

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 11

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
 2 eleven new sections, to be known as sections 324.950, 324.953,
 3 324.956, 324.959, 324.962, 324.965, 324.968, 324.971, 324.977,
 4 324.980, and 324.983, to read as follows:

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

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

7 (1) "Division", the division of professional
 8 registration within the department of commerce and insurance;

9 (2) "Field employee", any person who is an employee of
 10 a mechanical contractor and is engaged in mechanical work at
 11 a jobsite within Missouri;

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

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

16 (5) "Mechanical contractor", a company engaged in
 17 mechanical contracting work per the International Code
 18 Council (ICC) and National Fire Protection Association
 19 (NFPA) .

20 (a) Such contracting work shall include the design,
21 installation, maintenance, construction, alteration, repair,
22 and inspection of any:

- 23 a. HVAC system;
- 24 b. HVAC duct system;
- 25 c. Exhaust systems;
- 26 d. Combustion air or make up air;
- 27 e. Chimneys and vents;
- 28 f. Hydronic piping systems that are part of an HVAC
29 system;
- 30 g. Boilers, water heaters, and pressure vessels;
- 31 h. Process piping systems;
- 32 i. Fuel gas distribution piping;
- 33 j. Fuel gas-fired, fuel, and oil-fired appliances;
- 34 k. Fuel oil piping and storage vessels;
- 35 l. Fuel gas-fired and fuel oil-fired appliance venting
36 systems;
- 37 m. Equipment and appliances intended to utilize solar
38 energy for spa heating or cooling;
- 39 n. Domestic hot water heating, swimming pool heating,
40 or process heating;
- 41 o. Refrigeration systems, including all equipment and
42 components thereof;
- 43 p. Backflow preventers;
- 44 q. Medical gas piping;
- 45 r. Air, oxygen, and vacuum piping; and
- 46 s. Chillers and cooling towers.

47 (b) Notwithstanding the provisions of this section to
48 the contrary, "mechanical contractor" shall not include, and
49 the provisions of sections 324.950 to 324.983 shall not
50 apply to, the design, installation, maintenance,
51 construction, alteration, repair, or inspection of any:

52 a. Solid-fuel or gas-fueled hearth appliance, such as
53 wood stoves and fireplaces, including manufacturer specified
54 venting systems, fireplace chimneys, outdoor cooking
55 appliances with manufacturer specified venting systems,
56 outdoor fireplaces, and outdoor firepits;

57 b. Propane-related equipment for which certification
58 is required by any regulation adopted pursuant to
59 subdivision (3) of subsection 13 of section 323.025; or

60 c. Fire sprinkler or suppression system.

61 Additional certification may be required by the division for
62 a particular scope of mechanical work;

63 (6) "Office", the office of mechanical contractors
64 within the division of professional registration;

65 (7) "Person", an individual, corporation, partnership,
66 association, or other legal entity;

67 (8) "Statewide mechanical contractor license", a valid
68 license issued by the division that allows the mechanical
69 contractor and any of its employees or manufacturers'
70 representatives or subcontractors to practice in any
71 jurisdiction in Missouri regardless of local licensing
72 requirements. Political subdivisions shall not require any
73 member of the work force of a licensed statewide mechanical
74 contractor to obtain an individual occupational license.

324.953. 1. The division shall adopt, implement,
2 rescind, amend, and administer such rules as may be
3 necessary to carry out the provisions of sections 324.950 to
4 324.983. The division may promulgate necessary rules
5 authorized or as required to explain or clarify sections
6 324.950 to 324.983 including, but not limited to, rules
7 relating to professional conduct, continuing competency
8 requirements for the renewal of licenses, approval of
9 continuing competency programs, fees, and the establishment
10 of ethical standards of business practice for persons

11 holding a license under sections 324.950 to 324.983. Any
12 rule or portion of a rule, as that term is defined in
13 section 536.010, that is created under the authority
14 delegated in this section shall become effective only if it
15 complies with and is subject to all of the provisions of
16 chapter 536 and, if applicable, section 536.028. This
17 section and chapter 536 are nonseverable and if any of the
18 powers vested with the general assembly pursuant to chapter
19 536 to review, to delay the effective date, or to disapprove
20 and annul a rule are subsequently held unconstitutional,
21 then the grant of rulemaking authority and any rule proposed
22 or adopted after August 28, 2021, shall be invalid and void.

23 2. For the purpose of sections 324.950 to 324.983, the
24 division shall:

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

28 (2) Deposit all fees collected under sections 324.950
29 to 324.983 by transmitting such funds to the department of
30 revenue for deposit to the state treasury to the credit of
31 the Missouri mechanical contractor licensing fund.

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

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

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

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

15 (4) File suit in its own name on behalf of the office
16 to enforce the provisions of sections 324.950 to 324.983.

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

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

4 (2) Provide proof of liability insurance in the amount
5 of one million dollars and post bond with each political
6 subdivision in which he or she will perform work as required
7 by that political subdivision. If a political subdivision
8 requires any license holder to be named on a document,
9 including but not limited to the bond, the license holder of
10 the mechanical contractor shall be allowed to provide
11 services in the political subdivision;

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

14 (a) International Code Council;

15 (b) Prometric; or

16 (c) International Association of Plumbing and
17 Mechanical Officials (IAPMO); or

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

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

25 (5) Have completed seven thousand five hundred hours
26 of verifiable field experience in mechanical contracting
27 work or a bachelor's or further advanced degree in
28 mechanical or civil engineering from an accredited college
29 or university with a minimum of three years verifiable

30 experience directing and supervising at least one field
31 employee.

32 2. Any applicant for licensure who holds a local
33 license, or other license authorizing him or her to engage
34 in mechanical contracting, who has seven thousand five
35 hundred hours of verifiable field experience in mechanical
36 contracting work, and who is otherwise eligible for
37 licensure shall be issued a statewide mechanical license.
38 The provisions of this subsection shall apply only to
39 licenses issued by a political subdivision with the legal
40 authority to issue such licenses.

41 3. If a corporation, firm, institution, organization,
42 company, or representative thereof desires to engage in
43 mechanical contracting under sections 324.950 to 324.985, it
44 shall have in its employ at least one statewide license
45 holder in accordance with sections 324.950 to 324.983. A
46 statewide mechanical license holder shall represent only one
47 corporation, firm, institution, organization, or company at
48 one time. A mechanical contractor shall have one license
49 holder responsible for offering Missouri based field
50 employees eight contact hours of industry training per year;
51 such mechanical contractor shall be responsible for
52 providing proof of training to the division upon request.
53 In the event of a loss of a license holder, a mechanical
54 contractor shall remain in good standing with the division
55 for six months after notifying the division of the change in
56 status. Within the six-month period, a new license holder
57 shall be registered with the division. If no license holder
58 is registered within such six-month period, the division
59 shall declare the mechanical contractor inactive.

60 4. The division may issue a mechanical contractor
61 license to any person who holds a current and active license
62 to engage in the practice of a mechanical contractor or as a

63 master pipefitter or master plumber issued by any other
64 state, the District of Columbia, or territories of the
65 United States that require standards for licensure,
66 registration, or certification considered to be equivalent
67 or more stringent than the requirements for licensure under
68 sections 324.950 to 324.983.

69 5. Where the contact information of a mechanical
70 contractor's employees is required to fulfill the
71 obligations of a license, such contact information shall be
72 considered a trade secret and therefore not a public record
73 under chapter 610.

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

17 2. If a political subdivision does not recognize a
18 statewide license in lieu of a local license for the
19 purposes of performing contracting work or obtaining permits
20 to perform work within the political subdivision, a
21 statewide mechanical contractor licensee may file a
22 complaint with the division. The division shall perform an

23 investigation into the complaint, and if the division finds
24 that the political subdivision failed to recognize a
25 statewide license in accordance with this section, the
26 division shall notify the political subdivision that the
27 political subdivision has violated the provisions of this
28 section and has thirty days to comply with this section. If
29 after thirty days the political subdivision still does not
30 recognize a statewide license, the division shall notify the
31 director of the department of revenue, who shall withhold
32 any moneys the noncompliant political subdivision would
33 otherwise be entitled to from local sales tax, as defined in
34 section 32.085, until the director has received notice from
35 the division that the political subdivision is in compliance
36 with this section. Upon the political subdivision coming
37 into compliance with the provisions of this section, the
38 division shall notify the director of the department of
39 revenue, who shall disburse all funds held under this
40 subsection. Moneys held by the director of the department
41 of revenue under this subsection shall not be deemed to be
42 state funds and shall not be commingled with any funds of
43 the state.

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

46 (1) Enforcing any technical code or law contained in
47 this section;

48 (2) Requiring a business license to perform mechanical
49 contracting work;

50 (3) Issuing mechanical contracting permits;

51 (4) Enforcing technical codes of the political
52 subdivision; and

53 (5) Inspecting the work of a statewide mechanical
54 contractor.

55 4. Political subdivisions that do not have the
56 authority to issue or require mechanical contractor licenses
57 prior to August 28, 2021, shall not be granted such
58 authority under the provisions of this section.

324.965. There is hereby created in the state treasury
2 the "Missouri Mechanical Contractor Licensing Fund", which
3 shall consist of moneys collected under sections 324.950 to
4 324.983. The state treasurer shall be custodian of the fund
5 and may approve disbursements from the fund in accordance
6 with sections 30.170 and 30.180. Upon appropriation, moneys
7 in the fund shall be used solely for the administration of
8 sections 324.950 to 324.983. The provisions of section
9 33.080 to the contrary notwithstanding, moneys in this fund
10 shall not be transferred and placed to the credit of general
11 revenue until the amount in the fund at the end of the
12 biennium exceeds three times the amount of the appropriation
13 from the fund for the preceding fiscal year. The amount, if
14 any, in the fund which shall lapse is that amount in the
15 fund which exceeds the appropriate multiple of the
16 appropriations from the fund for the preceding fiscal year.
17 The state treasurer shall invest moneys in the fund in the
18 same manner as other funds are invested. Any interest and
19 moneys earned on such investments shall be credited to the
20 fund.

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

10 reinstatement and pays the required fees. The license shall
11 be restored if the application for reinstatement is received
12 within two years of the renewal date.

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

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

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

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

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

15 authority, permit, or license for any one or any combination
16 of the following causes:

17 (1) Use of any controlled substance, as defined in
18 chapter 195, or alcoholic beverage to an extent that such
19 use impairs a person's ability to perform the work of any
20 profession licensed or regulated by sections 324.950 to
21 324.983;

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

31 (3) Use of fraud, deception, misrepresentation, or
32 bribery in securing any certificate of registration or
33 authority, permit, or license issued under sections 324.950
34 to 324.983 or in obtaining permission to take any
35 examination given or required under sections 324.950 to
36 324.983;

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

40 (5) Incompetency, misconduct, gross negligence, fraud,
41 misrepresentation, or dishonesty in the performance of the
42 functions or duties of any profession licensed or regulated
43 by sections 324.950 to 324.983;

44 (6) Violation of, or assisting or enabling any person
45 to violate, any provision of sections 324.950 to 324.983, or
46 of any lawful rule or regulation adopted thereunder;

47 (7) Impersonation of any person holding a certificate
48 of registration or authority, permit, or license or allowing
49 any person to use his or her certificate of registration or
50 authority, permit, license, or diploma from any school;

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

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

59 (10) Assisting or enabling any person to practice or
60 offer to practice any profession licensed or regulated by
61 sections 324.950 to 324.983 who is not licensed or
62 registered and currently eligible to practice thereunder;

63 (11) Issuance of a certificate of registration or
64 authority, permit, or license based upon a material mistake
65 of fact;

66 (12) Failure to maintain liability coverage as
67 required for initial licensure;

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

69 (14) Use of any advertisement or solicitation which is
70 false, misleading, or deceptive to the general public or
71 persons to whom the advertisement or solicitation is
72 primarily directed; or

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

75 3. After the filing of such complaint, the proceedings
76 shall be conducted in accordance with the provisions of
77 chapter 621. Upon a finding by the administrative hearing
78 commission that the grounds provided in subsection 2 of this
79 section for disciplinary action are met, the division may,

80 singly or in combination, censure or place the person named
81 in the complaint on probation on such terms and conditions
82 as the division deems appropriate for a period not to exceed
83 five years, or may suspend, for a period not to exceed three
84 years, or revoke any certificate of registration or
85 authority, permit, or license issued under sections 324.950
86 to 324.983.

87 4. An individual whose certificate of registration or
88 authority, permit, or license has been revoked shall wait
89 three years from the date of revocation to apply for any
90 certificate of registration or authority, permit, or license
91 under sections 324.950 to 324.983. Any certificate of
92 registration or authority, permit, or license shall be
93 issued at the discretion of the board after compliance with
94 all the requirements of sections 324.950 to 324.983 relative
95 to the licensing or registration of the applicant for the
96 first time.

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

100 (1) Offering to engage or engaging in the performance
101 of any acts or practices for which a license is required
102 upon a showing that such acts or practices were performed or
103 offered to be performed without a certificate of
104 registration or authority, permit, or license;

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

111 (3) Refusing to recognize a statewide license as a
112 valid license within any political subdivision, or requiring

113 journeymen or apprentices to be individually licensed or
114 requiring subcontractors' and manufacturers'
115 representatives, or other members of the contractor's
116 workforce to be licensed.

117 6. The division may assess fines for violations of any
118 of the provisions of sections 324.950 to 324.983 in an
119 amount not to exceed five thousand dollars per occurrence
120 upon a judicial or administrative finding of violation of
121 law.

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

124 8. The division may refer any violations of the
125 provisions of any state law or local ordinance relating to
126 the work performed by a licensee to the appropriate state or
127 local official.

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

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

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