

FIRST REGULAR SESSION

SENATE BILL NO. 376

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time February 12, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1809S.01I

AN ACT

To amend chapter 324, RSMo, by adding thereto eleven new sections relating to statewide mechanical contractor licenses, 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 eleven new sections, to be known as sections 324.950, 324.953, 324.956, 324.959, 324.962, 324.965, 324.968, 324.971, 324.977, 324.980, and 324.983, to read as follows:

324.950. 1. Sections 324.950 to 324.983 shall be known and may be cited as the "Missouri Statewide Mechanical Contractor Licensing Act".

2. As used in sections 324.950 to 324.983, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Division", the division of professional registration within the department of insurance, financial institutions and professional registration;

(2) "License holder", any person who is granted a statewide license by the division;

(3) "Local license", a valid business or occupational license issued by a Missouri political subdivision;

(4) "Mechanical contractor", a company engaged in mechanical contracting work per the International Code Council (ICC) and NFPA 54, including the design, installation, maintenance, construction, alteration, repair, and inspection of any:

(a) HVAC system;

(b) HVAC duct system;

(c) Exhaust systems;

(d) Combustion air or make up air;

- 21 (e) Chimneys and vents;
- 22 (f) Hydronic piping systems that are part of an HVAC
- 23 system;
- 24 (g) Boilers, water heaters, and pressure vessels;
- 25 (h) Process piping systems;
- 26 (i) Fuel gas distribution piping;
- 27 (j) Fuel gas-fired, fuel oil-fired, and solid fuel appliances;
- 28 (k) Fuel oil piping and storage vessels;
- 29 (l) Fuel gas-fired, fuel oil-fired, and solid fuel appliance venting
- 30 systems;
- 31 (m) Equipment and appliances intended to utilize solar energy
- 32 for space heating or cooling;
- 33 (n) Domestic hot water heating, swimming pool heating, or
- 34 process heating;
- 35 (o) Refrigeration systems, including all equipment and
- 36 components thereof;
- 37 (p) Backflow preventers;
- 38 (q) Medical gas piping;
- 39 (r) Air, oxygen, and vacuum piping; and
- 40 (s) Fire suppression systems.
- 41 Additional certification may be required by the division for a
- 42 particular scope of mechanical work;
- 43 (5) "Office", the office of mechanical contractors within the
- 44 division of professional registration;
- 45 (6) "Person", an individual, corporation, partnership, association,
- 46 or other legal entity;
- 47 (7) "Statewide mechanical contractor license", a valid license
- 48 issued by the division that allows the mechanical contractor and any
- 49 of its employees or manufacturers' representatives or subcontractors
- 50 to practice in any jurisdiction in Missouri regardless of local licensing
- 51 requirements. Political subdivisions cannot require any member of the
- 52 work force of a licensed statewide mechanical contractor to obtain an
- 53 individual occupational license.

324.953. 1. The division shall adopt, implement, rescind, amend,
2 and administer such rules as may be necessary to carry out the
3 provisions of sections 324.950 to 324.983. The division may promulgate
4 necessary rules authorized or as required to explain or clarify sections

5 324.950 to 324.983 including, but not limited to, rules relating to
6 professional conduct, continuing competency requirements for the
7 renewal of licenses, approval of continuing competency programs, fees,
8 and the establishment of ethical standards of business practice for
9 persons holding a license under sections 324.950 to 324.983. Any rule
10 or portion of a rule, as that term is defined in section 536.010, that is
11 created under the authority delegated in this section shall become
12 effective only if it complies with and is subject to all of the provisions
13 of chapter 536, and, if applicable, section 536.028. This section and
14 chapter 536 are nonseverable, and if any of the powers vested with the
15 general assembly pursuant to chapter 536 to review, to delay the
16 effective date, or to disapprove and annul a rule are subsequently held
17 unconstitutional, then the grant of rulemaking authority and any rule
18 proposed or adopted after August 28, 2019, shall be invalid and void.

19 2. For the purpose of sections 324.950 to 324.983, the division
20 shall:

21 (1) Establish all applicable fees, set at an amount which shall not
22 substantially exceed the cost of administering sections 324.950 to
23 324.983; and

24 (2) Deposit all fees collected under sections 324.950 to 324.983 by
25 transmitting such funds to the department of revenue for deposit to the
26 state treasury to the credit of the Missouri mechanical contractor
27 licensing fund.

324.956. There is hereby created the "Office of Mechanical
2 Contractors" to be housed within the division of professional
3 registration. The division shall:

4 (1) Employ, within the limits of the funds appropriated, persons
5 as are necessary to carry out the provisions of sections 324.950 to
6 324.983, including both administrative and professional staff and legal
7 counsel, with the discretion to hire experts in mechanical contracting
8 to advise the division on technical matters related to mechanical
9 contracting;

10 (2) Exercise all budgeting, purchasing, reporting, and related
11 management functions;

12 (3) Conduct investigations to determine compliance with sections
13 324.950 to 324.983; and

14 (4) File suit in its own name on behalf of the office to enforce the

15 provisions of sections 324.950 to 324.983.

324.959. 1. The applicant for a statewide mechanical license shall
2 satisfy the following requirements:

3 (1) Be at least twenty-one years of age;

4 (2) Provide proof of liability insurance in the amount of five
5 hundred thousand dollars and post bond with each political subdivision
6 in which he or she will perform work as required by that political
7 subdivision;

8 (3) Pass one of the following standardized and nationally offered
9 mechanical assessment tests:

10 (a) International Code Council;

11 (b) Prometric; or

12 (c) North American Technician Excellence (NATE) certification;

13 or

14 a similar test that is administered by an independent professional
15 testing agency not affiliated with any political subdivision or the state
16 of Missouri and is approved by the division. The applicant shall pay for
17 all costs associated with the examinations;

18 (4) Complete the application form provided by the division and
19 pay any applicable application fees; and

20 (5) Have completed seven thousand five hundred hours of
21 verifiable field experience in the mechanical industry or a bachelor's
22 or further advanced degree in mechanical or civil engineering from an
23 accredited college or university with a minimum of three years
24 verifiable experience directing and supervising at least one field
25 employee.

26 2. Any applicant for licensure who holds a local license as
27 defined in section 324.950, or other license authorizing him or her to
28 engage in mechanical contracting, who has seven thousand five
29 hundred hours of verifiable field experience in the mechanical
30 industry, and who is otherwise eligible for licensure shall be issued a
31 statewide mechanical license, therefore becoming a statewide
32 mechanical license holder. The provisions of this subsection shall
33 apply only to licenses issued by a political subdivision with the legal
34 authority to issue such licenses.

35 3. If a corporation, firm, institution, organization, company, or
36 representative thereof desires to engage in mechanical contracting

37 licensed under sections 324.950 to 324.985, it shall have in its employ at
38 least one license holder who possesses a statewide license in
39 accordance with sections 324.950 to 324.983. A statewide licensed
40 mechanical license holder shall represent only one corporation, firm,
41 institution, organization, or company at one time.

42 4. The division may issue a mechanical contractor license to any
43 person who holds a current and active license to engage in the practice
44 of a mechanical contractor or as a master pipefitter or master plumber
45 issued by any other state, the District of Columbia, or territories of the
46 United States that require standards for licensure, registration, or
47 certification considered to be equivalent or more stringent than the
48 requirements for licensure under sections 324.950 to 324.983.

324.962. 1. Political subdivisions shall not be prohibited from
2 establishing their own local mechanical contractor's license but shall
3 recognize a statewide license in lieu of a local license for the purposes
4 of performing contracting work or obtaining permits to perform work
5 within such political subdivision. No political subdivision shall require
6 the employees of a statewide licensed mechanical contractor or its
7 subcontractors or manufacturers' representatives to obtain journeyman
8 licenses, apprentice licenses, or occupation licenses that require
9 passing any examination or any special requirements to assess
10 proficiency or mastery of the mechanical trade. The workforce of a
11 statewide licensee shall be deemed eligible to perform mechanical
12 contracting work and to obtain permits to perform such work from any
13 political subdivision within the state of Missouri.

14 2. If a political subdivision does not recognize a statewide
15 license in lieu of a local license for the purposes of performing
16 contracting work or obtaining permits to perform work within the
17 political subdivision, a statewide mechanical contractor licensee may
18 file a complaint with the division. The division shall perform an
19 investigation into the complaint, and if the division finds that the
20 political subdivision failed to recognize a statewide license in
21 accordance with this section, the division shall notify the political
22 subdivision that the political subdivision has violated the provisions of
23 this section and has thirty days to comply with this section. If after
24 thirty days the political subdivision still does not recognize a statewide
25 license, the division shall notify the director of the department of

26 revenue, who shall withhold any moneys the noncompliant political
27 subdivision would otherwise be entitled to from local sales tax, as
28 defined in section 32.085, until the director has received notice from
29 the division that the political subdivision is in compliance with this
30 section. Upon the political subdivision coming into compliance with
31 the provisions of this section, the division shall notify the director of
32 the department of revenue, who shall disburse all funds held under this
33 subsection. Moneys held by the director of the department of revenue
34 under this subsection shall not be deemed to be state funds and shall
35 not be commingled with any funds of the state.

36 3. The provisions of this section shall not prohibit any political
37 subdivision in this state from:

- 38 (1) Enforcing any code or law contained in this section;
- 39 (2) Requiring a business license to perform mechanical
40 contracting work;
- 41 (3) Issuing mechanical contracting permits;
- 42 (4) Enforcing codes of the political subdivision; and
- 43 (5) Inspecting the work of a statewide mechanical contractor.

44 4. Political subdivisions that do not have the authority to issue
45 or require mechanical contractor licenses prior to August 28, 2019, shall
46 not be granted such authority under the provisions of this section.

324.965. There is hereby created in the state treasury the
2 "Missouri Mechanical Contractor Licensing Fund", which shall consist
3 of moneys collected under sections 324.950 to 324.983. 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, moneys in the fund shall be used solely for
7 the administration of sections 324.950 to 324.983. The provisions of
8 section 33.080 to the contrary notwithstanding, moneys in this fund
9 shall not be transferred and placed to the credit of general revenue
10 until the amount in the fund at the end of the biennium exceeds three
11 times the amount of the appropriation from the fund for the preceding
12 fiscal year. The amount, if any, in the fund which shall lapse is that
13 amount in the fund which exceeds the appropriate multiple of the
14 appropriations from the fund for the preceding fiscal year. The state
15 treasurer shall invest moneys in the fund in the same manner as other
16 funds are invested. Any interest and moneys earned on such

17 investments shall be credited to the fund.

324.968. 1. Licenses shall expire on a renewal date established
2 by the division. The term of licensure shall be twenty-four
3 months. The division shall mail a renewal notice to the last known
4 address of each person licensed under sections 324.950 to 324.983 prior
5 to the renewal date. Failure to provide the division with the
6 information required for renewal or to pay the required fee after such
7 notice shall result in the license being declared inactive. The licensee
8 shall not practice until he or she applies for reinstatement and pays the
9 required fees. The license shall be restored if the application for
10 reinstatement is received within two years of the renewal date.

11 2. In addition to other requirements provided by sections 324.950
12 to 324.983 and established by the division, in order to renew such
13 license under this section, the person shall have at least sixteen contact
14 hours of industry-related training.

324.971. Any person operating as a mechanical contractor in a
2 political subdivision that does not require the mechanical contractor
3 to hold a local license, or who operates as a mechanical contractor in
4 a political subdivision that requires a local license possessed by that
5 person, shall not be required to possess a statewide license under
6 sections 324.950 to 324.983 to operate as a mechanical contractor in
7 such political subdivision.

324.977. The statewide license shall be regulated by the division
2 of professional registration and not a state-appointed licensing board.

324.980. 1. The division may refuse to issue any certificate of
2 registration or authority, permit, or license required under sections
3 324.950 to 324.983 for one or any combination of causes stated in
4 subsection 2 of this section. The division shall notify the applicant in
5 writing of the reasons for the refusal and shall advise the applicant of
6 his or her right to file a complaint with the administrative hearing
7 commission as provided by chapter 621.

8 2. The division may cause a complaint to be filed with the
9 administrative hearing commission as provided by chapter 621 against
10 any holder of any certificate of registration or authority, permit, or
11 license required by sections 324.950 to 324.983, or any person who has
12 failed to renew or has surrendered his or her certificate of registration
13 or authority, permit, or license for any one or any combination of the

14 following causes:

15 (1) Use of any controlled substance, as defined in chapter 195, or
16 alcoholic beverage to an extent that such use impairs a person's ability
17 to perform the work of any profession licensed or regulated by sections
18 324.950 to 324.983;

19 (2) The person has been finally adjudicated and found guilty, or
20 entered a plea of guilty or nolo contendere, in a criminal prosecution
21 under the laws of any state or of the United States, for any offense
22 reasonably related to the qualifications, functions, or duties of any
23 profession licensed or regulated under sections 324.950 to 324.983, for
24 any offense involving a controlled substance, or for any offense an
25 essential element of which is fraud, dishonesty, or an act of violence;

26 (3) Use of fraud, deception, misrepresentation, or bribery in
27 securing any certificate of registration or authority, permit, or license
28 issued under sections 324.950 to 324.983 or in obtaining permission to
29 take any examination given or required under sections 324.950 to
30 324.983;

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

33 (5) Incompetency, misconduct, gross negligence, fraud,
34 misrepresentation, or dishonesty in the performance of the functions
35 or duties of any profession licensed or regulated by sections 324.950 to
36 324.983;

37 (6) Violation of, or assisting or enabling any person to violate,
38 any provision of sections 324.950 to 324.983, or of any lawful rule or
39 regulation adopted thereunder;

40 (7) Impersonation of any person holding a certificate of
41 registration or authority, permit, or license or allowing any person to
42 use his or her certificate of registration or authority, permit, license,
43 or diploma from any school;

44 (8) Disciplinary action against the holder of a license or other
45 right to practice any profession regulated by sections 324.950 to 324.983
46 granted by another political subdivision, state, territory, federal
47 agency, or country upon grounds for which revocation or suspension
48 is authorized in this state;

49 (9) A person is finally adjudged mentally incompetent by a court
50 of competent jurisdiction;

51 (10) Assisting or enabling any person to practice or offer to
52 practice any profession licensed or regulated by sections 324.950 to
53 324.983 who is not licensed or registered and currently eligible to
54 practice thereunder;

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

57 (12) Failure to maintain liability coverage as required for initial
58 licensure;

59 (13) Violation of any professional trust or confidence;

60 (14) Use of any advertisement or solicitation which is false,
61 misleading, or deceptive to the general public or persons to whom the
62 advertisement or solicitation is primarily directed; or

63 (15) Failure to post bond as required by any local jurisdiction.

64 3. After the filing of such complaint, the proceedings shall be
65 conducted in accordance with the provisions of chapter 621. Upon a
66 finding by the administrative hearing commission that the grounds
67 provided in subsection 2 of this section for disciplinary action are met,
68 the division may, singly or in combination, censure or place the person
69 named in the complaint on probation on such terms and conditions as
70 the division deems appropriate for a period not to exceed five years, or
71 may suspend, for a period not to exceed three years, or revoke any
72 certificate of registration or authority, permit, or license issued under
73 sections 324.950 to 324.983.

74 4. An individual whose certificate of registration or authority,
75 permit, or license has been revoked shall wait three years from the date
76 of revocation to apply for any certificate of registration or authority,
77 permit, or license under sections 324.950 to 324.983. Any certificate of
78 registration or authority, permit, or license shall be issued at the
79 discretion of the board after compliance with all the requirements of
80 sections 324.950 to 324.983 relative to the licensing or registration of
81 the applicant for the first time.

82 5. The division may file suit to enforce compliance, including the
83 authority to seek injunctions and restraining orders to enjoin any
84 person from:

85 (1) Offering to engage or engaging in the performance of any acts
86 or practices for which a license is required upon a showing that such
87 acts or practices were performed or offered to be performed without a

88 certificate of registration or authority, permit, or license;

89 (2) Engaging in the practice of business authorized by a license
90 issued under a building trades contractor law upon a showing that the
91 license holder presents a substantial probability of serious harm to the
92 health, safety, or welfare of any resident of this state or owner or lessee
93 of real property within this state; or

94 (3) Refusing to recognize a statewide license as a valid license
95 within any political subdivision, or requiring journeymen or
96 apprentices to be individually licensed or requiring subcontractors and
97 manufacturer's representatives, or other members of the contractor's
98 workforce to be licensed.

99 6. The division may assess fines for violations of any of the
100 provisions of sections 324.950 to 324.983 in an amount not to exceed five
101 thousand dollars per occurrence upon a judicial or administrative
102 finding of violation of law.

103 7. The division may compel the production of documents, things,
104 or persons by subpoena.

105 8. The division may refer any violations of the provisions of any
106 state law or local ordinance relating to the work performed by a
107 licensee to the appropriate state or local official.

324.983. 1. Any person that knowingly violates any provision of
2 sections 324.950 to 324.983 is guilty of a class B misdemeanor.

3 2. Any officer or agent of a corporation or member or agent of a
4 partnership or association who knowingly and personally participates
5 in or is an accessory to any violation of sections 324.950 to 324.983 is
6 guilty of a class B misdemeanor.

7 3. The division may file suit for any violation of sections 324.950
8 to 324.983 in any court of competent jurisdiction and perform such
9 other acts as may be necessary to enforce the provisions of sections
10 324.950 to 324.983.

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