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HOUSE BILL 236

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Joni Marie Gutierrez

AN ACT

RELATING TO LABOR; AMENDING THE DEFINITION OF "CONTRACTOR" IN SECTION 60-13-3 NMSA 1978 (BEING LAWS 1978, CHAPTER 66, SECTION 1, AS AMENDED).

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:

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[bracketed material] = delete

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

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1 provisions of the Construction Industries Licensing Act;

2 B. includes subcontractor and specialty contractor;

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

11 D. does not include:

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

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

25 (3) a public utility or rural electric

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

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

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

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

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

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

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

24 (10) an individual who, ~~[by himself]~~ alone or  
25 with the aid of others who are paid wages and who receive no

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

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

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

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

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

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

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

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

25 ~~(c) the individual files annually with~~

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

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

13 ~~[(16)]~~ (15) a cable television or community  
14 antenna television company that constructs, installs, alters or  
15 repairs facilities, equipment, cables or lines for the  
16 provision of television service or the carriage and  
17 transmission of television or radio broadcast signals; or

18 ~~[(17) any]~~ (16) a weatherization project not  
19 exceeding two thousand dollars (\$2,000) that has been approved  
20 and is administered by a federal or state agency [~~or~~

21 ~~(18) a person who performs work consisting of~~  
22 ~~short-term depreciable improvements to commercial property to~~  
23 ~~provide needed repairs and maintenance for items not covered by~~  
24 ~~building codes adopted by the construction industry commission~~  
25 ~~if the total amount paid the person for the work on a single~~

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1 ~~undertaking, including materials, services and wages of those~~  
2 ~~who work for him, does not exceed the sum of five thousand~~  
3 ~~dollars (\$5,000)]."~~

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