

FIRST REGULAR SESSION

# SENATE BILL NO. 272

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NIEVES.

Read 1st time February 6, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1415S.011

## AN ACT

To amend chapter 320, RSMo, by adding thereto eight new sections relating to fire sprinkler contractors.

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

Section A. Chapter 320, RSMo, is amended by adding thereto eight new sections, to be known as sections 320.400, 320.402, 320.406, 320.408, 320.410, 320.412, 320.414, and 320.416, to read as follows:

**320.400. As used in sections 320.400 to 320.416, the following terms shall mean:**

(1) "Certificate of registration", the document issued to a contractor under sections 320.400 to 320.416;

(2) "Contractor", an organization that offers to undertake, represents itself as being able to undertake, or does undertake the proposed layout and specifications, planning, installation, or servicing of a fire sprinkler system or any part of such a system for pay;

(3) "Fire sprinkler system", a suppression system which requires individual calculation and layout in accordance with nationally recognized standards, such as those of the National Fire Protection Association, to protect the interior or exterior of a specific building, structure, or special hazard from fire by conveying water, with or without other agents, to dispersal openings or devices. Such systems also include any overhead and underground fire mains beginning at the point of service, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, thermal systems used in connection with fire sprinkler systems, and tanks and pumps connected to fire sprinkler systems;

(4) "Inspection", a visual examination of a fire sprinkler system

21 or portion thereof to verify that it appears to be in operating condition  
22 and is free of physical damage;

23 (5) "Installation", the initial placement of fire sprinkler  
24 equipment or the extension, modification, or alteration of equipment  
25 after the initial placement, and includes the inspection and testing of  
26 equipment attendant to the placement or alteration of fire sprinkler  
27 equipment;

28 (6) "NICET", National Institute of Certification in Engineering  
29 Technologies;

30 (7) "Organization", a corporation, a partnership or other business  
31 association, a sole proprietorship, a governmental entity, or any other  
32 legal or commercial entity;

33 (8) "Person", a natural person, including an owner, manager,  
34 officer, employee, or occupant;

35 (9) "Point of service", the point at which the underground piping  
36 for a sprinkler system using water as the extinguishing agent becomes  
37 used exclusively for the sprinkler system;

38 (10) "Registered firm", an organization holding a valid certificate  
39 of registration issued under sections 320.400 to 320.416;

40 (11) "Service", to inspect, test, or repair fire sprinkler equipment  
41 in order to furnish or return the fire sprinkler system to operational  
42 condition, and including maintenance contracts;

43 (12) "Special agent fire suppression system", an approved system,  
44 and components thereof, which requires individual calculations and  
45 layout in accordance with the manufacturer's instructions to determine  
46 the flow rates, nozzle pressures, quantities of extinguishing agent, and  
47 number and types of nozzles for protecting one or more hazards by  
48 suppressing or extinguishing fire. These systems include kitchen hood  
49 fire suppression systems, dry chemical systems, carbon dioxide systems,  
50 halogenated and gaseous agent systems, foam systems, and wet  
51 chemical systems not connected to fire sprinkler systems. Special agent  
52 fire suppression systems shall not include a fire sprinkler system.

320.402. 1. Any contractor who engages in the installation of fire  
2 sprinkler systems or services fire sprinkler systems may register with  
3 the state fire marshal for a certificate of registration.

4 2. The provisions of sections 320.400 to 320.416 and the rules and  
5 regulations promulgated under sections 320.400 to 320.416 shall have

6 uniform force and effect throughout the state. A municipality, county,  
7 or any other local governmental body or jurisdiction may enact or  
8 enforce registration or licensing requirements, and the registration  
9 provisions of sections 320.400 to 320.416 shall not supercede them.

10 3. A municipality, county, or any other local governmental body  
11 or jurisdiction may require a contractor to obtain a permit and pay a  
12 fee for the installation of a fire sprinkler system and require the  
13 installation of such system in conformance with the building code or  
14 other construction requirements of the municipality, county, or any  
15 other local governmental body or jurisdiction.

16 4. Sections 320.400 to 320.416 do not apply to:

17 (1) A person or organization that only sells or supplies products  
18 or materials used in fire sprinkler systems;

19 (2) A person or organization who designs, plans, sells, places, or  
20 maintains special agent fire suppression systems; or

21 (3) Inspection activities performed by a government official as  
22 part of code enforcement activities.

23 5. Nothing in sections 320.400 to 320.416 shall be deemed to limit  
24 or restrict the practice of engineering by licensed professional  
25 engineers.

320.406. 1. The state fire marshal is authorized to promulgate  
2 rules and regulations regarding:

3 (1) The content of applications and the procedures for filing an  
4 application for an initial or renewal certificate of registration in this  
5 state;

6 (2) All applicable fees, set at a level to produce revenue which  
7 shall not exceed the cost and expense of administering the provisions  
8 of sections 320.400 to 320.416;

9 (3) Establishment of procedures for granting reciprocity with  
10 other states.

11 2. Any rule or portion of a rule, as that term is defined in section  
12 536.010 that is created under the authority delegated in this section  
13 shall become effective only if it complies with and is subject to all of  
14 the provisions of chapter 536 and, if applicable, section 536.028. This  
15 section and chapter 536 are nonseverable and if any of the powers  
16 vested with the general assembly pursuant to chapter 536 to review, to  
17 delay the effective date, or to disapprove and annul a rule are

18 subsequently held unconstitutional, then the grant of rulemaking  
19 authority and any rule proposed or adopted after August 28, 2013, shall  
20 be invalid and void.

320.408. 1. One of the following requirements shall be fulfilled  
2 in order to obtain a certificate of registration from the state fire  
3 marshal:

4 (1) The applicant shall employ or contract with a professional  
5 engineer licensed in the state of Missouri that is disciplined in fire  
6 protection; or

7 (2) The applicant shall employ or contract with a person with a  
8 NICET Level III General Plans and Hydraulics and Water Supply  
9 Planning, or NICET IV certification, or equivalent as approved by the  
10 Missouri state fire marshal, in the Water Based System Layout  
11 subfield.

12 2. Any person or organization that holds a certificate of  
13 registration in this state under sections 320.400 to 320.416 may use the  
14 title "certified fire sprinkler contractor". No other person or  
15 organization may use the title "certified fire sprinkler contractor". No  
16 other person or organization shall assume any title or use any  
17 abbreviation or any other words, letters, signs, or devices to indicate  
18 that the person or organization using the same is a certified fire  
19 sprinkler contractor.

20 3. A certificate of registration shall be valid for a period of two  
21 years from the date of issue and is renewable biennially on payment of  
22 a fee; provided however, that the initial certificates of registration  
23 issued on or after August 28, 2013, may be issued for periods of less  
24 than two years and the fee shall be prorated proportionally.

25 4. A fee shall be charged by the state fire marshal for any request  
26 for a duplicate certificate of registration or any request requiring  
27 change to a certificate of registration. The fee shall be set by the fire  
28 marshal.

29 5. Each contractor holding itself out as a "certified fire sprinkler  
30 contractor" shall display its certificate of registration issued under  
31 sections 320.400 to 320.416 in a conspicuous place in the contractor's  
32 place of business.

33 6. Plans, bids, proposals, offers, and installation drawings for fire  
34 sprinkler systems may display the contractor's certificate of

35 registration number.

36 7. A certificate of registration issued under sections 320.400 to  
37 320.416 shall not be transferable.

38 8. There is hereby created in the state treasury the "Fire  
39 Sprinkler Contractor Registration Fund", which shall consist of money  
40 collected under sections 320.400 to 320.416. The state treasurer shall be  
41 custodian of the fund and may approve disbursements from the fund in  
42 accordance with sections 30.170 and 30.180. Upon appropriation, money  
43 in the fund shall be used solely for the administration of sections  
44 320.400 to 320.416. Any money remaining in the fund at the end of the  
45 biennium shall revert to the credit of the general revenue fund. The  
46 state treasurer shall invest moneys in the fund in the same manner as  
47 other funds are invested. Any interest and moneys earned on such  
48 investments shall be credited to the fund.

320.410. 1. As provided in subsection 3 of section 320.408, each  
2 renewal of a certificate of registration issued under sections 320.400 to  
3 320.416 is valid for a period of two years. The certificate of registration  
4 fee is payable on renewal.

5 2. At least thirty days before the expiration of a certificate of  
6 registration, the state fire marshal shall send written notice of the  
7 impending certificate of registration expiration to the registrant at the  
8 last known address.

9 3. The state fire marshal may, by rule, adopt a system under  
10 which certificates of registration expire on various dates during the  
11 year. When the certificate of registration expiration date is less than  
12 two years from its issuance or anniversary date, the fee shall be  
13 prorated on a monthly basis so that each registrant shall pay only that  
14 portion of the fee that is allocable to the number of months during  
15 which the registration is valid. On each subsequent renewal, the total  
16 renewal fee is payable.

320.412. The state fire marshal shall not issue a certificate of  
2 registration under sections 320.400 to 320.416 unless the applicant files  
3 evidence of a general liability insurance policy that includes products  
4 and completed operations coverage. The limits of insurance coverage  
5 required by this section shall be in an amount not less than one million  
6 dollars aggregate for all occurrences per policy year. The general  
7 liability policy shall be conditioned to pay on behalf of the insured

8 those amounts that the insured is legally obligated to pay as damages  
9 because of bodily injury and property damage caused by an occurrence  
10 involving the insured or the insured's servant, officer, agent, or  
11 employee in the conduct of any business registered under sections  
12 320.400 to 320.416.

320.414. 1. The state fire marshal may refuse to issue any  
2 certificate of registration or renew any certificate of registration  
3 required by one or any provisions of sections 320.400 to 320.416 for one  
4 or any combination of reasons stated in subsection 2 of this  
5 section. The state fire marshal shall notify the applicant in writing of  
6 the reasons for the refusal and shall advise the applicant of the right  
7 to file a complaint with the administrative hearing commission as  
8 provided in chapter 621.

9 2. The state fire marshal may cause a complaint to be filed with  
10 the administrative hearing commission as provided in chapter 621  
11 against the holder of any certificate of registration required by sections  
12 320.400 to 320.416 or any person or organization who has failed to  
13 renew or has surrendered their certificate for any one or any  
14 combination of the following causes:

15 (1) Use of fraud, deception, misrepresentation, or bribery in  
16 securing a certificate issued pursuant to the provisions of sections  
17 320.400 to 320.416;

18 (2) Impersonation of any organization holding a certificate or  
19 allowing any person or organization to use his or her certificate;

20 (3) Disciplinary action against the holder of a certificate by  
21 another state, territory, federal agency, or country upon grounds for  
22 which revocation or suspension is authorized in this state;

23 (4) Issuance of a certificate based upon a material mistake of  
24 fact;

25 (5) The person or organization has been finally adjudicated and  
26 found guilty, or entered a plea of guilty or nolo contendere, in a  
27 criminal prosecution under the laws of any state or of the United  
28 States, for any offense reasonably related to the qualifications,  
29 functions, or duties of any profession regulated under sections 320.400  
30 to 320.416, for any offense an essential element of which is fraud,  
31 dishonesty or an act of violence, or for any offense involving moral  
32 turpitude, whether or not sentence is imposed;

33           **(6) Incompetence, misconduct, gross negligence, fraud,**  
34 **misrepresentation, or dishonesty in the performance of the functions**  
35 **or duties of the profession that is regulated by sections 320.400 to**  
36 **320.416;**

37           **(7) Violation of, or assisting or enabling any person or**  
38 **organization to violate, any provision of sections 320.400 to 320.416, or**  
39 **any lawful rule or regulation adopted pursuant to such sections;**

40           **(8) A person is finally adjudged insane or incompetent by a court**  
41 **of competent jurisdiction;**

42           **(9) Operating without at least one million dollars in liability**  
43 **insurance coverage.**

44           **3. After the filing of a complaint pursuant to subsection 2 of this**  
45 **section, the proceedings shall be conducted in accordance with the**  
46 **provisions of chapter 621. Upon a finding by the administrative**  
47 **hearing commission that the grounds, provided in subsection 2 of this**  
48 **section, for disciplinary action are met, the state fire marshal may,**  
49 **singly or in combination, censure or place the person or organization**  
50 **named in the complaint on probation on such terms and conditions as**  
51 **the state fire marshal deems appropriate for a period not to exceed five**  
52 **years, or may suspend, for a period not to exceed three years, or revoke**  
53 **the certificate of registration of the person or organization. An**  
54 **individual whose certificate of registration has been revoked shall wait**  
55 **three years from the date of revocation to apply for another**  
56 **certificate. Certification shall be at the discretion of the state fire**  
57 **marshal after compliance with all requirements of sections 320.400 to**  
58 **320.416 relative to the certification of an applicant for the first time.**

59           **4. The state fire marshal shall maintain an information file**  
60 **containing each complaint filed with the state fire marshal relating to**  
61 **a holder of a certificate of registration.**

**320.416. 1. Upon proper application by the state fire marshal, a**  
2 **court of competent jurisdiction may grant an injunction, restraining**  
3 **order, or other order as may be appropriate to enjoin a person or**  
4 **organization from holding himself, herself, or itself out as a certified**  
5 **fire sprinkler contractor.**

6           **2. Any such actions shall be commenced either in the county in**  
7 **which such conduct occurred or in the county in which the defendant**  
8 **resides.**

9           **3. Any action brought under this section shall be in addition and**  
10 **not in lieu of any penalty provided by law and may be brought**  
11 **concurrently with other actions to enforce sections 320.400 to 320.416.**

✓

Unofficial

Bill

Copy