

SECOND REGULAR SESSION

HOUSE BILL NO. 2495

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

4941H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 320.371, RSMo, and to enact in lieu thereof twelve new sections relating to fire protection contractor licensing, with penalty provisions.

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

Section A. Section 320.371, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 320.371, 320.410, 320.412, 320.414, 320.416, 320.420, 320.422, 320.424, 320.426, 320.428, 320.430, and 320.432, to read as follows:

320.371. 1. There is hereby created in the state treasury the "Cigarette Fire Safety Standard and Firefighter Protection Act Fund" which shall consist of moneys collected under sections 320.350 to 320.374 **and sections 320.410 to 320.432**. The fund shall be administered by the state fire marshal. Upon appropriation, moneys in the fund shall be **used for the administration of sections 320.410 to 320.432 and** made available to the state fire marshal to support fire safety and prevention programs.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

320.410. For purposes of sections 320.410 to 320.432, the following terms mean:

(1) "Alteration", any construction, modification, or renovation to an existing structure or system other than repair;

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.

4 (2) "Authority having jurisdiction", the organization, office, or individual
5 responsible for approving equipment, an installation, or a procedure;

6 (3) "Business entity", a firm, company, partnership, limited liability company,
7 or corporation;

8 (4) "Contractor license", the document issued to a business entity by the state
9 fire marshal that authorizes the business entity to engage in the business of layout,
10 fabrication, installation, repair, alteration, maintenance, or inspection of water-based
11 fire protection systems;

12 (5) "Fee", any nonrefundable examination fee, license fee, registration fee, or
13 renewal fee accompanying an application or issuance of any license, certification, or
14 registration, including any temporaries or renewals;

15 (6) "Fire protection contractor" or "contractor", any of the following:

16 (a) Class A contractor: A business entity that offers to undertake, represents
17 itself as being able to undertake, or undertakes the layout, installation, repair, addition,
18 alteration, inspection, testing, or maintenance of all types of water-based fire protection
19 systems and components;

20 (b) Class B contractor: A business entity that is limited to performing the
21 inspection, testing, and maintenance of all types of water-based fire protection systems;

22 (c) Class C contractor: A business entity that is limited to the execution of
23 contracts requiring the layout and preparation of technical documents for water-based
24 fire protection systems;

25 (8) "Fire sprinkler system", any water-based fire protection system, fire
26 suppression system, or fire control system employing fire sprinklers and consisting of
27 underground and overhead piping, including fire pumps and associated piping, fire
28 standpipes that convey water with or without other agents to dispersal openings or
29 devices for the purpose of extinguishing, controlling, suppressing, or containing fire, and
30 that provides protection from fire exposure or exposure to the products of combustion,
31 and that is installed in accordance with applicable state statute and locally adopted fire
32 and building codes and standards;

33 (9) "Install" or "installation", the initial placement or alteration of a water-
34 based fire protection system;

35 (10) "Layout", the placement of pumps, appurtenances, equipment, backflow
36 preventers, risers, cross mains, branch lines, fire sprinklers, and hanger locations, and
37 sizing of pipe and supplemental hydraulic calculations in accordance with the provisions
38 of water-based fire protection design standards and design criteria as provided by the
39 engineer or record;

40 (11) "Maintenance", work performed by a licensed contractor to keep water-
41 based fire protection equipment operable;

42 (12) "Misconduct", grounds for revocation, suspension, or other discipline of a
43 licensee for violation of section 320.428 or a satisfactory showing that a licensee has had
44 a license or other authorization to practice in a construction-related field denied,
45 canceled, revoked, or suspended or disciplined in another state or federal jurisdiction;

46 (13) "NFPA", the National Fire Protection Association, Inc.;

47 (14) "Permit", a written document or certification from an authority having
48 jurisdiction to allow any entity or individual to engage in contracting within his or her
49 area of authority or jurisdiction;

50 (15) "Professional engineer", a state-licensed professional engineer, qualified by
51 experience and training to provide layout criteria for fire protection systems;

52 (16) "Repair", any work on a water-based fire protection system after its initial
53 installation consisting of the replacement of parts or the correction of failure or damage
54 in order to restore the system to sound working condition;

55 (17) "Responsible managing employee" or "RME", an individual with the
56 qualifications for the appropriate class of licensure who is a full-time employee of a
57 contractor and who is designated as such contractor's license qualifier;

58 (18) "Revocation", the cancellation or withdrawal of a license or other
59 authorization issued by the state fire marshal either permanently or for a period
60 specified by the state fire marshal;

61 (19) "State fire marshal", the person with oversight and management of the
62 division of fire safety, or his or her deputies and designated employees;

63 (20) "Supervise" or "supervision", the direction, management, and oversight by
64 the contractor's responsible managing employee of the activities of personnel in the
65 layout, installing, repairing, inspecting, testing, or maintaining repair of any water-
66 based fire protection system;

67 (21) "Testing", a procedure used to determine the status of a system as intended
68 by conducting periodic physical checks on water-based fire protection systems
69 including, but not limited to, waterflow tests, fire pump tests, alarm tests, and trip
70 tests of dry pipe, deluge, or pre-action valves. Such tests follow up on the original
71 installation acceptance test or tests at intervals specified in the appropriate standards
72 related to such systems, as adopted by the authority having jurisdiction;

73 (22) "Water-based fire protection system", a commercial or residential system
74 individually designed to protect the interior or exterior of a specific building, structure,
75 or potential hazard from fire, or to promote life safety. Such systems include, but are
76 not limited to, sprinkler systems, standpipe systems, private fire service mains, fire

77 pumps, water storage tanks, water spray systems, foam-water sprinkler systems, foam-
78 water spray systems, and water-mist fire suppression systems used for fire protection
79 that include backflow prevention devices and overhead and underground piping
80 dedicated to sprinklers and fire protection water supply.

320.412. 1. It shall be unlawful for any business entity or individual to engage in
2 the business of laying out, installing, modifying, repairing, inspecting, testing, or
3 maintaining any water-based fire protection system in this state except in conformity
4 with sections 320.410 to 320.432. Each business entity that engages in such activity shall
5 possess a valid fire protection contractor license issued by the state fire marshal.

6 2. All fire protection contractor licenses issued by the state fire marshal shall
7 have statewide application. Beginning August 28, 2023, cities, counties, and political
8 subdivisions shall be prohibited from establishing local licenses, standards, or
9 certification or registration requirements upon fire protection contractors.

10 3. Cities and counties with contractor licensing requirements in place prior to
11 August 28, 2023, may maintain the authority to license any contractor operating or
12 intending to operate in those areas; except that, any local licensing requirement shall not
13 negate the state licensure requirement of subsection 1 of this section.

14 4. The provisions of this section shall not be construed to invalidate any other
15 law of this state or any local licensing requirements unless there is a direct conflict with
16 the provisions of this section, in which case the provisions of this section shall prevail.

17 5. Nothing in this section shall limit the power of a political subdivision,
18 municipality, or county to regulate the quality and character of work performed by
19 water-based fire protection contractors through a system of permits, fees, and
20 inspections that are designed to secure compliance with, and aid in the
21 implementation of, state and local laws or to enforce other local law for the
22 protection of the public health and safety.

23 6. Nothing in this section shall limit the power of a political subdivision,
24 municipality, or county to adopt any system of permits requiring submission to and
25 approval by such political subdivision, municipality, or county of plans and
26 specifications for work to be performed by contractors before commencement of such
27 work.

28 7. Nothing in this section shall prohibit an employee acting on behalf of any
29 government entity or insurance provider from inspecting and enforcing the state or
30 local fire prevention and building codes and local laws, provided such employee is acting
31 solely on behalf of such government entity or insurance provider.

32 8. The state fire marshal is authorized to promulgate rules and regulations
33 regarding:

34 **(1) The content of applications and the procedures for filing an application for**
35 **an initial or renewal license in this state;**

36 **(2) The receipt and processing of applications;**

37 **(3) All applicable fees, including for the original license issuance, renewal,**
38 **replacement, and modification of a license;**

39 **(4) Penalties for late renewal; and**

40 **(5) Acceptable standards for continuing education training.**

41 **9. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
42 **created under the authority delegated in this section shall become effective only if it**
43 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
44 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
45 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
46 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
47 **then the grant of rulemaking authority and any rule proposed or adopted after August**
48 **28, 2022, shall be invalid and void.**

320.414. 1. No business entity or individual licensed under sections 320.410 to
2 **320.432 shall:**

3 **(1) Engage in the planning, sale, layout, installation, repair, alteration, addition,**
4 **maintenance, testing, or inspection of any water-based fire protection system in the state**
5 **except in conformity with the provisions of sections 320.410 to 320.432;**

6 **(2) Enter into a written or oral agreement to authorize, subcontract, or**
7 **otherwise knowingly allow any individual or entity who is not licensed under sections**
8 **320.410 to 320.432 to engage in the business of, or act in the capacity of, a water-based**
9 **fire protection system contractor or responsible managing employee;**

10 **(3) Apply for or obtain a permit for water-based fire protection work unless he**
11 **or she is licensed in full conformance with sections 320.410 to 320.432; or**

12 **(4) Engage in water-based fire protection system work under a name other than**
13 **the exact name that appears on the license issued by the state fire marshal under section**
14 **320.412.**

15 **2. A contractor licensed under section 320.412 may subcontract water-based fire**
16 **protection work regulated under this section to another contractor licensed in**
17 **accordance with section 320.412, provided the contractor approves and remains fully**
18 **responsible for the work performed by the subcontractor.**

320.416. The provisions of sections 320.410 to 320.432 shall not apply to:

2 **(1) Licensed fire alarm and electrical contractors performing any work covered**
3 **by any national, state, or municipal electrical code applicable in the state;**

4 (2) A manufacturer's factory-trained and certified individual or entity
5 performing maintenance or repair on fire pumps, fire pump control panels, and fire
6 pump drivers at the direction of a fire protection contractor licensed in Missouri;

7 (3) An individual or entity who is trained and certified to test backflow
8 prevention assemblies on fire protection systems; provided that:

9 (a) The tests are conducted in accordance with applicable American Water
10 Works Association (AWWA) and National Fire Protection Association (NFPA)
11 standards;

12 (b) The certified tester assumes full responsibility for the system and liability
13 when testing the backflow prevention assembly;

14 (c) The appropriate people are notified including, but not limited to, the fire
15 department, fire marshal, the customer or owner, building official, or insurance
16 company when the backflow prevention assembly is shut down for testing; and

17 (d) Any required repairs to the backflow prevention assembly are made by a
18 certified backflow prevention assembly tester;

19 (4) Plumbing contractors installing underground water mains and fire hydrants,
20 or fire protection sprinkler system underground mains and underground portions of
21 remote fire department connections to a flanged outlet one inch above the finished floor
22 in compliance with AWWA procedures or the NFPA 24 Standard; provided that such
23 contractors use design or shop drawings approved by the authority having jurisdiction
24 and that the NFPA 24 flushing and testing licenses are delivered to the authority having
25 jurisdiction and the state-licensed fire protection contractor who will be providing the
26 work downstream of the flanged outlet. All pipe and appurtenances connected
27 downstream of the flanged outlet, including underground fire department connections,
28 shall be the responsibility of a licensed fire protection contractor.

 320.420. 1. A fire protection contractor licensed under section 320.412 shall
2 display his or her license in a conspicuous place in the contractor's place of business and
3 provide a copy of such license to the authority having jurisdiction, fire officials, and
4 other governmental officials when requested.

5 2. A fire protection contractor's license number shall be displayed on plans, bids,
6 proposals, offers, and installation drawings for fire protection systems.

7 3. A fire protection contractor's license shall not be transferable.

8 4. When a fire protection contractor has multiple office locations performing
9 work requiring a Class A, Class B, or Class C license, each location shall not be required
10 to be separately licensed for each class of work.

11 5. The state fire marshal shall not issue a license unless the applicant files
12 evidence of a general liability insurance policy that includes products and completed

13 operations coverage. The limits of such insurance coverage required under this section
14 shall be in an amount not less than one million dollars aggregate for all occurrences per
15 policy year. The general liability policy shall be conditioned to pay on behalf of the
16 insured those amounts that the insured is legally obligated to pay as damages because of
17 bodily injury and property damage caused by an occurrence involving the insured or
18 the insured's servant, officer, agent, or employee in any conduct of business.

19 6. The term of insurance policies shall be concurrent with the term of the license
20 issued in accordance with this section. A fire protection contractor license shall be
21 suspended or revoked by the state fire marshal if, after issuance, the license holder fails
22 to maintain insurance coverage required under this section.

23 7. A fire protection contractor's responsible managing employee or employees
24 shall not be required to obtain a license of general liability insurance.

320.422. 1. In order to maintain a fire protection contractor's license issued
2 under section 320.412, the contractor shall employ one or more responsible managing
3 employees to authorize, supervise, or perform the layout, installation, repair, alteration,
4 addition, inspection, testing, or maintenance of water-based fires protection systems as
5 appropriate to the class of license. Notwithstanding the provisions of this subsection, the
6 responsible managing employee (RME) is not required to be on site at all times.

7 2. An RME is prohibited from serving as a qualifying RME for more than one
8 fire protection contractor.

9 3. In order to qualify as an RME, such person shall:

10 (1) Be twenty-one years of age or older;

11 (2) Have at least ten thousand hours of documented experience and training in
12 management, layout, installation, or inspection of water-based fire protection systems;
13 and

14 (3) Be certified as an RME under rules promulgated to the state fire marshal;
15 hold a bachelor of science degree in fire protection engineering from an accredited
16 university from which the employee received training in design, planning, and
17 installation of water-based fire protection systems; or be licensed as a professional
18 fire protection engineer in the state.

19 4. When an RME leaves the employment of a fire protection contractor, the
20 contractor shall notify the state fire marshal in writing within five days and shall be
21 required to have a full-time employee apply to serve as the contractor's RME within
22 ninety days. A fire protection contractor may operate without an RME for a period of
23 up to ninety days, at the discretion of the state fire marshal.

24 5. An RME shall be a full-time employee of the fire protection contractor. The
25 state fire marshal shall suspend or revoke an RME's license, for a period of time

26 determined by the fire marshal, if such employee makes use of or allows the use of his or
27 her license to qualify a fire protection contractor when the RME is not a full-time
28 employee of such fire protection contractor.

29 6. An RME shall ensure that workers are trained to industry standards as
30 required by the state fire marshal. Proof of training shall be provided to the state fire
31 marshal upon request.

32 7. An RME shall provide a copy of his or her RME license to the authority
33 having jurisdiction, fire officials, and other government officials when requested.

34 320.424. Moneys collected under sections 320.410 to 320.432 shall be credited to
2 the cigarette fire safety standard and fire fighter protection act fund established under
3 section 320.371.

35 320.426. 1. A fire protection contractor's license issued under section 320.412
2 shall be valid for a period of two years from the date of issuance and shall be renewable
3 biennially.

4 2. During the period of licensure, an RME shall attend at least twenty hours of
5 continuing education courses directly related to water-based fire protection systems.
6 Documentation of such coursework shall be submitted to the state fire marshal.

7 3. Any material change that varies from the licensee's previously submitted
8 application shall be reported to the state fire marshal within thirty days from the date of
9 change.

10 4. The failure to renew a license by the expiration date shall cause the license to
11 become invalid. A license that is invalid because of failure to renew shall be restored
12 upon payment of all applicable fees plus a penalty if such fees are paid within ninety
13 days of expiration. A late renewal fee shall be assessed immediately following the
14 expiration of a license.

15 5. If a license has lapsed for a period greater than thirty days because of a failure
16 to renew, a new application form and fees shall be submitted to obtain a new license.

320.428. 1. The state fire marshal may refuse to issue any fire protection
2 contractor's license for any reason stated in sections 320.410 to 320.432. The state fire
3 marshal shall notify the applicant in writing of the reasons for refusal and advise the
4 applicant of the right to file a complaint with the administration hearing commission as
5 provided in chapter 621.

6 2. The state fire marshal may file a complaint with the administrative hearing
7 commission against a licensee based on any of the following:

8 (1) Use of fraud, deception, misrepresentation, or bribery in securing a license
9 issued under section 320.412;

10 **(2) Impersonation of any individual or organization holding a license or allowing**
11 **any individual or organization to use a licensee's license;**

12 **(3) Disciplinary action against the holder by another state, territory, federal**
13 **agency, or country upon grounds for which revocation or suspension is authorized in**
14 **this state;**

15 **(4) Issuance of a license based on a material mistake of fact;**

16 **(5) Any offense reasonably related to the qualifications, functions, or duties of**
17 **any profession regulated under sections 320.410 to 320.432, for any offense an essential**
18 **element of which is fraud, dishonesty, or an act of violence, or for any offense involving**
19 **moral turpitude, regardless of whether a sentence is imposed;**

20 **(6) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or**
21 **dishonesty in the performance of the functions or duties of the profession that is**
22 **regulated by sections 320.410 to 320.432;**

23 **(7) Violation of, or assisting or enabling any individual or organization to violate,**
24 **any provision of sections 320.410 to 320.432, or any lawful rule or regulation adopted**
25 **pursuant to such sections;**

26 **(8) An adjudication of incompetency or lack of mental capacity by a court of**
27 **competent jurisdiction; or**

28 **(9) Operating with less than one million dollars in liability insurance as required**
29 **under section 320.420.**

30 **3. Proceedings under subsection 2 of this section shall be conducted in**
31 **accordance with the provisions of chapter 621. Upon a finding by the administrative**
32 **hearing commission that the grounds for disciplinary action are met, the state fire**
33 **marshal may, singly or in combination, censure or place the individual or organization**
34 **named in the complaint on probation on such terms and conditions as the state fire**
35 **marshal deems appropriate for a period not to exceed five years, or may suspend, for a**
36 **period not to exceed three years, or revoke the license of the individual or organization.**
37 **Any license that is revoked shall be considered invalid for purposes of sections 320.410**
38 **to 320.432. An individual or organization whose license has been revoked shall wait**
39 **three years from the date of revocation to apply for another license. Licensure shall be**
40 **at the discretion of the state fire marshal after compliance with all requirements of**
41 **sections relative to the licensure of an applicant for the first time.**

42 **4. The state fire marshal shall maintain an information file containing each**
43 **complaint filed with the state fire marshal relating to action against a licensee.**

44 **5. Upon proper application by the state fire marshal, a court of competent**
45 **jurisdiction may grant an injunction, restraining order, or other order as may be**
46 **appropriate to enjoin an individual or organization from holding himself, herself, or**

47 **itself out as a licensed fire sprinkler contractor. Any such actions shall be commenced**
48 **either in the county in which such conduct occurred or in the county in which the**
49 **defendant resides. Any action brought under this section shall be in addition and not in**
50 **lieu of any penalty provided by law and may be brought concurrently with other**
51 **actions.**

2 **320.430. 1. All costs, penalties, and fines imposed pursuant to sections 320.410 to**
3 **320.432 shall be paid in accordance with, and are subject to, the collection and**
4 **enforcement provisions of the state.**

5 **2. When the state fire marshal has good cause to believe that a licensee is**
6 **engaging or has engaged in conduct that violates sections 320.410 to 320.432, or a rule**
7 **adopted pursuant to such sections, the state fire marshal, in place of or in addition to**
8 **licensing sanctions, shall impose a civil penalty upon the licensee. For purposes of this**
9 **subsection, "good cause to believe" means grounds set forth in good faith that are not**
10 **arbitrary, irrational, unreasonable, or irrelevant and that are based on at least one of**
11 **the following sources:**

12 **(1) Written information from an identified person;**

13 **(2) Facts supplied by a contractor, RME, journeyman sprinkler fitter, or**
14 **municipality;**

15 **(3) Facts of which the state fire marshal, or an agent of the state fire marshal,**
16 **has personal knowledge; or**

17 **(4) Information obtained during an inspection.**

18 **3. When determining the amount of penalty to be imposed, the state fire marshal**
19 **shall consider the degree of the licensee's culpability, the licensee's ability to pay, good**
20 **faith on the part of the licensee in attempting to remedy the cause of the violation, and**
21 **the effect of the penalty on the licensee's ability to continue in business.**

22 **4. The state fire marshal shall issue a notice of civil penalty when he or she has**
23 **good cause to believe a violation of sections 320.410 to 320.432, or any rule adopted**
24 **thereto, has occurred. The contents of a notice of civil penalty shall include:**

25 **(1) A statement of the section or rule allegedly violated and a description of the**
26 **evidence on which the allegation is based;**

27 **(2) Notice of the response options available; and**

28 **(3) The amount of the civil penalty imposed.**

29 **5. Upon receiving a notice of penalty issued under subsection 4 of this section,**
30 **the licensee shall respond to the notice within fifteen days. The licensee may select one**
31 **or more of the following options for response:**

32 **(1) Pay the penalty and close the case;**

(2) Submit an offer in compromise of the proposed civil penalty; or

33 **(3) Submit a written explanation, information, or other material in response to**
34 **the allegations or in mitigation of the proposed civil penalty or request the state fire**
35 **marshal to initiate a hearing under chapter 621.**

36 **6. The state fire marshal shall review any written explanations, information, or**
37 **other materials that are submitted in response to a notice of civil penalty. The state fire**
38 **marshal shall determine whether to enforce, negotiate, modify, or withdraw the notice**
39 **or to initiate a hearing under chapter 621.**

40 **7. The state fire marshal may, in addition to all other disciplinary actions,**
41 **require a licensee or other entity or individual to pay a civil penalty of up to five**
42 **thousand dollars for each violation of sections 320.410 to 320.432 or of a regulation**
43 **promulgated thereto and may order an unlicensed contractor to cease and desist from**
44 **violating a provision of sections 320.410 to 320.432.**

320.432. The provisions of sections 320.410 to 320.432 shall take effect August
2 **28, 2023.**

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