

SECOND REGULAR SESSION

SENATE BILL NO. 994

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time February 23, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

5074S.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 324.900, 324.905, 324.910, 324.915, 324.920, 324.925, 324.930, 324.935, 324.940, and 324.945, to read as follows:

324.900. As used in sections 324.900 to 324.945, unless the context clearly indicates otherwise, the following terms shall mean:

- (1) "Board", the Missouri electrical industry licensing board;**
- (2) "Certifying entity", the nongovernmental agency or association which certifies or registers individuals who have completed academic and training requirements;**
- (3) "Director", the director of the division of professional registration;**
- (4) "Division", the division of professional registration within the department of insurance, financial institutions and professional registration;**
- (5) "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;**
- (6) "Electrical contractor", a person engaged in electrical contracting. No person, firm, corporation, institution, organization, or representative thereof shall engage in electrical contracting without having an individual responsible for such work who is licensed under**

20 sections 324.900 to 324.945. A licensed electrical contractor shall only
21 represent one firm, person, corporation, institution, or organization at
22 one time;

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

27 (8) "Person", an individual, corporation, partnership, association,
28 or other legal entity;

29 (9) "Statewide license", a valid license issued or recognized by
30 the electrical industry licensing board that allows the licensee to
31 practice in any jurisdiction regardless of local licensing requirements.

324.905. 1. There is hereby created within the division of
2 professional registration the "Missouri Electrical Industry Licensing
3 Board". The board shall consist of eight voting members, all of whom
4 shall be citizens of the United States and domiciled within this
5 state. The governor shall appoint the members of the board with the
6 advice and consent of the senate for terms of four years, except as
7 provided in subsection 3 of this section. Four members shall be in good
8 standing with the National Electrical Contractors Association, or any
9 successor organization, two members shall be in good standing with the
10 Associated Builders and Contractors, or any successor organization,
11 and two members shall be in good standing with the Independent
12 Electrical Contractors, or any successor organization. All members
13 shall be chosen from lists submitted by the director of the division of
14 professional registration who shall inquire of the Independent
15 Electrical Contractors Association, Associated Builders and
16 Contractors, and National Electrical Contractors Association, or any
17 successor organizations, to obtain the names of individuals to be
18 considered.

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

22 3. The initial appointments to the board shall be three members
23 for terms of two years, three members for terms of three years, and two
24 members for terms of four years.

25 4. Any member of the board may be removed from the board by

26 the governor for neglect of duty required by law, for incompetency, or
27 for unethical or dishonest conduct. Upon the death, resignation,
28 disqualification, or removal of any member of the board, the governor
29 shall appoint a successor.

324.910. 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 as may be
5 necessary to carry out the provisions of sections 324.900 to 324.945. The
6 division, in collaboration with the board, may promulgate necessary
7 rules compatible with sections 324.900 to 324.945, including, but not
8 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
12 324.900 to 324.945. Any rule or portion of a rule, as that term is defined
13 in section 536.010 that is created under the authority delegated in this
14 section shall become effective only if it complies with and is subject to
15 all of the provisions of chapter 536, and, if applicable, section
16 536.028. This section and chapter 536 are nonseverable and if any of
17 the powers vested with the general assembly pursuant to chapter 536,
18 to review, to delay the effective date, or to disapprove and annul a rule
19 are subsequently held unconstitutional, then the grant of rulemaking
20 authority and any rule proposed or adopted after August 28, 2010, shall
21 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.

324.915. 1. For the purpose of sections 324.900 to 324.945, the
2 division shall:

3 (1) Employ, within the limits of the appropriations for such
4 purpose, employees as are necessary to carry out the provisions of

5 sections 324.900 to 324.945;

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 324.900 to
9 324.945;

10 (4) Deposit all fees collected under sections 324.900 to 324.945, by
11 transmitting such funds to the department of revenue for deposit to the
12 state treasury to the credit of the Missouri electrical industry licensing
13 board fund; and

14 (5) Approve or disapprove certifying entities for professions
15 within the electrical industry included in the scope of sections 324.900
16 to 324.945.

17 2. The division may terminate recognition of any certifying
18 entity included in the scope of sections 324.900 to 324.945 following a
19 subsequent review of the certification or registration procedures of a
20 certifying entity.

324.920. Sections 324.900 to 324.945 shall not apply to work done
2 by:

3 (1) Any employee of an electric utility, a gas corporation as
4 defined in section 386.020, or a water corporation as defined in section
5 386.020;

6 (2) A railroad corporation;

7 (3) A contractor who services the construction and maintenance
8 of power lines or substations of an electric utility corporation, a
9 municipal utility, a rural electric cooperative, a telecommunications
10 company as defined in section 386.020, when engaged in work of the
11 utility;

12 (4) A federally licensed radio or television broadcast station, a
13 commercial mobile radio service provider licensed by the Federal
14 Communications Commission under the commercial mobile radio
15 services rules and regulations;

16 (5) A private broadcast engineering contractor possessing a valid
17 Society of Broadcast Engineers certification; or

18 (6) Contractors whose primary occupation is the design or
19 integration, installation, maintenance, or service of cabling
20 infrastructure and products that transport voice, video, audio, and data
21 signals in a commercial or residential premises.

324.925. 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 at least twenty-one years of age and a United States
7 citizen;

8 (2) Provide proof of insurance in the amount of five hundred
9 thousand dollars, and post a bond with each political subdivision in
10 which the contractor will perform work, as required by that political
11 subdivision;

12 (3) Pass a standardized and nationally accredited electrical
13 assessment examination created and administered by a third party
14 which meets current national industry standards, as determined by the
15 board;

16 (4) Pay for the costs of such examination; and

17 (5) Have completed one of the following:

18 (a) Twelve thousand verifiable practical hours installing
19 equipment and associated wiring;

20 (b) Ten thousand verifiable practical hours installing equipment
21 and associated wiring and received an electrical journeyman certificate
22 from a United States Department of Labor-approved electrical
23 apprenticeship program;

24 (c) An associate's degree from a state-accredited program and
25 eight thousand verifiable practical hours installing equipment and
26 associated wiring; or

27 (d) A four-year electrical engineering degree and four thousand
28 verifiable practical hours supervising the installation of equipment and
29 associated wiring.

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

36 4. Any person operating as an electrical contractor in a political
37 subdivision that does not require the contractor to hold a local license

38 shall not be required to possess a statewide license under sections
39 324.900 to 324.945 in order to continue to operate as an electrical
40 contractor in such political subdivision.

41 5. The division, in collaboration with the board, may negotiate
42 reciprocal agreements with other states, the District of Columbia, or
43 territories of the United States which require standards for licensure,
44 registration, or certification considered to be equivalent or more
45 stringent than the requirements for licensure under sections 324.900 to
46 324.945.

47 6. Political subdivisions shall not be prohibited from establishing
48 their own local electrical contractor's license but shall recognize a
49 statewide license in lieu of a local license for the purposes of
50 performing contracting work or obtaining permits to perform work
51 within such a political subdivision.

324.930. 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 324.900 to 324.945. 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. Upon appropriation, money in the fund shall be used solely for
7 the administration of sections 324.900 to 324.945. Notwithstanding the
8 provisions of section 33.080 to the contrary, any moneys remaining in
9 the fund at the end of the biennium shall not revert to the credit of the
10 general revenue fund. The state treasurer shall invest moneys in the
11 fund in the same manner as other funds are invested. Any interest and
12 moneys earned on such investments shall be credited to the fund.

324.935. 1. The division shall mail a renewal notice to the last
2 known address of each person licensed under sections 324.900 to
3 324.945 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 for reinstatement 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 under sections 324.900 to 324.945 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 transfers employment from one
16 company to another, all permits on the contractor's license shall first
17 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 shall 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.

 324.940. 1. The board may refuse to issue or renew or may
2 suspend any license required under sections 324.900 to 324.945 for one
3 or any combination of causes stated in subsection 4 of this section. The
4 board shall notify the applicant in writing of the reasons for the refusal
5 and shall advise the applicant of his or her right to file a complaint
6 with the administrative hearing commission as provided by chapter
7 621.

8 2. The board shall publish via electronic media and update on a
9 weekly basis a list of valid statewide license holders, a list of current
10 enforcement actions against license holders, and the procedures for
11 filing grievances against licensees.

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

16 4. The board may cause a complaint to be filed with the
17 administrative hearing commission as provided by chapter 621 against
18 any holder of any license required by sections 324.900 to 324.945 or any
19 person who has failed to renew or has surrendered his or her license
20 for any one or any combination of the following causes:

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

25 (2) The person has been finally adjudicated and found guilty, or
26 entered a plea of guilty or nolo contendere, in a criminal prosecution
27 under the laws of any state or of the United States, for any offense
28 reasonably related to the qualifications, functions, or duties of any
29 profession licensed or regulated by sections 324.900 to 324.945, for any
30 offense an essential element of which is fraud, dishonesty, or an act of
31 violence, or for any offense involving moral turpitude, whether or not
32 sentence is imposed;

33 (3) Use of fraud, deception, misrepresentation, or bribery in
34 securing any license issued under sections 324.900 to 324.945 or in
35 obtaining permission to take any examination given or required under
36 sections 324.900 to 324.945;

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

39 (5) Incompetency, misconduct, gross negligence, fraud,
40 misrepresentation, or dishonesty in the performance of the functions
41 and duties of any profession licensed or regulated by sections 324.900
42 to 324.945;

43 (6) Violation of, or assisting or enabling any person to violate,
44 any provision of sections 324.900 to 324.945 or any lawful rule adopted
45 under sections 324.900 to 324.945;

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

48 (8) Disciplinary action against the holder of a license or other
49 right to practice any profession regulated by sections 324.900 to 324.945
50 granted by another state, territory, federal agency, or country upon
51 grounds for which revocation or suspension is authorized in this state;

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

54 (10) Assisting or enabling any person to practice or offer to
55 practice any profession licensed or regulated by sections 324.900 to
56 324.945 who is not registered and currently eligible to practice under
57 sections 324.900 to 324.945;

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

60 (12) Violation of any professional trust or confidence;

61 (13) Use of any advertisement or solicitation which is false,

62 misleading, or deceptive to the general public or persons to whom the
63 advertisement or solicitation is primarily directed;

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

66 (15) Violation of the drug laws or rules of this state, any other
67 state, or the federal government.

68 5. After the filing of such complaint, the proceedings shall be
69 conducted in accordance with the provisions of chapter 621. Upon a
70 finding by the administrative hearing commission that the grounds
71 provided in subsection 4 of this section for disciplinary action are met,
72 the board may, singly or in combination, censure or place the person
73 named in the complaint on probation with such terms and conditions
74 as the board deems appropriate for a period not to exceed five years,
75 or may suspend, for a period not to exceed three years, or may revoke
76 the license, certificate, or permit.

77 6. An individual whose license has been revoked shall wait at
78 least one year from the date of revocation to apply for
79 relicensure. Relicensure shall be at the discretion of the board after
80 compliance with all requirements of sections 324.900 to 324.945 relative
81 to the licensing of the applicant for the first time.

324.945. 1. Any person or corporation who knowingly violates
2 any provision of sections 324.900 to 324.945 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 324.900 to 324.945 is
7 guilty of a class B misdemeanor.

8 3. The division, in collaboration with the board, may cause a
9 complaint to be filed for any violation of sections 324.900 to 324.945 in
10 any court of competent jurisdiction and perform such other acts as may
11 be necessary to enforce the provisions of sections 324.900 to 324.945.

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