
11 company that installs, alters or repairs its facilities,
12 including plumbing fixtures or gas piping, where the work is an
13 integral part of the installing or operating of a system owned
14 or operated by the mining company, gas company or oil company;
15 provided the construction of a building by a mining company, a
16 gas company or an oil company is required to be done in
17 conformity with all other provisions of the Construction
18 Industries Licensing Act and with orders, rules, ~~regulations~~
19 standards and codes adopted pursuant to that act;

20 (9) a radio or television broadcaster who
21 installs, alters or repairs electrical equipment used for radio
22 or television broadcasting;

23 (10) an individual who, ~~by himself~~ alone or
24 with the aid of others who are paid wages and who receive no
25 other form of compensation, builds or makes installations,

.189145.1

underscored material = new
[bracketed material] = delete

1 alterations or repairs in or to a single-family dwelling owned
2 and occupied or to be occupied by ~~[him]~~ the individual;
3 provided that the installation, building, alteration or repair
4 is required to be done in conformity with all other provisions
5 of the Construction Industries Licensing Act and with the
6 orders, rules, ~~[regulations]~~ standards and codes adopted
7 pursuant to that act;

8 (11) a person who acts on ~~[his]~~ the person's
9 own account to build or improve a single-family residence for
10 ~~[his]~~ the person's personal use, including the building or
11 improvement of a freestanding storage building located on that
12 residential property; provided that the construction or
13 improvement is required to be done in conformity with all other
14 provisions of the Construction Industries Licensing Act and
15 with the orders, rules, ~~[regulations]~~ standards and codes
16 adopted pursuant to that act; and provided further that ~~[he]~~
17 the person does not engage in commercial construction;

18 (12) a person who, ~~[by himself]~~ alone or with
19 the aid of others who are paid wages and receive no other form
20 of compensation, builds or makes installations, repairs or
21 alterations in or to a building or other improvement on a farm
22 or ranch owned, occupied or operated by ~~[him]~~ the person, or
23 makes installations of electrical wiring that are not to be
24 connected to electrical energy supplied from a power source
25 outside the premises of the farm or ranch owned, occupied or

.189145.1

underscored material = new
[bracketed material] = delete

1 operated by [~~him~~] the person; provided that the state codes and
2 [~~any~~] local codes adopted pursuant to Subsection F of Section
3 60-13-44 NMSA 1978 shall not require [~~any~~] permits or
4 inspections for such construction on a farm or ranch except for
5 electrical wiring to be connected to a power source outside the
6 premises;

7 (13) an individual who works only for wages;

8 (14) an individual who works on one
9 undertaking or project at a time that, in the aggregate or
10 singly, does not exceed [~~seven thousand two hundred dollars~~
11 ~~(\$7,200)] twenty-five thousand dollars (\$25,000) compensation a
12 year, the work being casual, minor or inconsequential, such as
13 handyman repairs; provided that this exemption shall not apply
14 to any undertaking or project pertaining to the installation,
15 connection or repair of electrical wiring, plumbing or gas
16 fitting as defined in Section 60-13-32 NMSA 1978 and provided:~~

17 (a) the work is not part of a larger or
18 major operation undertaken by the same individual or different
19 contractor;

20 (b) the individual does not advertise or
21 maintain a sign, card or other device [~~which~~] that would
22 indicate to the public that [~~he~~] the individual is qualified to
23 engage in the business of contracting; and

24 (c) the individual files annually with
25 the division, on a form prescribed by the division, a

.189145.1

underscored material = new
[bracketed material] = delete

1 declaration substantially to the effect that [~~he~~] the
2 individual is not a contractor within the meaning of the
3 Construction Industries Licensing Act, that the work [~~he~~] the
4 individual performs is casual, minor or inconsequential and
5 will not include more than one undertaking or project at one
6 time and that the total amount of such contracts, in the
7 aggregate or singly, will not exceed [~~seven thousand two~~
8 ~~hundred dollars (\$7,200)] twenty-five thousand dollars
9 (\$25,000) compensation a year;~~

10 (15) [~~any~~] a person, firm or corporation that
11 installs fuel containers, appliances, furnaces and other
12 appurtenant apparatus as an incident to its primary business of
13 distributing liquefied petroleum fuel;

14 (16) a cable television or community antenna
15 television company that constructs, installs, alters or repairs
16 facilities, equipment, cables or lines for the provision of
17 television service or the carriage and transmission of
18 television or radio broadcast signals;

19 (17) [~~any~~] a weatherization project not
20 exceeding two thousand dollars (\$2,000) that has been approved
21 and is administered by a federal or state agency; or

22 (18) a person who performs work consisting of
23 short-term depreciable improvements to commercial property to
24 provide needed repairs and maintenance for items not covered by
25 building codes adopted by the construction [~~industry~~]

.189145.1

underscoring material = new
~~[bracketed material] = delete~~

1 industries commission if the total amount paid the person for
2 the work on a single undertaking, including materials, services
3 and wages of those who work for ~~him~~ the person, does not
4 exceed the sum of five thousand dollars (\$5,000)."

5 - 9 -
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25