

FIRST REGULAR SESSION

# HOUSE BILL NO. 952

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor), DEMPSEY, NANCE, SCHAD, FRANZ, DENISON, DAY, NOLTE, KINGERY, WILSON (119), BRUNS, SATER, RUESTMAN, PAGE, CORCORAN, BIVINS, CHAPPELLE-NADAL AND NORR (Co-sponsors).

Read 1st time February 22, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2306L.02I

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### AN ACT

To repeal sections 198.073, 198.076, 198.079, and 198.086, RSMo, and to enact in lieu thereof eight new sections relating to fire protection in long-term care facilities.

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

Section A. Sections 198.073, 198.076, 198.079, and 198.086, RSMo, are repealed and  
2 eight new sections enacted in lieu thereof, to be known as sections 198.056, 198.057, 198.059,  
3 198.073, 198.076, 198.079, 198.086, and 1, to read as follows:

**198.056. 1. All facilities licensed under this chapter shall install and maintain an  
2 approved sprinkler system in accordance with the National Fire Protection Association  
3 (NFPA) 13; except that, the department may provide exceptions from such requirement  
4 for residential care facilities and single-story assisted living facilities that admit or retain  
5 individuals who require no more than minimal assistance to evacuate the facility to allow  
6 the installation and maintenance of an approved sprinkler system in accordance with  
7 NFPA 13R.**

**8 2. All skilled nursing facilities and intermediate care facilities initially licensed on  
9 or after August 28, 2007, shall install and maintain an approved sprinkler system in  
10 accordance with NFPA 13 beginning August 28, 2007. Multi-level assisted living facilities  
11 that accept or retain any individual with a physical, cognitive, or other impairment that  
12 prevents the individual from safely evacuating the facility with minimal assistance shall**

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.

13 install and maintain an approved sprinkler system in accordance with NFPA 13 effective  
14 August 28, 2007. Single-story assisted living facilities that accept or retain any individual  
15 with a physical, cognitive, or other impairment that prevents the individual from safely  
16 evacuating the facility with minimal assistance shall install and maintain an approved  
17 sprinkler system in accordance with NFPA 13 or 13R effective August 28, 2007. Effective  
18 August 28, 2010, such single-story assisted living facilities shall install and maintain an  
19 approved sprinkler system in accordance with NFPA 13.

20       3. Residential care facilities, single-story assisted living facilities that admit or  
21 retain individuals who require no more than minimal assistance to evacuate the facility,  
22 intermediate care facilities, and skilled nursing facilities that were initially licensed and  
23 had an approved sprinkler system installed prior to August 28, 2007, shall continue to meet  
24 all laws, rules, and regulations for testing, inspection, and maintenance of the sprinkler  
25 system that were in effect for such facilities on August 27, 2007, until compliance with  
26 NFPA 13 is implemented on or before August 28, 2010.

27       4. Except as otherwise provided in this section, the requirements for approved  
28 sprinkler systems set forth in subsections 1 to 3 of this section shall become effective August  
29 28, 2010.

30       5. The requirements of this section shall be construed to supersede the provisions  
31 of section 198.058 relating to the exemption of facilities from construction standards.

198.057. 1. (1) All facilities licensed under this chapter shall be equipped with a  
2 complete fire alarm system in compliance with NFPA 101, Life Safety Code for Detection,  
3 Alarm, and Communication Systems as referenced in NFPA 72. A complete fire alarm  
4 system shall include, but not be limited to, interconnected smoke detectors throughout the  
5 facility, automatic transmission to the fire department, manual pull stations at each exit  
6 and nurses' station, heat detectors, and audible and visual alarm indicators.

7       (2) In addition, each floor accessed by residents shall be divided into at least two  
8 smoke sections by one-hour rated smoke-stop partitions. No smoke section shall exceed one  
9 hundred fifty feet in length. If neither the length nor the width of the floor exceeds  
10 seventy-five feet, no smoke-stop partition shall be required. Facilities with a complete fire  
11 alarm system and smoke sections meeting the requirements of this subsection prior to  
12 August 28, 2007, shall continue to meet such requirements. Facilities initially licensed on  
13 or after August 28, 2007, shall comply with such requirements beginning August 28, 2007,  
14 or on the effective date of licensure.

15       2. Except as otherwise provided in this section, the requirements for complete fire  
16 alarm systems and smoke sections shall be enforceable on August 28, 2010.

17           **3. The requirements of this section shall be construed to supersede the provisions**  
18 **of section 198.058 relating to the exemption of facilities from construction standards.**

**198.059. 1. All facilities licensed under this chapter shall have electrical systems**  
2 **installed and maintained in accordance with NFPA 70, National Electric Code. A qualified**  
3 **electrician shall complete electrical wiring and installations, including any modifications**  
4 **to the electrical system and shall conduct an inspection of the electrical system annually to**  
5 **determine and certify compliance of the system with the National Electric Code. Such**  
6 **inspections shall include, but not be limited to, an inspection of flexible cords, plugs, and**  
7 **connectors, appliances, hot water heaters, office equipment, receptacle outlets, lighting**  
8 **fixtures, equipment grounding, switch rooms, junction boxes, switches, and emergency**  
9 **equipment.**

10           **2. For purposes of this section, a "qualified technician" means a person who has**  
11 **completed a formal apprenticeship in the electrician trade or has three or more years of**  
12 **on-the-job training in the electrician trade, and who is licensed or certified in the city or**  
13 **county in which the facility is located and is bonded and/or insured.**

14           **3. Facilities with electrical systems installed and maintained in accordance with**  
15 **NFPA 70, National Electric Code prior to August 28, 2007, shall continue to meet such**  
16 **requirements. Facilities initially licensed on or after August 28, 2007, shall comply with**  
17 **this section beginning August 28, 2007, or on the effective date of licensure.**

18           **4. Except as otherwise provided in this section, the requirements for installation**  
19 **and maintenance of electrical systems in compliance with NFPA 70, National Electric Code**  
20 **shall be enforceable on August 28, 2008.**

**198.073. 1. A residential care facility shall admit or retain only those persons who are**  
2 **capable mentally and physically of negotiating a normal path to safety using assistive devices or**  
3 **aids when necessary, and who may need assisted personal care within the limitations of such**  
4 **facilities, and who do not require hospitalization or skilled nursing care.**

5           **2. Notwithstanding the provisions of subsection 1 of this section, those persons**  
6 **previously qualified for residence who may have a temporary period of incapacity due to illness,**  
7 **surgery, or injury, which period does not exceed forty-five days, may be allowed to remain in a**  
8 **residential care facility or assisted living facility if approved by a physician.**

9           **3. Any facility licensed as a residential care facility II on August 27, 2006, shall be**  
10 **granted a license as an assisted living facility, as defined in section 198.006, on August 28, 2006,**  
11 **regardless of the laws, rules, and regulations for licensure as an assisted living facility as long**  
12 **as such facility continues to meet all laws, rules, and regulations that were in place on August**  
13 **27, 2006, for a residential care facility II. At such time that the average total reimbursement, not**  
14 **including residents' cost-of-living increases in their benefits from the Social Security**

15 Administration after August 28, 2006, for the care of persons eligible for Medicaid in an assisted  
16 living facility is equal to or exceeds forty-one dollars per day, all facilities with a license as an  
17 assisted living facility shall meet all laws, rules, and regulations for licensure as an assisted living  
18 facility. Nothing in this section shall be construed to allow any facility that has not met the  
19 requirements of subsections 4 and 6 of this section to care for any individual with a physical,  
20 cognitive, or other impairment that prevents the individual from safely evacuating the facility.

21 4. Any facility licensed as an assisted living facility, as defined in section 198.006,  
22 except for facilities licensed under subsection 3 of this section, may admit or retain an individual  
23 for residency in an assisted living facility only if the individual does not require hospitalization  
24 or skilled nursing placement, and only if the facility:

25 (1) Provides for or coordinates oversight and services to meet the needs of the resident  
26 as documented in a written contract signed by the resident, or legal representative of the resident;

27 (2) Has twenty-four-hour staff appropriate in numbers and with appropriate skills to  
28 provide such services;

29 (3) Has a written plan for the protection of all residents in the event of a disaster,  
30 including keeping residents in place, evacuating residents to areas of refuge, evacuating residents  
31 from the building if necessary, or other methods of protection based on the disaster and the  
32 individual building design;

33 (4) Completes a pre-move-in screening with participation of the prospective resident;

34 (5) Completes for each resident a community-based assessment, as defined in  
35 subdivision (7) of section 198.006:

36 (a) Upon admission;

37 (b) At least semiannually; and

38 (c) Whenever a significant change has occurred in the resident's condition which may  
39 require a change in services;

40 (6) Based on the assessment in subsection 7 of this section and subdivision (5) of this  
41 subsection, develops an individualized service plan in partnership with the resident, or legal  
42 representative of the resident, that outlines the needs and preferences of the resident. The  
43 individualized service plan will be reviewed with the resident, or legal representative of the  
44 resident, at least annually, or when there is a significant change in the resident's condition which  
45 may require a change in services. The signatures of an authorized representative of the facility  
46 and the resident, or the resident's legal representative, shall be contained on the individualized  
47 service plan to acknowledge that the service plan has been reviewed and understood by the  
48 resident or legal representative;

49 (7) Makes available and implements self-care, productive and leisure activity programs  
50 which maximize and encourage the resident's optimal functional ability;

- 51 (8) Ensures that the residence does not accept or retain a resident who:  
52 (a) Has exhibited behaviors that present a reasonable likelihood of serious harm to  
53 himself or herself or others;  
54 (b) Requires physical restraint;  
55 (c) Requires chemical restraint. As used in this paragraph, the following terms mean:  
56 a. "Chemical restraint", a psychopharmacologic drug that is used for discipline or  
57 convenience and not required to treat medical symptoms;  
58 b. "Convenience", any action taken by the facility to control resident behavior or  
59 maintain residents with a lesser amount of effort by the facility and not in the resident's best  
60 interest;  
61 c. "Discipline", any action taken by the facility for the purpose of punishing or penalizing  
62 residents;  
63 (d) Requires skilled nursing services as defined in subdivision (23) of section 198.006  
64 for which the facility is not licensed or able to provide;  
65 (e) Requires more than one person to simultaneously physically assist the resident with  
66 any activity of daily living, with the exception of bathing and transferring;  
67 (f) Is bed-bound or similarly immobilized due to a debilitating or chronic condition; and  
68 (9) Develops and implements a plan to protect the rights, privacy, and safety of all  
69 residents and to protect against the financial exploitation of all residents;  
70 (10) Complies with the training requirements of subsection 8 of section 660.050, RSMo.  
71 5. Exceptions to paragraphs (d) to (f) of subdivision (8) of subsection 4 of this section  
72 shall be made for residents on hospice, provided the resident, designated representative, or both,  
73 and the assisted living provider, physician, and licensed hospice provider all agree that such  
74 program of care is appropriate for the resident.  
75 6. If an assisted living facility accepts or retains any individual with a physical, cognitive,  
76 or other impairment that prevents the individual from safely evacuating the facility with minimal  
77 assistance, the facility shall:  
78 (1) Have sufficient staff present and awake twenty-four hours a day to assist in the  
79 evacuation;  
80 (2) Include an individualized evacuation plan in the service plan of the resident; and  
81 (3) [Be equipped with an automatic sprinkler system in compliance with National Fire  
82 Protection Association Code 13 or National Fire Protection Association Code 13R, and an  
83 automated fire door system and smoke alarms in compliance with 13-3.4 of the 1997 Life Safety  
84 Codes for Existing Health Care Occupancy, or for multilevel facilities, be equipped with an  
85 automatic sprinkler system in compliance with National Fire Protection Association Code 13 and

86 each floor shall be divided into at least two smoke sections and fire alarms in compliance with  
87 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy;

88 (4)] Take necessary measures to provide residents with the opportunity to explore the  
89 facility and, if appropriate, its grounds; and

90 [(5)] (4) Use a personal electronic monitoring device for any resident whose physician  
91 recommends the use of such device.

92 7. An individual admitted or readmitted to the facility shall have an admission physical  
93 examination by a licensed physician. Documentation should be obtained prior to admission but  
94 shall be on file not later than ten days after admission and shall contain information regarding  
95 the individual's current medical status and any special orders or procedures that should be  
96 followed. If the individual is admitted directly from a hospital or another long-term care facility  
97 and is accompanied on admission by a report that reflects his or her current medical status, an  
98 admission physical shall not be required.

99 8. Facilities licensed as an assisted living facility shall disclose to a prospective resident,  
100 or legal representative of the resident, information regarding the services the facility is able to  
101 provide or coordinate, the costs of such services to the resident, and the resident conditions that  
102 will require discharge or transfer, including the provisions of subdivision (8) of subsection 4 of  
103 this section.

104 9. After January 1, 2008, no entity shall hold itself out as an assisted living facility or  
105 advertise itself as an assisted living facility without obtaining a license from the department to  
106 operate as an assisted living facility. Any residential care facility II licensed under this chapter  
107 that does not use the term assisted living in the name of its licensed facility on or before May 1,  
108 2006, shall be prohibited from using such term after August 28, 2006, unless such facility meets  
109 the requirements for an assisted living facility in subsection 4 of this section.

110 10. [For assisted living facilities built after August 28, 2006, or which have major  
111 renovations after August 27, 2006, such single-level assisted living facilities or the major  
112 renovation portion shall be equipped with an automatic sprinkler system in compliance with  
113 National Fire Protection Association Code 13 or 13R of the 1997 Life Safety Codes for Existing  
114 Health Care Occupancy, or for such multilevel assisted living facilities or the major renovation  
115 portion shall be equipped with an automatic sprinkler system in compliance with National Fire  
116 Protection Association Code 13 and each floor shall be divided into two smoke sections and fire  
117 alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care  
118 Occupancy. Existing facilities seeking to be licensed as assisted living facilities shall meet the  
119 fire safety standards for residential care facilities II in effect on August 28, 2006, unless such  
120 facilities seek to admit one or more individuals with physical, cognitive, or other impairments

121 that prevent the individuals from safely evacuating the facility with minimal assistance, in which  
122 case such facilities shall comply with subsection 6 of this section.

123 11.] The department of health and senior services shall promulgate rules to ensure  
124 compliance with this section. Any rule or portion of a rule, as that term is defined in section  
125 536.010, RSMo, that is created under the authority delegated in this section shall become  
126 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
127 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
128 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
129 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
130 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
131 after August 28, 2006, shall be invalid and void.

198.076. The department shall promulgate reasonable standards and regulations for all  
2 residential care facilities and all assisted living facilities. The standards and regulations shall  
3 take into account the level of care provided and the number and type of residents served by the  
4 facility to insure maximum flexibility. These standards and regulations shall relate to:

5 (1) The number and qualifications of employed and contract personnel having  
6 responsibility for any of the services provided for residents **and requirements that all**  
7 **employees and contract personnel be awake, dressed, and prepared to assist residents in**  
8 **case of emergency;**

9 (2) The equipment, facilities, services and supplies essential to the health and welfare  
10 of the residents;

11 (3) Fire safety [and] , **including resident smoking in designated areas only,**  
12 **unannounced fire drills, fire safety training, and notification to the department of fires and**  
13 **fire watches;**

14 (4) Sanitation in the facility;

15 [(4)] (5) Diet, which shall be based on good nutritional practice;

16 [(5)] (6) Personal funds and property of residents;

17 [(6)] (7) Resident rights and resident grievance procedures appropriate to the levels of  
18 care, size and type of facility;

19 [(7)] (8) Record keeping appropriate to the levels of care, size and type of facility;

20 [(8)] (9) Construction of the facility;

21 [(9)] (10) Care of residents;

22 **(11) Emergency/disaster preparedness plans, including individual emergency plans**  
23 **for residents at particular risk in the event of an emergency.**

198.079. The department shall promulgate reasonable standards and regulations for all  
2 intermediate care facilities and all skilled nursing facilities. The standards and regulations shall

3 take into account the level of care provided and the type of residents served by the facility. These  
4 standards and regulations shall relate to:

5 (1) The number and qualifications of employed and contract personnel having  
6 responsibility for any of the services provided for residents **and requirements that all**  
7 **employees and contract personnel be awake, dressed, and prepared to assist in case of**  
8 **emergency;**

9 (2) The equipment, facilities, services and supplies essential to the health and welfare  
10 of the residents;

11 (3) Fire safety [and] , **including resident smoking in designated areas only,**  
12 **unannounced fire drills, fire safety training, and notification to the department of fires and**  
13 **fire watches;**

14 (4) Sanitation in the facility;

15 [(4)] (5) Diet, which shall be related to the needs of each resident and based on good  
16 nutritional practice and on recommendations which may be made by the physician attending the  
17 resident;

18 [(5)] (6) Personal funds and property of residents;

19 [(6)] (7) Resident rights and resident grievance procedures;

20 [(7)] (8) Record keeping, including clinical and personnel records;

21 [(8)] (9) The construction of the facility, including plumbing, heating, ventilation and  
22 other housing conditions which shall insure the health, safety and comfort of residents and  
23 protection from fire hazards;

24 [(9)] (10) Care of residents;

25 [(10)] (11) Social and rehabilitative service;

26 [(11)] (12) Staff training and continuing education;

27 **(13) Emergency/disaster preparedness plans, including individual emergency plans**  
28 **for residents at particular risk in the event of an emergency.**

198.086. 1. The department of health and senior services shall develop and implement  
2 a demonstration project designed to establish a licensure category for health care facilities that  
3 wish to provide treatment to persons with Alzheimer's disease or Alzheimer's-related dementia.  
4 The division shall also:

5 (1) Inform potential providers of the demonstration project and seek letters of intent;

6 (2) Review letters of intent and select provider organizations to participate in the  
7 demonstration project. Ten such organizations may develop such projects using an existing  
8 license and additional organizations shall be newly licensed facilities with no more than thirty  
9 beds per project. One demonstration project shall be at a stand-alone facility of no more than  
10 one hundred twenty beds designed and operated exclusively for the care of residents with



11 Alzheimer's disease or dementia within a county of the first classification with a charter form of  
12 government with a population over nine hundred thousand. A total of not more than three  
13 hundred beds may be newly licensed through the demonstration projects. All projects shall  
14 maintain their pilot status until a complete evaluation is completed by the division of aging, in  
15 conjunction with a qualified Missouri school or university, and a written determination is made  
16 from such evaluation that the pilot project is successful;

17 (3) Monitor the participants' compliance with the criteria established in this section;

18 (4) Recommend legislation regarding the licensure of dementia-specific residential care  
19 based on the results of the demonstration project; and

20 (5) Submit a report regarding the division's activities and recommendations for  
21 administrative or legislative action on or before November fifteenth of each year to the governor,  
22 the president pro tem of the senate and the speaker of the house of representatives.

23 2. The director of the division [of aging] shall:

24 (1) Develop a reimbursement methodology to reasonably and adequately compensate the  
25 pilot projects for the costs of operation of the project, and require the filing of annual cost reports  
26 by each participating facility which shall include, but not be limited to, the cost equivalent of  
27 unpaid volunteer or donated labor;

28 (2) Process the license applications of project participants;

29 (3) Monitor each participant to assure its compliance with the requirements and that the  
30 life, health and safety of residents are assured;

31 (4) Require each participating facility to complete a minimum data set form for each  
32 resident occupying a pilot bed;

33 (5) Require the division of aging to assign a single team of the same surveyors to inspect  
34 and survey all participating facilities at least twice a year for the entire period of the project; and

35 (6) Submit to the president pro tem of the senate and speaker of the house of  
36 representatives copies of any statements of deficiencies, plans of correction and complaint  
37 investigation reports applying to project participants.

38 3. Project participants shall:

39 (1) Be licensed by the division [of aging];

40 (2) Provide care only to persons who have been diagnosed with Alzheimer's disease or  
41 Alzheimer's-related dementia;

42 (3) Have buildings and furnishings that are designed to provide for the resident's safety.  
43 Facilities shall have indoor and outdoor activity areas, and electronically controlled exits from  
44 the buildings and grounds to allow residents the ability to explore while preventing them from  
45 exiting the facility's grounds unattended;

46 (4) Be staffed twenty-four hours a day by the appropriate number and type of personnel  
47 necessary for the proper care of residents and upkeep of the facility;

48 (5) Conduct special staff training relating to the needs, care and safety of persons with  
49 Alzheimer's disease or Alzheimer's-related dementia within the first thirty days of employment;

50 (6) Utilize personal electronic monitoring devices for any resident whose physician  
51 recommends use of such device;

52 (7) Permit the resident's physician, in consultation with the family members or health  
53 care advocates of the resident, to determine whether the facility meets the needs of the resident;

54 **and**

55 (8) [Be equipped with an automatic sprinkler system, in compliance with the National  
56 Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an  
57 automated fire alarm system and smoke barriers in compliance with the 1997 Life Safety Codes  
58 for Existing Health Care Occupancy; and

59 (9)] Implement a social model for the residential environment rather than an institutional  
60 medical model.

61 4. For purposes of this section, "health care facilities for persons with Alzheimer's  
62 disease or Alzheimer's-related dementia" means facilities that are specifically designed and  
63 operated to provide elderly individuals who have chronic confusion or dementia illness, or both,  
64 with a safe, structured but flexible environment that encourages physical activity through a  
65 well-developed recreational and aging-in-place and activity program. Such program shall  
66 continually strive to promote the highest practicable physical and mental abilities and functioning  
67 of each resident.

68 5. Nothing in this section shall be construed to prohibit project participants from  
69 accommodating a family member or other caregiver from residing with the resident in  
70 accordance with all life, health, and safety standards of the facility.

**Section 1. 1. There is hereby established the "Electrician/Sprinkler System  
2 Installer Statewide Qualification Commission". The commission shall study and review  
3 the development of a statewide standard for persons practicing as electricians or persons  
4 installing and inspecting sprinkler systems. The commission shall be comprised of the  
5 following members:**

6 (1) **The directors of the departments of health and senior services, economic  
7 development, and public safety, or the directors' designees;**

8 (2) **The following members to be appointed by the governor:**

9 (a) **One individual who has been practicing as an electrician for the preceding five  
10 years;**

- 11           (b) One individual who has been practicing as a sprinkler system installer/inspector  
12 for the preceding five years;
- 13           (c) A member of a local jurisdiction with current standards and qualifications for  
14 electricians and/or sprinkler system installers practicing in the jurisdiction;
- 15           (d) Two representatives from the relevant skill trade organizations; and  
16           (e) One public citizen.
- 17           2. The members of the commission shall select a chair of the commission from  
18 among its membership.
- 19           3. The commission shall meet as necessary.
- 20           4. Commission members shall serve without compensation but shall be reimbursed  
21 for their actual and necessary expenses incurred in the performance of their official duties  
22 as members of the commission.
- 23           5. The commission shall submit a report to the governor and general assembly by  
24 July 1, 2008. The report shall contain recommendations either in support of or in  
25 opposition to such a statewide standard. If the commission is in support of a statewide  
26 standard, the report shall also contain the recommended requirements for the statewide  
27 standard, the estimated costs of implementing a statewide standard, and a recommended  
28 time line for compliance with the statewide standard.
- 29           6. This section shall terminate on July 1, 2008.

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