

SECOND REGULAR SESSION

SENATE BILL NO. 1166

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR DePASCO.

Read 1st time February 14, 2002, and 1,000 copies ordered printed.

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TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 320, RSMo, by adding thereto ten new sections relating to regulation of chimney sweeps, with penalty provisions.

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

Section A. Chapter 320, RSMo, is amended by adding thereto ten new sections, to be known as sections 320.1200, 320.1203, 320.1206, 320.1209, 320.1212, 320.1215, 320.1218, 320.1221, 320.1224 and 320.1227, to read as follows:

320.1200. Sections 320.1200 to 320.1227 shall be known and may be cited as the "Missouri Chimney Safety Act".

320.1203. 1. There is hereby created within the division of fire safety in the department of public safety the "Missouri Chimney Safety Board" which shall be composed of five members appointed by the governor, by and with the advice and consent of the senate, from a list of qualified candidates submitted to the governor by the state fire marshal. Each member shall be a citizen of the United States and a resident of this state for the past five years preceding appointment. Of the five appointed members, one shall be a representative of the division of fire safety, however, such member shall not be a person who is employed by the Missouri chimney safety board; three shall be chimney sweeps who are certified by the Chimney Sweep Institute of America, or its successor organization, and have been in the chimney sweeping and repair business with a principle place of business in this state for at least six years preceding appointment, with two of three appointees being

members of the Midwest Chimney Safety Council, or its successor organization; and one shall be a representative of the insurance industry who has his principle place of business in Missouri.

2. Each member of the board shall be appointed for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, two for a term of two years and one for a term of three years. A vacancy on the board shall be filled for the unexpired term in the same manner as the original appointment. The members shall annually elect a chairperson from among their membership. Any member may be removed from the board by a vote of at least two-thirds of the entire membership of the board. Three members of the board shall constitute a quorum and any action or order of the board shall require the approval of at least three members. All members shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

3. The board shall meet at least four times each year. The board may create advisory subcommittees as it deems necessary.

320.1206. 1. The Missouri chimney safety board shall be responsible for:

(1) Providing for current and comprehensive competency testing and annual licensing of all persons who engage the following occupations for compensation, either directly or indirectly:

(a) Cleaning, sweeping, inspections or preventive maintenance of metal or masonry flues, fireplaces, wood and gas burning fireplace stoves and stove inserts, free-standing wood and gas burning stoves, masonry or metal smoke chambers and vent connectors;

(b) Major or minor repair or rebuilding, relining or replacement of metal or masonry flues and vent connectors, replacement or installation of fireplaces, wood and gas burning stoves and stove inserts; and

(c) Installation of metal or masonry flues and vent connectors;

(2) Promoting all aspects of chimney safety issues to state and local governments, concerning industries and the general public.

2. The board shall exercise and perform all powers and duties necessary to carry out the responsibilities imposed by sections 320.1200 to 320.1227. The board may employ such personnel as it deems necessary to carry out the provisions of sections 320.1200 to 320.1227. Compensation for the employees and funds for other expenses incident to the performance of their duties shall be payable from appropriations made for that purpose.

320.1209. 1. No person shall perform any activity described in subsection 1 of section 320.1206 for compensation unless such person possesses a valid chimney safety

license issued by the board pursuant to sections 320.1200 to 320.1227, except that HEARTH and FPI certified wood and gas specialists may install fireplace, wood and gas burning stoves and stove inserts without obtaining a license and licensed HVAC contractors may install metal flues when installing furnaces, hot water heaters or boiler systems without obtaining a license pursuant to section 320.1206.

2. Any person who is not licensed pursuant to sections 320.1200 to 320.1227 may assist a state-licensed chimney sweep in the performance of his duties, if such person is actively and personally supervised on-site at all times by the state-licensed chimney sweep. The supervising chimney sweep may be liable for the actions of the person under the chimney sweep's supervision.

320.1212. Any person who desires to obtain a valid chimney safety license shall apply to the board for such license on forms furnished by the board. An applicant shall be at least eighteen years of age and pay an examination fee as prescribed by the board. Such applicant shall furnish proof that he or she has passed such examinations as the board may prescribe by rule.

320.1215. 1. Applicants that satisfactorily complete the examination shall pay a licensing fee prescribed by the board by rule. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expenses of administering sections 320.1200 to 320.1227.

2. Every license granted under this section shall be renewed every three years and the board shall issue a new license upon the receipt of the written renewal application and documentation that the licensee has completed such continuing education as the board may prescribe by rule, and the required renewal fee. After three annual renewals, each licensee shall be required to submit an application and be retested on the most current standards for the occupations in subsection 1 of section 320.1206.

320.1218. The Missouri chimney safety board may suspend, revoke or refuse to issue or renew any license under the provisions of sections 320.1200 to 320.1227 for good cause, which shall include, but is not limited to, the performance of services covered under subsection 1 of section 320.1206 in a substandard manner. Any action by the board pursuant to this section may be appealed to the administrative hearing commission as provided by chapter 621, RSMo.

320.1221. Any person who violates the provisions of 320.1209 is guilty of a class A misdemeanor.

320.1224. The board shall set up a disciplinary hearing and review procedure for determination of professional misconduct, license revocations and recommendation of criminal negligence prosecution by the attorney general.

320.1227. 1. The Missouri chimney safety board may promulgate all rules necessary to administer the provisions of sections 320.1200 to 320.1227. The board may charge fees for the testing and licensing of persons who engage in the occupations in subsection 1 of section 320.1206 for compensation either directly or indirectly. All testing and licensing fees shall be deposited with the department of revenue to the credit of the general revenue fund.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section 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. This section 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, 2002, shall be invalid and void.

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