

2019 Ariz. Legis. Serv. Ch. 140 (H.B. 2181) (WEST)

ARIZONA 2019 LEGISLATIVE SERVICE

First Regular Session of the Fifty-Fourth Legislature

Additions are indicated by **Text**; deletions by
~~Text~~ .

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stricken material by ~~Text~~ .

CHAPTER 140

H.B. 2181

CONTRACTORS—LICENSES AND PERMITS—EXEMPTIONS

AN ACT AMENDING SECTION 32-1121, ARIZONA
REVISED STATUTES; RELATING TO CONTRACTORS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1121, Arizona Revised Statutes, is amended to read:

<< AZ ST § 32-1121 >>

§ 32-1121. Persons not required to be licensed; penalties; applicability

A. This chapter shall **does** not be construed to apply to:

1. An authorized representative of the United States government, this state or any county, incorporated city or town, reclamation district, irrigation district or other municipality or political subdivision of this state.
2. Trustees of an express trust that is not formed for the purpose of conducting business as a contractor or officers of a court, if they are acting within the terms of their trust or office.
3. Public utilities operating under regulation of the corporation commission or construction, repair or operation incidental to discovering or producing petroleum or gas, or ~~the~~ drilling, testing, abandoning or ~~other operation of~~ **otherwise operating** a petroleum or gas well, if performed by an owner or lessee.
4. Any materialman, manufacturer or retailer ~~who~~ **that** furnishes finished products, materials or articles of merchandise and ~~who~~ **that** does not install or attach such items or installs or attaches such items if the total value of the sales contract or transaction involving such items and the cost of the installation or attachment of such items to a structure does not exceed ~~one thousand dollars~~ **\$1,000**, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet ~~utilizing~~ **using** a two-pronged or three-pronged electrical connector **or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration** and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure. The materialman, manufacturer or retailer shall inform the purchaser that the installation may also be performed by a licensed contractor whose name and address the purchaser may request.

5. Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors and the structures or appurtenances are not intended for sale or for rent. In all actions brought under this chapter, except an action against an owner-occupant as defined in section 33-1002, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such a project was undertaken for the purpose of sale or rent. For the purposes of this paragraph, "sale" or "rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or the transfer of the property or the structures on the property.

6. Owners of property who are acting as developers and who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor licensed pursuant to this chapter and owners of property who are acting as developers, who improve structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor or specialty contractors licensed pursuant to this chapter. To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers shall be included in all sales documents.

7. Architects or engineers who are engaging in their professional practice as defined in chapter 1 of this title and who hire or offer to hire the services of a contractor for preconstruction activities relating to investigation and discovery, including:

(a) Subsurface utility location and designation services.

(b) Potholing.

(c) Drilling for any of the following:

(i) Soil samples.

(ii) Rock samples.

(iii) Pavement samples.

(d) Locating existing features of a building or structure, including existing electrical, mechanical, plumbing and structural members.

8. A person licensed, certified or registered pursuant to title 3, chapter 20 or a person working under the direct supervision of a person certified or qualified pursuant to title 3, chapter 20 to the extent the person is engaged in pest management.

9. The sale or installation of finished products, materials or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. This exemption does not apply if a local building permit is required, if the total price of the finished product, material or article of merchandise, including labor but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing **using** a two-pronged or three-pronged electrical connector **or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration** and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is more than ~~one thousand dollars~~ **\$1,000** or if the removal of the finished product, material or article of merchandise causes **material** damage to the structure or renders the structure unfit for its intended use.

10. Employees of the owners of condominiums, townhouses, cooperative units or apartment complexes of four units or less or the owners' management agent or employees of the management agent repairing or maintaining structures owned by them.

11. Any person who engages in the activities regulated by this chapter, as an employee of an exempt property owner or as an employee with wages as the person's sole compensation.

12. A surety company or companies that are authorized to transact business in this state and that undertake to complete a contract on which they issued a performance or completion bond, ~~provided~~ **if** all construction work is performed by duly licensed contractors.

13. Insurance companies that are authorized to transact business in this state and that undertake to perform repairs resulting from casualty losses pursuant to the provisions of a policy, ~~provided~~ **if** all construction work is performed by duly licensed contractors.

14. Any person other than a licensed contractor engaging in any work or operation on one undertaking or project by one or more contracts, for which the aggregate contract price, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet ~~utilizing~~ **using** a two-pronged or three-pronged electrical connector **or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration** and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is less than ~~one thousand dollars~~ **\$1,000**. The work or operations that are exempt under this paragraph shall be of a casual or minor nature. This exemption does not apply:

(a) In any case in which the performance of the work requires a local building permit.

(b) In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than ~~one thousand dollars~~ **\$1,000**, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet ~~utilizing~~ **using** a two-pronged or three-pronged electrical connector **or that has internal batteries that do not exceed twelve volts in a single, series or parallel configuration** and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, for the purpose of evasion of this chapter or otherwise.

(c) To a person who ~~utilizes~~ **uses** any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "not a licensed contractor" in the advertisement.

15. A person who is licensed, certified or registered pursuant to title 41, chapter 37, article 4 and who is not otherwise required to be licensed under this chapter or an employee of such person.

16. A person who functions as a gardener by performing lawn, garden, shrub and tree maintenance.

17. Alarm agents as defined in section 32-101.

18. Cable television, satellite television and telecommunications providers, including data and related services of cable television, satellite television and telecommunications providers including contractors and subcontractors of cable television,

satellite television and telecommunications providers if the work of the contractors and subcontractors is limited to installing low-voltage cable, telephone services, internet services and data service. Installation does not include digging, trenching, grading, horizontal boring, compacting or filling earthen or other material before the service drop of the commercial or residential structure.

B. A person who is licensed to perform work in a particular trade pursuant to this chapter shall ~~is not be~~ **is not be** required to obtain and maintain a separate license for mechanical or structural service work performed ~~the person performs~~ **the person performs** within the scope of such ~~that~~ trade ~~by such person~~ .

C. Any person who does not have an exemption from licensure pursuant to subsection A, paragraph 14, subdivision (c) of this section is subject to prosecution for a violation of section 44-1522. The attorney general may investigate the act or practice and take appropriate action pursuant to title 44, chapter 10, article 7.

D. The exemptions from licensure pursuant to subsection A, paragraphs 4, 9 and 14 of this section do not apply to either of the following:

1. All fire safety and mechanical, electrical and plumbing work that is done in connection with fire safety installation and fire safety maintenance and repair. For the purposes of this paragraph, “fire safety installation” means hardwired or interconnected smoke alarms and fire sprinklers and does not include an individual device that is attached by a nail, screw or other fastening device to the frame or foundation of any residential unit. For the purposes of this paragraph, fire safety maintenance and repair does not include routine work that is conducted by an employee of an apartment or condominium complex and that is incidental to the fire safety equipment.

2. All work ~~that is~~ done, including the installation, maintenance **installing, maintaining** and repair of **repairing** devices, appliances or equipment, that involves the connecting to any supply of natural gas, propane or other petroleum or gaseous fuel. ~~Nothing in~~ This paragraph impacts **does not impact** the effect of section 36-1624.01.

Approved by the Governor, April 29, 2019.

Filed in the Office of the Secretary of State, April 29, 2019.