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## CHAPTER 45 CONSTRUCTION CONTRACTORS

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### Part 1 General

**37-45-101. (Effective January 1, 2026) Purpose.** The purpose of this chapter is to protect the public health, safety, and welfare of the public through the regulation of construction contractors.

**37-45-102. (Effective January 1, 2026) Definitions.** As used in this chapter, the following definitions apply:

(1) "Construction contractor" means, except as provided in 37-45-104, a person, firm, or corporation that:

(a) in the pursuit of an independent business, offers to undertake, undertakes, or submits a bid to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish for another a building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works, or the installation or repair of roofing or siding; or

(b) in order to do work similar to that described in subsection (1)(a) on the construction contractor's property, employs members of more than one trade on a single job or under a single building permit, except as otherwise provided.

(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

**37-45-103. (Effective January 1, 2026) Department rulemaking.** The department may adopt rules necessary to implement this chapter.

**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;

(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 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;

(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 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;

(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.

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## Part 2

### Licensing and Registration

#### **37-45-201. (Effective January 1, 2026) Construction contractor license required — application.**

(1) An individual or business entity may not engage in business as a construction contractor without a current license from the department. The license must include the following information:

(a) the applicant's social security number;  
(b) proof of compliance with workers' compensation laws;  
(c) the internal revenue service employer identification number, if any; and  
(d) the name and address of:  
(i) each partner if the applicant is a firm or partnership;  
(ii) the owner if the applicant is an individual partnership;  
(iii) the corporate officers and registered agent if the applicant is a corporation; or  
(iv) the manager of a manager-managed limited liability company or the members of a member-managed limited liability company and the registered agent if the applicant is a limited liability company.

(2) Section 37-1-137 applies to all persons listed in subsection (1)(d) of this section.

**37-45-202. (Effective January 1, 2026) Licensing — limiting liability.** A person who, pursuant to an oral or written contract, engages a construction contractor who is licensed under this chapter on the date of the contract is not liable as an employer for workers' compensation coverage under 39-71-405, for unemployment insurance coverage, or for wages and fringe benefits for:

(1) the licensed construction contractor;  
(2) the employees of the licensed construction contractor; or  
(3) a subsequent subcontractor or the employees of a subsequent subcontractor engaged to fulfill a part of or all the obligations of the oral or written contract of the licensed construction contractor listed in subsection (1).

**37-45-203. (Effective January 1, 2026) Fees — education fund — fines.** (1) Each applicant for a construction contractor license shall pay an application fee established by the department.

(2) The fees collected under this chapter in accordance with 37-1-134 must be deposited in a special revenue account for administration and enforcement of this chapter.

(3) The department shall provide, in cooperation with building industry stakeholders, a program to educate consumers and the building industry about construction contractor licensing requirements.

(4) A fine collected from a construction contractor under 37-1-109 or 37-1-406 must be deposited in the uninsured employers' fund established in 39-71-503.

**37-45-204. Provisions exclusive — certain local authority not limited or abridged.** The provisions of this chapter relating to the registration or licensing of a person, firm, or corporation, including the requirement of a bond with the state of Montana named as obligee and the collection of a fee, are exclusive for registered construction contractors. A political subdivision of the state may not require or issue any registrations, licenses, or bonds for the same or a similar purpose. However, this section does not limit or abridge the authority of a local government to levy and collect a general and nondiscriminatory license fee levied upon all businesses. This section does not limit the authority of a local government with respect to contractors not required to be registered under this chapter.

**37-45-205. When partnership or joint venture considered registered.** A partnership or joint venture is considered registered under this chapter if one of the general partners or venturers whose name under which the partnership or venture does business is registered.

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## Part 3

### Unprofessional Conduct — Penalties

**37-45-301. (Effective January 1, 2026) Unprofessional conduct — rulemaking authority.** (1) The following is unprofessional conduct for a construction contractor licensee, a license applicant, or on behalf of the licensee as an individual listed in 37-45-201(1)(d):

(a) fraud, misrepresentation, deception, or concealment of a material fact in:  
(i) applying for or assisting in securing a license or license renewal;  
(ii) advertising;  
(iii) written communications with a client; or

(iv) a contract, written contract negotiations, or in written communications with a person with whom the licensee has a contract;

(b) misappropriating funds from a client;

(c) interference with an investigation into a construction contractor license by the department by:

(i) failure to respond or cooperate with requests from the department;

(ii) willful misrepresentation of facts relevant to the investigation; or

(iii) use of threats or harassment against a client or witness to prevent the client or witness from providing evidence to the department;

(d) hiring or classifying a person as an independent contractor if:

(i) the person does not have an independent contractor exemption certificate if required by 39-71-417;

(ii) the department has suspended, revoked, or denied the person's independent contractor exemption certificate; or

(iii) the person is hired to work in a trade, business, occupation, or profession that is not listed on the independent contractor exemption certificate;

(e) allowing an independent contractor to perform work not in the trade, business, occupation, or profession listed on their independent contractor exemption certificate; or

(f) failing to comply with:

(i) the Workers' Compensation Act, Title 39, chapter 71;

(ii) the Unemployment Insurance Law, Title 39, chapter 51; or

(iii) the wage payment, minimum wage, and overtime payment provisions of Title 39, chapter 3.

(2) (a) Failure to comply with the provisions of this section constitutes unprofessional conduct, and the provisions of 37-1-402 apply. The provisions of 37-1-410 do not apply to a construction contractor license or license applicant under this chapter.

(b) The department may adopt additional unprofessional conduct standards by rule.

**37-45-302. (Effective January 1, 2026) Violation — infraction — penalty — disposition.** (1) In addition to the penalties provided in 37-1-406, a determination by the department of unprofessional conduct under 37-45-301 subjects the person who commits the violation to:

(a) a penalty of up to \$5,000, as determined by the department; and

(b) a suspension or debarment of rights to public works contracts.

(2) A penalty collected under this section must be deposited in the uninsured employers' fund established in 39-71-503.