
A BILL FOR AN ACT

RELATING TO BUSINESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . UNLICENSED CONTRACTING OFFENSES**

5 **§708-A Unlicensed contracting activity.** (a) A person
6 commits the offense of unlicensed contracting activity if the
7 person:

8 (1) Engages in any activity that requires a contractor's
9 license under chapter 444 and is not a licensed
10 contractor when engaging in the activity; or

11 (2) Uses any word, title, or representation to induce the
12 false belief that the person is licensed under chapter
13 444 to engage in contracting activity.

14 (b) Unlicensed contracting activity shall be a misdemeanor
15 offense and punishable pursuant to chapter 707.

16 (c) Each day of unlicensed contracting activity shall be
17 considered a separate offense.



1 (d) It is an affirmative defense under this section that
2 the offense consisted of unlicensed activity performed by a
3 licensed contractor outside the scope of the contractor's
4 license. This defense shall not preclude any administrative or
5 civil enforcement action for the unlicensed activity.

6 **§708-B Habitual unlicensed contracting activity; felony.**

7 (a) A person commits the offense of habitual unlicensed
8 contracting activity if the person is a habitual unlicensed
9 contracting activity offender and:

10 (1) Engages in any activity for which a contractor's
11 license is required under chapter 444, and is not
12 licensed as a contractor under chapter 444 when
13 engaging in the activity; or

14 (2) Uses any work, title, or representation to induce the
15 false belief that the person is licensed under chapter
16 444 to engage in contracting activity.

17 (b) For the purposes of this section, a person is a
18 "habitual unlicensed contracting activity offender" if the
19 person, at the time of the conduct for which the person is
20 charged, has had two or more convictions within ten years
21 preceding the instant offense for unlicensed contracting
22 activity in violation of section 436B-27 or 708-A.



1 (c) A conviction for purposes of this section is a
2 judgment on a verdict, a finding of guilt, or a judgment on a
3 plea of guilty or nolo contendere. The convictions shall have
4 occurred on separate dates and be for separate incidents on
5 separate dates. At the time of the instant offense, the
6 convictions shall not have been expunged by pardon, reversed, or
7 set aside.

8 (d) Habitual unlicensed contracting activity is a class C
9 felony.

10 (e) It is an affirmative defense under this section that
11 the offense consisted of unlicensed activity performed by a
12 licensed contractor outside the scope of the contractor's
13 license. This defense shall not preclude any administrative or
14 civil enforcement action for the unlicensed activity.

15 **§708-C Unlicensed contractor fraud.** (a) A person commits
16 the offense of unlicensed contractor fraud if the person is an
17 unlicensed contractor and, with intent to defraud, engages in an
18 act, practice, or course of business that operates or would
19 operate as a fraud or deceit upon another person.

20 (b) Unlicensed contractor fraud is a class A felony if the
21 total value of all moneys and any assets of value paid or lost



1 by the victims pursuant to the same scheme, plan, or
2 representations, is not less than \$100,000.

3 (c) Unlicensed contractor fraud is a class B felony if the
4 total value of all moneys and any assets of value paid or lost
5 by the victims pursuant to the same scheme, plan, or
6 representations, is \$5,000 or more but less than \$100,000.

7 (d) Unlicensed contractor fraud is a class C felony if the
8 total value of all moneys and any assets of value paid or lost
9 by the victims pursuant to the same scheme, plan, or
10 representations, is less than \$5,000.

11 (e) For purposes of this section, "unlicensed contractor"
12 means a person who engages in any activity for which a
13 contractor's license is required under chapter 444 and is not
14 licensed as a contractor under chapter 444 when the person
15 engages in the activity."

16 SECTION 2. Section 436B-27, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) Any person, who engages in an activity requiring a
19 license issued by the licensing authority and who fails to
20 obtain the required license, or who uses any word, title, or
21 representation to induce the false belief that the person is
22 licensed to engage in the activity, other than a circumstance of



1 first instance involving the inadvertent failure to renew a
2 previously existing license, shall be guilty of a misdemeanor
3 ~~[and be subject to a fine of not more \$1,000 imprisoned or not~~
4 ~~more than one year, or both,]~~ and each ~~[day's violation]~~ day of
5 unlicensed activity shall be deemed a separate offense."

6 SECTION 3. In codifying the new sections added by section
7 1 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 4. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2112.



Report Title:

Unlicensed Contracting Offenses

Description:

Establishes unlicensed contracting activity as a misdemeanor offense; establishes habitual unlicensed contracting activity and unlicensed contractor fraud as felonies. Requires that each day of unlicensed contracting activity be deemed a separate offense. Effective July 1, 2012. (HB1295 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

