

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 326

100TH GENERAL ASSEMBLY

0927H.02P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 324, RSMo, by adding thereto eleven new sections relating to statewide mechanical contractor licenses, with penalty provisions.

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*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  
2 be known as sections 324.950, 324.953, 324.956, 324.959, 324.962, 324.965, 324.968, 324.971,  
3 324.977, 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**  
2 **"Missouri Statewide Mechanical Contractor Licensing Act".**

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

5 **(1) "Division", the division of professional registration within the department of**  
6 **insurance, financial institutions and professional registration;**

7 **(2) "License holder", any person who is granted a statewide license by the division;**

8 **(3) "Local license", a valid business or occupational license issued by a Missouri**  
9 **political subdivision;**

10 **(4) "Mechanical contractor", a company engaged in mechanical contracting work**  
11 **per the International Code Council (ICC) and NFPA 54, including the design, installation,**  
12 **maintenance, construction, alteration, repair, and inspection of any:**

13 **(a) HVAC system;**

14 **(b) HVAC duct system;**

15 **(c) Exhaust systems;**

16 **(d) Combustion air or make up air;**

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

33

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

36 (5) "Office", the office of mechanical contractors within the division of professional  
37 registration;

38 (6) "Person", an individual, corporation, partnership, association, or other legal  
39 entity;

40 (7) "Statewide mechanical contractor license", a valid license issued by the division  
41 that allows the mechanical contractor and any of its employees or manufacturers'  
42 representatives or subcontractors to practice in any jurisdiction in Missouri regardless of  
43 local licensing requirements. Political subdivisions cannot require any member of the work  
44 force of a licensed statewide mechanical contractor to obtain an individual occupational  
45 license.

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 effective  
13 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
14 grant of rulemaking authority and any rule proposed or adopted after August 28, 2019,  
15 shall be invalid and void.

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

17 **(1)** Establish all applicable fees, set at an amount which 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 such  
20 funds to the department of revenue for deposit to the state treasury to the credit of the  
21 Missouri mechanical contractor licensing fund.

**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 contracting;

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

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

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

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

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

4 **(2)** Provide proof of liability insurance in the amount of five hundred thousand  
5 dollars and post bond with each political subdivision in which he or she will perform work,  
6 as required by that political subdivision;

7 **(3)** Pass one of the following standardized and nationally offered mechanical  
8 assessment tests:

9 **(a)** International Code Council;

10 **(b)** Prometric; or

11           (c) North American Technician Excellence (NATE) certification; or  
12  
13 a similar test that is administered by an independent professional testing agency not  
14 affiliated with any political subdivision or the state of Missouri and is approved by the  
15 division. The applicant shall pay for all costs associated with the examinations;

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

18           (5) Have completed seven thousand five hundred hours of verifiable field  
19 experience in the mechanical industry or a bachelor's or further advanced degree in  
20 mechanical or civil engineering from an accredited college or university with a minimum  
21 of three years' verifiable experience directing and supervising at least one field employee.

22           2. Any applicant for licensure who holds a local license, as defined in section  
23 324.950, or other license authorizing him or her to engage in mechanical contracting, who  
24 has seven thousand five hundred hours of verifiable field experience in the mechanical  
25 industry, and who is otherwise eligible for licensure shall be issued a statewide mechanical  
26 license, therefore becoming a statewide mechanical license holder. The provisions of this  
27 subsection shall apply only to licenses issued by a political subdivision with the legal  
28 authority to issue such licenses.

29           3. If a corporation, firm, institution, organization, company, or representative  
30 thereof desires to engage in mechanical contracting licensed under sections 324.950 to  
31 324.985, it shall have in its employ at least one license holder who possesses a statewide  
32 license in accordance with sections 324.950 to 324.983. A statewide licensed mechanical  
33 license holder shall represent only one corporation, firm, institution, organization, or  
34 company at one time.

35           4. The division may issue a mechanical contractor license to any person who holds  
36 a current and active license to engage in the practice of a mechanical contractor or as a  
37 master pipefitter or master plumber issued by any other state, the District of Columbia,  
38 or territories of the United States that require standards for licensure, registration, or  
39 certification considered to be equivalent or more stringent than the requirements for  
40 licensure under sections 324.950 to 324.983.

          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 of  
3 a local license for the purposes of performing contracting work or obtaining permits to  
4 perform work within such political subdivision. No political subdivision shall require the  
5 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 Missouri.

11 2. If a political subdivision does not recognize a statewide license in lieu of a local  
12 license for the purposes of performing contracting work or obtaining permits to perform  
13 work within the political subdivision, a statewide mechanical contractor licensee may file  
14 a complaint with the division. The division shall perform an investigation into the  
15 complaint, and if the division finds that the political subdivision failed to recognize a  
16 statewide license in accordance with this section, the division shall notify the political  
17 subdivision that the political subdivision has violated the provisions of this section and has  
18 thirty days to comply with this section. If after thirty days the political subdivision still  
19 does not recognize a statewide license, the division shall notify the director of the  
20 department of revenue, who shall withhold any moneys the noncompliant political  
21 subdivision would otherwise be entitled to from local sales tax, as defined in section 32.085,  
22 until the director has received notice from the division that the political subdivision is in  
23 compliance with this section. Upon the political subdivision coming into compliance with  
24 the provisions of this section, the division shall notify the director of the department of  
25 revenue, who shall disburse all funds held under this subsection. Moneys held by the  
26 director of the department of revenue under this subsection shall not be deemed to be state  
27 funds and shall not be commingled with any funds of the state.

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

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

35 4. Political subdivisions that do not have the authority to issue or require  
36 mechanical contractor licenses prior to August 28, 2019, shall not be granted such  
37 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 of**  
9 **the appropriation from the fund for the preceding fiscal year. The amount, if any, in the**  
10 **fund which shall lapse is that amount in the fund which exceeds the appropriate multiple**  
11 **of the appropriations from the fund for the preceding fiscal year. The state treasurer shall**  
12 **invest moneys in the fund in the same manner as other funds are invested. Any interest**  
13 **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. The**  
2 **term of licensure shall be twenty-four months. The division shall mail a renewal notice to**  
3 **the last known address of each person licensed under sections 324.950 to 324.983 prior to**  
4 **the renewal date. Failure to provide the division with the information required for renewal**  
5 **or to pay the required fee after such notice shall result in the license being declared**  
6 **inactive. The licensee shall not practice until he or she applies for reinstatement and pays**  
7 **the required fees. The license shall be restored if the application for reinstatement is**  
8 **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 subdivision**  
2 **that does not require the mechanical contractor to hold a local license, or who operates as**  
3 **a mechanical contractor in a political subdivision that requires a local license possessed by**  
4 **that person, shall not be required to possess a statewide license under sections 324.950 to**  
5 **324.983 to operate as a mechanical contractor in such political subdivision.**

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

**324.980. 1. The division may refuse to issue any certificate of registration or**  
2 **authority, permit, or license required under sections 324.950 to 324.983 for one or any**  
3 **combination of causes stated in subsection 2 of this section. The division 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.**

7 **2. The division may cause a complaint to be filed with the administrative hearing**  
8 **commission, as provided by chapter 621, against any holder of any certificate of**  
9 **registration or authority, permit, or license required by sections 324.950 to 324.983, or any**

10 person who has failed to renew or has surrendered his or her certificate of registration or  
11 authority, permit, or license, for any one or any combination of the following causes:

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

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 under sections 324.950 to 324.983, for any offense  
19 involving a controlled substance, or for any offense an essential element of which is fraud,  
20 dishonesty, or an act of violence;

21 (3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate  
22 of registration or authority, permit, or license issued under sections 324.950 to 324.983 or  
23 in obtaining permission to take any examination given or required under sections 324.950  
24 to 324.983;

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 or duties of any profession licensed or  
29 regulated by sections 324.950 to 324.983;

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

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

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

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

41 (10) Assisting or enabling any person to practice or offer to practice any profession  
42 licensed or regulated by sections 324.950 to 324.983 who is not licensed or registered and  
43 currently eligible to practice thereunder;

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

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

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

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

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

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

60           **4. An individual whose certificate of registration or authority, permit, or license has**  
61 **been revoked shall wait three years from the date of revocation to apply for any certificate**  
62 **of registration or authority, permit, or license under sections 324.950 to 324.983. Any**  
63 **certificate of registration or authority, permit, or license shall be issued at the discretion**  
64 **of the board after compliance with all the requirements of sections 324.950 to 324.983**  
65 **relative to the licensing or registration of the applicant for the first time.**

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

68           **(1) Offering to engage or engaging in the performance of any acts or practices for**  
69 **which a license is required upon a showing that such acts or practices were performed or**  
70 **offered to be performed without a certificate of registration or authority, permit, or**  
71 **license;**

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

76           **(3) Refusing to recognize a statewide license as a valid license within any political**  
77 **subdivision, or requiring journeymen or apprentices to be individually licensed or**  
78 **requiring subcontractors and manufacturer's representatives, or other members of the**  
79 **contractor's workforce to be licensed.**



80           **6. The division may assess fines for violations of any of the provisions of sections**  
81 **324.950 to 324.983 in an amount not to exceed five thousand dollars per occurrence upon**  
82 **a judicial or administrative finding of violation of law.**

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

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

**324.983. 1. Any person that 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 any**  
7 **court of competent jurisdiction and perform such other acts as may be necessary to enforce**  
8 **the provisions of sections 324.950 to 324.983.**

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