

SENATE BILL NO. 2243

Introduced by

Senators Nodland, Laffen

Representatives Frantsvog, Gruchalla, Kreun

1 A BILL for an Act to create and enact a new subsection to section 43-19.1-29 of the North
2 Dakota Century Code, relating to exemptions to regulation by the state board of registration for
3 professional engineers and land surveyors; and to amend and reenact section 43-19.1-02 and
4 subsection 1 of section 43-19.1-27 of the North Dakota Century Code, relating to regulation of
5 professional engineers and land surveyors.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-19.1-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-19.1-02. Definitions.**

10 In this chapter unless the context otherwise requires:

- 11 1. "Board" means the state board of registration for professional engineers and land
12 surveyors.
- 13 2. "Engineer" means a professional engineer.
- 14 3. "Engineer intern" means an individual who complies with the requirements for
15 education, experience, and character and who has passed an examination in the
16 fundamental engineering subjects, as provided in sections 43-19.1-12 and 43-19.1-15.
- 17 4. ~~"Land surveying" means any service comprising the determination of the location of~~
18 ~~land boundaries and land boundary corners; incidental topography; the preparation of~~
19 ~~maps showing the shape and area of tracts of land and their subdivision into smaller~~
20 ~~tracts; the preparation of maps showing the layouts of roads, streets, and rights of way~~
21 ~~of same to give access to smaller tracts; and the preparation of official plats or maps~~
22 ~~of land within this state.~~ "Engineering surveys" means all survey activities required to
23 support the sound conception, planning, design, construction, maintenance, and
24 operation of engineered projects, which include locating or laying out alignments.

1 positions, or elevations for the construction of fixed works. The term does not include
2 the surveying of real property for the establishment of land boundaries, rights of way,
3 easements, and the dependent or independent surveys or resurveys of the public land
4 survey system.

- 5 5. "Land surveyor" means an individual engaged in the practice of land surveying.
- 6 6. "Land surveyor intern" means an individual who complies with the requirements for
7 education, experience, and character and who has passed an examination in the
8 fundamentals of mathematics and the basic principles of land surveying as required in
9 this chapter and as established by the board.
- 10 7. "Practice of engineering and practice of professional engineering" means any service
11 or creative work, the adequate performance of which requires engineering education,
12 training, and experience in the application of special knowledge of the mathematical,
13 physical, and engineering sciences to such services or creative work as consultation,
14 investigation, evaluation, planning and design of engineering works and systems,
15 engineering teaching of advanced engineering subjects or courses related thereto,
16 engineering surveys, and the inspection of construction for the purpose of assuring
17 compliance with drawings and specifications; any of which embraces such service or
18 work, either public or private, in connection with any utilities, structures, buildings,
19 machines, equipment, processes, work systems, or projects as are incidental to the
20 practice of engineering. A person must be construed to practice or offer to practice
21 engineering if the person practices any branch of the profession of engineering; if the
22 person, by verbal claim, sign, advertisement, letterhead, card, or in any other way
23 represents that the person is an engineer and is able to practice engineering in this
24 state if the person through the use of some other title implies that the person is an
25 engineer or that the person is registered under this chapter; or if the person holds out
26 as able to perform, or does perform any engineering service or work or any other
27 service that is recognized as engineering, for a valuable consideration for others,
28 including the public at large. ~~The practice of engineering does not mean or include the~~
29 ~~practice of engineering by a person exempt under the provisions of section~~
30 ~~43-19.1-29, nor the work ordinarily performed by a person that operates or maintains~~
31 ~~machinery or equipment. Notwithstanding the foregoing provisions, a person may not~~

1 ~~be construed to practice engineering unless that person offers engineering services to,~~
2 ~~or performs such engineering for, the public.~~

3 8. "Practice of land surveying":

4 a. Means making land boundary determinations by providing or offering to provide
5 professional services using such sciences as mathematics, geodesy, and
6 photogrammetry and involving the making of geometric measurements and
7 gathering related information pertaining to the physical or legal features of the
8 earth; improvements on the earth; and improvements on the space above, on, or
9 below the earth and providing, utilizing, or developing the same into land survey
10 products such as graphics, data, maps, plans, reports, descriptions, or projects.
11 As used in this subsection, professional services include acts of consultation,
12 investigation, testimony evaluation, expert technical testimony, planning,
13 mapping, assembling, and interpreting gathered measurements and information
14 related to any one or more of the following:

15 (1) Determining by measurement the configuration or contour of the earth's
16 surface or the position of fixed objects on the earth's surface;

17 (2) Determining by performing geodetic land surveys the size and shape of the
18 earth or the position of any point on the earth;

19 (3) Locating, relocating, establishing, reestablishing, or retracing property lines
20 or boundaries of any tract of land, road, right of way, or easement;

21 (4) Making any land survey for the division, subdivision, or consolidation of any
22 tract of land;

23 (5) Locating or laying out alignments, positions, or elevations for the
24 construction of fixed works;

25 (6) Determining by the use of principles of land surveying the position for any
26 survey monument, boundary or nonboundary, or reference point and
27 establishing or replacing any such monument or reference point; and

28 (7) Creating, preparing, or modifying electronic or computerized or other data
29 for the purpose of making land boundary determinations relative to the
30 performance of the activities in paragraphs 1 through 6.

31 b. Includes:

- 1 (1) Engaging in land surveying:
2 (2) By verbal claim, sign, advertisement, letterhead, card, or any other way
3 representing to a person to be a professional land surveyor;
4 (3) Through the use of some other title implying to be a professional land
5 surveyor or that the person is licensed or authorized under this chapter; and
6 (4) Holding out as able to perform or performing any land surveying service or
7 work or any other service designated by the practitioner which is recognized
8 as land surveying.

9 9. "Professional engineer" means an individual who by reason of special knowledge or
10 use of the mathematical, physical, and engineering sciences and the principles and
11 methods of engineering analysis and design, acquired by engineering education and
12 engineering experience, is qualified to practice engineering, and who has been
13 registered and licensed by the state board of registration for professional engineers
14 and land surveyors.

15 9-10. "Professional land surveyor" means a land surveyor who complies with the
16 requirements for education, experience, and character and who has been registered
17 and licensed by the board.

18 ~~10-11.~~ "Responsible charge" means direct control and personal supervision of engineering or
19 surveying work.

20 ~~11-12.~~ "Retired registrant" means a duly registered professional engineer or land surveyor
21 who is not engaged in active professional practice and is not required to meet the
22 continuing professional education requirements as prescribed by the board. A retired
23 registrant is issued a certificate of registration indicating "retired" status.

24 ~~12.~~ "~~The practice or offer to practice surveying~~" includes ~~the engagement of any person in~~
25 ~~land surveying or the representation by any person by verbal claim, sign, letterhead,~~
26 ~~card, or in any other manner, that such person is a land surveyor and is able to~~
27 ~~perform land surveying in this state.~~

28 **SECTION 2. AMENDMENT.** Subsection 1 of section 43-19.1-27 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 1. A person may not practice or offer to practice professional engineering or land
31 surveying unless the person is an individual registered to practice under or exempt

1 from the provisions of this chapter. The practice of engineering by a professional
2 engineer which includes service or creative work that is included in both the definition
3 of the practice of engineering and the definition of land surveying does not require
4 registration as a professional land surveyor. The practice of land surveying by a
5 professional land surveyor which includes a service or creative work that is included in
6 both the definition of the practice of engineering and the definition of land surveying
7 does not require registration as a professional engineer.

8 **SECTION 3.** A new subsection to section 43-19.1-29 of the North Dakota Century Code is
9 created and enacted as follows:

10 The performance of work ordinarily performed by a person that operates or maintains
11 machinery or equipment.