

SECOND REGULAR SESSION

HOUSE BILL NO. 1533

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIESE.

Read 1st time February 19, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4626L.011

AN ACT

To amend chapter 324, RSMo, by adding thereto ten new sections relating to logging licensing, 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
2 known as sections 324.1160, 324.1163, 324.1166, 324.1169, 324.1172, 324.1175, 324.1178,
3 324.1181, 324.1184, and 324.1187, to read as follows:

**324.1160. As used in sections 324.1160 to 324.1184, unless the context clearly means
2 otherwise, the following terms shall mean:**

3 (1) "Board", the Missouri logging industry licensing board;

4 (2) "Certifying entity", the nongovernmental agency or association which certifies
5 or registers individuals who have completed education and training requirements;

6 (3) "Director", the director of the division of professional registration;

7 (4) "Division", the division of professional registration within the department of
8 economic development;

9 (5) "License", a valid license issued or recognized by the board;

10 (6) "Logger" or "logging contractor", a person engaged in logging;

11 (7) "Logging", the business of tree felling, skidding, or harvesting for commercial
12 purposes;

13 (8) "Nonpublic member", an individual who represents a professional association
14 on the board;

15 (9) "Person", an individual, corporation, partnership, association, or other legal
16 entity;

17 (10) "Public member", an individual who represents the public and not a

18 professional association on the board.

324.1163. 1. There is hereby created within the division of professional registration
2 a board to be known as the "Missouri Logging Industry Licensing Board". The board
3 shall consist of seven voting members including one public member and the state forester,
4 all of whom shall be citizens of the United States and domiciled within this state. The
5 governor shall appoint the members of the board with the advice and consent of the senate
6 for terms of four years, except as provided in subsection 3 of this section. Each of the five
7 nonpublic members shall have been a logger contractor for at least five years immediately
8 preceding his or her appointment to the board and shall at all times be a holder of a logger
9 contractor license in this state. Each nonpublic member shall be chosen from lists
10 submitted by the director who shall inquire of the Missouri Forest Products Association
11 to obtain the names of individuals to be considered.

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

15 3. The initial appointments to the board shall be two members for terms of two
16 years, two members for terms of three years, one member for a term of four years, and one
17 public member for a term of four years.

18 4. Any member of the board may be removed from the board by the governor for
19 neglect of duty required by law, for incompetency, or for unethical or dishonest conduct.
20 Upon the death, resignation, disqualification, or removal of any member of the board, the
21 governor shall appoint a successor.

324.1166. 1. The board shall elect annually a chairperson and a vice chairperson
2 from their membership.

3 2. The division in collaboration with the board shall adopt, implement, rescind,
4 amend, and administer such rules and regulations as may be necessary to carry out the
5 provisions of sections 324.1160 to 324.1184. The division in collaboration with the board
6 may promulgate necessary rules compatible with sections 324.1160 to 324.1184, including
7 but not limited to, rules relating to professional conduct, continuing competency
8 requirements for renewal of licenses, approval of continuing competency programs, and
9 the establishment of ethical standards of practice for persons holding a license under
10 sections 324.1160 to 324.1184.

11 3. The board shall convene at the request of the director or as the board shall
12 determine. The board shall hold a regular meeting at least once per year.

13 4. Each member of the board shall receive as compensation an amount set by the
14 division not to exceed fifty dollars per day for each day devoted to the affairs of the board
15 and may be reimbursed for actual and necessary expenses incurred in the performance of
16 the member's official duties.

17 **5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
18 **that is created under the authority delegated in this section shall become effective only if**
19 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
20 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
21 **and if any of the powers vested with the general assembly under chapter 536, RSMo, to**
22 **review, to delay the effective date, or to disapprove and annul a rule are subsequently held**
23 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
24 **after August 28, 2004, shall be invalid and void.**

324.1169. For the purpose of sections 324.1160 to 324.1184, the division shall:

- 2 **(1) Employ within the limits of the appropriations for that purpose employees as**
3 **are necessary to carry out the provisions of sections 324.1160 to 324.1184;**
- 4 **(2) Exercise all administrative functions;**
- 5 **(3) Establish all applicable fees set at an amount which shall not substantially**
6 **exceed the cost of administering sections 324.1160 to 324.1184;**
- 7 **(4) Deposit all fees collected under sections 324.1160 to 324.1184, by transmitting**
8 **such funds to the department of revenue for deposit to the state treasury to the credit of**
9 **the Missouri logger industry licensing board fund;**
- 10 **(5) Approve or disapprove certifying entities for professions within the logging**
11 **industry included in the scope of sections 324.1160 to 324.1184; and**
- 12 **(6) The division may terminate recognition of any certifying entity included in the**
13 **scope of sections 324.1160 to 324.1184 following a subsequent review of the certification of**
14 **registration procedures of a certifying entity.**

324.1172. 1. The applicant applying for a two-year logger contractor's license shall
2 **be twenty-one years of age, a United States citizen, provide proof of insurance, and post**
3 **a bond in an amount set by the board. The applicant shall have:**

- 4 **(1) Initially completed forty hours of educational requirements as established by**
5 **the certifying entity; and**
- 6 **(2) Every two years thereafter completed continuing competency as prescribed by**
7 **the board.**

324.1175. The "Missouri Logger Industry Licensing Board Fund" is hereby
2 **created. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys**
3 **in the Missouri logger industry licensing board fund shall not be transferred and placed**
4 **to the credit of general revenue until the amount in the fund at the end of the biennium**
5 **exceeds three times the amount of appropriation from the fund for the preceding fiscal**
6 **year. All fees shall be set at an amount which shall not substantially exceed the cost of**
7 **administering sections 324.1160 to 324.1184.**

324.1178. 1. The division shall mail a renewal notice to the last known address of
2 **each person licensed under sections 324.1160 to 324.1184 prior to the renewal date. Failure**

3 to provide the division with the information required for renewal or to pay the required
4 fee after such notice shall result in the license being declared inactive and the licensee shall
5 not practice until he or she applies for reinstatement and pays the required fees. The
6 license shall be restored if the application is received within two years of the renewal date.

7 2. Upon request, the division in collaboration with the board may grant inactive
8 status to a licensee, if the person:

9 (1) Does not hold himself or herself out as possessing a license required under
10 sections 324.1160 to 324.1184 in this state;

11 (2) Maintains any continuing competency requirements; and (3) Remits any fee
12 that may be required.

324.1181. 1. The board may refuse to issue or renew any certificate of registration
2 or authority, permit, or license required under sections 324.1181 to 324.1184 for one or any
3 combination of causes stated in subsection 2 of this section. The board shall notify the
4 applicant in writing of the reasons for the refusal and shall advise the applicant of his or
5 her right to file a complaint with the administrative hearing commission as provided by
6 chapter 621, RSMo.

7 2. The board may cause a complaint to be filed with the administrative hearing
8 commission as provided by chapter 621, RSMo, against any holder of any certificate of
9 registration or authority, permit, or license required by sections 324.1160 to 324.1184 or
10 any person who has failed to renew or has surrendered his or her certificate of registration
11 or authority, permit, or license for any one or any combination of the following causes:

12 (1) Use or unlawful possession of any controlled substance, as defined in chapter
13 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to
14 perform the work of a logger;

15 (2) The person has been finally adjudicated and found guilty or entered a plea of
16 guilty or nolo contendere in a criminal prosecution under the laws of any state or of the
17 United States for any offense reasonably related to the qualifications, functions, or duties
18 of any profession licensed or regulated by sections 324.1160 to 324.1184, for any offense an
19 essential element of which is fraud, dishonesty, or an act of violence, or for any offense
20 involving moral turpitude, whether or not sentence is imposed;

21 (3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate
22 of registration or authority, permit, or license issued under sections 324.1160 to 324.1184
23 or in obtaining permission to take any examination given or required under sections
24 324.1160 to 324.1184;

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

27 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or

28 **dishonesty in the performance of the functions and duties of any profession licensed or**
29 **regulated by sections 324.1160 to 324.1184;**

30 **(6) Violation of or assisting or enabling any person to violate any provision of**
31 **sections 324.1160 to 324.1184 or any lawful rule or regulation adopted under sections**
32 **324.1160 to 324.1184;**

33 **(7) Impersonation of any person holding a certificate of registration or authority,**
34 **permit, license, or allowing any person to use his or her certificate of registration or**
35 **authority, permit, license, or diploma from any school;**

36 **(8) Disciplinary action against the holder of a license or other right to practice any**
37 **profession regulated by sections 324.1160 to 324.1184 granted by another state, territory,**
38 **federal agency, or country upon grounds for which revocation or suspension is authorized**
39 **in this state;**

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

42 **(10) Assisting or enabling any person to practice or offer to practice any profession**
43 **licensed or regulated by sections 324.1160 to 324.1184 who is not registered and currently**
44 **eligible to practice under sections 324.1160 to 324.1184;**

45 **(11) Issuance of a certificate of registration or authority, permit, or license based**
46 **upon a material mistake of fact;**

47 **(12) Violation of any professional trust or confidence;**

48 **(13) Use of any advertisement or solicitation which is false, misleading, or deceptive**
49 **to the general public or persons to whom the advertisement or solicitation is primarily**
50 **directed;**

51 **(14) Unethical conduct as defined in the ethical standards adopted by the division**
52 **and filed with the secretary of state; or**

53 **(15) Violation of the drug laws or rules and regulations of this state, any other state,**
54 **or federal government.**

55 **3. After the filing of such complaint, the proceedings shall be conducted in**
56 **accordance with the provisions of chapter 621, RSMo. Upon a finding by the**
57 **administrative hearing commission that the grounds provided in subsection 2 of this**
58 **section for disciplinary action are met, the board may singly or in combination censure or**
59 **place the person named in the complaint on probation with such terms and conditions as**
60 **the board deems appropriate for a period not to exceed five years, or may suspend for a**
61 **period not to exceed three years, or may revoke the license, certificate, or permit.**

62 **4. An individual whose license has been revoked shall wait at least one year from**
63 **the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the**
64 **board after compliance with all requirements of sections 324.1160 to 324.1184 relative to**
65 **the licensing of the applicant for the first time.**

2 **324.1184. 1. Any person who knowingly violates any provision of sections 324.1160**
3 **to 324.1184 is guilty of a class B misdemeanor.**

4 **2. Any officer or agent of a corporation or member or agent of a partnership or**
5 **association, who knowingly and personally participates in or is an accessory to any**
6 **violation of sections 324.1160 to 324.1184 is guilty of a class B misdemeanor.**

7 **3. The provisions of this section shall not be construed to release any person from**
8 **civil liability or criminal prosecution under any other law of this state.**

9 **4. The division in collaboration with the board may cause a complaint to be filed**
10 **for any violation of sections 324.1160 to 324.1184 in any court of competent jurisdiction**
11 **and perform such other acts as may be necessary to enforce the provisions of sections**
12 **324.1160 to 324.1184.**

13 **324.1187. Public entities of this state performing commercial timber harvesting**
14 **activities shall use trained loggers.**