

## CHAPTER NO. 492

## SENATE BILL NO. 2244

By Fowler, Dixon, McLeary

Substituted for: House Bill No. 2399

By Wood, Todd, DuBois, Sharp, Vincent, Bittle, Shaw, Bunch, Pleasant, Gresham,  
Bowers,  
Brenda Turner, Baird, Hensley, Black, Rowland, Phillip Johnson, Lynn

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 62, Chapter 6, relative to consumer protection violation for misrepresentation of unlicensed contractors as licensed contractors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104(b), is amended by creating a new subdivision:

( ) Representing that a person is a licensed contractor when such person has not been licensed as required by § 62-6-103 or § 62-37-104; or, acting in the capacity of a "contractor" as defined in Tennessee Code Annotated, §§ 62-6-102(3)(A), 62-6-102(5) or 62-37-103(5), and related rules and regulations of the State of Tennessee (or any similar statutes, rules and regulations of another state) while not licensed;

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 6, Part 1, is amended by creating the following new section:

62-6-136. (a) It is unlawful for any person, firm or corporation to represent itself as a licensed contractor, or to act in the capacity of a "contractor" as defined in Tennessee Code Annotated, §§ 62-6-102(3)(A), 62-6-102(5) or 62-37-103(5), and related rules and regulations of the State of Tennessee (or any similar statutes, rules and regulations of another state) while not licensed, unless such person, firm or corporation has been duly licensed under § 62-6-103 or § 62-37-104.

(b) In addition to the penalties set out in §§ 62-6-120, 62-37-114 or 62-37-127, a violation of this section shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of trade or commerce under the Tennessee Consumer Protection Act, compiled in Title 47, Chapter 18, Part 1, and as such the private right of action remedy under such act shall be available to any person who suffers an ascertainable loss of money or property, real, personal, or mixed, or any other article, commodity, or thing of value wherever situated as a result of such violation.

(c) An individual who violates this section and would, but for the provisions of this section, have limited liability as owner of an entity having limited liability protection, including but not limited to a corporation, is personally liable for such individual's own representations, acts or omissions to the same extent as if that individual rendered such representations, acts or omissions as an individual.

SECTION 3. This act shall take effect July 1, 2004, the public welfare requiring it.

**PASSED: April 1, 2004**

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

**APPROVED this 12<sup>th</sup> day of April 2004**

  
PHIL BREDESEN, GOVERNOR