

FIRST REGULAR SESSION

SENATE BILL NO. 325

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS FOSTER, CHILDERS AND GOODE.

Read 1st time January 18, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0679S.051

AN ACT

To amend chapter 324, RSMo, by adding thereto eighteen new sections relating to foresters, 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 eighteen new sections, to be known as sections 324.750, 324.753, 324.756, 324.759, 324.762, 324.765, 324.768, 324.771, 324.774, 324.777, 324.780, 324.783, 324.786, 324.789, 324.792, 324.795, 324.798 and 324.801, to read as follows:

324.750. As used in sections 324.750 to 324.801, the following terms shall mean:

- (1) "Board", the Missouri board of registered foresters;**
- (2) "Division", the division of professional registration within the department of economic development;**
- (3) "Practice of Forestry", rendering professional forestry services, including but not limited to, consultation, investigation, evaluation, planning or other forestry activities requiring knowledge, training and experience in forestry principles and techniques. The practice of forestry shall not include services rendered for wages or for salary for the cutting, hauling, handling or processing of forest products;**
- (4) "Registered Forester", a person who, by reason of his or her knowledge of the natural sciences, mathematics, economics, and the principles of forestry and by his or her demonstrated skills and who also has been duly registered and holds a current valid license issued by the board.**

324.753. 1. A state board of registered foresters is created whose duty it shall be to administer the provisions of sections 324.750 to 324.801.

2. The board shall consist of seven members. One member shall be the state

forester, one member shall be the chair of the forestry department of the state university, the remaining members shall be selected and appointed by the governor, with the advice and consent of the senate from lists submitted by the director of the division of professional registration. The chair of the largest membership state organization of registered foresters may submit a list of five registered foresters to the director of the division of professional registration for consideration as a board member, other than the public member. In order to be considered by the director of the division of professional registration, the list must be submitted at least ninety days prior to the expiration of the term of the board member, or as soon as feasible after a vacancy on the board occurs. All board members shall be citizens of the United States, shall be residents of the state of Missouri, shall have the qualifications required by section 324.777, shall have at least three years of professional experience and shall be actively engaged in providing forestry services at least one-half time. The five members of the initial board shall be appointed for terms of one, two, three, four and five years, respectively, and in making the appointment the governor shall designate the term for which each of said members is appointed as provided for above.

3. At the expiration of the term of any member of the board, the governor shall appoint for a term of five years a registered forester having the qualifications required by section 324.777 to succeed the member whose term on said board is expiring.

4. Nothing contained in sections 324.750 to 324.801 shall prohibit any member whose term expires to be reappointed to succeed himself on said board, provided, however, no member shall serve more than two full consecutive terms of office.

5. Each member of the board shall hold office until the expiration of the term for which such member is appointed and until a successor shall have been duly appointed and shall have qualified.

6. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

7. The governor may remove any board member for misconduct, incompetency, neglect of the member's official duties, or for cause.

324.756. Each member of the board shall receive as compensation an amount set by the board by rule not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All staff for the board shall be provided by the division. The compensation and expenses prescribed in sections 324.750 to 324.801 shall be paid out of the professional foresters fund.

324.759. The board shall hold a meeting within thirty days after its members are first appointed and thereafter hold at least two regular meetings each year. Special

meetings shall be held at such time and place as the bylaws of the board provide; provided, that not more than one meeting may be held in any one calendar month. Notice of all meetings shall be given in a manner as determined by a rule of the board. The board shall elect or appoint annually the following officers; a chairman, vice-chairman and a secretary, who shall each be members of the board. A quorum of the board shall consist of not less than four voting members.

324.762. 1. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated pursuant to sections 324.750 to 324.801 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 324.750 to 324.801 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void. The board shall adopt and have an official seal.

2. The board may subpoena witnesses and compel their attendance and may also require them to produce books, papers, maps or documents. Any member of the board may administer oaths of affirmation to witnesses appearing before the board. If any person refuses to appear as a witness before the board, or refuse to testify, or refuse to produce any books, papers or documents, the board may present its petition to the circuit court of Cole county, setting forth the facts, and thereupon the court shall, in a proper case, issue a subpoena to the person, requiring the registrant's attendance before the circuit court and testify or produce the books, papers and documents as may be deemed necessary and pertinent by the board.

3. The board is empowered to apply for relief by injunction, without bond, to restrain any person, partnership or corporation from the commission of any act which is prohibited by sections 324.750 to 324.801. Application for an injunction may be made to the circuit court of Cole County, or the circuit court of the county in which it is alleged that the violation is occurring. The members of the board shall not be personally liable for instituting any such proceedings.

324.765. 1. All fees provided for in sections 324.750 to 324.801 shall be payable to the director of the division of professional registration in the department of economic development who shall keep a record of the account showing the total payments received and shall immediately thereafter transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "Board of Registered Foresters Fund", which is hereby created. All the salaries and expenses for the operation of the board shall be appropriated and paid from such fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. The board is authorized to accept all gifts, bequests and donations from any source whatsoever, and such gifts, bequests and donations shall be used or expended in accordance with their terms or stipulations, but in the absence of any terms or stipulations, the gifts bequests or donations may be used or expended for such purposes as the board may determine. Except as otherwise provided, the board may make expenditures for any purpose which, in the opinion of the board, is reasonably necessary for the proper performance of its duties under the provisions of this chapter, including the expenses of the board's delegates to any annual conventions of, and membership dues to, the Society of American Foresters; provided, that under no circumstances shall the total amount of the expenses and compensation provided for by sections 324.750 to 324.801 exceed the amount of the examination and registration fees, license fees, donations and other monies collected by the board.

324.768. The board shall keep a record of its proceedings and a register of all applications for registration, the register shall show the name, age and residence of each applicant, the date of the application, the place of business of the applicant, the registrant's educational and other qualifications, whether or not an examination was required, whether or not the application was rejected, whether or not a license of registration was granted, the date of the action by the board and such other information as may be deemed necessary by the board. The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

324.771. 1. In order to benefit and protect the public, no person in either public or private capacity shall practice or offer to practice forestry, unless he or she has submitted evidence that he or she is qualified to practice and is registered by the board or unless he or she is specifically exempted from registration under this chapter. It shall be unlawful for any person to practice or offer to practice forestry in this state, or use in connection with his or her name or otherwise assume, use, or advertise any title or description tending to convey the impression that he or she is a registered

forester, unless duly registered or exempt from registration pursuant to sections 324.750 to 324.801.

2. Sections 324.750 to 324.801 shall not be construed to prevent or to affect:

(1) The practice of any other legally recognized profession or trade;

(2) The application of forestry principles and procedures on any timberlands, woodlands, or forest in which any person, firm, partnership, or corporation owns an interest; or persons, firms, partnerships, and corporations having the right to manage and administer forest lands in any legal manner;

(3) The work of an employee or a subordinate of any registered forester holding a license under this chapter; provided, that such work is done under the direction, supervision, and responsibility of a person holding a license pursuant to sections 324.750 to 324.801;

(4) The practice of forestry by officers and employees of the United States government on federally owned lands;

(5) The practice of forestry by officers and employees of this state on state-owned lands;

(6) The conduct of forestry education programs or provision of free forestry advice and assistance or both to timberland owners by nonregistered forester employees of the federal government, and private lands division of the department of conservation of this state in the exercise of their assigned duties.

324.774. A roster showing the names and places of business of all registered foresters qualified according to the provisions of this chapter shall be maintained by the division of professional registration. Copies of this roster shall be mailed to each person registered during the month of January biennially in even numbered calendar years.

324.777. 1. The following requirements shall be considered as minimum evidence that the applicant is qualified to practice forestry and to be registered and licensed pursuant to this chapter. Each applicant shall:

(1) Hold a bachelor's or higher degree from a school approved by the board or accredited by the Society of American Foresters in a forestry curriculum accepted by the board;

(2) Have passed a written or oral examination, or both, designed to show the knowledge and skill obtained through graduation from the school or college;

(3) Have at least three years of experience certified by a registered forester in the practice of forestry of a nature satisfactory to the board and indicating that the applicant is competent to practice forestry; and

(4) Be a person of good character and reputation.

2. The board shall issue licenses only to those applicants who meet the

requirements of this section.

324.780. 1. Application for registration shall be made on forms prescribed and furnished by the board. An application shall contain:

(1) Statements made under oath, showing the education of the applicant and a detailed summary of his or her professional work; and

(2) At least five references, of whom three or more shall be registered foresters or graduates of a curriculum in forestry of four years or more in a school or college approved by the board or accredited by the Society of American Foresters, having personal or professional knowledge of the forestry experience of the applicant.

2. Any proposed subsequent statement, correction or addition to the application shall be given under oath in writing and shall be made a part of the original application.

3. The application fee for a license shall be set annually by the board by rule in an amount not to exceed two hundred dollars, and shall accompany the application.

4. All fees payable pursuant to sections 324.750 to 324.801 shall be collected by the division and transmitted to the director of revenue for deposit in the state treasury to the credit of the board of registered foresters fund established in section 324.765.

324.783. When written or oral examinations, or both, are required, they shall be held at such time and place as the board may determine. The methods of procedure shall be prescribed by the board. A candidate failing an examination may apply for reexamination at the expiration of six months. This examination and all subsequent oral and written examinations shall be granted upon payment of a fee to be determined annually by the board by rule, not to exceed one hundred dollars for each examination.

324.786. 1. The board shall issue a license upon payment of a registration fee as provided for in this chapter to an applicant who, in the opinion of the board, has satisfactorily met all of the requirements set out by this chapter. Licenses shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman of the board. The issuance of a license by the board shall be evidence that the person named therein is entitled to all of the rights and privileges of a registered forester while the said license remains unrevoked or unexpired.

2. Plans, maps, specifications and reports issued by a registrant shall be endorsed with his or her name and license number during the life of the registrant's license. It shall be unlawful for anyone to endorse any document with the name and license number of the registrant after the license has expired or has been revoked, unless said license has been renewed or reissued. It shall be unlawful for any registered forester to endorse any plan, specification, estimate or map unless he or she actually prepared the plan, specification, estimate or map, or has been in the actual charge of the

preparation thereof. A violation of this section shall be a class A misdemeanor.

324.789. 1. Licenses shall expire one year from their date of issue and shall become invalid on that date unless renewed. The division shall notify, at his or her last registered address, every person registered pursuant to sections 324.750 to 324.801 of the date of the expiration of his or her license and the amount of the fee that shall be required for its renewal for one year. The notice shall be mailed one month in advance of the date of the expiration of the licenses. The annual renewal fee for licenses shall be established annually by the board by rule. Renewal of licenses for the following year may be effected at any time during the three months prior to their expiration by the payment of the renewal fee. Registrants who renew their licenses within three months after their expiration shall pay a late renewal fee set by the board by rule. The board shall make an exception to the renewal late fee in the case of a person who is in the armed services of the United States. A registrant who fails to renew a license within three months after any yearly renewal is due shall have the registrant's license revoked.

2. The state board shall adopt by rule a program of continuing education for its registrants. After September 30, 2003, no registrant shall have his or her active license renewed unless, in addition to any other requirements of sections 324.750 to 324.801, the minimum continuing annual education requirements are met. The continuing education program required shall not include testing or examination of the registrants in any manner.

324.792. 1. The board may revoke or suspend the license of any registrant who the board finds to be grossly negligent, incompetent or has committed misconduct in the practice of forestry.

2. The board may designate a person or persons to investigate and report to it upon any charges of fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice against any registrant, as may come to its attention. Any person or persons designated by the board shall receive the same compensation and shall be reimbursed for expenses in the same amount as the board as outlined in section 324.756.

3. Any person may make charges of fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice against any registrant. The charges shall be in writing, shall be sworn to by the person making them and shall be filed with the secretary of the board.

4. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been made. The time and place for the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing shall be personally

served on or mailed to the last known address of the registrant, at least thirty days before the date fixed for the hearing.

5. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him or her and to produce evidence and witnesses in his or her own defense.

6. If, after a hearing, three or more members of the board vote in favor of finding the accused guilty, the board shall enter an order suspending or revoking the license of the registered forester.

7. Any applicant whose license has been suspended or revoked may apply for an administrative review of the proceedings pursuant to sections 621.015 to 621.205, RSMo.

8. The board, by rule, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked when three or more members vote in favor of reissuance. A new license to replace a revoked license may be issued, subject to the rules of the board and at a fee set by the board not to exceed an amount equal to twice the annual renewal fee.

9. Lost, destroyed, or mutilated licenses may be issued at a fee set by the board not to exceed fifty dollars for the issuance.

324.795. Registration shall be determined upon a basis of individual personal qualifications. No firms, companies, partnerships or corporations shall be licensed pursuant to sections 324.750 to 324.801.

324.798. 1. A person not a resident of, and having no established place of business in this state, or who has recently become a resident thereof, may use the title of registered forester and practice forestry provided:

(1) Such person is legally licensed as a registered forester in his or her own state or country and has submitted evidence to the board that the person is so licensed;

(2) The state or country in which the registrant is so licensed:

(a) Has standards for licensing comparable to this state and acceptable to the board; and

(b) Observes these same rules of reciprocity in regard to persons licensed under the provisions of sections 324.750 to 324.801.

(3) Each person seeking the privileges of reciprocity granted pursuant to sections 324.750 to 324.801 shall submit his or her application to the board and shall receive a card or certificate from the board before exercising privileges of reciprocity. The application fee for obtaining a reciprocity card or certificate shall be the same as is charged in this state as in the home state or country of the applicant.

2. Persons practicing forestry in the state through reciprocity shall be subject to the same renewal and expiration as provided in section 324.789.

324.801. Any person who practices or offers to practice the profession of forestry in this state without being registered or exempted in accordance with sections 324.750 to 324.801; or any person who uses in connection with his or her name or otherwise assumes, uses, or advertises any title or description tending to convey the impression that the registrant is a registered forester, without being registered or exempted in accordance with this chapter; or any person who shall present or attempt to use as the registrant's own the license of another; or any person who shall give any false or forged evidence of any kind to the board or any member thereof in obtaining a license; or any person who shall attempt to use an expired or revoked license; or any person, firm, partnership or corporation who shall violate any of the provisions of sections 324.750 to 324.801 shall be guilty of a class A misdemeanor.

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