

ASSEMBLY BILL NO. 137—ASSEMBLYMEN ELLISON, WHEELER, HAMBRICK, FIORE, HANSEN; ARMSTRONG, DICKMAN, GARDNER, HICKEY, KIRNER, MUNFORD, O'NEILL, OSCARSON, SEAMAN, SILBERKRAUS, STEWART AND TROWBRIDGE

FEBRUARY 11, 2015

JOINT SPONSORS: SENATORS GOICOECHEA; AND SETTELMEYER

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing contractors. (BDR 54-513)

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.

~

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

AN ACT relating to contractors; revising provisions regarding the advertising of construction services and the soliciting of construction bids; increasing penalties for certain violations of provisions governing contractors; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law requires persons engaged in certain construction work to be  
2 licensed contractors, regulates the activities of licensed contractors, prohibits  
3 persons from making certain advertising claims about themselves as contractors,  
4 and provides criminal and monetary penalties for violations of the preceding  
5 provisions. (Chapter 624 of NRS)

6 Under existing law, it is unlawful for a licensed contractor or an applicant to  
7 become a licensed contractor to misrepresent a material fact in connection with any  
8 information or evidence furnished officially to the State Contractors’ Board. (NRS  
9 624.3013) **Section 2** of this bill expands the prohibition to include omissions of  
10 material facts as well as misrepresentations.

11 **Section 3** of this bill adds the solicitation of a bid or estimate from a person  
12 known by a licensed contractor to be unlicensed to the list of acts for which a  
13 licensed contractor may be subject to disciplinary action.



\* A B 1 3 7 R 1 \*

14 Existing law prohibits licensed contractors and other persons from engaging in  
15 certain acts of advertising that are false or misleading. (NRS 624.720) **Section 5** of  
16 this bill: (1) requires any person who advertises to perform or complete  
17 construction work or a work of improvement, and who is not a licensed contractor,  
18 to affirmatively state in the advertisement that they are not licensed; and (2) makes  
19 it unlawful for any person to advertise to perform or complete construction work or  
20 a work of improvement using a license number not assigned to that person.

21 **Section 6** of this bill increases the monetary fines that may be imposed for  
22 violations of certain provisions of chapter 624 of NRS. In addition, **section 6**  
23 provides for an enhancement of such monetary fines under certain circumstances.

24 **Section 4** of this bill makes conforming changes.

---

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** NRS 624.3013 is hereby amended to read as follows:

3 624.3013 The following acts, among others, constitute cause  
4 for disciplinary action pursuant to NRS 624.300:

5 1. Failure to keep records showing all contracts, documents,  
6 receipts and disbursements by a licensee of all of the licensee's  
7 transactions as a contractor and to keep them open for inspection by  
8 the Board or Executive Officer for a period of not less than 3 years  
9 after the completion of any construction project or operation to  
10 which the records refer.

11 2. Misrepresentation *or omission* of a material fact by an  
12 applicant or licensee in connection with any information or evidence  
13 furnished the Board in connection with official matters of the Board.

14 3. Failure to establish financial responsibility pursuant to NRS  
15 624.220 and 624.260 to 624.265, inclusive, at the time of renewal of  
16 the license or at any other time when required by the Board.

17 4. Failure to keep in force the bond or cash deposit pursuant to  
18 NRS 624.270 for the full period required by the Board.

19 5. Failure in any material respect to comply with the provisions  
20 of this chapter or the regulations of the Board.

21 **Sec. 3.** NRS 624.3014 is hereby amended to read as follows:

22 624.3014 The following acts, among others, constitute cause  
23 for disciplinary action under NRS 624.300:

24 1. Acting in the capacity of a contractor under any license  
25 issued hereunder except:

26 (a) In the name of the licensee as set forth upon the license.

27 (b) As an employee of the licensee as set forth in the application  
28 for such license or as later changed pursuant to this chapter and the  
29 rules and regulations of the Board.

30 2. With the intent to evade the provisions of this chapter:



1 (a) Aiding or abetting an unlicensed person to evade the  
2 provisions of this chapter.

3 (b) Combining or conspiring with an unlicensed person to  
4 perform an unauthorized act.

5 (c) Allowing a license to be used by an unlicensed person.

6 (d) Acting as agent, partner or associate of an unlicensed person.

7 (e) Furnishing estimates or bids to an unlicensed person.

8 ~~13-1~~ ***(f) Soliciting a bid or estimate from a person known by the***  
9 ***licensee to be unlicensed pursuant to this chapter.***

10 **3.** Any attempt by a licensee to assign, transfer or otherwise  
11 dispose of a license or permit the unauthorized use thereof.

12 **Sec. 4.** NRS 624.710 is hereby amended to read as follows:

13 624.710 1. If any person violates the provisions of subsection  
14 1 of NRS 624.700, ~~subsection 1, 2 or 3~~ ***subsections 1 to 5,***  
15 ***inclusive,*** of NRS 624.720, or NRS 624.740, the Board may impose  
16 for each violation an administrative fine in an amount that is not less  
17 than \$1,000 and not more than \$50,000.

18 2. The Board shall, by regulation, establish standards for use  
19 by the Board in determining the amount of an administrative fine  
20 imposed pursuant to this section. The standards must include,  
21 without limitation, provisions requiring the Board to consider:

22 (a) The gravity of the violation;

23 (b) The good faith of the person; and

24 (c) Any history of previous violations of the provisions of this  
25 chapter or the regulations of the Board committed by the person.

26 3. An administrative fine imposed pursuant to this section is in  
27 addition to any other penalty imposed pursuant to this chapter.

28 4. If the administrative fine and any interest imposed pursuant  
29 to NRS 624.300 is not paid when due, the fine and interest, if any,  
30 must be recovered in a civil action brought by the Attorney General  
31 on behalf of the Board.

32 5. All administrative fines and interest collected pursuant to  
33 this section must be deposited with the State Treasurer for  
34 credit to the Construction Education Account created pursuant to  
35 NRS 624.580.

36 **Sec. 5.** NRS 624.720 is hereby amended to read as follows:

37 624.720 1. It is unlawful for any person, including a person  
38 exempt under the provisions of NRS 624.031, to advertise as a  
39 contractor unless the person has a license in the appropriate  
40 classification established by the provisions of NRS 624.215 and  
41 624.220.

42 2. ***Notwithstanding any other provision of this chapter, any***  
43 ***person not licensed pursuant to the provisions of this chapter who***  
44 ***advertises to perform or complete construction work or a work of***



\* A B 1 3 7 R 1 \*

1 *improvement must state in the advertisement that he or she is not*  
2 *licensed pursuant to this chapter.*

3 3. It is unlawful for a licensed contractor to disseminate, as part  
4 of any advertising by the contractor, any false or misleading  
5 statement or representation of material fact that is intended, directly  
6 or indirectly, to induce another person to use the services of the  
7 contractor or to enter into any contract with the contractor or any  
8 obligation relating to such a contract.

9 ~~13.1~~ 4. All advertising by a licensed contractor must include the  
10 name of the contractor's company and the number of the  
11 contractor's license.

12 ~~14.1~~ 5. *It is unlawful for any person, whether or not licensed*  
13 *pursuant to this chapter, to advertise to perform or complete*  
14 *construction work or a work of improvement using a license*  
15 *number that does not correspond to a valid license issued to that*  
16 *person under this chapter.*

17 6. If, after giving notice and holding a hearing pursuant to NRS  
18 624.291, the Board determines that a person has engaged in  
19 advertising in a manner that violates the provisions of this section,  
20 the Board may, in addition to any penalty, punishment or  
21 disciplinary action authorized by the provisions of this chapter, issue  
22 an order to the person to cease and desist the unlawful advertising  
23 and to:

24 (a) Cause any telephone number included in the advertising,  
25 other than a telephone number to a provider of paging services, to be  
26 disconnected.

27 (b) Request the provider of paging services to change the  
28 number of any beeper which is included in the advertising or  
29 disconnect the paging services to such a beeper, and to inform the  
30 provider of paging services that the request is made pursuant to this  
31 section.

32 ~~15.1~~ 7. If a person fails to comply with paragraph (a) of  
33 subsection ~~14.1~~ 6 within 5 days after receiving an order pursuant to  
34 subsection ~~14.1~~ 6, the Board may request the Public Utilities  
35 Commission of Nevada to order the appropriate provider of  
36 telephone service to disconnect any telephone number included in  
37 the advertisement, except for a telephone number to a provider of  
38 paging services. If a person fails to comply with paragraph (b) of  
39 subsection ~~14.1~~ 6 within 5 days after receiving an order pursuant to  
40 subsection ~~14.1~~ 6, the Board may request the provider of paging  
41 services to switch the beeper number or disconnect the paging  
42 services provided to the person, whichever the provider deems  
43 appropriate.



1 ~~16~~ 8. If the provider of paging services receives a request  
2 from a person pursuant to subsection ~~14~~ 6 or a request from the  
3 Board pursuant to subsection ~~15~~ 7, it shall:

- 4 (a) Disconnect the paging service to the person; or
- 5 (b) Switch the beeper number of the paging service provided to  
6 the person.

7 **↳** If the provider of paging services elects to switch the number  
8 pursuant to paragraph (b), it shall not forward or offer to forward the  
9 paging calls from the previous number, or provide or offer to  
10 provide a recorded message that includes the new beeper number.

11 ~~17~~ 9. As used in this section:

12 (a) "Advertising" includes, but is not limited to, the issuance of  
13 any sign, card or device, or the permitting or allowing of any sign or  
14 marking on a motor vehicle, in any building, structure, newspaper,  
15 magazine or airway transmission, on the Internet or in any directory  
16 under the listing of "contractor" with or without any limiting  
17 qualifications.

18 (b) "Beeper" means a portable electronic device which is used to  
19 page the person carrying it by emitting an audible or a vibrating  
20 signal when the device receives a special radio signal.

21 (c) "Provider of paging services" means an entity, other than a  
22 public utility, that provides paging service to a beeper.

23 (d) "Provider of telephone service" has the meaning ascribed to  
24 it in NRS 707.355.

25 **Sec. 6.** NRS 624.750 is hereby amended to read as follows:

26 624.750 1. It is unlawful for a person to commit any act or  
27 omission described in subsection 1 of NRS 624.3012, subsection 2  
28 of NRS 624.3013, NRS 624.3014 or subsection 1, 3 or 7 of  
29 NRS 624.3016.

30 2. ~~Unless~~ **Except as otherwise provided in subsection 3 and**  
31 **unless** a greater penalty is otherwise provided by a specific statute,  
32 any person who violates subsection 1, NRS 624.305, subsection 1 of  
33 NRS 624.700 or NRS 624.720 or 624.740:

34 (a) For a first offense, is guilty of a misdemeanor and shall be  
35 punished by a fine of not ~~more~~ **less** than \$1,000 ~~nor more than~~  
36 **\$4,000**, and may be further punished by imprisonment in the county  
37 jail for not more than 6 months.

38 (b) For the second offense, is guilty of a gross misdemeanor and  
39 shall be punished by a fine of not less than ~~\$2,000~~ **\$4,000** nor  
40 more than ~~\$4,000~~ **\$10,000**, and may be further punished by  
41 imprisonment in the county jail for not more than 364 days.

42 (c) For the third or subsequent offense, is guilty of a category E  
43 felony and shall be punished by a fine of not less than ~~\$5,000~~  
44 **\$10,000** nor more than ~~\$10,000~~ **\$20,000**, and may be further



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

3 3. *If a person is guilty of a violation of subsection 1 of NRS*  
4 *624.700, the maximum fines set forth in subsection 2 may be*  
5 *exceeded by adding thereto a fine enhancement of not more than*  
6 *10 percent of the value of any contract that the person entered into*  
7 *in violation of subsection 1 of NRS 624.700, if that person*  
8 *commenced any work or received any money relating to the*  
9 *contract.*

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

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

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

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

21 (a) If the amount of money wrongfully diverted is \$1,000 or  
22 less, is guilty of a gross misdemeanor and shall be punished by a  
23 fine of not less than \$2,000 nor more than \$4,000, and may be  
24 further punished by imprisonment in the county jail for not more  
25 than 364 days.

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

31 ~~5~~ 6. Imposition of a penalty provided for in this section is not  
32 precluded by any disciplinary action taken by the Board against a  
33 contractor pursuant to the provisions of NRS 624.300 to 624.305,  
34 inclusive.





