

(Reprinted with amendments adopted on April 6, 2023)

FIRST REPRINT

A.B. 22

ASSEMBLY BILL NO. 22—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE STATE CONTRACTORS' BOARD)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the issuance of cease and desist orders for unlicensed activity by the State Contractors' Board. (BDR 54-267)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to contractors; revising provisions governing the actions that the State Contractors' Board is authorized or required to take after the issuance of a cease and desist order for unlicensed activity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Contractors' Board to issue a cease and desist order to a person for acting as a contractor or submitting a bid on a job in this State without a license as a contractor and sets forth the actions that the Board is authorized or required to take after the issuance of the order. If the Board determines that the person to whom the cease and desist order was issued has not complied with the order, existing law requires the Board to: (1) for a first violation for which the value of the unlicensed work is \$50,000 or less, issue a written administrative citation, conditioned upon the submission by the person of an application for a license as a contractor; and (2) for a second or subsequent violation, or a first violation for which the value of the unlicensed work exceeds \$50,000, report the violation for possible criminal prosecution. If the Board determines that the person has complied with the cease and desist order, existing law: (1) requires the Board to issue an administrative citation and impose an administrative fine; and (2) authorizes the Board to require the person to submit an application for a license as a contractor. (NRS 624.212)

This bill replaces the separate procedures in existing law that the Board is required to follow after the issuance of a cease and desist order, depending upon whether the person to whom the order was issued complied with the order. Under the procedures set forth in this bill, the Board, regardless of the person's



20 compliance with the order, is required to issue an administrative citation and
21 impose an administrative fine for a first violation which does not involve theft or
22 fraud. For a second or subsequent violation, or for any first violation involving theft
23 or fraud, this bill requires the Board to either: (1) issue an administrative citation
24 and impose an administrative fine; or (2) report the violation for possible criminal
25 prosecution. This bill retains the authority of the Board in existing law to, after the
26 issuance of a cease and desist order: (1) require the person to submit an application
27 for a license as a contractor; and (2) apply for injunctive relief.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 624.212 is hereby amended to read as follows:
2 624.212 1. The Executive Officer, on behalf of the Board,
3 shall issue an order to cease and desist to any person:
4 (a) Acting as a contractor, including, without limitation,
5 commencing work as a contractor; or
6 (b) Submitting a bid on a job situated in this State,
7 ➔ without a valid license issued pursuant to this chapter. The order
8 must be served personally or by certified mail and is effective upon
9 receipt. For the purposes of this section, a person shall be deemed to
10 have a valid license if the person has an active license and is
11 performing work in conformity with the requirements of subsection
12 4 of NRS 624.220.
13 2. After confirming that the cease and desist order has been
14 received by the person to whom it was issued, the Board shall return
15 to the job site or take any other action required to confirm that the
16 terms of the cease and desist order have been complied with. The
17 person to whom the cease and desist order was issued may, while in
18 the course of stopping work on the job, take any necessary action
19 within 48 hours after receiving the cease and desist order to protect
20 the public, the project, any other contractors, laborers and
21 equipment on the site and to limit the loss of any perishable goods.
22 3. ~~If the Board determines that any term of a cease and desist~~
23 ~~order has not been complied with and no exception applies:~~
24 ~~—(a) The person to whom the cease and desist order was issued~~
25 ~~shall be deemed noncompliant with the cease and desist order and~~
26 ~~the person may not complete the project, except for taking any~~
27 ~~necessary action to protect the public, the project, any other~~
28 ~~contractors, laborers and equipment and to limit the loss of any~~
29 ~~perishable goods.~~
30 ~~—(b) Except as otherwise provided in paragraph (c), for a first~~
31 ~~violation, the Board shall issue a written administrative citation~~
32 ~~pursuant to NRS 624.341, which may include any reasonable~~
33 ~~investigatory fees and costs, conditioned upon the submission by the~~
34 ~~person of a bona fide application for the issuance of a license~~



1 ~~pursuant to this chapter within a reasonable period established by~~
2 ~~the Board.~~

3 ~~—(c) For a second or subsequent violation, or for any first~~
4 ~~violation for which the reasonable value of the unlicensed work~~
5 ~~exceeds \$50,000, the Board shall:~~

6 ~~—(1) Report the violation of the cease and desist order to the~~
7 ~~appropriate district attorney for possible criminal prosecution~~
8 ~~pursuant to NRS 624.700; and~~

9 ~~—(2) Provide any reasonable assistance in the prosecution.~~

10 ~~—(d) The Board may apply for injunctive relief pursuant to the~~
11 ~~Nevada Rules of Civil Procedure to enjoin the person to whom~~
12 ~~the cease and desist order was issued from continuing to violate the~~
13 ~~cease and desist order in any county in which the person may be~~
14 ~~found. If such an action is filed, irreparable injury is presumed and~~
15 ~~the likelihood of success on the merits may be established by a~~
16 ~~showing that, on the date the cease and desist order was issued, the~~
17 ~~person did not hold a valid license issued pursuant to this chapter~~
18 ~~and had bid for or undertaken work for which such a license is~~
19 ~~required.~~

20 ~~—4. If the Board determines that the person to whom the] *After*~~
21 ~~*issuing a* cease and desist order , [was issued has complied with the~~
22 ~~*order,] the Board [:] shall:*~~

23 (a) ~~[Shall]~~ *For a first violation which does not involve theft or*
24 *fraud,* issue an administrative citation pursuant to NRS 624.341 and
25 impose an administrative fine against the person in accordance with
26 NRS 624.710, in addition to any reasonable investigatory fees and
27 costs . ~~[; and]~~

28 (b) ~~[May require]~~ *For a second or subsequent violation, or for*
29 *any first violation involving theft or fraud, either:*

30 (1) *Issue an administrative citation pursuant to NRS*
31 *624.341 and impose an administrative fine against the person in*
32 *accordance with NRS 624.710, in addition to any reasonable*
33 *investigatory fees and costs; or*

34 (2) *Report the violation of the provisions of this chapter for*
35 *possible criminal prosecution pursuant to NRS 624.700. If the*
36 *violation is prosecuted, the Board shall provide any reasonable*
37 *assistance in the prosecution.*

38 *4. After issuing a cease and desist order, in addition to the*
39 *actions required by subsection 3, the Board may:*

40 (a) *Require* the person to submit a bona fide application for the
41 issuance of a license pursuant to this chapter within a reasonable
42 period established by the Board.

43 (b) *If the Board determines that any term of the cease and*
44 *desist order has not been complied with and no exception applies,*
45 *apply for injunctive relief pursuant to the Nevada Rules of Civil*



1 *Procedure to enjoin the person to whom the cease and desist order*
2 *was issued from continuing to violate the cease and desist order in*
3 *any county in which the person may be found. If such an action is*
4 *filed, irreparable injury is presumed and the likelihood of success*
5 *on the merits may be established by a showing that, on the date the*
6 *cease and desist order was issued, the person did not hold a valid*
7 *license issued pursuant to this chapter and had bid for or*
8 *undertaken work for which such a license is required.*

9 5. When assessing an administrative fine pursuant to this
10 section, the Board may:

11 (a) Require the person to whom the cease and desist order was
12 issued to remedy any loss or damage caused by the unlicensed
13 activity for which the order was issued, including, without
14 limitation, the disgorgement of any amount of money collected from
15 the owner of the project that was not for material delivered to the
16 job site and that has not been damaged or altered by the person;

17 (b) Reduce or stay any administrative fine imposed pursuant to
18 subsection ~~44~~ 3 pending completion by the person of a program of
19 training or an examination required by the Board; or

20 (c) Reduce or stay any administrative fine imposed pursuant to
21 subsection ~~44~~ 3 if the person obtains a valid license issued pursuant
22 to this chapter.

23 6. When imposing an administrative fine pursuant to this
24 section, the Board shall impose the maximum administrative fine
25 established pursuant to this chapter for the unlicensed activity if
26 more than one of the following circumstances exist:

27 (a) The person has previously committed the same or a similar
28 violation as the violation for which the administrative fine is
29 imposed;

30 (b) The unlicensed activity involves more than one trade or
31 craft;

32 (c) The unlicensed activity resulted in harm to any person or
33 property;

34 (d) The unlicensed activity involved an elderly person or a
35 person with a diagnosed physical or mental disability; or

36 (e) The unlicensed activity was for a project having a contract
37 value in excess of \$50,000.

38 7. Within 15 business days after receiving a cease and desist
39 order, the person against whom the order was issued may petition
40 the Board in writing to lift or alter the order. The petition may
41 assert:

42 (a) As an absolute defense:

43 (1) Licensure of the person pursuant to this chapter;

44 (2) Any applicable exception to licensure set forth in NRS
45 624.031; or



1 (3) Misidentification of the person.

2 (b) As a partial defense:

3 (1) Overbreadth of any term of the cease and desist order;

4 (2) Vagueness or ambiguity of any term of the cease and
5 desist order;

6 (3) Consideration of any necessary action taken by the
7 person to protect the public, the project, any other contractors,
8 laborers and any equipment on the job site and to limit any loss of
9 perishable goods; or

10 (4) Any other ~~[defect]~~ *deficiency* in the terms of the cease
11 and desist order.

12 8. After considering any assertion made in a petition pursuant
13 to:

14 (a) Paragraph (a) of subsection 7, the Board shall, if facts are
15 established to the satisfaction of the Board to support the absolute
16 defense asserted in the petition, vacate the cease and desist order or
17 any portion thereof.

18 (b) Paragraph (b) of subsection 7, the Board shall, if facts are
19 established to the satisfaction of the Board to support the partial
20 defense asserted in the petition, reasonably clarify any terms of the
21 cease and desist order requested by the petitioner.

22 9. When considering an application for the issuance of a
23 license pursuant to this chapter, the Board may consider:

24 (a) Any cease and desist order issued against the applicant;

25 (b) Compliance by the applicant with any cease and desist order
26 issued against him or her;

27 (c) Any criminal conviction of the applicant for failure to
28 comply with any cease and desist order; or

29 (d) The payment by the applicant of any criminal or
30 administrative fine and any administrative fee or cost imposed
31 against the applicant.

32 10. If the court finds that a person violated an order issued
33 pursuant to subsection 1 without an established absolute defense set
34 forth in paragraph (a) of subsection 7, it shall impose a fine of not
35 less than \$250 nor more than \$1,000 for each violation of the order.

