

SECOND REGULAR SESSION

# SENATE BILL NO. 709

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHOEMYER.

Pre-filed December 15, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3559S.02I

## AN ACT

To amend chapter 324, RSMo, by adding thereto twenty-three new sections relating to the regulation of the auto body repair industry, 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 twenty-three  
2 new sections, to be known as sections 324.1180, 324.1183, 324.1186, 324.1189,  
3 324.1192, 324.1195, 324.1198, 324.1201, 324.1204, 324.1207, 324.1210, 324.1213,  
4 324.1216, 324.1219, 324.1222, 324.1225, 324.1228, 324.1231, 324.1237, 324.1240,  
5 324.1243, 324.1246, and 324.1248, to read as follows:

**324.1180. For purposes of sections 324.1180 to 324.1248, the  
2 following terms mean:**

3 **(1) "Auto body physical damage appraiser", any individual who  
4 assesses, compares, or estimates damage to motor vehicles not owned  
5 by that individual, company, or their agents;**

6 **(2) "Auto body repair facility", a business that repairs physical  
7 damage to motor vehicles that are not owned by the facility or its  
8 officers or employees by mending, straightening, or replacing body  
9 parts, painting, or paintless dent repair;**

10 **(3) "Board", the board of auto body repair;**

11 **(4) "Department", the department of insurance, financial  
12 institutions and professional registration;**

13 **(5) "Director", the director of the division of professional  
14 registration;**

15 **(6) "Division", the division of professional registration in the  
16 department of insurance, financial institutions and professional  
17 registration;**

18 **(7) "Practice of auto body repair", renders or repairs physical**

19 damage of motor vehicles by mending, straightening, or replacing body  
20 parts, painting, or paintless dent repair, or changes the appearance of  
21 over four motor vehicles per year.

324.1183. 1. There is hereby established within the division, the  
2 "Board of Auto Body Repair" which shall guide, advise, and make  
3 recommendations to the division and fulfill other responsibilities  
4 designated by sections 324.1180 to 324.1248.

5 2. The board shall consist of seven members, including one  
6 public member, appointed by the governor with the advice and consent  
7 of the senate. Each member of the board shall be a citizen of the  
8 United States, a resident of this state for at least one year preceding  
9 appointment and a registered voter. Two members of the board shall  
10 be drawn from the auto insurance industry. Four members of the board  
11 shall be drawn from the auto body repair industry. Members shall  
12 serve on the board until a successor is appointed by the governor. The  
13 membership of the board shall be geographically dispersed with no  
14 more than one member appointed from the same congressional district.

15 3. Of the initial members appointed, three members shall be  
16 appointed for four years, two members shall be appointed for three  
17 years and two members shall be appointed for two years. Thereafter,  
18 all members shall be appointed to serve four-year terms.

19 4. A vacancy in the office of a member shall be filled by  
20 appointment by the governor for the remainder of the unexpired term.

21 5. The board shall hold an annual meeting at which it shall elect  
22 from its membership a chairperson and vice chairperson. The board  
23 may hold such additional meetings as may be required in the  
24 performance of its duties. A quorum of the board shall consist of a  
25 majority of its members.

26 6. The governor may remove a board member for misconduct,  
27 incompetence, or neglect of official duties after giving the board  
28 member written notice of the charges and allowing the board member  
29 an opportunity to be heard. Members can also be terminated for the  
30 following reasons:

- 31 (1) Change of legal residence by moving out of the state;  
32 (2) Missing three consecutive meetings; or  
33 (3) Having the professional license revoked or suspended.

34 7. The public member shall be at the time of appointment:

35           (1) A citizen of the United States;  
36           (2) A resident of this state for a period of one year preceding  
37 appointment; and  
38           (3) A registered voter;  
39 but may not have been engaged in any business or profession licensed  
40 or regulated by the board or be an immediate family member of a  
41 person engaged in any business or profession licensed or regulated by  
42 the board, and may not have had a material, financial interest in the  
43 practice of auto body repair, or in an activity or organization directly  
44 related to any profession licensed or regulated under sections 324.1180  
45 to 324.1248. The duties of the public member shall not include any  
46 determination of the technical requirements to be met for licensure,  
47 whether a candidate for licensure meets such technical requirements,  
48 or of the technical competence or technical judgment of a licensee or  
49 a candidate for licensure.

50           8. Notwithstanding any other provision of law to the contrary,  
51 any appointed member of the board shall receive as compensation an  
52 amount established by the director not to exceed seventy dollars per  
53 day for board business plus actual and necessary expenses.

54           9. No licensing activity or other statutory requirements shall  
55 become effective until expenditures or personnel are specifically  
56 appropriated for the purpose of conducting the business required to  
57 administer the provisions of 324.1180 to 324.1248 and the initial  
58 administrative rules filed have become effective.

59           10. The board shall keep records of its official acts, and certified  
60 copies of any such records attested by a designee of the board shall be  
61 received as evidence in all courts to the same extent as the board's  
62 original records would be received.

63           11. There is hereby created in the state treasury the "Board of  
64 Auto Body Repair Fund", which shall consist of money collected under  
65 sections 324.1180 to 324.1248. The state treasurer shall be custodian of  
66 the fund and shall approve disbursements from the fund in accordance  
67 with sections 30.170 and 30.180. Upon appropriation, money in the fund  
68 shall be used solely for the administration of sections 324.1180 to  
69 324.1248. Notwithstanding the provisions of section 33.080 to the  
70 contrary, money in this fund shall not be transferred and placed to the  
71 credit of general revenue until the amount in the fund at the end of the

72 biennium exceeds three times the amount of the appropriation from the  
73 fund for the preceding fiscal year. The state treasurer shall invest  
74 moneys in the fund in the same manner as other funds are  
75 invested. Any interest and moneys earned on such investments shall be  
76 credited to the fund.

324.1186. 1. The board shall establish and administer a licensing  
2 program for the licensure of auto body repair facilities. An auto body  
3 repair facility shall be licensed by the board upon submission and  
4 approval of a written application and payment of an annual license fee  
5 of two hundred fifty dollars.

6 2. Application for a license shall be on a form prescribed by the  
7 board, and shall contain all information the board may require by rule  
8 and regulation.

9 3. Applications for a new or renewal of an auto body repair  
10 facility license shall be reviewed by the board and a license shall be  
11 issued or denied within ninety days following receipt by the board of  
12 the completed application and supporting documents. If the  
13 application for a license is denied, the auto body repair facility may  
14 request a hearing in accordance with section 324.1207.

15 4. Upon the sale or other transfer of ownership interest in a  
16 licensed auto body repair facility, the new owner may continue to  
17 operate under the previous owner's auto body repair facility license for  
18 a period of ninety days, during which time the new owner shall submit  
19 an application for licensure on its own behalf.

324.1189. In order to qualify for an auto body repair facility  
2 license or a renewal of a license under sections 324.1180 to 324.1219, an  
3 auto body repair facility shall:

4 (1) Have all required licenses, permits, and registrations for the  
5 conduct of business including, but not limited to:

6 (a) A federal tax identification number;

7 (b) A Missouri tax identification number;

8 (c) A hazardous waste license and an Environmental Protection  
9 Agency identification number or evidence of exemption from such  
10 permits; and

11 (d) Any other licenses and permits as the board may find  
12 applicable;

13 (2) Provide proof of insurance coverage for damage to property

14 and for liability arising from bodily injury, including, but not limited  
15 to:

16 (a) Garage keeper's liability insurance or other type of liability  
17 insurance that protects customers' property and provides the public  
18 and employees with remedies for liability arising from the business  
19 operations;

20 (b) Workers' compensation insurance coverage as required by  
21 chapter 287;

22 (c) Fire insurance; and

23 (d) Any other insurance coverage in an amount and form that  
24 conforms to the rules and regulations adopted by the board;

25 (3) Provide evidence of compliance with the Environmental  
26 Protection Agency and Occupational Safety and Health Administration  
27 requirements for annual training in safety and environmental concerns  
28 as set forth in 29 CFR 1910.1200(h)(1), 29 CFR 1910.120(e)(8), 40 CFR  
29 68.71, 40 CFR 721.72(d), and 40 CFR 763;

30 (4) Provide evidence that employees performing repairs at the  
31 auto body repair facility have completed or are in the process of  
32 completing National Institute for Automotive Service Excellence (ASE)  
33 certification for the type of work being performed;

34 (5) Provide evidence, for license renewal, of completion of  
35 continuing education requirements, which may be met by completion  
36 of training courses available through the Inter-Industry Conference on  
37 Auto Collision Repair, (ICAR), industry manufacturers or trade  
38 associations, or a generally recognized auto body repair training  
39 program;

40 (6) (a) Possess proper equipment necessary for the practice of  
41 auto body repair as determined by the board based on industry  
42 standards and as set forth in the board's rules and regulations. Auto  
43 body repair facilities that utilize spray painting refinish operations  
44 shall have an enclosed area for refinishing which complies with all  
45 applicable local, state, and federal safety, fire, and environmental  
46 regulations; or

47 (b) An applicant for an auto body repair facility license who does  
48 not meet the equipment requirements may satisfy those requirements  
49 by entering into and maintaining a written agreement or agreements  
50 with another entity to perform the services for which the equipment is

51 required;

52 (7) Possess and maintain a current auto body repair facility  
53 reference source for estimating the cost of repairs in either book or  
54 computerized form which is generally accepted by the auto body repair  
55 industry.

324.1192. 1. Businesses that specialize solely in wheel  
2 reconditioning, leather and vinyl repair, air bag replacement, rust  
3 proofing, four wheel alignment, air conditioning services, mechanical  
4 repairs, or glass replacement services, are not required to obtain an  
5 auto body repair facility license in order to conduct business.

6 2. Temporary paintless dent repair facilities associated with a  
7 licensed auto body repair facility shall pay a licensing fee of one  
8 hundred dollars for each temporary location. Temporary paintless dent  
9 repair businesses not associated with a licensed auto body repair  
10 facility shall:

11 (1) Pay a license fee of two hundred fifty dollars for each  
12 temporary location that is established. The license shall expire when  
13 the temporary facility ceases operation at the licensed location or  
14 every six months; and

15 (2) Provide proof that the business has paid all required fees and  
16 is lawfully able to do business in Missouri.

324.1195. 1. An auto body repair facility that substantially  
2 complies with the licensure requirements of sections 324.1180 to  
3 324.1219 may apply for a temporary license for up to ninety days to  
4 provide additional time to come into compliance with licensing  
5 standards such as training requirements, equipment, and other  
6 circumstances as the board may prescribe by rule or regulation.

7 2. An auto body repair facility with proof of continuous  
8 operation for a five-year period prior to August 28, 2010, shall be able  
9 to obtain a provisional license. The facility shall have one calendar  
10 year to meet any requirements that they do not meet at the time of  
11 application, except continuing education requirements shall be  
12 commenced within ninety days of the issuance of the license. If after  
13 the period of one year the auto body repair facility has not met the  
14 licensing requirements of sections 324.1180 to 324.1219, the board shall  
15 notify the holder of the provisional license by certified mail of the  
16 failure to qualify for a license and that operation shall cease until such

17 time as the requirements of sections 324.1180 to 324.1219 are met. If the  
18 auto body repair facility fails to cease operations, the board may levy  
19 a fine of two hundred fifty dollars per calendar day that the facility  
20 continues to operate.

324.1198. Every licensed auto body repair facility shall display  
2 its license and retail labor rates in a prominent location so that they  
3 are readily visible to the facility's customers.

324.1201. The board shall maintain a current roster of all auto  
2 body repair facilities licensed to do business in the state of  
3 Missouri. The roster shall be available electronically in a format  
4 prescribed by the board.

324.1204. A licensed auto body repair facility with a repair order  
2 signed by the vehicle owner on the auto body repair facility estimate  
3 or work order shall have the owner's permission to determine the  
4 amount of the repairs and to commence work on that vehicle. No auto  
5 body repair facility shall start work on the vehicle without the vehicle  
6 owner's signature. The licensed auto body repair facility is entitled to  
7 recover any and all costs and expenses incurred in that process. Costs  
8 shall be payable before the vehicle is removed from the licensed  
9 facility's premises.

324.1207. 1. The board may refuse to issue or deny renewal of  
2 any license required under sections 324.1180 to 324.1219 for failure to  
3 comply with the provisions of sections 324.1180 to 324.1219 or any rules  
4 and regulations promulgated by the board to implement provisions of  
5 324.1180 to 324.1219. The board shall notify the applicant in writing of  
6 the reasons for the denial and shall advise the applicant of the right to  
7 file a complaint with the administrative hearing commission as  
8 provided by chapter 621.

9 2. The board may cause a complaint to be filed with the  
10 administrative hearing commission as provided by chapter 621 against  
11 any holder of any license required by sections 324.1180 to 324.1219 or  
12 any facility that has failed to obtain, renew, or has surrendered its  
13 license for any one or any combination of the following causes:

14 (1) Being finally adjudicated and found guilty, or having entered  
15 a plea of guilty or nolo contendere, in a criminal prosecution pursuant  
16 to the laws of any state or of the United States, for any offense  
17 reasonably related to the qualifications, functions, or duties of any

18 activity licensed or regulated under sections 324.1180 to 324.1219, for  
19 any offense an essential element of which is fraud, dishonesty, or an act  
20 of violence, whether or not sentence is imposed;

21 (2) Use of fraud, deception, misrepresentation, or bribery in  
22 securing any certificate, permit, or license issued under sections  
23 324.1180 to 324.1219;

24 (3) Obtaining or attempting to obtain any fee, charge, or other  
25 compensation by fraud, deception, or misrepresentation;

26 (4) Violation of, or assisting, or enabling any person to violate  
27 any provision of sections 324.1180 to 324.1219 or any lawful rule or  
28 regulation adopted by the board under sections 324.1180 to 324.1219;

29 (5) Posing as a facility holding a license or allowing any person  
30 or facility to use his or her license;

31 (6) Issuance of a license based upon a material mistake of fact;

32 (7) Violation of any professional trust or confidence;

33 (8) Use of any advertisement or solicitation which is false,  
34 misleading, or deceptive to the general public or persons to whom the  
35 advertisement or solicitation is primarily directed;

36 (9) Refusal of any applicant or licensee to cooperate with the  
37 board during any investigation;

38 (10) Failure to display or present a valid license if so required  
39 by sections 324.1180 to 324.1219 or any rule promulgated pursuant  
40 thereto;

41 (11) Operating an auto body repair facility without a license as  
42 required under section 324.1186;

43 (12) Repeated negligence in the performance of the functions or  
44 duties of any activity licensed by 324.1180 to 324.1219.

45 3. After the filing of such complaint, the proceedings shall be  
46 conducted in accordance with the provisions of chapter 621. Upon a  
47 finding by the administrative hearing commission that the grounds for  
48 disciplinary action are met, as provided in subsection 2 of this section,  
49 the board shall censure or place the auto body repair facility on  
50 probation in such terms as the board deems appropriate for a period  
51 not to exceed five years, or may suspend the license for a period not to  
52 exceed three years, or revoke the license of the facility. No new license  
53 shall be issued to an auto body repair facility for one year after the  
54 revocation. Any facility whose license has been revoked twice within

55 a ten-year period shall not be eligible for relicensure.

56 4. The applicant or licensee shall have the right to appeal the  
57 board's decision in the manner provided in chapter 536.

58 5. The board may notify the proper licensing authority of any  
59 other state in which the auto body repair facility whose license was  
60 disciplined is also licensed of the discipline in this state.

61 6. Any person, organization, association, or corporation who  
62 reports or provides information to the board under the provisions of  
63 sections 324.1180 to 324.1219 and who does so in good faith shall not be  
64 subject to an action for civil damages as a result thereof.

324.1210. 1. Upon proper application by the board, a court of  
2 competent jurisdiction may grant an injunction, restraining order, or  
3 other order as may be appropriate to enjoin a person or business from:

4 (1) Offering to engage or engaging in the performance of any acts  
5 or practices for which a certificate of registration or authority, permit,  
6 or license is required by sections 324.1180 to 324.1219 upon a showing  
7 that such acts or practices were performed or offered to be performed  
8 without a certificate of registration or authority, permit, or license; or

9 (2) Engaging in any practice or business authorized by a  
10 certificate of registration or authority, permit, or license issued under  
11 sections 324.1180 to 324.1219.

12 2. Any such actions shall be commenced either in the county in  
13 which such conduct occurred or in the county in which defendant  
14 resides.

15 3. Any action brought under this section shall be in addition and  
16 not in lieu of any penalty provided by law and may be brought  
17 concurrently with other actions to enforce sections 324.1180 to 324.1219.

324.1213. The board may make inspections to ensure compliance  
2 with the provisions of sections 324.1180 to 324.1219 and the standards  
3 established hereunder. A written report of findings, including a list of  
4 deficiencies found, shall be prepared. A copy of the report and the list  
5 of deficiencies found shall be sent to the business within fifteen  
6 business days following the survey inspection. The list of deficiencies  
7 shall specifically state the statute or rule which the business is alleged  
8 to have violated. The business shall inform the board of the time  
9 necessary for compliance and shall file a plan of correction. If the  
10 business does not acknowledge the deficiencies, or file an acceptable

11 **plan of correction with the board or timely complete an acceptable plan**  
12 **of correction, the board may file a complaint with the administrative**  
13 **hearing commission as set forth and as provided in sections 324.1180 to**  
14 **324.1219.**

324.1216. **The board is authorized to promulgate rules and**  
2 **regulations to administer and implement the provisions of sections**  
3 **324.1180 to 324.1248. Any rule or portion of a rule, as that term is**  
4 **defined in section 536.010, that is created under the authority delegated**  
5 **in this section shall become effective only if it complies with and is**  
6 **subject to all of the provisions of chapter 536, and, if applicable, section**  
7 **536.028. This section and chapter 536 are nonseverable and if any of**  
8 **the powers vested with the general assembly pursuant to chapter 536**  
9 **to review, to delay the effective date, or to disapprove and annul a rule**  
10 **are subsequently held unconstitutional, then the grant of rulemaking**  
11 **authority and any rule proposed or adopted after August 28, 2010, shall**  
12 **be invalid and void.**

324.1219. 1. **The board may, at their own initiative or in response**  
2 **to complaints, investigate and gather evidence of violations of sections**  
3 **324.1180 to 324.1219, or of any regulation adopted thereunder, by auto**  
4 **body repair facilities.**

2. **The board may, upon a finding by a court that any person or**  
6 **entity has violated any provision of sections 324.1180 to 324.1219,**  
7 **impose a civil penalty in an amount not to exceed five thousand dollars**  
8 **for the first occurrence of conducting business as an auto body repair**  
9 **facility without a license. Each subsequent occurrence described in**  
10 **this subsection is subject to a civil penalty not to exceed ten thousand**  
11 **dollars. The civil penalties authorized by this section are in addition**  
12 **to remedies afforded to the board in section 324.1207.**

324.1222. 1. **The board shall establish and administer a licensing**  
2 **program for auto body physical damage appraisers. A person may not**  
3 **appraise or estimate auto body physical damage unless such person is**  
4 **licensed by the board under the provisions of sections 324.1222 to**  
5 **324.1248. A person may be licensed as an auto body physical damage**  
6 **appraiser upon submission and approval of a written application and**  
7 **payment of a fee of one hundred dollars. An auto body physical damage**  
8 **appraiser license issued under this section shall expire two years from**  
9 **the date of issuance unless renewed according to the rules adopted by**

10 the board. The fee for renewing a license issued under this section  
11 shall be one hundred dollars. If a license issued under sections  
12 324.1222 to 324.1248 lapses or if such license is not renewed in a timely  
13 manner, then a fee to be set forth in board rules or regulation shall  
14 accompany the renewal application.

15 2. Application for a license under sections 324.1222 to 324.1248  
16 shall be on a form prescribed by the board, and shall contain all  
17 information the board may require by rule and regulation.

18 3. Applications for a new or renewal of an auto body physical  
19 damage appraiser license shall be reviewed by the board and a license  
20 issued or denied within ninety days following receipt by the board of  
21 the completed application and supporting documents.

22 4. To qualify for an auto body physical damage appraiser's  
23 license under this section, an applicant shall:

24 (1) Possess Damage Analysis and Estimating Certification B6  
25 from the National Institute for Automotive Service Excellence; and

26 (2) Provide evidence that any entity on whose behalf the  
27 individual will prepare or alter damage estimates is licensed as a  
28 corporation to conduct business within Missouri.

29 5. An auto body physical damage appraiser shall be required to  
30 successfully complete eight hours of continuing education annually that  
31 meets the standards established by the board's regulations in order to  
32 have the license renewed.

33 6. An auto body physical damage appraiser license shall be  
34 considered lapsed if not renewed within thirty days of the expiration  
35 date of the license.

324.1225. If an applicant for a license can verify that he or she  
2 has been employed continuously as a physical damage appraiser or  
3 adjuster for a five-year period prior to August 28, 2010, the licensing  
4 fee of one hundred dollars shall entitle the individual to a provisional  
5 appraiser license upon application. If the applicant has Damage  
6 Analysis and Estimating Certification B6 from the National Institute for  
7 Automotive Service Excellence, then the applicant shall receive a  
8 license.

324.1228. 1. In the case of catastrophic losses such as floods, hail,  
2 or tornados, an auto body physical damage appraiser from any other  
3 state requiring licensure under sections 324.1222 to 324.1246 shall have

4 his or her license from that state recognized by submitting information  
5 as required by the board and payment of a twenty-five dollar temporary  
6 permit fee.

7       2. If an out-of-state auto body physical damage appraiser does  
8 not have a license from his or her home state, he or she shall apply to  
9 the board for a temporary permit allowing work under the supervision  
10 of a duly licensed Missouri auto body physical damage appraiser after  
11 submitting a fifty dollar temporary permit fee.

12       3. As provided in subsections 1 and 2 of this section, an out-of-  
13 state auto body physical damage appraiser shall be allowed to perform  
14 his or her normal activities as long as he or she can provide proof of  
15 application for a temporary permit.

16       4. In cases where the temporary permit is not issued by the  
17 board, the board shall notify the auto body physical damage appraiser  
18 immediately by either United States mail or electronic mail. Upon  
19 receipt of such notice, the auto body physical damage appraiser shall  
20 immediately cease performing as an auto body physical damage  
21 appraiser in Missouri.

22       5. Any person violating the provisions of this section shall be  
23 subject to a penalty of five hundred dollars by the board.

324.1231. 1. The board may refuse to issue or deny renewal of  
2 any license required under sections 324.1222 to 324.1248 for failure to  
3 comply with the provisions of sections 324.1222 to 324.1248 or any rules  
4 and regulations promulgated by the board to implement its  
5 provisions. The board shall notify the applicant in writing of the  
6 reasons for the refusal and shall advise the applicant of his or her right  
7 to file a complaint with the administrative hearing commission as  
8 provided by chapter 621.

9       2. The board may cause a complaint to be filed with the  
10 administrative hearing commission as provided by chapter 621 against  
11 any holder of any license or person providing services covered by  
12 sections 324.1222 to 324.1248 or any person who has failed to renew or  
13 has surrendered his or her license for any one or any combination of  
14 the following causes:

15       (1) Use or unlawful possession of any controlled substance, as  
16 defined in chapter 195, or alcoholic beverage to an extent that such use  
17 impairs a person's ability to perform the work of any activity licensed

18 or regulated by sections 324.1222 to 324.1248;

19 (2) Being finally adjudicated and found guilty, or having entered  
20 a plea of guilty or nolo contendere, in a criminal prosecution pursuant  
21 to the laws of any state or of the United States, for any offense  
22 reasonably related to the qualifications, functions, or duties of any  
23 activity licensed or regulated under sections 324.1222 to 324.1248, for  
24 any offense an essential element of which is fraud, dishonesty, or an act  
25 of violence, whether or not sentence is imposed;

26 (3) Use of fraud, deception, misrepresentation, or bribery in  
27 securing any certificate, permit, or license issued under sections  
28 324.1222 to 324.1248;

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

31 (5) Incompetency, misconduct, gross negligence, fraud,  
32 misrepresentation, or dishonesty in the performance of the functions  
33 or duties of any activity licensed or regulated by sections 324.1222 to  
34 324.1248;

35 (6) Violation of, or assisting, or enabling any person to violate  
36 any provision of sections 324.1222 to 324.1248 or any lawful rule or  
37 regulation adopted by the board under sections 324.1222 to 324.1248;

38 (7) Disciplinary action against the holder of a license regulated  
39 by sections 324.1222 to 324.1248 granted by another state upon grounds  
40 for which discipline is authorized in this state;

41 (8) For an individual, being finally adjudged insane or  
42 incompetent by a court of competent jurisdiction;

43 (9) Issuance of a license based upon a material mistake of fact;

44 (10) Violation of any professional trust or confidence;

45 (11) Use of any advertisement or solicitation which is false,  
46 misleading, or deceptive to the general public or persons to whom the  
47 advertisement or solicitation is primarily directed;

48 (12) Violation of the drug laws or rules and regulations of this  
49 state, any other state or the federal government;

50 (13) Refusal of any applicant or licensee to cooperate with the  
51 board during any investigation;

52 (14) Repeated negligence in the performance of the functions or  
53 duties of any activity licensed by 324.1222 to 324.1248.

54 3. Upon a finding by the administrative hearing commission that

55 the grounds for disciplinary action are met, as provided in subsection  
56 2 of this section, the board may censure or place the person named in  
57 the complaint on probation on such terms and conditions as the board  
58 deems appropriate for a period not to exceed five years, or may  
59 suspend the license for a period not to exceed three years, or revoke  
60 the license in accordance with section 324.1237.

61 4. An individual whose license has been revoked shall wait one  
62 year from the date of revocation to apply for a license. The board at its  
63 discretion may issue a license after compliance with all the  
64 requirements of sections 324.1222 to 324.1248. Any individual whose  
65 license has been revoked twice within a five-year period shall not be  
66 eligible for licensure.

67 5. The board may notify the proper licensing authority of any  
68 other state in which the person whose license was disciplined of the  
69 discipline in this state.

70 6. Any person, organization, association, or corporation who  
71 reports or provides information to the board under the provisions of  
72 sections 324.1222 to 324.1248 and who does so in good faith shall not be  
73 subject to an action for civil damages as a result thereof.

324.1237. 1. The board may impose a civil penalty up to a  
2 maximum of two thousand five hundred dollars for every violation of  
3 sections 324.1222 to 324.1248 occurring within a calendar year.

4 2. The board may, on a second offense within a twelve month  
5 period, impose a civil penalty not to exceed three thousand five  
6 hundred dollars. The board may also suspend the physical damage  
7 appraiser's license for a period of not less than six months or more  
8 than twenty-four months.

9 3. Any person who has his or her physical damage appraiser's  
10 license suspended three times in a two calendar year period shall have  
11 his or her license revoked.

12 4. The board shall impose a civil penalty of five thousand dollars  
13 against any person who practices as an auto body physical damage  
14 appraiser without a license. The board shall seek an injunction in  
15 circuit court to require a person operating as an auto body physical  
16 damage appraiser to cease and desist operations for failing to comply  
17 with sections 324.1222 to 324.1248.

324.1240. The board shall maintain a current roster of all auto

2 **body physical damage appraisers that are licensed to do business in the**  
3 **state of Missouri. The roster shall be available electronically in a**  
4 **format prescribed by the board.**

324.1243. A licensed Missouri auto body physical damage  
2 **appraiser, while engaged in appraisal duties, shall carry on his or her**  
3 **person at all times his or her license. The appraiser shall produce such**  
4 **license, upon request, to an owner whose vehicle is being inspected, to**  
5 **the auto body repair facility representative involved, or to any**  
6 **authorized representative of the board.**

324.1246. The board may assess penalties to any auto body  
2 **physical damage appraiser that exhibits a pattern or practice of**  
3 **preparing written appraisals underestimating the final costs of repairs**  
4 **by more than ten percent of the final repair invoice. The board shall**  
5 **promulgate rules as to what constitutes a pattern or practice of**  
6 **underestimating repairs. A physical damage appraiser violating the**  
7 **provisions of this section shall be subject to the penalties set forth in**  
8 **section 324.1237.**

324.1248. 1. In any motor vehicle damage case, no auto body  
2 **physical damage appraiser or insurer, officer, broker, agent, attorney-**  
3 **in-fact, employee, or other representative of an insurer shall adjust or**  
4 **pay a claim for repairs of an insured's or claimant's vehicle with an**  
5 **auto body repair facility which does not have a current auto body**  
6 **repair facility license under sections 324.1180 to 324.1219.**

7 2. As used in this section, the term "claimant" shall mean the  
8 **person seeking repair of a motor vehicle whether the person is the**  
9 **insured person or a third party making a claim against the insurance**  
10 **company.**

11 3. If such auto body repair facility does not have a license as  
12 **required by sections 324.1180 to 324.1219, the representative of an**  
13 **insurer shall report the facility's operation to the board.**

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