

2007 DRAFTING REQUEST

**Bill**

Received: 02/02/2007

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Dean Kaufert (608) 266-5719

By/Representing: Cale Battles

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

Subject: Buildings/Safety - misc.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Kaufert@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Regulation of construction contractors

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite 03/06/2007	jdyer 03/12/2007		_____			State
/1			rschluet 03/13/2007	_____	sbasford 03/13/2007	sbasford 07/05/2007	

FE Sent For:

*at intro  
7/20/07*

<END>

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/?	rkite	1/3 12 jld					

FE Sent For:

<END>

**Kite, Robin**

---

**From:** Battles, Cale  
**Sent:** Thursday, February 01, 2007 2:44 PM  
**To:** Kite, Robin  
**Subject:** Bill Draft

Robin,

Last session you helped our office draft AB 1086 (LRB 2734/1) regarding the regulation of construction contractors and subcontractors, granting rule-making authority, and providing a penalty.

Rep. Kaufert would like that bill redrafted and have the amendment (LRBa2396/1) rolled into the bill except for the fourth provision.

If you have any questions regarding this issue please feel free to contact me at anytime. Thank you in advance for your assistance.

Sincerely,

Cale Battles  
Rep. Kaufert's Office  
6-5719

2-27-07

Called Cale - left message

Rm not run

1813/1

LRB-27341

RNK:klpg

*Handwritten initials/signature*

2005 - 2006 LEGISLATURE

*D-NOTE*

*LPS -  
check  
auto refs  
please*

2005 ASSEMBLY BILL 1086

*2007 BILL*

~~March 2, 2006 - Introduced by Representatives KAUFERT, ALBERS, TOWNSEND, TOWNS, PETROWSKI, MONTGOMERY, MUSSER, TRAVIS, OWENS, POPE-ROBERTS, KREIBICH, NEWCOMER, OTT, VRUWINK, BERCEAU, KRAWCZYK, LEHMAN and MOLEPSKE, cosponsored by Senators KAPANKE, ELLIS, DECKER, COWLES, ERPENBACH, GROTHMAN, LEIBHAM and ZIEN. Referred to Committee on Housing.~~

*regen. cat.*

1 AN ACT *to amend* 101.02 (20) (a) and 101.02 (21) (a); and *to create* 101.19 (1)  
2 (k), 101.65 (1p) and subchapter VII of chapter 101 [precedes 101.98] of the  
3 statutes; **relating to:** the regulation of construction contractors and  
4 subcontractors, granting rule-making authority, and providing a penalty. ✓

***Analysis by the Legislative Reference Bureau***

✓ The Department of Commerce (Commerce) administers various laws, including building codes, that promote safety in public and private buildings and in the subsystems of those buildings. To that end, ✓ Commerce issues various licenses, permits, registrations, and other credentials (licenses) ✓ to persons engaged in the construction trades such as electricians and plumbers. Commerce also administers and issues licenses in connection with the administration of other laws relating to public safety such as those regulating fireworks and the storage of flammable liquids.

This bill requires Commerce to register any person who desires to act as a contractor or subcontractor and who meets certain registration requirements established by Commerce. ✓ Under the bill, a contractor is a person engaged in the business of construction who contracts with the owner or lessor of real property to construct, or supervise the construction of, an improvement to that real property. The bill specifies that a subcontractor is a person who enters into a contract with a contractor or a subcontractor to perform part or all of a contract to construct or supervise the construction of an improvement to real property.

**ASSEMBLY BILL 1086**

Under the bill, Commerce must establish an Internet site that consumers may use to determine whether a contractor or subcontractor is registered by Commerce. The bill also requires Commerce to promulgate rules establishing standards for the registration of contractors and subcontractors, application procedures for persons who apply for such registration, and conditions under which Commerce may suspend or revoke such a registration. The bill creates a contractor advisory committee that is required to make recommendations to commerce regarding the promulgation of these rules.

The bill provides that a person may not hold himself or herself out or act as a contractor or subcontractor or perform construction services unless the person is registered as a contractor or subcontractor by Commerce. The bill also prohibits a contractor or subcontractor from entering into contracts with a subcontractor who is not registered with Commerce. Further, the bill prohibits a contractor or subcontractor from claiming a lien for construction services performed or materials procured if the contractor or subcontractor is not registered with Commerce.

The bill authorizes Commerce to directly assess a forfeiture by issuing an order against any person who violates the requirements imposed upon contractors and subcontractors under the bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 101.02 (20) (a) of the statutes is amended to read:

101.02 (20) (a) For purposes of this subsection, "license" means a license, permit or certificate of certification or registration issued by the department under ss. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935, 101.95, 101.951, 101.952, 101.981, 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

**SECTION 2.** 101.02 (21) (a) of the statutes is amended to read:

101.02 (21) (a) In this subsection, "license" means a license, permit or certificate of certification or registration issued by the department under s. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935, 101.95,

FE-5 ✓

Ⓟ

as a contractor or subcontractor

for construction services

person

ASSEMBLY BILL 1086

Insert  
3-2

1 101.951, 101.952, 101.981, 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165,  
2 145.17, 145.175, 145.18 or 167.10 (6m).

3 SECTION 3. 101.19 (1) ~~(k)~~ <sup>(m)</sup> of the statutes is created to read:

4 101.19 (1) ~~(k)~~ <sup>(m)</sup> The registration of contractors and subcontractors under subch.

VII. VIII

6 SECTION 4. 101.65 (1p) <sup>x</sup> of the statutes is created to read:

7 101.65 (1p) May not issue a building permit to a person who is required to be  
8 registered under subch. VII <sup>VIII</sup> unless that person, on applying for a building permit,  
9 produces proof of registration.

10 SECTION 5. Subchapter VII <sup>VIII</sup> of chapter 101 [precedes 101.98] <sup>101.99</sup> of the statutes is  
11 created to read:

INSERT  
A (move to  
next page)

CHAPTER 101

SUBCHAPTER VIII <sup>VIII</sup>

REGULATION OF CONSTRUCTION

CONTRACTORS AND SUBCONTRACTORS

16 101.98 <sup>101.99</sup> Definitions. In this subchapter:

17 3) "Contractor" means any person engaged in the business of construction who  
18 contracts with the owner or lessor of real property to construct, or supervise the  
19 construction of, an improvement to that real property.

20 1) "Construction" means the construction, renovation, repair, remodeling, or  
21 demolition of an improvement to real property or of a manufactured home.

22 2) "Construction services" means mechanical or structural activities relating  
23 to construction including carpentry, concrete work, landscaping, masonry work,  
24 painting, plastering, insulation work, roofing, erection of scaffolding, or the

ASSEMBLY BILL 1086

SECTION 5

1 installation or repair of floor coverings, drywall, wall coverings, tile, cabinets,  
2 countertops, or siding.

→ INSERT A (From previous page) ✓

3 (4) "Subcontractor" means a person who enters into a contract with a  
4 contractor or subcontractor to perform part or all of a contract to construct or  
5 supervise the construction of an improvement to real property. ✓

③ → 101.991 ✓  
~~101.984~~

6 Departmental powers and duties. The department shall do all of  
7 the following:

8 (1) Register, and issue a unique registration number to, any person who desires  
9 to act as a contractor or a subcontractor and who meets the requirements for  
10 registration established by the department under this subchapter.

11 (2) Establish an Internet site that consumers may use to determine whether  
12 a contractor or subcontractor is registered under this subchapter. ✓

insert 4-12 ✓

all of the following: ✓

13 (3) Promulgate rules establishing all of the following:

14 (a) Standards for the registration of contractors and subcontractors. ✓

15 (b) Application procedures for persons applying for registration under this  
16 subchapter. ✓

17 (c) Conditions under which the department may suspend or revoke the  
18 registration of a contractor or subcontractor.

③ → 101.992 ✓  
101.982

19 Prohibitions. (1) No person may hold himself or herself out or act  
20 as a contractor or subcontractor or perform construction services unless that person  
21 is registered as a contractor or subcontractor by the department under this  
22 subchapter. ✓

23 (2) No contractor or subcontractor may enter into a contract for construction  
24 services with a ~~subcontractor~~ person who is not registered as a contractor or subcontractor  
25 by the department under this subchapter.



ASSEMBLY BILL 1086

1 (3) No contractor or subcontractor may claim or maintain an action to enforce  
2 a lien under s. 779.01 for construction services performed or materials procured if the  
3 contractor or subcontractor was not registered as a contractor or a subcontractor by  
4 the department under this subchapter at the time that the services were performed  
5 or the materials were procured.

6 (4) No contractor or subcontractor may knowingly and with intent to evade any  
7 state or federal law, rule, or regulation coerce or induce a person to falsely declare  
8 that he or she is an independent contractor.

9 **101.983 Requirements.** Every person who is registered as a contractor or  
10 subcontractor by the department under this subchapter shall do all of the following:

11 (1) Display his or her registration number at his or her principal place of  
12 business.

13 (2) Include his or her registration number on all construction bids and  
14 contracts and on all advertising.

15 **101.984 Registration term.** Registration under this subchapter shall be  
16 valid for a period of not more than 4 years and shall be renewable.

17 **101.985 Exception.** Sections 101.982 and 101.983 do not apply to a person  
18 who performs construction work on real property, an improvement to real property,  
19 or a manufactured home if the real property, improvement, or manufactured home  
20 are owned or leased by that person.

21 **101.987 Penalties.** (1) The department may directly assess a forfeiture by  
22 issuing an order against any person who violates s. 101.982 or 101.983. The  
23 department may not assess a forfeiture exceeding \$2,000 for each violation.

24 (2) The department shall promulgate rules specifying the procedures  
25 governing the assessment of forfeitures under this section including the following:

Handwritten annotations include circled numbers 13, 15, 17, 20, and 21, and various numbers (101.993, 101.994, 101.995, 101.992, 101.993) with arrows pointing to specific sections of the text.

**ASSEMBLY BILL 1086**

1 (a) The procedure for issuing an order for an alleged violation.

2 (b) The amount of a forfeiture that the department may assess for an alleged  
3 violation, subject to the limit under sub. (1).

4 (c) The procedure for contesting an order issued for an alleged violation.

5 (d) The procedure for contesting the assessment of a forfeiture for an alleged  
6 violation.

7 (3) The department shall remit all forfeitures paid under this section to the  
8 secretary of administration for deposit in the school fund.

9 (4) All forfeitures that are not paid as required under this section shall accrue  
10 interest at the rate of 12 percent per year.

11 (5) The attorney general may bring an action in the name of the state to collect  
12 any forfeiture imposed, or interest accrued, under this subsection if the forfeiture or  
13 interest has not been paid after the exhaustion of all administrative and judicial  
14 reviews.

**SECTION 6. Nonstatutory provisions.**

15  
16 (1) PROPOSED RULES. No later than the first day of the 12th month beginning  
17 after the effective date of this subsection, the department of commerce shall submit  
18 in proposed form the rules required under sections 101.981 (3) and 101.987 (2) of the  
19 statutes, as created by this act, to the legislative council staff under section 227.15  
20 (1) of the statutes, unless the secretary of administration requires the department  
21 of commerce to prepare an economic impact report under section 227.137 of the statutes for the  
22 proposed rules.

23 (2) CONTRACTOR ADVISORY COMMITTEE. There is created a contractor advisory  
24 committee which shall consist of 7 members appointed by the secretary of commerce.  
25 Of the members appointed to the committee, 4 members shall be contractors, as

*Notwithstanding section 227.137(2) of the statutes*  
*101.991*  
*101.997*  
*may not require*  
*of commerce*

ASSEMBLY BILL 1086

3

1 defined in section <sup>101.99</sup> 101.98 (1) of the statutes, as created by this act, or subcontractors,  
 2 as defined in section <sup>101.99</sup> 101.98 (4) of the statutes, as created by this act, <sup>2</sup> members shall  
 3 be representatives of labor unions, and one member shall be a public member. The  
 4 committee shall make recommendations to the department of commerce regarding  
 5 the promulgation of rules under sections <sup>101.991</sup> 101.981 (3) and <sup>101.997</sup> 101.987 (2) of the statutes,  
 6 as created by this act. The committee shall cease to exist on the first day of the 12th  
 7 month beginning after the day on which the rules required under sections <sup>101.991</sup> 101.981  
 8 (3) and <sup>101.997</sup> 101.987 (2) of the statutes, as created by this act, are promulgated by the  
 9 department of commerce.

10 **SECTION 7. Effective dates.** This act takes effect on the first day of the 18th  
 11 month beginning after publication, except as follows:

12 (1) SECTION 6 (1) and (2) of this act take effect on the day after publication.

(END)

↑↑  
 a.s.

d-note  
 ↓

13

**ASSEMBLY AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 1086**

*Insert*

March 2, 2006 - Offered by Representative KAUFERT.

*Insert 4-12*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 4, line 11: delete "whether".

3 **2.** Page 4, line 12: delete that line and substitute "all of the following:".

4 **3.** Page 4, line 12: after that line insert:

5 (a) The name and address of every contractor and subcontractor registered by  
6 the department under this subchapter. ✓

7 (b) The name of the contact person for every contractor and subcontractor  
8 registered by the department under this subchapter. ✓

9 (c) Whether a contractor or subcontractor registered by the department under  
10 this subchapter carries a performance bond or other financial assurance to ensure  
11 the work of the contractor or subcontractor. ✓

*(end ins)*

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1813/lins.  
RNK:.....

INSERT 3-2

SECTION 1. 101.02 (20) (a) <sup>x</sup> of the statutes, as affected by 2005 Wisconsin Act 456, is amended to read:

101.02 (20) (a) For purposes of this subsection, "license" means a license, permit or certificate of certification or registration issued by the department under ss. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, \* 101.935, 101.95, 101.951, 101.952, 101.981, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

Note: Note. Par. (a) is shown as amended eff. 6-1-07 by 2005 Wis. Act 456. Prior to 6-1-07 it reads: Note:

(a) For purposes of this subsection, "license" means a license, permit or certificate of certification or registration issued by the department under ss. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935, 101.95, 101.951, 101.952, 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; Stats. 1971 s. 101.02; 1975 c. 39, 94; 1977 c. 29; 1981 c. 360; 1983 a. 410; 1985 a. 182 s. 57; 1987 a. 343; 1989 a. 31, 56, 139; 1991 a. 39, 269; 1993 a. 27, 184, 252, 414, 492; 1995 a. 27, 363 to 364, 9126 (19); 1995 a. 215; 1997 a. 191, 237; 1999 a. 9; 2001 a. 61; 2005 a. 251, 456.

SECTION 2. 101.02 (21) (a) of the statutes, as affected by 2005 Wisconsin Act 456, is amended to read:

101.02 (21) (a) In this subsection, "license" means a license, permit or certificate of certification or registration issued by the department under s. 101.09 (3) (c), 101.122 (2) (c), 101.143 (2) (g), 101.15 (2) (e), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2), 101.653, 101.73 (5) or (6), 101.82 (2), 101.87, 101.935, 101.95, \* 101.951, 101.952, 101.981, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18 or 167.10 (6m).

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History: 1971 c. 185 ss. 1 to 5, 7; 1971 c. 228 ss. 16, 42; Stats. 1971 s. 101.02; 1975 c. 39, 94; 1977 c. 29; 1981 c. 360; 1983 a. 410; 1985 a. 182 s. 57; 1987 a. 343; 1989 a. 31, 56, 139; 1991 a. 39, 269; 1993 a. 27, 184, 252, 414, 492; 1995 a. 27 ss. 363 to 364, 9126 (19); 1995 a. 215; 1997 a. 191, 237; 1999 a. 9; 2001 a. 61; 2005 a. 251, 456.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1813/1dn

RNK: k:....

date

Jed

\* This is a redraft of 2005 Assembly Bill 1086. This redraft incorporates Assembly Amendment 1 to AB-1086. As in last session's bill, this version contains a nonstatutory provision that establishes a deadline for the Department of Commerce to submit proposed rules to the legislative council staff. Under current law, the Department of Administration is authorized to require the Department of Commerce to prepare an economic impact report for its proposed rules. If the Department of Administration requires such a report, this could increase the time it would take the Department of Commerce to submit its proposed rules under this draft. Upon reviewing this draft, I have assumed that you did not want to delay the rule-making process. Consequently, I have revised the nonstatutory provision to specify that the Department of Administration may not require that the Department of Commerce prepare an economic impact report for the proposed rules. Please let me know if my assumption is not consistent with your intent.

If you have any other questions with regard to this draft, please feel free to contact me.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1813/1dn  
RNK:jld:rs

March 13, 2007

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Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

**Basford, Sarah**

---

**From:** Battles, Cale  
**Sent:** Thursday, July 05, 2007 8:45 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1813/1 Topic: Regulation of construction contractors

Please Jacket LRB 07-1813/1 for the ASSEMBLY.