

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR

SENATE BILL NO. 118

96TH GENERAL ASSEMBLY

2011

0839L.03T

AN ACT

To repeal sections 198.006 and 198.074, RSMo, and to enact in lieu thereof two new sections relating to sprinkler system requirements in long-term care facilities.

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

Section A. Sections 198.006 and 198.074, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 198.006 and
3 198.074, to read as follows:

198.006. As used in sections 198.003 to 198.186, unless the context
2 clearly indicates otherwise, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or
4 harm;

5 (2) "Activities of daily living" or "ADL", one or more of the following
6 activities of daily living:

7 (a) Eating;

8 (b) Dressing;

9 (c) Bathing;

10 (d) Toileting;

11 (e) Transferring; and

12 (f) Walking;

13 (3) "Administrator", the person who is in general administrative charge
14 of a facility;

15 (4) "Affiliate":

16 (a) With respect to a partnership, each partner thereof;

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

17 (b) With respect to a limited partnership, the general partner and each
18 limited partner with an interest of five percent or more in the limited
19 partnership;

20 (c) With respect to a corporation, each person who owns, holds or has
21 the power to vote five percent or more of any class of securities issued by the
22 corporation, and each officer and director;

23 (d) With respect to a natural person, any parent, child, sibling, or
24 spouse of that person;

25 (5) "Appropriately trained and qualified individual", an individual who
26 is licensed or registered with the state of Missouri in a health care-related
27 field or an individual with a degree in a health care-related field or an
28 individual with a degree in a health care, social services, or human services
29 field or an individual licensed under chapter 344 and who has received facility
30 orientation training [under 19 CSR 30-86042(18)] **required by this chapter**,
31 and dementia training under section 660.050 and twenty-four hours of
32 additional training, approved by the department, consisting of definition and
33 assessment of activities of daily living, assessment of cognitive ability, service
34 planning, and interview skills;

35 (6) "Assisted living facility", any premises, other than a residential care
36 facility, intermediate care facility, or skilled nursing facility, that is utilized
37 by its owner, operator, or manager to provide twenty-four-hour care and
38 services and protective oversight to three or more residents who are provided
39 with shelter, board, and who may need and are provided with the following:

40 (a) Assistance with any activities of daily living and any instrumental
41 activities of daily living;

42 (b) Storage, distribution, or administration of medications; and

43 (c) Supervision of health care under the direction of a licensed
44 physician, provided that such services are consistent with a social model of
45 care; Such term shall not include a facility where all of the residents are
46 related within the fourth degree of consanguinity or affinity to the owner,
47 operator, or manager of the facility;

48 (7) "Community-based assessment", documented basic information and
49 analysis provided by appropriately trained and qualified individuals
50 describing an individual's abilities and needs in activities of daily living,
51 instrumental activities of daily living, vision/hearing, nutrition, social
52 participation and support, and cognitive functioning using an assessment tool

53 approved by the department of health and senior services that is designed for
54 community-based services and that is not the nursing home minimum data set;

55 (8) "Dementia", a general term for the loss of thinking, remembering,
56 and reasoning so severe that it interferes with an individual's daily
57 functioning, and may cause symptoms that include changes in personality,
58 mood, and behavior;

59 (9) "Department", the Missouri department of health and senior
60 services;

61 (10) "Emergency", a situation, physical condition or one or more
62 practices, methods or operations which presents imminent danger of death or
63 serious physical or mental harm to residents of a facility;

64 (11) "Facility", any residential care facility, assisted living facility,
65 intermediate care facility, or skilled nursing facility;

66 (12) "Health care provider", any person providing health care services
67 or goods to residents and who receives funds in payment for such goods or
68 services under Medicaid;

69 (13) "Instrumental activities of daily living", or "IADL", one or more of
70 the following activities:

- 71 (a) Preparing meals;
- 72 (b) Shopping for personal items;
- 73 (c) Medication management;
- 74 (d) Managing money;
- 75 (e) Using the telephone;
- 76 (f) Housework; and
- 77 (g) Transportation ability;

78 (14) "Intermediate care facility", any premises, other than a residential
79 care facility, assisted living facility, or skilled nursing facility, which is
80 utilized by its owner, operator, or manager to provide twenty-four-hour
81 accommodation, board, personal care, and basic health and nursing care
82 services under the daily supervision of a licensed nurse and under the
83 direction of a licensed physician to three or more residents dependent for care
84 and supervision and who are not related within the fourth degree of
85 consanguinity or affinity to the owner, operator or manager of the facility;

86 (15) "Manager", any person other than the administrator of a facility
87 who contracts or otherwise agrees with an owner or operator to supervise the
88 general operation of a facility, providing such services as hiring and training

89 personnel, purchasing supplies, keeping financial records, and making reports;
90 (16) "Medicaid", medical assistance under section 208.151, et seq., in
91 compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social
92 Security Act (42 U.S.C. 301, et seq.), as amended;

93 (17) "Neglect", the failure to provide, by those responsible for the care,
94 custody, and control of a resident in a facility, the services which are
95 reasonable and necessary to maintain the physical and mental health of the
96 resident, when such failure presents either an imminent danger to the health,
97 safety or welfare of the resident or a substantial probability that death or
98 serious physical harm would result;

99 (18) "Operator", any person licensed or required to be licensed under
100 the provisions of sections 198.003 to 198.096 in order to establish, conduct or
101 maintain a facility;

102 (19) "Owner", any person who owns an interest of five percent or more
103 in:

104 (a) The land on which any facility is located;

105 (b) The structure or structures in which any facility is located;

106 (c) Any mortgage, contract for deed, or other obligation secured in
107 whole or in part by the land or structure in or on which a facility is located;
108 or

109 (d) Any lease or sublease of the land or structure in or on which a
110 facility is located. "Owner" does not include a holder of a debenture or bond
111 purchased at public issue nor does it include any regulated lender unless the
112 entity or person directly or through a subsidiary operates a facility;

113 (20) "Protective oversight", an awareness twenty-four hours a day of
114 the location of a resident, the ability to intervene on behalf of the resident, the
115 supervision of nutrition, medication, or actual provisions of care, and the
116 responsibility for the welfare of the resident, except where the resident is on
117 voluntary leave;

118 (21) "Resident", a person who by reason of aging, illness, disease, or
119 physical or mental infirmity receives or requires care and services furnished
120 by a facility and who resides or boards in or is otherwise kept, cared for,
121 treated or accommodated in such facility for a period exceeding twenty-four
122 consecutive hours;

123 (22) "Residential care facility", any premises, other than an assisted
124 living facility, intermediate care facility, or skilled nursing facility, which is

125 utilized by its owner, operator or manager to provide twenty-four-hour care to
126 three or more residents, who are not related within the fourth degree of
127 consanguinity or affinity to the owner, operator, or manager of the facility and
128 who need or are provided with shelter, board, and with protective oversight,
129 which may include storage and distribution or administration of medications
130 and care during short-term illness or recuperation, except that, for purposes
131 of receiving supplemental welfare assistance payments under section 208.030,
132 only any residential care facility licensed as a residential care facility II
133 immediately prior to August 28, 2006, and that continues to meet such
134 licensure requirements for a residential care facility II licensed immediately
135 prior to August 28, 2006, shall continue to receive after August 28, 2006, the
136 payment amount allocated immediately prior to August 28, 2006, for a
137 residential care facility II under section 208.030;

138 (23) "Skilled nursing facility", any premises, other than a residential
139 care facility, an assisted living facility, or an intermediate care facility, which
140 is utilized by its owner, operator or manager to provide for twenty-four-hour
141 accommodation, board and skilled nursing care and treatment services to at
142 least three residents who are not related within the fourth degree of
143 consanguinity or affinity to the owner, operator or manager of the
144 facility. Skilled nursing care and treatment services are those services
145 commonly performed by or under the supervision of a registered professional
146 nurse for individuals requiring twenty-four-hours-a-day care by licensed
147 nursing personnel including acts of observation, care and counsel of the aged,
148 ill, injured or infirm, the administration of medications and treatments as
149 prescribed by a licensed physician or dentist, and other nursing functions
150 requiring substantial specialized judgment and skill;

151 (24) "Social model of care", long-term care services based on the
152 abilities, desires, and functional needs of the individual delivered in a setting
153 that is more home-like than institutional and promotes the dignity,
154 individuality, privacy, independence, and autonomy of the individual. Any
155 facility licensed as a residential care facility II prior to August 28, 2006, shall
156 qualify as being more home-like than institutional with respect to construction
157 and physical plant standards;

158 (25) "Vendor", any person selling goods or services to a health care
159 provider;

160 (26) "Voluntary leave", an off-premise leave initiated by:

161 (a) A resident that has not been declared mentally incompetent or
162 incapacitated by a court; or

163 (b) A legal guardian of a resident that has been declared mentally
164 incompetent or incapacitated by a court.

198.074. 1. Effective August 28, 2007, all new facilities licensed under
2 this chapter on or after August 28, 2007, or any section of a facility licensed
3 under this chapter in which a major renovation has been completed on or after
4 August 28, 2007, as defined and approved by the department, shall install and
5 maintain an approved sprinkler system in accordance with National Fire
6 Protection Association (NFPA) 13.

7 2. Facilities that were initially licensed and had an approved sprinkler
8 system prior to August 28, 2007, shall continue to meet all laws, rules, and
9 regulations for testing, inspection and maintenance of the sprinkler system
10 that were in effect for such facilities on August 27, 2007.

11 3. Multi-level assisted living facilities that accept or retain any
12 individual with a physical, cognitive, or other impairment that prevents the
13 individual from safely evacuating the facility with minimal assistance shall
14 install and maintain an approved sprinkler system in accordance with NFPA
15 13. Single-story assisted living facilities that accept or retain any individual
16 with a physical, cognitive, or other impairment that prevents the individual
17 from safely evacuating the facility with minimal assistance shall install and
18 maintain an approved sprinkler system in accordance with NFPA 13R.

19 4. All residential care and assisted living facilities with more than
20 twenty residents not included in subsection 3 of this section, which are
21 initially licensed under this chapter prior to August 28, 2007, and that do not
22 have installed an approved sprinkler system in accordance with NFPA 13R or
23 13 prior to August 28, 2007, shall install and maintain an approved sprinkler
24 system in accordance with NFPA 13R or 13 by December 31, [2012] **2014**,
25 unless the facility meets the safety requirements of Chapter 33 of existing
26 residential board and care occupancies of NFPA 101 life safety code.

27 5. All skilled nursing and intermediate care facilities not required prior
28 to August 28, 2007, to install and maintain an approved sprinkler system shall
29 install and maintain an approved sprinkler system in accordance with NFPA
30 13 by December 31, [2012] **2014**, unless the facility receives an exemption
31 from the department and presents evidence in writing from a certified
32 sprinkler system representative or licensed engineer that the facility is unable

33 to install an approved National Fire Protection Association 13 system due to
34 the unavailability of water supply requirements associated with this system.

35 6. Facilities that take a substantial step, as specified in subsections 4
36 and 5 of this section, to install an approved NFPA 13R or 13 system prior to
37 December 31, 2012, may apply to the state treasurer's office for a loan in
38 accordance with section 198.075 to install such system. However, such loan
39 shall not be available if by December 31, 2009, the average total
40 reimbursement for the care of persons eligible for Medicaid public assistance
41 in an assisted living facility and residential care facility is equal to or exceeds
42 fifty-two dollars per day. The average total reimbursement includes room,
43 board, and care delivered by the facility, but shall not include payments to the
44 facility for care or services not provided by the facility. [If a facility under
45 this subsection does not have an approved sprinkler system installed by
46 December 31, 2012, such facility shall be required to install and maintain an
47 approved sprinkler system in accordance with NFPA 13 by December 31,
48 2013.] Such loans received under this subsection and in accordance with
49 section 198.075, shall be paid in full as follows:

50 (1) Ten years for those facilities approved for the loan and whose
51 average total reimbursement rate **for fiscal year 2012** for the care of persons
52 eligible for Medicaid public assistance is equal to forty-eight and no more than
53 forty-nine dollars per day;

54 (2) Eight years for those facilities approved for the loan and whose
55 average total reimbursement rate **for fiscal year 2012** for the care of persons
56 eligible for Medicaid public assistance is greater than forty-nine and no more
57 than fifty-two dollars per day; or

58 (3) Five years for those facilities approved for the loan and whose
59 average total reimbursement rate **for fiscal year 2012** for the care of persons
60 eligible for Medicaid public assistance is greater than fifty-two dollars per day.

61 (4) No payments or interest shall be due until the average total
62 reimbursement rate for the care of persons eligible for Medicaid public
63 assistance is equal to or greater than forty-eight dollars.

64 7. (1) All facilities licensed under this chapter shall be equipped with
65 a complete fire alarm system in compliance with NFPA 101, Life Safety Code
66 for Detection, Alarm, and Communication Systems, or shall maintain a system
67 that was approved by the department when such facility was constructed so
68 long as such system is a complete fire alarm system. A complete fire alarm

69 system shall include, but not be limited to, interconnected smoke detectors,
70 automatic transmission to the fire department, dispatching agency, or central
71 monitoring company, manual pull stations at each required exit and
72 attendant's station, heat detectors, and audible and visual alarm indicators. If
73 a facility submits a plan of compliance for installation of a sprinkler system
74 required by this chapter, such facility shall install a complete fire alarm
75 system that complies with NFPA 72 upon installation of the sprinkler
76 system. Until such time that the sprinkler system is installed in the facility
77 which has submitted a plan of compliance, each resident room or any room
78 designated for sleeping in the facility shall be equipped with at least one
79 battery-powered smoke alarm installed, tested, and maintained in accordance
80 with NFPA 72. In addition, any such facility shall be equipped with heat
81 detectors interconnected to the fire alarm system which are installed, tested,
82 and maintained in accordance with NFPA 72 in all areas subject to nuisance
83 alarms, including but not limited to kitchens, laundries, bathrooms,
84 mechanical air handling rooms, and attic spaces.

85 (2) In addition, each floor accessed by residents shall be divided into
86 at least two smoke sections by one-hour rated smoke partitions. No smoke
87 section shall exceed one hundred fifty feet in length. If neither the length nor
88 the width of the floor exceeds seventy-five feet, no smoke-stop partition shall
89 be required. Facilities with a complete fire alarm system and smoke sections
90 meeting the requirements of this subsection prior to August 28, 2007, shall
91 continue to meet such requirements. Facilities initially licensed on or after
92 August 28, 2007, shall comply with such requirements beginning August 28,
93 2007, or on the effective date of licensure.

94 (3) Except as otherwise provided in this subsection, the requirements
95 for complete fire alarm systems and smoke sections shall be enforceable on
96 December 31, 2008.

97 8. The requirements of this section shall be construed to supersede the
98 provisions of section 198.058 relating to the exemption of facilities from
99 construction standards.

100 9. Fire safety inspections of skilled nursing and intermediate care
101 facilities licensed under this chapter for compliance with this section shall be
102 conducted annually by the department. All department inspectors who inspect
103 facilities for compliance under this section shall complete a fire inspector
104 course, as developed by the division of fire safety within the department of

105 public safety, by December 31, 2012. Fire safety inspections of residential care
106 and assisted living facilities licensed under this chapter for compliance with
107 this section shall be conducted annually by the state fire marshal. The
108 provisions of this section shall be enforced by the department or the state fire
109 marshal, depending on which entity conducted the inspection.

110 10. By July 1, 2008, all facilities licensed under this chapter shall
111 submit a plan for compliance with the provisions of this section to the state
112 fire marshal.

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Bill

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