

SECOND REGULAR SESSION

SENATE BILL NO. 1093

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS LOUDON, RIDGEWAY AND RUPP.

Read 1st time February 6, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4063S.011

AN ACT

To amend chapter 324, RSMo, by adding thereto ten new sections relating to the powers and duties of the Missouri electrical industry licensing board, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto ten new sections, to be known as sections 324.800, 324.805, 324.810, 324.815, 324.820, 324.825, 324.830, 324.835, 324.840, and 324.845, to read as follows:

324.800. As used in sections 324.800 to 324.845, unless the context clearly means otherwise, the following terms shall mean:

(1) "BAT", Bureau of Apprenticeship and Training, a bureau within the United States Department of Labor;

(2) "Board", the Missouri electrical industry licensing board;

(3) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;

(4) "Director", the director of the division of professional registration;

(5) "Division", the division of professional registration within the department of insurance, financial and professional regulation;

(6) "Electrical contracting", engaging in the business of installing, erecting, or maintaining electrical wiring, fixtures, apparatus, equipment, devices, or components, regardless of voltage, that are used for generation, transmission, and utilization of electricity;

(7) "Electrical contractor", a person engaged in electrical contracting. No person, firm, corporation, institution, organization, or representative thereof shall engage in electrical contracting without

20 having a person responsible for such work who is licensed under
21 sections 324.800 to 324.845. A licensed electrical contractor shall only
22 represent one firm, person, corporation, institution, or organization at
23 one time;

24 (8) "Local license", a valid license issued by a local political
25 subdivision. Holders of such a license are limited to practice within
26 the political subdivision issuing the license or in a political subdivision
27 that does not require a license;

28 (9) "Nonpublic member", an individual who represents a
29 professional association on the board;

30 (10) "Person", an individual, corporation, partnership,
31 association, or other legal entity;

32 (11) "Public member", an individual who represents the home
33 builders association, who is not associated with the electrical industry,
34 and is a resident of the state of Missouri who has at a minimum of ten
35 years experience in this state as a homebuilder which has constructed
36 more than four hundred homes for citizens in the state of Missouri;

37 (12) "Statewide license", a valid license issued or recognized by
38 the electrical industry licensing board that allows the licensee to
39 practice in any jurisdiction regardless of local licensing requirements.

324.805. 1. There is hereby created within the division of
2 professional registration a board to be known as the "Missouri
3 Electrical Industry Licensing Board". The board shall consist of seven
4 voting members including one public member, all of whom shall be
5 citizens of the United States and domiciled within this state. The
6 governor shall appoint the members of the board with the advice and
7 consent of the senate for terms of four years; except as provided in
8 subsection 3 of this section. The six nonpublic members shall hold an
9 electrical contractor's license for at least five years immediately
10 preceding the person's appointment to the board and shall at all times
11 be holders of an electrical contractor license in this state. All
12 nonpublic members shall be chosen from lists submitted by the director
13 of the division of professional registration who shall inquire of the
14 Independent Electrical Contractors Association, Associated Builders
15 and Contractors, and National Electrical Contractors Association to
16 obtain the names of individuals to be considered. The governor shall
17 appoint nonpublic members as follows:

18 (1) Two members belonging to Associated Builders and
19 Contractors;

20 (2) Two members belonging to the Independent Electrical
21 Contractors Association; and

22 (3) Two members belonging to the National Electrical
23 Contractors Association.

24 2. No person shall be eligible for reappointment to the board who
25 has served as a member for a total of eight years. A vacancy in the
26 office of any board member shall only be filled for the unexpired term.

27 3. The initial appointments to the board shall be two members
28 for terms of two years, two members for terms of three years, two
29 members for terms of four years, and one public member for a term of
30 four years.

31 4. Any member of the board may be removed from the board by
32 the governor for neglect of duty required by law, for incompetency or
33 for unethical or dishonest conduct. Upon the death, resignation,
34 disqualification, or removal of any member of the board, the governor
35 shall appoint a successor.

324.810. 1. The board shall elect annually a chairperson and a
2 vice chairperson from the board's membership.

3 2. The division, in collaboration with the board, shall adopt,
4 implement, rescind, amend, and administer such rules and regulations
5 as may be necessary to carry out the provisions of sections 324.800 to
6 324.845. The division, in collaboration with the board, may promulgate
7 necessary rules compatible with sections 324.800 to 324.845, including,
8 but not limited to, rules relating to professional conduct, continuing
9 competency requirements for the renewal of licenses, approval of
10 continuing competency programs, and the establishment of ethical
11 standards of practice for persons holding a license pursuant to sections
12 324.800 to 324.845. Any rule or portion of a rule, as that term is defined
13 in section 536.010, RSMo, that is created under the authority delegated
14 in this section shall become effective only if it complies with and is
15 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
16 section 536.028, RSMo. This section and chapter 536, RSMo, are
17 nonseverable and if any of the powers vested with the general assembly
18 pursuant to chapter 536, RSMo, to review, to delay the effective date,
19 or to disapprove and annul a rule are subsequently held

20 unconstitutional, then the grant of rulemaking authority and any rule
21 proposed or adopted after August 28, 2008, shall be invalid and void.

22 3. The board shall convene at the request of the director or as
23 the board shall determine. The board shall hold regular meetings at
24 least four times per year.

25 4. Each member of the board shall receive as compensation an
26 amount set by the division not to exceed seventy dollars per day for
27 each day devoted to the affairs of the board and may be reimbursed for
28 actual and necessary expenses incurred in the performance of the
29 member's official duties.

324.815. 1. For the purpose of sections 324.800 to 324.845, the
2 division shall:

3 (1) Employ, within the limits of the appropriations for that
4 purpose, employees as are necessary to carry out the provisions of
5 sections 324.800 to 324.845;

6 (2) Exercise all administrative functions;

7 (3) Establish all applicable fees, set at an amount which shall not
8 substantially exceed the cost of administering sections 324.800 to
9 324.845;

10 (4) Deposit all fees collected pursuant to sections 324.800 to
11 324.845, by transmitting such funds to the department of revenue for
12 deposit to the state treasury to the credit of the Missouri electrical
13 industry licensing board fund; and

14 (5) Approve or disapprove certifying entities for professions
15 within the electrical industry included in the scope of sections 324.800
16 to 324.845.

17 2. The division may terminate recognition of any certifying
18 entity included in the scope of sections 324.800 to 324.845 following a
19 subsequent review of the certification of registration procedures of a
20 certifying entity.

324.820. 1. Electrical contracting shall not include work done by
2 any employee of an electric utility, a gas corporation as defined by
3 subdivision (18) of section 386.020, RSMo, a water corporation as
4 defined by subdivision (58) of section 386.020, RSMo, a railroad
5 corporation, a contractor who services the construction and
6 maintenance of power lines or substations of an electric utility
7 corporation, a municipal utility, a rural electric cooperative, a

8 telecommunications company as defined by subdivision (51) of section
9 386.020, RSMo, when engaged in work of the utility, a federally licensed
10 radio or television broadcast station, a commercial mobile radio service
11 provider licensed by the Federal Communications Commission under
12 the commercial mobile radio services rules and regulations, or a
13 private broadcast engineering contractor possessing a valid Society of
14 Broadcast Engineers certification.

15 2. The provisions of sections 324.800 to 324.845 shall not apply to
16 contractors whose primary occupation is the design or integration,
17 installation, maintenance, or service of cabling infrastructure and
18 products that transport voice, video, audio, and data signals in a
19 commercial or residential premises.

324.825. 1. Each electrical contracting firm shall have in its
2 employ, at a supervisory level, at least one licensed electrical
3 contractor.

4 2. The applicant for a statewide electrical contractor's license
5 shall satisfy the following requirements:

- 6 (1) Be twenty-one years of age and a United States citizen;
- 7 (2) Provide proof of insurance in the amount of five hundred
8 thousand dollars, and post a bond with each political subdivision in
9 which the contractor will perform work, as required by that political
10 subdivision;
- 11 (3) Pass a standardized and nationally accredited electrical
12 assessment exam created and administered by a third party which
13 meets current national industry standards, as determined by the board;
- 14 (4) Pay for the costs of such examination; and
- 15 (5) Have completed one of the following:
 - 16 (a) Twelve thousand verifiable practical hours installing
17 equipment and associated wiring;
 - 18 (b) Ten thousand verifiable practical hours installing equipment
19 and associated wiring and received an electrical journeyman certificate
20 from a BAT-approved electrical apprenticeship program;
 - 21 (c) An associate's degree from a state-accredited program and
22 eight thousand verifiable practical hours installing equipment and
23 associated wiring; or
 - 24 (d) A four-year electrical engineering degree and four thousand
25 verifiable practical hours supervising the installation of equipment and

26 associated wiring.

27 3. Electrical contractors who currently hold an electrical license
28 that is in good standing which was issued by any authority in this state
29 that required, prior to January 1, 2005, a written exam, and the
30 applicants have passed such exam to obtain such license and have
31 completed twelve thousand hours of verifiable practical experience,
32 shall be issued a statewide license.

33 4. Notwithstanding any provision of sections 324.800 to 324.845
34 to the contrary, any person operating as an electrical contractor in a
35 political subdivision that does not require the contractor to hold a local
36 license shall not be required to possess a statewide license under
37 sections 324.800 to 324.845 in order to continue to operate as an
38 electrical contractor in such a political subdivision.

39 5. The division, in collaboration with the board, may negotiate
40 reciprocal contracts with other states, the District of Columbia, or
41 territories of the United States which require standards for licensure,
42 registration, or certification considered to be equivalent or more
43 stringent than the requirements for licensure under sections 324.800 to
44 324.845.

45 6. The statewide electrical contractor's license issued under
46 sections 324.800 to 324.845 shall supersede all local electrical
47 contractors' licenses. Political subdivisions shall not be prohibited
48 from establishing their own local electrical contractor's license but
49 shall recognize a statewide license in lieu of a local license for the
50 purposes of performing contracting work or obtaining permits to
51 perform work within such a political subdivision.

 324.830. There is hereby created in the state treasury the
2 "Missouri Electrical Industry Licensing Board Fund", which shall
3 consist of money collected under sections 324.800 to 324.845. The state
4 treasurer shall be custodian of the fund and may approve
5 disbursements from the fund in accordance with sections 30.170 and
6 30.180, RSMo. Upon appropriation, money in the fund shall be used
7 solely for the administration of sections 324.800 to
8 324.845. Notwithstanding the provisions of section 33.080, RSMo, to the
9 contrary, any moneys remaining in the fund at the end of the biennium
10 shall not revert to the credit of the general revenue fund. The state
11 treasurer shall invest moneys in the fund in the same manner as other

12 funds are invested. Any interest and moneys earned on such
13 investments shall be credited to the fund.

324.835. 1. The division shall mail a renewal notice to the last
2 known address of each person licensed pursuant to sections 324.800 to
3 324.845 prior to the renewal date. Failure to provide the division with
4 the information required for renewal or to pay the required fee after
5 such notice shall result in the license being declared inactive and the
6 licensee shall not practice until he or she applies for reinstatement and
7 pays the required fees. The license shall be restored if the application
8 is received within two years of the renewal date.

9 2. Upon request, the division, in collaboration with the board,
10 may grant inactive status to a licensee, if the person:

11 (1) Does not hold himself or herself out as possessing a license
12 required pursuant to sections 324.800 to 324.845 in this state;

13 (2) Does not maintain any continuing competency requirements
14 established by the division, in collaboration with the board.

15 3. If an electrical contractor should transfer employment from
16 one company to another, all permits on the contractor's license must
17 first be cleared. It is the responsibility of the contractor to notify the
18 division of the contractor's intent to transfer employment and any
19 current active permits on the contractor's license when transferring
20 employment. Upon such notification, the division will notify all
21 affected political subdivisions via electronic communication, of the
22 contractor's status. It shall be assumed all permits are cleared if no
23 response is given otherwise by affected political subdivisions within
24 seventy-two hours of the notification.

324.840. 1. The board may refuse to issue or renew or may
2 suspend any license required pursuant to sections 324.800 to 324.845 for
3 one or any combination of causes stated in subsection 4 of this
4 section. The board shall notify the applicant in writing of the reasons
5 for the refusal and shall advise the applicant of his or her right to file
6 a complaint with the administrative hearing commission as provided
7 by chapter 621, RSMo.

8 2. The board shall publish via electronic media a list of valid
9 electrical contractors license holders, contact information and process
10 information for filing grievances, and a list of current enforcement
11 actions against license holders. This information should be updated on

12 a weekly basis.

13 3. The permitting authority of each political subdivision may
14 suspend a contractor's work in that political subdivision for a period
15 of up to thirty days while a complaint is being forwarded by the
16 permitting authority to the board for adjudication.

17 4. The board may cause a complaint to be filed with the
18 administrative hearing commission as provided by chapter 621, RSMo,
19 against any holder of any license required by sections 324.800 to
20 324.845 or any person who has failed to renew or has surrendered his
21 or her license for any one or any combination of the following causes:

22 (1) Use or unlawful possession of any controlled substance, as
23 defined in chapter 195, RSMo, or alcoholic beverage to an extent that
24 such use impairs a person's ability to perform the work of an
25 electrician;

26 (2) The person has been finally adjudicated and found guilty, or
27 entered a plea of guilty or nolo contendere, in a criminal prosecution
28 under the laws of any state or of the United States, for any offense
29 reasonably related to the qualifications, functions, or duties of any
30 profession licensed or regulated by sections 324.800 to 324.845, for any
31 offense an essential element of which is fraud, dishonesty, or an act of
32 violence, or for any offense involving moral turpitude, whether or not
33 sentence is imposed;

34 (3) Use of fraud, deception, misrepresentation, or bribery in
35 securing any license issued pursuant to sections 324.800 to 324.845 or
36 in obtaining permission to take any examination given or required
37 pursuant to sections 324.800 to 324.845;

38 (4) Obtaining or attempting to obtain any fee, charge, tuition, or
39 other compensation by fraud, deception, or misrepresentation;

40 (5) Incompetency, misconduct, gross negligence, fraud,
41 misrepresentation, or dishonesty in the performance of the functions
42 and duties of any profession licensed or regulated by sections 324.800
43 to 324.845;

44 (6) Violation of, or assisting or enabling any person to violate,
45 any provision of sections 324.800 to 324.845 or any lawful rule or
46 regulation adopted pursuant to sections 324.800 to 324.845;

47 (7) Impersonation of any person holding a license or allowing
48 any person to use his or her license;

49 **(8) Disciplinary action against the holder of a license or other**
50 **right to practice any profession regulated by sections 324.800 to 324.845**
51 **granted by another state, territory, federal agency, or country upon**
52 **grounds for which revocation or suspension is authorized in this state;**

53 **(9) A person is finally adjudged insane or incompetent by a court**
54 **of competent jurisdiction;**

55 **(10) Assisting or enabling any person to practice or offer to**
56 **practice any profession licensed or regulated by sections 324.800 to**
57 **324.845 who is not registered and currently eligible to practice**
58 **pursuant to sections 324.800 to 324.845;**

59 **(11) Issuance of a certificate of registration or authority, permit,**
60 **or license based upon a material mistake of fact;**

61 **(12) Violation of any professional trust or confidence;**

62 **(13) Use of any advertisement or solicitation which is false,**
63 **misleading, or deceptive to the general public or persons to whom the**
64 **advertisement or solicitation is primarily directed;**

65 **(14) Unethical conduct as defined in the ethical standards**
66 **adopted by the division and filed with the secretary of state;**

67 **(15) Violation of the drug laws or rules and regulations of this**
68 **state, any other state or federal government.**

69 **5. After the filing of such complaint, the proceedings shall be**
70 **conducted in accordance with the provisions of chapter 621,**
71 **RSMo. Upon a finding by the administrative hearing commission that**
72 **the grounds provided in subsection 2 of this section for disciplinary**
73 **action are met, the board may, singly or in combination, censure or**
74 **place the person named in the complaint on probation with such terms**
75 **and conditions as the board deems appropriate for a period not to**
76 **exceed five years, or may suspend, for a period not to exceed three**
77 **years, or may revoke the license, certificate, or permit.**

78 **6. An individual whose license has been revoked shall wait at**
79 **least one year from the date of revocation to apply for**
80 **relicensure. Relicensure shall be at the discretion of the board after**
81 **compliance with all requirements of sections 324.800 to 324.845 relative**
82 **to the licensing of the applicant for the first time.**

324.845. 1. Any person or corporation who knowingly violates
2 **any provision of sections 324.800 to 324.845 is guilty of a class B**
3 **misdemeanor.**

4 **2. Any officer or agent of a corporation or member or agent of a**
5 **partnership or association, who knowingly and personally participates**
6 **in, or is an accessory to, any violation of sections 324.800 to 324.845 is**
7 **guilty of a class B misdemeanor.**

8 **3. The provisions of this section shall not be construed to release**
9 **any person from civil liability or criminal prosecution pursuant to any**
10 **other law of this state.**

11 **4. The division, in collaboration with the board, may cause a**
12 **complaint to be filed for any violation of sections 324.800 to 324.845 in**
13 **any court of competent jurisdiction and perform such other acts as may**
14 **be necessary to enforce the provisions of sections 324.800 to 324.845.**

✓

Bill

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