
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.** (1) A person
6 commits the offense of unlicensed contracting activity if the
7 person:

- 8 (a) 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, other than a
11 circumstance of first instance involving the
12 inadvertent failure to renew a previously existing
13 license; or
14 (b) Uses any word, title, or representation to induce the
15 false belief that the person is licensed under chapter
16 444 to engage in contracting activity.

17 (2) Unlicensed contracting activity is a misdemeanor.



1 (3) Each day the violation of this section continues shall
2 constitute a distinct and separate offense.

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

8 **§708-B Habitual unlicensed contracting activity; felony.**

9 (1) A person commits the offense of habitual unlicensed
10 contracting activity if the person has had two or more
11 convictions within ten years, preceding the time of the conduct
12 for which the person is charged, for unlicensed contracting
13 activity in violation of section 436B-27 or 708-A, and:

14 (a) Engages in any activity for which a contractor's
15 license is required under chapter 444, and is not
16 licensed as a contractor under chapter 444 when
17 engaging in the activity; or

18 (b) Uses any word, title, or representation to induce the
19 false belief that the person is licensed under chapter
20 444 to engage in contracting activity.

21 (2) A conviction for purposes of this section is a
22 judgment on a verdict, a finding of guilt, or a judgment on a



1 plea of guilty or nolo contendere. The convictions shall have
2 occurred on separate dates and be for separate incidents on
3 separate dates. At the time of the instant offense, the
4 convictions shall not have been expunged by pardon, reversed, or
5 set aside.

6 (3) Habitual unlicensed contracting activity is a class C
7 felony.

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

13 **§708-C Unlicensed contractor fraud.** (1) A person commits
14 the offense of unlicensed contractor fraud if the person:

15 (a) Engages in any activity that requires a contractor's
16 license under chapter 444 and is not licensed as a
17 contractor under chapter 444 when the person engages
18 in the activity; and

19 (b) With intent to defraud, engages in an act, practice,
20 or course of business that operates or would operate
21 as a fraud or deceit upon another person.



1 (2) Unlicensed contractor fraud is a class A felony if the
2 total value of all moneys and any assets of value paid or lost
3 by the victims pursuant to the same scheme, plan, or
4 representation, is \$100,000 or more.

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

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

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

15 "(b) Any person, who engages in an activity requiring a
16 license issued by the licensing authority and who fails to
17 obtain the required license, or who uses any word, title, or
18 representation to induce the false belief that the person is
19 licensed to engage in the activity, other than a circumstance of
20 first instance involving the inadvertent failure to renew a
21 previously existing license, shall be guilty of a misdemeanor
22 [~~and be subject to a fine of not more \$1,000 or imprisoned not~~



1 ~~more than one year, or both,]~~ and each [~~day's violation]~~ day of
2 unlicensed activity shall be deemed a separate offense."

3 SECTION 3. In codifying the new sections added by section
4 1 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 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 distinct and separate offense. Specifies that a licensee in a first instance involving the inadvertent failure of such licensee to renew a previously existing license shall not be penalized under the newly created offenses. Effective July 1, 2112. (HB1295 HD3)

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

