

SECOND REGULAR SESSION

SENATE BILL NO. 1126

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 12, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5011S.011

AN ACT

To repeal section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session and section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, and to enact in lieu thereof one new section relating to private investigators.

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

Section A. Section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session and section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 324.1106, to read as follows:

[324.1106. The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 (3) Any employee, agent, or independent contractor
10 employed by any government agency, division, or department of the
11 state whose work relationship is established by a written contract
12 while working within the scope of employment established under
13 such contract;

14 (4) An attorney performing duties as an attorney, or an
15 attorney's paralegal or employee retained by such attorney
16 assisting in the performance of such duties or investigation on
17 behalf of such attorney;

18 (5) A collection agency or an employee thereof while acting
19 within the scope of employment, while making an investigation
20 incidental to the business of the agency, including an investigation
21 of the location of a debtor or a debtor's property where the contract
22 with an assignor creditor is for the collection of claims owed or due,
23 or asserted to be owed or due, or the equivalent thereof;

24 (6) Insurers and insurance producers licensed by the state,
25 performing duties in connection with insurance transacted by them;

26 (7) Any bank subject to the jurisdiction of the director of
27 the division of finance of the state of Missouri or the comptroller of
28 currency of the United States;

29 (8) An insurance adjuster. For the purposes of sections
30 324.1100 to 324.1148, an "insurance adjuster" means any person
31 who receives any consideration, either directly or indirectly, for
32 adjusting in the disposal of any claim under or in connection with
33 a policy of insurance or engaging in soliciting insurance adjustment
34 business;

35 (9) Any private fire investigator whose primary purpose of
36 employment is the determination of the origin, nature, cause, or
37 calculation of losses relevant to a fire;

38 (10) Employees of a not-for-profit organization or its
39 affiliate or subsidiary, whether for-profit or not-for-profit, whose
40 investigatory activities are limited to making and processing
41 requests for criminal history records and other background
42 information from state, federal, or local databases, including
43 requests for employee background check information under section
44 660.317, RSMo;

45 (11) Any real estate broker, real estate salesperson, or real
46 estate appraiser acting within the scope of his or her license;

47 (12) Expert witnesses who have been certified or accredited
48 by a national or state association associated with the expert's scope
49 of expertise;

50 (13) Any person who does not hold themselves out to the
51 public as a private investigator but is under contract with a state
52 agency or political subdivision;

53 (14) Any person performing duties or conducting
54 investigations relating to serving legal process when such person's
55 investigation is incidental to the serving of legal process; or

56 (15) A consumer reporting agency is defined in 15 U.S.C.
57 Section 1681(a) and its contract and salaried employees.]

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2 private investigator business:

3 (1) A person employed exclusively and regularly by one employer in
4 connection only with the affairs of such employer and where there exists an
5 employer-employee relationship;

6 (2) Any officer or employee of the United States, or of this state or a
7 political subdivision thereof while engaged in the performance of the officer's or
8 employee's official duties;

9 (3) Any employee, agent, or independent contractor employed by any
10 government agency, division, or department of the state whose work relationship
11 is established by a written contract while working within the scope of
12 employment established under such contract;

13 (4) An attorney performing duties as an attorney, or an attorney's
14 paralegal, **independent contractor**, or employee retained by such attorney
15 assisting in the performance of such duties or investigation on behalf of such
16 attorney;

17 (5) A collection agency or an employee thereof while acting within the
18 scope of employment, while making an investigation incidental to the business of
19 the agency, including an investigation of the location of a debtor or a debtor's
20 property where the contract with an assignor creditor is for the collection of
21 claims owed or due, or asserted to be owed or due, or the equivalent thereof;

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23 duties in connection with insurance transacted by them;

24 (7) Any bank subject to the jurisdiction of the director of the division of
25 finance of the state of Missouri or the comptroller of currency of the United
26 States;

27 (8) An insurance adjuster. For the purposes of sections 324.1100 to
28 324.1148, an "insurance adjuster" means any person who receives any
29 consideration, either directly or indirectly, for adjusting in the disposal of any
30 claim under or in connection with a policy of insurance or engaging in soliciting
31 insurance adjustment business;

32 (9) Any private fire investigator whose primary purpose of employment
33 is the determination of the origin, nature, cause, or calculation of losses relevant
34 to a fire;

35 (10) Employees of a not-for-profit organization or its affiliate or subsidiary
36 who makes and processes requests on behalf of health care providers and
37 facilities for employee criminal and other background information under section
38 660.317, RSMo;

39 (11) Any real estate broker, real estate salesperson, or real estate
40 appraiser acting within the scope of his or her license;

41 (12) Expert witnesses who have been certified or accredited by a national
42 or state association associated with the expert's scope of expertise;

43 (13) Any person who does not hold themselves out to the public as a
44 private investigator but is under contract with a state agency or political
45 subdivision; or

46 (14) Any person performing duties or conducting investigations relating
47 to serving legal process when such person's investigation is incidental to the
48 serving of legal process;

49 (15) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a)
50 and its contract and salaried employees.

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