

FIRST REGULAR SESSION

HOUSE BILL NO. 368

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEST.

0967H.011

DANA RADEMAN MILLER, Chief Clerk

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 commerce and insurance;

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

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

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

(5) "Mechanical contractor", a company engaged in mechanical contracting work per the International Code Council (ICC) and National Fire Protection Association (NFPA), including the design, installation, maintenance, construction, alteration, repair, or inspection of any of the following:

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.

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

38

39 For purposes of this subdivision, the term "mechanical contracting work" shall not
40 include the design, service, maintenance, installation, or inspection of solid-fuel or gas-
41 fueled hearth appliances, such as wood stoves and fireplaces, including manufacturer-
42 specified venting systems, fireplace chimneys, outdoor cooking appliances with
43 manufacturer-specified venting systems, outdoor fireplaces, and outdoor firepits.
44 Additional certification may be required by the division for a particular scope of
45 mechanical work;

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

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

50 (8) "Statewide mechanical contractor license", a valid license issued by the
51 division that allows the mechanical contractor and any of its employees or
52 manufacturers' representatives or subcontractors to practice in any jurisdiction in
53 Missouri regardless of local licensing requirements.

324.953. 1. The division shall adopt, implement, rescind, amend, and administer
2 such rules as may be necessary to carry out the provisions of sections 324.950 to 324.983.
3 The division may promulgate necessary rules authorized or as required to explain or
4 clarify sections 324.950 to 324.983 including, but not limited to, rules relating to
5 professional conduct, continuing competency requirements for the renewal of licenses,
6 approval of continuing competency programs, fees, and the establishment of ethical
7 standards of business practice for persons holding a license under sections 324.950 to
8 324.983. Any rule or portion of a rule, as that term is defined in section 536.010, that is
9 created under the authority delegated in this section shall become effective only if it
10 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
11 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
12 vested with the general assembly pursuant to chapter 536 to review, to delay the
13 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
14 then the grant of rulemaking authority and any rule proposed or adopted after August
15 28, 2023, shall be invalid and void.

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

17 (1) Establish all applicable fees, set at an amount that shall not substantially
18 exceed the cost of administering sections 324.950 to 324.983; and

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

22 3. Nothing in sections 324.950 to 324.983 shall apply to any certification required
23 by regulation adopted under subdivision (3) of subsection 13 of section 323.025.

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

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

8 (2) Exercise all budgeting, purchasing, reporting, and related management
9 functions;

10 (3) Conduct investigations to determine compliance with sections 324.950 to
11 324.983; and

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

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

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

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

10 **(3) Pass:**

11 **(a) A standardized mechanical assessment test nationally offered by:**

12 **a. The International Code Council;**

13 **b. Prometric; or**

14 **c. The International Association of Plumbing and Mechanical Officials**
15 **(IAPMO); or**

16 **(b) A test similar to any test described in paragraph (a) of this subdivision that is**
17 **administered by an independent professional testing agency not affiliated with any**
18 **political subdivision or the state of Missouri and that is approved by the division;**

19 **(4) Pay for all costs associated with the tests described in subdivision (3) of this**
20 **subsection;**

21 **(5) Complete the application form provided by the division and pay any**
22 **applicable application fees; and**

23 **(6) Have completed seven thousand five hundred hours of verifiable field**
24 **experience in mechanical contracting work or a bachelor's or further advanced degree**
25 **in mechanical or civil engineering from an accredited college or university with a**
26 **minimum of three years of verifiable experience directing and supervising at least one**
27 **field employee.**

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

34 **3. If a corporation, firm, institution, organization, company, or representative**
35 **thereof desires to engage in mechanical contracting under sections 324.950 to 324.983, it**
36 **shall have in its employ at least one statewide license holder in accordance with sections**
37 **324.950 to 324.983. A statewide mechanical contractor license holder shall represent**

38 only one corporation, firm, institution, organization, or company at one time. A
39 mechanical contractor shall have one license holder responsible for offering Missouri-
40 based field employees eight contact hours of industry training per year, and such
41 mechanical contractor shall be responsible for providing proof of training to the division
42 upon request. In the event of a loss of a license holder, a mechanical contractor shall
43 remain in good standing with the division for six months after notifying the division of
44 the change in status. Within the six-month period, a new license holder shall be
45 registered with the division. If no license holder is registered within such six-month
46 period, the division shall declare the mechanical contractor inactive.

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

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

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

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

20 still does not recognize a statewide license, the division shall notify the director of the
21 department of revenue, who shall withhold any moneys the noncompliant political
22 subdivision would otherwise be entitled to from local sales tax, as defined in section
23 32.085, until the director has received notice from the division that the political
24 subdivision is in compliance with this section. Upon the political subdivision coming
25 into compliance with the provisions of this section, the division shall notify the director
26 of the department of revenue, who shall disburse all funds held under this subsection.
27 Moneys held by the director of the department of revenue under this subsection shall
28 not be deemed to be state funds and shall not be commingled with any funds of the state.

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

- 31 (1) Enforcing any technical code or law contained in this section;
- 32 (2) Requiring a business license to perform mechanical contracting work;
- 33 (3) Issuing mechanical contracting permits;
- 34 (4) Enforcing technical codes of the political subdivision; or
- 35 (5) Inspecting the work of a statewide mechanical contractor.

36 4. Political subdivisions that do not have the authority to issue or require
37 mechanical contractor licenses prior to August 28, 2023, shall not be granted such
38 authority under the provisions of this section.

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

324.968. 1. Licenses shall expire on a renewal date established by the division.
2 The term of licensure shall be twenty-four months. The division shall mail a renewal
3 notice to the last known address of each person licensed under sections 324.950 to
4 324.983 prior to the renewal date. Failure to provide the division with the information
5 required for renewal or to pay the required fee after such notice shall result in the

6 license being declared inactive. The licensee shall not practice until he or she applies for
7 reinstatement and pays the required fees. The license shall be restored if the application
8 for reinstatement is received within two years of the renewal date.

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

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

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

 324.980. 1. The division may refuse to issue a statewide mechanical contractor
2 license for one or any combination of causes stated in subsection 2 of this section. The
3 division shall notify the applicant in writing of the reasons for the refusal and shall
4 advise the applicant of his or her right to file a complaint with the administrative
5 hearing commission as provided by chapter 621.

6 2. The division may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621 against any license holder or any person who
8 has failed to renew or has surrendered his or her license for any one or any combination
9 of the following causes:

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

13 (2) The person has been finally adjudicated and found guilty, or entered a plea of
14 guilty or nolo contendere, in a criminal prosecution under the laws of any state, of the
15 United States, or of any country for any offense directly related to the duties and
16 responsibilities of the occupation, as set forth in section 324.012, regardless of whether a
17 sentence is imposed;

18 (3) Use of fraud, deception, misrepresentation, or bribery in securing any license
19 issued under sections 324.950 to 324.983 or in obtaining permission to take any
20 examination given or required under sections 324.950 to 324.983;

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

23 **(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or**
24 **dishonesty in the performance of the functions or duties of any profession licensed or**
25 **regulated by sections 324.950 to 324.983;**

26 **(6) Violation of, or assisting or enabling any person to violate, any provision of**
27 **sections 324.950 to 324.983, or of any lawful rule or regulation adopted thereunder;**

28 **(7) Impersonation of any person holding a statewide mechanical contractor**
29 **license or allowing any person to use his or her license or diploma from any school;**

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

34 **(9) A person is finally adjudged mentally incompetent by a court of competent**
35 **jurisdiction;**

36 **(10) Assisting or enabling any person to practice or offer to practice any**
37 **profession licensed or regulated by sections 324.950 to 324.983 who is not licensed and**
38 **currently eligible to practice thereunder in the particular jurisdiction;**

39 **(11) Issuance of a license based upon a material mistake of fact;**

40 **(12) Failure to maintain liability coverage as required for initial licensure;**

41 **(13) Violation of any professional trust or confidence;**

42 **(14) Use of any advertisement or solicitation that is false, misleading, or**
43 **deceptive to the general public or persons to whom the advertisement or solicitation is**
44 **primarily directed; or**

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

46 **3. After the filing of such complaint, the proceedings shall be conducted in**
47 **accordance with the provisions of chapter 621. Upon a finding by the administrative**
48 **hearing commission that the grounds provided in subsection 2 of this section for**
49 **disciplinary action are met, the division may, singly or in combination, censure or place**
50 **the person named in the complaint on probation on such terms and conditions as the**
51 **division deems appropriate for a period not to exceed five years, or may suspend, for a**
52 **period not to exceed three years, or revoke any license issued under sections 324.950 to**
53 **324.983.**

54 **4. An individual whose license has been revoked shall wait three years from the**
55 **date of revocation to apply for any license under sections 324.950 to 324.983. Any**
56 **license shall be issued at the discretion of the division after compliance with all the**
57 **requirements of sections 324.950 to 324.983 relative to the licensing or registration of the**
58 **applicant for the first time.**

59 **5. The division may file suit to enforce compliance and shall have the authority**
60 **to seek injunctions and restraining orders to enjoin any person from:**

61 **(1) Offering to engage or engaging in the performance of any acts or practices**
62 **for which a license is required upon a showing that such acts or practices were**
63 **performed or offered to be performed without a license;**

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

68 **(3) Refusing to recognize a statewide license as a valid license within any political**
69 **subdivision, requiring journeymen or apprentices to be individually licensed, or**
70 **requiring subcontractors' and manufacturers' representatives or other members of the**
71 **contractor's workforce to be licensed.**

72 **6. The division may assess fines for violations of any of the provisions of sections**
73 **324.950 to 324.983 in an amount not to exceed five thousand dollars per occurrence**
74 **upon a judicial or administrative finding of violation of law.**

75 **7. The division may compel the production of documents, things, or persons by**
76 **subpoena.**

77 **8. The division may refer any violations of the provisions of any state law or local**
78 **ordinance relating to the work performed by a licensee to the appropriate state or local**
79 **official.**

324.983. 1. Any person who knowingly violates any provision of sections 324.950
2 **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 partnership or**
4 **association who knowingly and personally participates in or is an accessory to any**
5 **violation of sections 324.950 to 324.983 is guilty of a class B misdemeanor.**

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

✓