
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 an instance involving a previously
12 licensed contractor who inadvertently failed to
13 maintain licensing requirements under chapter 444; 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. However, it shall not be considered only one
6 conviction if the same unlicensed activity continues for more
7 than one day, unless written notice was given and the unlicensed
8 activity continues.

9 (3) Habitual unlicensed contracting activity is a class C
10 felony.

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

16 **§708-C Unlicensed contractor fraud.** (1) A person commits
17 the offense of unlicensed contractor fraud if the person:

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



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

4 (2) Unlicensed contractor fraud is a class B felony if the
5 total value of all moneys and any assets of value paid or lost
6 by the victims pursuant to the same scheme, plan, or
7 representation, is \$20,000 or greater.

8 (3) Unlicensed contractor fraud is a class C felony if the
9 total value of all moneys and any assets of value paid or lost
10 by the victims pursuant to the same scheme, plan, or
11 representation, is less than \$20,000."

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

14 "(b) Any person, who engages in an activity requiring a
15 license issued by the licensing authority and who fails to
16 obtain the required license, or who uses any word, title, or
17 representation to induce the false belief that the person is
18 licensed to engage in the activity, other than a circumstance of
19 first instance involving the inadvertent failure to renew a
20 previously existing license, shall be guilty of a misdemeanor
21 ~~[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 under certain conditions. Exempts a previously licensed licensee who inadvertently fails to maintain licensing requirements from the newly created offenses. Establishes monetary penalties. Effective 07/01/2112. (SD1)

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