

REFERENCE TITLE: contractor licensure; penalties; handyman exemption

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2092

Introduced by
Representatives Hendrix: Parker B

AN ACT

AMENDING SECTION 32-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 140, SECTION 1; AMENDING SECTION 32-1121, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 145, SECTION 5; AMENDING SECTION 32-1166.01, ARIZONA REVISED STATUTES; RELATING TO CONTRACTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1121, Arizona Revised Statutes, as amended by
3 Laws 2019, chapter 140, section 1, is amended to read:

4 32-1121. Persons not required to be licensed; penalties;
5 applicability

6 A. This chapter does not apply to:

7 1. An authorized representative of the United States government,
8 this state or any county, incorporated city or town, reclamation district,
9 irrigation district or other municipality or political subdivision of this
10 state.

11 2. Trustees of an express trust that is not formed for the purpose
12 of conducting business as a contractor or officers of a court, if they are
13 acting within the terms of their trust or office.

14 3. Public utilities operating under regulation of the corporation
15 commission or construction, repair or operation incidental to discovering
16 or producing petroleum or gas, or drilling, testing, abandoning or
17 otherwise operating a petroleum or gas well, if performed by an owner or
18 lessee.

19 4. Any materialman, manufacturer or retailer that furnishes
20 finished products, materials or articles of merchandise and that does not
21 install or attach such items or installs or attaches such items if the
22 total value of the sales contract or transaction involving such items and
23 the cost of the installation or attachment of such items to a structure
24 does not exceed ~~\$1,000~~ \$2,500, including labor, materials and all other
25 items, but excluding any electrical fixture or appliance that was designed
26 by the manufacturer, that is unaltered, unchanged or unmodified by any
27 person, that can be plugged into a common household electrical outlet
28 using a two-pronged or three-pronged electrical connector or that has
29 internal batteries that do not exceed twelve volts in a single, series or
30 parallel configuration and that does not use any other form of energy,
31 including natural gas, propane or other petroleum or gaseous fuel, to
32 operate or is attached by a nail, screw or other fastening device to the
33 frame or foundation of any residential structure. The materialman,
34 manufacturer or retailer shall inform the purchaser that the installation
35 may also be performed by a licensed contractor whose name and address the
36 purchaser may request.

37 5. Owners of property who improve such property or who build or
38 improve structures or appurtenances on such property and who do the work
39 themselves, with their own employees or with duly licensed contractors, if
40 the structure, group of structures or appurtenances, including the
41 improvements thereto, are intended for occupancy solely by the owner and
42 are not intended for occupancy by members of the public as the owner's
43 employees or business visitors and the structures or appurtenances are not
44 intended for sale or for rent. In all actions brought under this chapter,
45 except an action against an owner-occupant as defined in section 33-1002,

1 proof of the sale or rent or the offering for sale or rent of any such
2 structure by the owner-builder within one year after completion or
3 issuance of a certificate of occupancy is prima facie evidence that such a
4 project was undertaken for the purpose of sale or rent. For the purposes
5 of this paragraph, "sale" or "rent" includes any arrangement by which the
6 owner receives compensation in money, provisions, chattels or labor from
7 the occupancy or the transfer of the property or the structures on the
8 property.

9 6. Owners of property who are acting as developers and who build
10 structures or appurtenances to structures on their property for the
11 purpose of sale or rent and who contract for such a project with a general
12 contractor licensed pursuant to this chapter and owners of property who
13 are acting as developers, who improve structures or appurtenances to
14 structures on their property for the purpose of sale or rent and who
15 contract for such a project with a general contractor or specialty
16 contractors licensed pursuant to this chapter. To qualify for the
17 exemption under this paragraph, the licensed contractors' names and
18 license numbers shall be included in all sales documents.

19 7. Architects or engineers who are engaging in their professional
20 practice as defined in chapter 1 of this title and who hire or offer to
21 hire the services of a contractor for preconstruction activities relating
22 to investigation and discovery, including:

23 (a) Subsurface utility location and designation services.

24 (b) Potholing.

25 (c) Drilling for any of the following:

26 (i) Soil samples.

27 (ii) Rock samples.

28 (iii) Pavement samples.

29 (d) Locating existing features of a building or structure,
30 including existing electrical, mechanical, plumbing and structural
31 members.

32 8. A person licensed, certified or registered pursuant to title 3,
33 chapter 20 or a person working under the direct supervision of a person
34 certified or qualified pursuant to title 3, chapter 20 to the extent the
35 person is engaged in pest management.

36 9. The sale or installation of finished products, materials or
37 articles of merchandise that are not fabricated into and do not become a
38 permanent fixed part of the structure. This exemption does not apply if a
39 local building permit is required, if the total price of the finished
40 product, material or article of merchandise, including labor but excluding
41 any electrical fixture or appliance that was designed by the manufacturer,
42 that is unaltered, unchanged or unmodified by any person, that can be
43 plugged into a common household electrical outlet using a two-pronged or
44 three-pronged electrical connector or that has internal batteries that do
45 not exceed twelve volts in a single, series or parallel configuration and

1 that does not use any other form of energy, including natural gas, propane
2 or other petroleum or gaseous fuel, to operate or is attached by a nail,
3 screw or other fastening device to the frame or foundation of any
4 residential structure, is more than ~~\$1,000~~ \$2,500 or if the removal of the
5 finished product, material or article of merchandise causes material
6 damage to the structure or renders the structure unfit for its intended
7 use.

8 10. Employees of the owners of condominiums, townhouses,
9 cooperative units or apartment complexes of four units or less or the
10 owners' management agent or employees of the management agent repairing or
11 maintaining structures owned by them.

12 11. Any person who engages in the activities regulated by this
13 chapter, as an employee of an exempt property owner or as an employee with
14 wages as the person's sole compensation.

15 12. A surety company or companies that are authorized to transact
16 business in this state and that undertake to complete a contract on which
17 they issued a performance or completion bond if all construction work is
18 performed by duly licensed contractors.

19 13. Insurance companies that are authorized to transact business in
20 this state and that undertake to perform repairs resulting from casualty
21 losses pursuant to the provisions of a policy if all construction work is
22 performed by duly licensed contractors.

23 14. Any person other than a licensed contractor engaging in any
24 work or operation on one undertaking or project by one or more contracts,
25 for which the aggregate contract price, including labor, materials and all
26 other items, but excluding any electrical fixture or appliance that was
27 designed by the manufacturer, that is unaltered, unchanged or unmodified
28 by any person, that can be plugged into a common household electrical
29 outlet using a two-pronged or three-pronged electrical connector or that
30 has internal batteries that do not exceed twelve volts in a single, series
31 or parallel configuration and that does not use any other form of energy,
32 including natural gas, propane or other petroleum or gaseous fuel, to
33 operate or is attached by a nail, screw or other fastening device to the
34 frame or foundation of any residential structure, is less than ~~\$1,000~~
35 \$2,500. The work or operations that are exempt under this paragraph shall
36 be of a casual or minor nature. This exemption does not apply:

37 (a) In any case in which the performance of the work requires a
38 local building permit.

39 (b) In any case in which the work or construction is only a part of
40 a larger or major operation, whether undertaken by the same or a different
41 contractor, or in which a division of the operation is made in contracts
42 of amounts less than ~~\$1,000~~ \$2,500, excluding any electrical fixture or
43 appliance that was designed by the manufacturer, that is unaltered,
44 unchanged or unmodified by any person, that can be plugged into a common
45 household electrical outlet using a two-pronged or three-pronged

1 electrical connector or that has internal batteries that do not exceed
2 twelve volts in a single, series or parallel configuration and that does
3 not use any other form of energy, including natural gas, propane or other
4 petroleum or gaseous fuel, to operate or is attached by a nail, screw or
5 other fastening device to the frame or foundation of any residential
6 structure, for the purpose of evasion of this chapter or otherwise.

7 (c) To a person who uses any form of advertising to the public in
8 which the person's unlicensed status is not disclosed by including the
9 words "not a licensed contractor" in the advertisement.

10 15. A person who is licensed, certified or registered pursuant to
11 title 41, chapter 37, article 4 and who is not otherwise required to be
12 licensed under this chapter or an employee of such person.

13 16. A person who functions as a gardener by performing lawn,
14 garden, shrub and tree maintenance.

15 17. Alarm agents as defined in section 32-101.

16 18. Cable television, satellite television and telecommunications
17 providers, including data and related services of cable television,
18 satellite television and telecommunications providers including
19 contractors and subcontractors of cable television, satellite television
20 and telecommunications providers if the work of the contractors and
21 subcontractors is limited to installing low-voltage cable, telephone
22 services, internet services and data service. ~~installation~~ **INSTALLING**
23 does not include digging, trenching, grading, horizontal boring,
24 compacting or filling earthen or other material before the service drop of
25 the commercial or residential structure.

26 B. A person who is licensed to perform work in a particular trade
27 pursuant to this chapter is not required to obtain and maintain a separate
28 license for mechanical or structural service work the person performs
29 within the scope of that trade.

30 C. Any person who does not have an exemption from licensure
31 pursuant to subsection A, paragraph 14, subdivision (c) of this section is
32 subject to prosecution for a violation of section 44-1522. The attorney
33 general may investigate the act or practice and take appropriate action
34 pursuant to title 44, chapter 10, article 7.

35 D. The exemptions from licensure pursuant to subsection A,
36 paragraphs 4, 9 and 14 of this section do not apply to either of the
37 following:

38 1. All fire safety and mechanical, electrical and plumbing work
39 that is done in connection with fire safety installation and fire safety
40 maintenance and repair. For the purposes of this paragraph, "fire safety
41 installation" means hardwired or interconnected smoke alarms and fire
42 sprinklers and does not include an individual device that is attached by a
43 nail, screw or other fastening device to the frame or foundation of any
44 residential unit. For the purposes of this paragraph, fire safety
45 maintenance and repair does not include routine work that is conducted by

1 an employee of an apartment or condominium complex and that is incidental
2 to the fire safety equipment.

3 2. All work done, including installing, maintaining and repairing
4 devices, appliances or equipment, that involves connecting to any supply
5 of natural gas, propane or other petroleum or gaseous fuel. This
6 paragraph does not impact the effect of section 36-1624.01.

7 Sec. 2. Section 32-1121, Arizona Revised Statutes, as amended by
8 Laws 2019, chapter 145, section 5, is amended to read:

9 32-1121. Persons not required to be licensed; penalties;
10 applicability

11 A. This chapter does not apply to:

12 1. An authorized representative of the United States government,
13 this state or any county, incorporated city or town, reclamation district,
14 irrigation district or other municipality or political subdivision of this
15 state.

16 2. Officers of a court or trustees of an express trust that is not
17 formed for the purpose of conducting business as a contractor, if they are
18 acting within the terms of their office or trust.

19 3. Public utilities operating under regulation of the corporation
20 commission or construction, repair or operation incidental to discovering
21 or producing petroleum or gas, or the drilling, testing, abandoning or
22 other operation of a petroleum or gas well, if performed by an owner or
23 lessee.

24 4. Except as provided in subsection D of this section, any
25 materialman, manufacturer or retailer who informs the purchaser that the
26 installation may also be performed by a licensed contractor whose name and
27 address the purchaser may request, ~~and~~ who furnishes finished products,
28 materials or articles of merchandise and who EITHER:

29 (a) Does not install or attach such items.

30 (b) Installs or attaches such items if the total value of the sales
31 contract or transaction involving such items and the cost of the
32 installation or attachment of such items to a structure does not exceed
33 ~~\$1,000~~ \$2,500, including labor, materials and all other items, but
34 excluding any electrical fixture or appliance that meets all of the
35 following:

36 (i) Was designed by the manufacturer.

37 (ii) Is unaltered, unchanged or unmodified by any person.

38 (iii) Can be plugged into a common electrical outlet.

39 5. Owners of property who improve such property or who build or
40 improve structures or appurtenances on such property and who do the work
41 themselves, with their own employees or with duly licensed contractors, if
42 the structure, group of structures or appurtenances, including the
43 improvements thereto, are intended for occupancy solely by the owner and
44 are not intended for occupancy by members of the public as the owner's
45 employees or business visitors and the structures or appurtenances are not

1 intended for sale or for rent. In all actions brought under this chapter,
2 except an action against an owner-occupant as defined in section 33-1002,
3 proof of the sale or rent or the offering for sale or rent of any such
4 structure by the owner-builder within one year after completion or
5 issuance of a certificate of occupancy is prima facie evidence that such
6 project was undertaken for the purpose of sale or rent. For the purposes
7 of this paragraph, "sale" or "rent" includes any arrangement by which the
8 owner receives compensation in money, provisions, chattels or labor from
9 the occupancy or the transfer of the property or the structures on the
10 property.

11 6. Owners of property who are acting as developers and who build
12 structures or appurtenances to structures on their property for the
13 purpose of sale or rent and who contract for such a project with a general
14 contractor licensed pursuant to this chapter and owners of property who
15 are acting as developers, who improve structures or appurtenances to
16 structures on their property for the purpose of sale or rent and who
17 contract for such a project with a general contractor or specialty
18 contractors licensed pursuant to this chapter. To qualify for the
19 exemption under this paragraph, the licensed contractors' names and
20 license numbers must be included in all sales documents.

21 7. Architects or engineers who are engaging in their professional
22 practice as defined in chapter 1 of this title and who hire or offer to
23 hire the services of a contractor for preconstruction activities relating
24 to investigation and discovery, including:

- 25 (a) Subsurface utility location and designation services.
- 26 (b) Potholing.
- 27 (c) Drilling for any of the following:
 - 28 (i) Soil samples.
 - 29 (ii) Rock samples.
 - 30 (iii) Pavement samples.
- 31 (d) Locating existing features of a building or structure,
32 including existing electrical, mechanical, plumbing and structural
33 members.

34 8. A person licensed, certified or registered pursuant to title 3,
35 chapter 20 or a person working under the direct supervision of a person
36 certified or qualified pursuant to title 3, chapter 20 to the extent the
37 person is engaged in pest management.

38 9. Except as provided in subsection D of this section, the sale or
39 installation of finished products, materials or articles of merchandise
40 that are not fabricated into and do not become a permanent fixed part of
41 the structure. This exemption does not apply if a local building permit
42 is required, if the removal of the finished product, material or article
43 of merchandise causes damage to the structure or renders the structure
44 unfit for its intended use or if the total price of the finished product,
45 material or article of merchandise is more than ~~\$1,000~~ \$2,500, including

1 labor but excluding any electrical fixture or appliance that meets all of
2 the following:

- 3 (a) Was designed by the manufacturer.
- 4 (b) Is unaltered, unchanged or unmodified by any person.
- 5 (c) Can be plugged into a common electrical outlet.

6 10. Employees of the owners of condominiums, townhouses,
7 cooperative units or apartment complexes of four units or less or the
8 owners' management agent or employees of the management agent repairing or
9 maintaining structures owned by them.

10 11. Any person who engages in the activities regulated by this
11 chapter, as an employee of an exempt property owner or as an employee with
12 wages as the person's sole compensation.

13 12. A surety company or companies that are authorized to transact
14 business in this state and that undertake to complete a contract on which
15 they issued a performance or completion bond, if construction work is
16 performed by duly licensed contractors.

17 13. Insurance companies that are authorized to transact business in
18 this state and that undertake to perform repairs resulting from casualty
19 losses pursuant to the provisions of a policy, if construction work is
20 performed by duly licensed contractors.

21 14. Except as provided in subsection D of this section, any person
22 other than a licensed contractor engaging in any work or operation on one
23 undertaking or project by one or more contracts, for which the aggregate
24 contract price is less than ~~\$1,000~~ \$2,500, including labor, materials and
25 all other items, but excluding any electrical fixture or appliance that
26 was designed by the manufacturer, that is unaltered, unchanged or
27 unmodified by any person and that can be plugged into a common electrical
28 outlet. The work or operations that are exempt under this paragraph must
29 be of a casual or minor nature. This exemption does not apply:

30 (a) In any case in which the performance of the work requires a
31 local building permit.

32 (b) In any case in which the work or construction is only a part of
33 a larger or major operation, whether undertaken by the same or a different
34 contractor, or in which a division of the operation is made in contracts
35 of amounts less than ~~\$1,000~~ \$2,500, excluding any electrical fixture or
36 appliance that was designed by the manufacturer, that is unaltered,
37 unchanged or unmodified by any person and that can be plugged into a
38 common electrical outlet.

39 (c) To a person who utilizes any form of advertising to the public
40 in which the person's unlicensed status is not disclosed by including the
41 words "not a licensed contractor" in the advertisement.

42 15. A person who is licensed, certified or registered pursuant to
43 title 41, chapter 37, article 4 and who is not otherwise required to be
44 licensed under this chapter or an employee of such person.

1 16. A person who functions as a gardener by performing lawn,
2 garden, shrub and tree maintenance.

3 17. Alarm agents as defined in section 32-101.

4 B. A person who is licensed to perform work in a particular trade
5 pursuant to this chapter is not required to obtain and maintain a separate
6 license for mechanical or structural service work performed within the
7 scope of such trade by such person.

8 C. Any person who does not have an exemption from licensure
9 pursuant to subsection A, paragraph 14, subdivision (c) of this section is
10 subject to prosecution for a violation of section 44-1522. The attorney
11 general may investigate the act or practice and take appropriate action
12 pursuant to title 44, chapter 10, article 7.

13 D. The exemptions from licensure pursuant to subsection A,
14 paragraphs 4, 9 and 14 of this section do not apply to either of the
15 following:

16 1. All fire safety and mechanical, electrical and plumbing work
17 that is done in connection with fire safety installation and fire safety
18 maintenance and repair. For the purposes of this paragraph, "fire safety
19 installation" means hardwired or interconnected smoke alarms and fire
20 sprinklers and does not include an individual device that is attached by a
21 nail, screw or other fastening device to the frame or foundation of any
22 residential unit. For the purposes of this paragraph, fire safety
23 maintenance and repair does not include routine work that is conducted by
24 an employee of an apartment or condominium complex and that is incidental
25 to the fire safety equipment.

26 2. All work that is done, including the installation, maintenance
27 and repair of devices, appliances or equipment, that involves the
28 connecting to any supply of natural gas, propane or other petroleum or
29 gaseous fuel. Nothing in this paragraph impacts the effect of section
30 36-1624.01.

31 E. A joint venture or other combination of persons, firms,
32 partnerships, corporations, associations or other organizations is not
33 required to obtain a separate contractor's license in its own name if all
34 of the following apply:

35 1. At least one member of the joint venture or combination holds a
36 contractor's license in good standing with the registrar.

37 2. Each member of the joint venture or combination that acts as a
38 contractor holds a license in good standing with the registrar.

39 3. Each licensed member of the joint venture or combination only
40 performs work within the scope of that member's contractor's license or
41 licenses.

1 Sec. 3. Section 32-1166.01, Arizona Revised Statutes, is amended to
2 read:

3 32-1166.01. Citation; civil penalties

4 A. In conjunction with the registrar's authority to issue a cease
5 and desist order under section 32-1166, subsection A, the registrar may
6 issue a citation for contracting, practicing or transacting that
7 constitutes a violation of any of the following:

- 8 1. This chapter.
- 9 2. A rule adopted by the registrar.
- 10 3. An order issued by the registrar.
- 11 B. A citation issued pursuant to this section shall:
 - 12 1. Be in writing.
 - 13 2. Clearly describe the violation for which the citation was
14 issued.
 - 15 3. Contain an order to cease and desist.
 - 16 4. Contain a civil penalty of at least ~~\$200~~ \$500 for each violation
17 but not more than \$2,500 for multiple violations committed on the same
18 day.

19 C. Each violation of this chapter or a rule or order of the
20 registrar by a person who is required to be licensed by this chapter and
21 who does not possess the required license constitutes a separate offense,
22 and the registrar may impose a civil penalty ~~THAT IS AT LEAST \$500 AND~~ not
23 ~~to exceed~~ MORE THAN \$2,500 for each violation except that the civil
24 penalty may not exceed \$2,500 for all violations committed on the same
25 day.

26 D. The registrar shall issue a citation under this section within
27 one hundred and eighty days after actual discovery of the offense by this
28 state or the political subdivision having jurisdiction. Service of the
29 citation is fully effected by personal service or by mailing a true copy
30 of the citation by certified mail in a sealed envelope with postage
31 prepaid and addressed to either:

- 32 1. The person's last known business address.
- 33 2. The person's residential address.

34 E. The registrar may issue citations containing orders to cease and
35 desist and civil penalties against persons who have never been licensed
36 under this chapter AND who are acting in the capacity of or engaging in
37 the business of a contractor in this state.

38 F. If the registrar issues a citation against a person and the
39 person fails to comply with the cease and desist order and citation, the
40 registrar may assess an additional civil penalty of up to \$2,500 for each
41 day the violation continues.

42 G. The registrar may adopt rules relating to the civil penalty that
43 give due consideration to the gravity of the violation and any history of
44 previous violations.

1 H. The penalties authorized under this section are separate from,
2 and in addition to, all other remedies provided by law, either civil or
3 criminal.

4 I. The registrar shall deposit, pursuant to sections 35-146 and
5 35-147, all monies collected from civil penalties under this section in
6 the state general fund.