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SENATE BILL 493

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Vernon D. Asbill

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES LICENSING; INCREASING THE  
EARNINGS ALLOWED FOR A HANDYMAN CONSTRUCTION CONTRACTOR.

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 any:

(1) road, highway, bridge, parking area or  
related project;

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1 (2) building, stadium or other structure;  
2 (3) airport, subway or similar facility;  
3 (4) park, trail, bridle path, athletic field,  
4 golf course or similar facility;

5 (5) dam, reservoir, canal, ditch or similar  
6 facility;

7 (6) sewerage or water treatment facility,  
8 power generating plant, pump station, natural gas compressing  
9 station or similar facility;

10 (7) sewerage, water, gas or other pipeline;

11 (8) transmission line;

12 (9) radio, television or other tower;

13 (10) water, oil or other storage tank;

14 (11) shaft, tunnel or mining appurtenance;

15 (12) leveling or clearing land;

16 (13) excavating earth;

17 (14) air conditioning, conduit, heating or  
18 other similar mechanical works;

19 (15) electrical wiring, plumbing or plumbing  
20 fixture, consumers' gas piping, gas appliances or water  
21 conditioners; or

22 (16) similar work, structures or installations  
23 [~~which~~] that are covered by applicable codes adopted under the  
24 provisions of the Construction Industries Licensing Act;

25 B. includes subcontractor and specialty contractor;

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

9 D. does not include:

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

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

23 (3) a public utility or rural electric  
24 cooperative that constructs, reconstructs, operates or  
25 maintains its plant or renders authorized service by the

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

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

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

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

24 (7) a pipeline company that installs, alters  
25 or repairs electrical equipment and devices for the operation

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

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

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

22 (10) an individual who, ~~by himself~~ alone or  
23 with the aid of others who are paid wages and who receive no  
24 other form of compensation, builds or makes installations,  
25 alterations or repairs in or to a single-family dwelling owned

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

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

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

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

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

7 (14) an individual who works on one  
8 undertaking or project at a time that, in the aggregate or  
9 singly, does not exceed [~~seven thousand two hundred dollars~~  
10 ~~(\$7,200)] the higher of the current annual exempt amount under  
11 the social security retirement earnings test by recipient's age  
12 or twelve thousand nine hundred sixty dollars (\$12,960)  
13 compensation a year, the work being casual, minor or  
14 inconsequential, such as handyman repairs; provided that this  
15 exemption shall not apply to any undertaking or project  
16 pertaining to the installation, connection or repair of  
17 electrical wiring, plumbing or gas fitting as defined in  
18 Section 60-13-32 NMSA 1978 and provided:~~

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

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

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1 (c) the individual files annually with  
2 the division, on a form prescribed by the division, a  
3 declaration substantially to the effect that [~~he~~] the  
4 individual is not a contractor within the meaning of the  
5 Construction Industries Licensing Act, that the work [~~he~~] the  
6 individual performs is casual, minor or inconsequential and  
7 will not include more than one undertaking or project at one  
8 time and that the total amount of such contracts, in the  
9 aggregate or singly, will not exceed [~~seven thousand two~~  
10 ~~hundred dollars (\$7,200)~~] the higher of the current annual  
11 exempt amount under the social security retirement earnings  
12 test by recipient's age or twelve thousand nine hundred sixty  
13 dollars (\$12,960) compensation a year;

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

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

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

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1 (18) a person who performs work consisting of  
2 short-term depreciable improvements to commercial property to  
3 provide needed repairs and maintenance for items not covered by  
4 building codes adopted by the construction [~~industry~~  
5 industries commission if the total amount paid the person for  
6 the work on a single undertaking, including materials, services  
7 and wages of those who work for [~~him~~] the person, does not  
8 exceed the sum of five thousand dollars (\$5,000)."

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