

Senate Bill No. 62

(By Senator K. Facemyer (By Request))

[Introduced January 12, 2011; referred to the Committee on the
Judiciary.]

A BILL to amend and reenact §21-11-13 of the Code of West Virginia,
1931, as amended, relating to the West Virginia Contractor
Licensing Act; violation of article; and increasing criminal
penalties.

Be it enacted by the Legislature of West Virginia:

That §21-11-13 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-13. Violation of article; injunction; criminal penalties.

(a) (1) Upon a determination that a person is engaged in
contracting business in the state without a valid license, the
board or commissioner shall issue a cease and desist order
requiring such person to immediately cease all operations in the
state. The order shall be withdrawn upon issuance of a license to
such person.

1 (2) After affording an opportunity for a hearing, the board
2 may impose a penalty of not less than ~~two hundred~~ \$500 nor more
3 than ~~one thousand dollars~~ \$2,000 upon any person engaging in
4 contracting business in the state without a valid license. The
5 board may accept payment of the penalty in lieu of a hearing.

6 (3) Within thirty days after receipt of the final order issued
7 pursuant to this section, any party adversely affected by the order
8 may appeal the order to the circuit court of Kanawha County, West
9 Virginia, or to the circuit court of the county in which the
10 petitioner resides or does business.

11 (b) Any person continuing to engage in contracting business in
12 the state without a valid license after service of a cease and
13 desist order is guilty of a misdemeanor and, upon conviction, is
14 subject to the following penalties:

15 (1) For a first offense, a fine of not less than ~~two hundred~~
16 ~~dollars~~ \$500 nor more than ~~one thousand dollars~~ \$2,000;

17 (2) For a second offense, a fine of not less than ~~five hundred~~
18 ~~dollars~~ \$1,000 nor more than ~~five thousand dollars~~ \$10,000, or
19 confinement in ~~the county or regional~~ jail for not more than six
20 months, or both fine and confinement;

21 (3) For a third or subsequent offense, a fine of not less than
22 ~~one thousand dollars~~ \$2,000 nor more than ~~five thousand dollars~~
23 \$20,000, and confinement in ~~the county or regional~~ jail for not
24 less than thirty days nor more than one year.

1 © The board may institute proceedings in the circuit court of
2 the county in which the alleged violations of the provisions of
3 this article occurred or are now occurring to enjoin any violation
4 of any provision of this article.

5 (d) Any person who undertakes any construction work without a
6 valid license when such license is required by this article, when
7 the total cost of the contractor's construction contract on any
8 project upon which the work is undertaken is \$25,000 or more,
9 shall, in addition to any other penalty herein provided, be
10 assessed by the board an administrative penalty not to exceed \$200
11 per day for each day the person is in violation.

NOTE: The purpose of this bill is to increase the criminal penalties for violations of the West Virginia Contractor Licensing Act.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.