

By Senator Crist

20-1147-98

See HB

1                                   A bill to be entitled  
2           An act relating to contracting; amending ss.  
3           489.127, 489.531, F.S.; providing for similar  
4           penalties for unlicensed violations with  
5           respect to construction contracting and  
6           electrical contracting; providing for  
7           additional penalties for certain violations;  
8           providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Subsections (1) and (2) of section 489.127,  
13 Florida Statutes, are amended to read:

14           489.127 Prohibitions; penalties.--

15           (1) No person shall:

16           (a) Falsely hold himself or herself or a business  
17 organization out as a licensee, certificateholder, or  
18 registrant;

19           (b) Falsely impersonate a certificateholder or  
20 registrant;

21           (c) Present as his or her own the certificate,  
22 registration, or certificate of authority of another;

23           (d) Knowingly give false or forged evidence to the  
24 board or a member thereof;

25           (e) Use or attempt to use a certificate, registration,  
26 or certificate of authority which has been suspended or  
27 revoked;

28           (f) Engage in the business or act in the capacity of a  
29 contractor or advertise himself or herself or a business  
30 organization as available to engage in the business or act in  
31

1 the capacity of a contractor without being duly registered or  
2 certified or having a certificate of authority;

3 (g) Operate a business organization engaged in  
4 contracting after 60 days following the termination of its  
5 only qualifying agent without designating another primary  
6 qualifying agent, except as provided in ss. 489.119 and  
7 489.1195;

8 (h) Commence or perform work for which a building  
9 permit is required pursuant to an adopted state minimum  
10 building code without such building permit being in effect; or

11 (i) Willfully or deliberately disregard or violate any  
12 municipal or county ordinance relating to uncertified or  
13 unregistered contractors.

14

15 For purposes of this subsection, a person or business  
16 organization operating on an inactive or suspended certificate  
17 ~~or registration, or certificate of authority~~ is not duly  
18 certified or registered and is considered unlicensed. An  
19 occupational license certificate issued under the authority of  
20 chapter 205 is not a license for purposes of this part.

21 (2)(a) Any unlicensed person who violates any of the  
22 provisions of subsection (1) commits a misdemeanor of the  
23 first degree, punishable as provided in s. 775.082 or s.  
24 775.083.

25 (b) Any unlicensed person who performs, offers to  
26 perform, or contracts to perform work which requires licensure  
27 under this part, and the value of which exceeds \$1,000,  
28 commits a felony of the third degree, punishable as provided  
29 in s. 775.082 or s. 775.083.

30 (c) ~~(b)~~ Any unlicensed person who commits a violation  
31 of paragraphs (1)(a)-(f) ~~subsection (1)~~ after having been

1 previously found guilty of such violation, regardless of  
2 adjudication thereof, commits a felony of the third degree,  
3 punishable as provided in s. 775.082 or s. 775.083.

4 (d)~~(c)~~ Any unlicensed person who commits a violation  
5 of paragraphs (1)(a)-(f)~~subsection (1)~~ during the existence  
6 of a state of emergency declared by executive order of the  
7 Governor commits a felony of the third degree, punishable as  
8 provided in s. 775.082 or s. 775.083.

9 (e)~~(d)~~ Any person who operates as a pollutant storage  
10 systems contractor, precision tank tester, or internal  
11 pollutant storage tank lining applicator in violation of  
12 subsection (1) commits a felony of the third degree,  
13 punishable as provided in s. 775.082 or s. 775.083.

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15 The remedies set forth in this subsection are not exclusive  
16 and may be imposed in addition to the remedies set forth in s.  
17 489.129(2). Prosecution under this part does not preclude  
18 prosecution under any other applicable criminal statute.

19 Section 2. Subsections (1) and (2) of section 489.531,  
20 Florida Statutes, are amended to read:

21 489.531 Prohibitions; penalties.--

22 (1) A person may not:

23 (a) Practice contracting unless the person is  
24 certified or registered;

25 (b) Use the name or title "electrical contractor" or  
26 "alarm system contractor" or words to that effect, or  
27 advertise himself or herself or a business organization as  
28 available to practice electrical or alarm system contracting,  
29 when the person is not then the holder of a valid  
30 certification or registration issued pursuant to this part;

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1 (c) Present as his or her own the certificate or  
2 registration of another;

3 (d) Use or attempt to use a certificate or  
4 registration that has been suspended, revoked, or placed on  
5 inactive or delinquent status;

6 (e) Employ persons who are not certified or registered  
7 to practice contracting;

8 (f) Knowingly give false or forged evidence to the  
9 department, the board, or a member thereof;

10 (g) Operate a business organization engaged in  
11 contracting after 60 days following the termination of its  
12 only qualifying agent without designating another primary  
13 qualifying agent;

14 (h) Conceal information relative to violations of this  
15 part;

16 (i) Commence or perform work for which a building  
17 permit is required under an adopted state minimum building  
18 code without the building permit being in effect; or

19 (j) Willfully or deliberately disregard or violate any  
20 municipal or county ordinance relating to uncertified or  
21 unregistered contractors.

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23 For purposes of this subsection, a person or business  
24 organization operating on an inactive or suspended certificate  
25 or registration is considered unlicensed.

26 (2)(a) Any unlicensed person who violates any  
27 provision of subsection (1) commits a misdemeanor of the first  
28 degree, punishable as provided in s. 775.082 or s. 775.083.

29 (b) Any unlicensed person who performs, offers to  
30 perform, or contracts to perform work which requires licensure  
31 under this part, and the value of which exceeds \$1,000,

1 commits a felony of the third degree, punishable as provided  
2 in s. 775.082 or s. 775.083.

3 (c) Any unlicensed person who commits a violation of  
4 paragraphs (1)(a)-(f) after having been previously found  
5 guilty of such violation, regardless of adjudication thereof,  
6 commits a felony of the third degree, punishable as provided  
7 in s. 775.082 or s. 775.083.

8 (d) Any unlicensed person who commits a violation of  
9 paragraphs (1)(a)-(f) during the existence of a state of  
10 emergency declared by executive order of the Governor commits  
11 a felony of the third degree, punishable as provided in s.  
12 775.082 or s. 775.083.

13 (e) Any licensed contractor who willfully operates  
14 outside the geographical scope of his or her registration, or  
15 who operates outside of the scope of work permitted by his or  
16 her certificate or registration, commits a misdemeanor of the  
17 first degree, punishable as provided in s. 775.082 or s.  
18 775.083.

19  
20 The remedies set forth in this subsection are not exclusive  
21 and may be imposed in addition to the remedies set forth in s.  
22 489.533(2). Prosecution under this part does not preclude  
23 prosecution under any other applicable criminal statute.

24 Section 3. This act shall take effect October 1, 1998.

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27 SENATE SUMMARY

28 Provides similar penalties for unlicensed violations with  
29 respect to construction contracting and electrical  
30 contracting. Provides a third degree felony penalty for  
31 unlicensed work valued at more than \$1,000. (See bill  
for details.)