

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 3442

(SENATE AUTHORS: DRAHEIM)

DATE
03/15/2018

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OFFICIAL STATUS
Introduction and first reading
Referred to Jobs and Economic Growth Finance and Policy

1.1 A bill for an act
1.2 relating to contractor licensing; eliminating the one-home exemption and handyman
1.3 exemption for unlicensed homeowners; amending Minnesota Statutes 2016, sections
1.4 326B.701, subdivision 2; 326B.805, subdivision 6; 327B.041.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2016, section 326B.701, subdivision 2, is amended to read:

1.7 Subd. 2. **Applicability; registration requirement.** (a) Persons who perform public or
1.8 private sector commercial or residential building construction or improvement services as
1.9 described in subdivision 2 must register with the commissioner as provided in this section.
1.10 The purpose of registration is to assist the Department of Labor and Industry, the Department
1.11 of Employment and Economic Development, and the Department of Revenue to enforce
1.12 laws related to misclassification of employees.

1.13 (b) Except as provided in paragraph (c), any person who performs construction services
1.14 in the state on or after September 15, 2012, must register with the commissioner as provided
1.15 in this section before performing construction services for another person. The requirements
1.16 for registration under this section are not a substitute for, and do not relieve a person from
1.17 complying with, any other law requiring that the person be licensed, registered, or certified.

1.18 (c) The registration requirements in this section do not apply to:

1.19 (1) a person who, at the time the person is performing the construction services, holds
1.20 a current license, certificate, or registration under chapter 299M or 326B;

1.21 (2) a person who holds a current independent contractor exemption certificate issued
1.22 under this section that is in effect on September 15, 2012, except that the person must register

2.1 under this section no later than the date the exemption certificate expires, is revoked, or is
2.2 canceled;

2.3 (3) a person who has given a bond to the state under section 326B.197 or 326B.46;

2.4 (4) an employee of the person performing the construction services, if the person was
2.5 in compliance with laws related to employment of the individual at the time the construction
2.6 services were performed;

2.7 (5) an architect or professional engineer engaging in professional practice as defined in
2.8 section 326.02, subdivisions 2 and 3;

2.9 (6) a school district or technical college governed under chapter 136F; or

2.10 (7) a person providing construction services on a volunteer basis, including but not
2.11 limited to Habitat for Humanity and Builders Outreach Foundation, and their individual
2.12 volunteers when engaged in activities on their behalf; ~~or~~

2.13 ~~(8) a person exempt from licensing under section 326B.805, subdivision 6, clause (5).~~

2.14 Sec. 2. Minnesota Statutes 2016, section 326B.805, subdivision 6, is amended to read:

2.15 Subd. 6. **Exemptions.** The license requirement does not apply to:

2.16 (1) an employee of a licensee performing work for the licensee;

2.17 (2) a material person, manufacturer, or retailer furnishing finished products, materials,
2.18 or articles of merchandise who does not install or attach the items;

2.19 ~~(3) an owner of residential real estate who builds or improves any structure on residential
2.20 real estate, if the building or improving is performed by the owner's bona fide employees
2.21 or by individual owners personally. This exemption does not apply to an owner who
2.22 constructs or improves property for purposes of speculation if the building or improving is
2.23 performed by the owner's bona fide employees or by individual owners personally. A
2.24 residential building contractor or residential remodeler will be presumed to be building or
2.25 improving for purposes of speculation if the contractor or remodeler constructs or improves
2.26 more than one property within any 24-month period;~~

2.27 ~~(4)~~ (3) an architect or professional engineer engaging in professional practice as defined
2.28 by section 326.02, subdivisions 2 and 3;

2.29 ~~(5) a person whose total gross annual receipts for performing specialty skills for which
2.30 licensure would be required under this section do not exceed \$15,000;~~

2.31 ~~(6)~~ (4) a mechanical contractor;

3.1 ~~(7)~~ (5) a plumber, electrician, or other person whose profession is otherwise subject to
 3.2 statewide licensing, when engaged in the activity which is the subject of that licensure;

3.3 ~~(8)~~ (6) specialty contractors who provide only one special skill as defined in section
 3.4 326B.802;

3.5 ~~(9)~~ (7) a school district, or a technical college governed under chapter 136F; and

3.6 ~~(10)~~ (8) Habitat for Humanity and Builders Outreach Foundation, and their individual
 3.7 volunteers when engaged in activities on their behalf.

3.8 ~~To qualify for the exemption in clause (5), a person must obtain a certificate of exemption~~
 3.9 ~~from licensure from the commissioner. A certificate of exemption will be issued upon the~~
 3.10 ~~applicant's filing with the commissioner, an affidavit stating that the applicant does not~~
 3.11 ~~expect to exceed \$15,000 in gross annual receipts derived from performing services which~~
 3.12 ~~require licensure under this section during the calendar year in which the affidavit is received.~~
 3.13 ~~For the purposes of calculating fees under section 326B.092, a certificate of exemption is~~
 3.14 ~~an entry level license. To renew the exemption in clause (5), the applicant must file an~~
 3.15 ~~affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during~~
 3.16 ~~the past calendar year. If a person, operating under the exemption in clause (5), exceeds~~
 3.17 ~~\$15,000 in gross receipts during any calendar year, the person must immediately surrender~~
 3.18 ~~the certificate of exemption and apply for the appropriate license. The person must remain~~
 3.19 ~~licensed until such time as the person's gross annual receipts during a calendar year fall~~
 3.20 ~~below \$15,000. The person may then apply for an exemption for the next calendar year.~~

3.21 Sec. 3. Minnesota Statutes 2016, section 327B.041, is amended to read:

3.22 **327B.041 MANUFACTURED HOME INSTALLERS.**

3.23 (a) Manufactured home installers are subject to all of the fees in section 326B.092 and
 3.24 the requirements of sections 326B.802 to 326B.885, except for the following:

3.25 (1) manufactured home installers are not subject to the continuing education requirements
 3.26 of sections 326B.0981, 326B.099, and 326B.821, but are subject to the continuing education
 3.27 requirements established in rules adopted under section 327B.10;

3.28 (2) the examination requirement of section 326B.83, subdivision 3, for manufactured
 3.29 home installers shall be satisfied by successful completion of a written examination
 3.30 administered and developed specifically for the examination of manufactured home installers.
 3.31 The examination must be administered and developed by the commissioner. The
 3.32 commissioner and the state building official shall seek advice on the grading, monitoring,
 3.33 and updating of examinations from the Minnesota Manufactured Housing Association;

4.1 (3) a local government unit may not place a surcharge on a license fee, and may not
4.2 charge a separate fee to installers;

4.3 (4) a dealer or distributor who does not install or repair manufactured homes is exempt
4.4 from licensure under sections 326B.802 to 326B.885; and

4.5 ~~(5) the exemption under section 326B.805, subdivision 6, clause (5), does not apply;~~
4.6 ~~and~~

4.7 ~~(6)~~ (5) manufactured home installers are not subject to the contractor recovery fund in
4.8 section 326B.89.

4.9 (b) The commissioner may waive all or part of the requirements for licensure as a
4.10 manufactured home installer for any individual who holds an unexpired license or certificate
4.11 issued by any other state or other United States jurisdiction if the licensing requirements of
4.12 that jurisdiction meet or exceed the corresponding licensing requirements of the department
4.13 and the individual complies with section 326B.092, subdivisions 1 and 3 to 7. For the
4.14 purposes of calculating fees under section 326B.092, licensure as a manufactured home
4.15 installer is a business license.