

CCL - IC EXEMPTION

*** BILL NO. ***

INTRODUCED BY *****

BY REQUEST OF THE (AGENCY OR DEPARTMENT)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING CONSTRUCTION CONTRACTOR LICENSURE; ELIMINATING THE EXEMPTION FROM LICENSURE FOR INDEPENDENT CONTRACTORS WITH NO EMPLOYEES; UPDATING TERMINOLOGY; AND AMENDING SECTION 37-45-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-45-104, MCA, is amended to read:

"37-45-104. Exemptions. As related to construction contractors, this chapter does not apply:

- (1) to an authorized representative of the United States government, the state of Montana, or any incorporated municipality, county, alternative form of local government, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;
- (2) to an officer of a court acting within the scope of office;
- (3) to a public utility operating under the regulations of the public service commission or to a rural cooperative utility operating under Title 35, chapter 18, in construction, maintenance, or development work incidental to its own business;
- (4) to the repair or operation incidental to the discovery or production of oil or gas or incidental to the drilling, testing, abandoning, or other operation of an oil or gas well or a surface or underground mine or mineral deposit;
- (5) to the sale or installation of finished products, materials, or articles of merchandise that are not actually fabricated into and do not become a permanent fixed part of a structure;

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(6) to the construction, alteration, improvement, or repair carried on within the limits and boundaries of a site or reservation under the exclusive legal jurisdiction of the federal government;

(7) to a person who only furnished materials, supplies, or equipment without fabricating them into or consuming them in the performance of the work of the construction contractor;

(8) to work or operation on one undertaking or project considered of a casual, minor, or inconsequential nature, by one or more contracts, the aggregate contract price of which, for labor and materials and all other items, is less than \$2,500 a job. The exemption prescribed in this subsection does not apply when the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different construction contractor, or in which a division of the operation is made into contracts of amounts of less than \$2,500 a job for the purpose of evasion of this chapter or otherwise.

(9) to a farmer or rancher while engaged in a farming, dairying, agriculture, viticulture, horticulture, or stock or poultry operation;

(10) to an irrigation district or reclamation district;

(11) to an operation related to clearing or other work upon land in rural districts for fire prevention purposes;

(12) to an owner who contracts for work to be performed by a ~~registered~~-licensed construction contractor, but this exemption does not apply to an owner who is otherwise covered by this chapter who constructs a residence on the owner's property with the intention and for the purpose of promptly selling the improved property;

(13) to an owner working on the owner's property, whether occupied by the owner or not, but this exemption does not apply to an owner who is otherwise covered by this chapter who constructs an improvement on the owner's property with the intention and for the purpose of promptly selling the improved property, unless the owner has continuously occupied the property as the owner's primary residence for at least the last 12 months;

(14) to owners of commercial properties who use their own employees to do maintenance, repair, and alteration work in or upon their own properties;

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(15) to an architect, civil or professional engineer, or professional land surveyor, licensed in Montana and acting solely in a professional capacity;

(16) to an electrician or plumber, licensed in Montana, operating within the scope of the license;

(17) to a contract security company, licensed under Title 37, chapter 60, operating within the scope of the license;

(18) to a person who engages in the activities regulated as an employee of a ~~registered~~ licensed construction contractor with wages as the sole compensation or as an employee with wages as the sole compensation;

(19) to a person or entity licensed under Title 50, chapter 39, to sell, install, or service fire suppression or fire protection equipment;

(20) to a water well contractor licensed under Title 37, chapter 43, performing the work of a water well contractor;

(21) to an enrolled tribal member or an association, business, corporation, or other entity, at least 51% of which is owned by an enrolled tribal member or members and whose business is conducted solely within the exterior boundaries of an Indian reservation;

(22) to a contractor engaged in the logging industry who builds forest access roads for the purpose of harvesting and transporting logs from forest to mill; or

(23) to a person working on the person's own residence, if the residence is owned by a person other than the resident; ~~or~~

~~(24) to an independent contractor who has no employees. However, an independent contractor may voluntarily elect to register under this chapter."~~

{Internal References to 37-45-104:
37-45-102 39-9-211}

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