

SECOND REGULAR SESSION

# HOUSE BILL NO. 1670

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time February 2, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

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### AN ACT

To repeal sections 621.100 and 621.110, RSMo, and to enact in lieu thereof two new sections relating to service of notice by the administrative hearing commission in licensing cases.

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

Section A. Sections 621.100 and 621.110, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 621.100 and 621.110, to read as follows:

621.100. 1. Upon receipt of a written complaint from an agency named in section  
2 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such  
3 complaint from the attorney general, the administrative hearing commission shall cause a copy  
4 of said complaint to be served upon such licensee in person or by certified mail, together with  
5 a notice of the place of and the date upon which the hearing on said complaint will be held. **If**  
6 **service cannot be accomplished in person or by certified mail, notice by publication as**  
7 **described in subsection 3 of section 506.160, RSMo, shall be allowed; any commissioner is**  
8 **authorized to act as a court or judge would in that section, and any employee of the**  
9 **commission is authorized to act as a clerk would in that section.** In any case initiated upon  
10 complaint of the attorney general, the agency which issued the license shall be given notice of  
11 such complaint and the date upon which the hearing will be held by delivery of a copy of such  
12 complaint and notice to the office of such agency or by certified mail. Such agency may  
13 intervene and may retain the services of legal counsel to represent it in such case.

14 2. In any case initiated under this section, the custodian of the records of an agency may  
15 prepare a sworn affidavit stating truthfully pertinent information regarding the license status of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 the licensee charged in the complaint, including only: the name of the licensee; his license  
17 number; its designated date of expiration; the date of his original Missouri licensure; the  
18 particular profession, practice or privilege licensed; and the status of his license as current and  
19 active or otherwise. This affidavit shall be received as substantial and competent evidence of  
20 the facts stated therein notwithstanding any objection as to the form, manner of presentment or  
21 admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the  
22 statements therein; provided, however, that the procedures specified in section 536.070, RSMo,  
23 shall apply to the introduction of this affidavit in any case where the status of this license  
24 constitutes a material issue of fact in the proof of the cause charged in the complaint.

621.110. Upon a finding in any cause charged by the complaint for which the license  
2 may be suspended or revoked as provided in the statutes and regulations relating to the  
3 profession or vocation of the licensee, the commission shall deliver or transmit by [certified]  
4 mail to the agency which issued the license the record and a transcript of the proceedings before  
5 the commission together with the commission's findings of fact and conclusions of law. The  
6 commission may make recommendations as to appropriate disciplinary action but any such  
7 recommendations shall not be binding upon the agency. A copy of the findings of fact,  
8 conclusions of law and the commission's recommendations, if any, shall be [served upon]  
9 **delivered or transmitted by mail to the licensee [in person or by certified mail] if the licensee's**  
10 **whereabouts are known, and to any attorney who represented the licensee.** Within thirty  
11 days after receipt of the record of the proceedings before the commission and the findings of fact,  
12 conclusions of law, and recommendations, if any, of the commission, the agency shall set the  
13 matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee  
14 of the time and place of the hearing, provided that such hearing may be waived by consent of the  
15 agency and licensee where the commission has made recommendations as to appropriate  
16 disciplinary action. In case of such waiver by the agency and licensee, the recommendations of  
17 the commission shall become the order of the agency. The licensee may appear at said hearing  
18 and be represented by counsel. The agency may receive evidence relevant to said issue from the  
19 licensee or any other source. After such hearing the agency may order any disciplinary measure  
20 it deems appropriate and which is authorized by law. In any case where the commission fails to  
21 find any cause charged by the complaint for which the license may be suspended or revoked, the  
22 commission shall dismiss the complaint, and so notify all parties.

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