

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 860

96TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, May 1, 2012, with recommendation that the Senate Committee Substitute do pass.

4783S.06C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 320, RSMo, by adding thereto eight new sections relating to fire sprinkler contractors.

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

Section A. Chapter 320, RSMo, is amended by adding thereto eight new sections, to be known as sections 320.400, 320.402, 320.406, 320.408, 320.410, 320.412, 320.414, and 320.416, to read as follows:

320.400. As used in sections 320.400 to 320.416, the following terms shall mean:

(1) "Certificate of registration", the document issued to a contractor under sections 320.400 to 320.416;

(2) "Contractor", an organization that offers to undertake, represents itself as being able to undertake, or does undertake the design, planning, installation, or servicing of a fire sprinkler system or any part of such a system for pay;

(3) "Fire sprinkler system", a suppression system connected to a water supply, other than a special agent fire suppression system, which requires individual calculation and layout in accordance with nationally recognized standards, such as those of the National Fire Protection Association, to protect the interior or exterior of a specific building, structure, or special hazard from fire by conveying water, with or without other agents, to dispersal openings or devices. Such systems also include any overhead and underground fire mains beginning at the point of service, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, thermal systems used in connection with fire sprinkler systems, and tanks and pumps connected to fire sprinkler

21 systems;

22 (4) "Inspection", a visual examination of a fire sprinkler system
23 or portion thereof to verify that it appears to be in operating condition
24 and is free of physical damage;

25 (5) "Installation", the initial placement of fire sprinkler
26 equipment or the extension, modification, or alteration of equipment
27 after the initial placement, and includes the inspection and testing of
28 equipment attendant to the placement or alteration of fire sprinkler
29 equipment;

30 (6) "NICET", National Institute of Certification in Engineering
31 Technologies;

32 (7) "Organization", a corporation, a partnership or other business
33 association, a sole proprietorship, a governmental entity, or any other
34 legal or commercial entity;

35 (8) "Person", a natural person, including an owner, manager,
36 officer, employee, or occupant;

37 (9) "Point of service", the point at which the underground piping
38 for a sprinkler system using water as the extinguishing agent becomes
39 used exclusively for the sprinkler system;

40 (10) "Registered firm", an organization holding a valid certificate
41 of registration issued under sections 320.400 to 320.416;

42 (11) "Service", to inspect, test, or repair fire sprinkler equipment
43 in order to furnish or return the fire sprinkler system to operational
44 condition, and including maintenance contracts;

45 (12) "Special agent fire suppression system", an approved system,
46 and components thereof, which requires individual calculations and
47 layout in accordance with the manufacturer's instructions to determine
48 the flow rates, nozzle pressures, quantities of extinguishing agent, and
49 number and types of nozzles for protecting one or more hazards by
50 suppressing or extinguishing fire. These systems include kitchen hood
51 fire suppression systems, dry chemical systems, carbon dioxide systems,
52 halogenated and gaseous agent systems, foam systems, and wet
53 chemical systems not connected to fire sprinkler systems. A special
54 agent fire suppression system is not a fire sprinkler system.

320.402. 1. Any contractor who engages in the installation of fire
2 sprinkler systems or services fire sprinkler systems may register with
3 the state fire marshal for a certificate of registration.

4 2. The provisions of sections 320.400 to 320.416 and the rules and

5 regulations promulgated under sections 320.400 to 320.416 shall have
6 uniform force and effect throughout the state. A municipality, county,
7 or any other local governmental body or jurisdiction may enact or
8 enforce registration or licensing requirements, and the registration
9 provisions of sections 320.400 to 320.416 shall not supercede them.

10 3. A municipality, county, or any other local governmental body
11 or jurisdiction may require a contractor to obtain a permit and pay a
12 fee for the installation of a fire sprinkler system and require the
13 installation of such system in conformance with the building code or
14 other construction requirements of the municipality, county, or any
15 other local governmental body or jurisdiction.

320.406. 1. The state fire marshal is authorized to promulgate
2 rules and regulations regarding:

3 (1) The content of applications and the procedures for filing an
4 application for an initial or renewal certificate of registration in this
5 state;

6 (2) All applicable fees, set at a level to produce revenue which
7 shall not exceed the cost and expense of administering the provisions
8 of sections 320.400 to 320.416;

9 (3) Establishment of procedures for granting reciprocity with
10 other states.

11 2. Any rule or portion of a rule, as that term is defined in section
12 536.010 that is created under the authority delegated in this section
13 shall become effective only if it complies with and is subject to all of
14 the provisions of chapter 536 and, if applicable, section 536.028. This
15 section and chapter 536 are nonseverable and if any of the powers
16 vested with the general assembly pursuant to chapter 536 to review, to
17 delay the effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2012, shall
20 be invalid and void.

320.408. 1. One of the following requirements shall be fulfilled
2 in order to obtain a certificate of registration from the state fire
3 marshal:

4 (1) The applicant shall employ or contract with a person holding
5 a bachelors of science degree in fire protection engineering from an
6 accredited university, from which the employee shall have received
7 training in design, planning, and installation of fire sprinkler systems,

8 and such employee shall be a professional engineer licensed in the state
9 of Missouri;

10 (2) The applicant shall employ or contract with a person holding
11 a NICET Level IV certification in the automatic sprinkler system layout
12 subfield demonstrating the certified person has received training in
13 design, planning, and installation of fire sprinkler systems; or

14 (3) The applicant shall employ or contract with a person holding
15 a NICET Level III certification in the automatic sprinkler system layout
16 subfield demonstrating the certified person has received training in
17 design, planning, and installation of fire sprinkler systems.

18 2. Any organization that holds a certificate of registration in this
19 state under sections 320.400 to 320.416 may use the title "Missouri state
20 certified fire sprinkler contractor". No other person or organization
21 may use the title "Missouri state certified fire sprinkler contractor". No
22 other person or organization shall assume any title or use any
23 abbreviation or any other words, letters, signs, or devices to indicate
24 that the person or organization using the same is a Missouri state
25 certified fire sprinkler contractor.

26 3. A certificate of registration shall be valid for a period of two
27 years from the date of issue and is renewable biennially on payment of
28 a fee; provided however, that the initial certificates of registration
29 issued on or after August 28, 2012, may be issued for periods of less
30 than two years and the fee shall be prorated proportionally.

31 4. A fee shall be charged by the state fire marshal for any request
32 for a duplicate certificate of registration or any request requiring
33 change to a certificate of registration. The fee shall be set by the fire
34 marshal.

35 5. Each contractor holding itself out as a "Missouri state certified
36 fire sprinkler contractor" shall display its certificate of registration
37 issued under sections 320.400 to 320.416 in a conspicuous place in the
38 contractor's place of business.

39 6. Plans, bids, proposals, offers, and installation drawings for fire
40 sprinkler systems may display the contractor's certificate of
41 registration number.

42 7. A certificate of registration issued under sections 320.400 to
43 320.416 shall not be transferable.

44 8. There is hereby created in the state treasury the "Fire
45 Sprinkler Contractor Registration Fund", which shall consist of money

46 collected under sections 320.400 to 320.416. The state treasurer shall be
47 custodian of the fund and may approve disbursements from the fund in
48 accordance with sections 30.170 and 30.180. Upon appropriation, money
49 in the fund shall be used solely for the administration of sections
50 320.400 to 320.416. Any money remaining in the fund at the end of the
51 biennium shall revert to the credit of the general revenue fund. The
52 state treasurer shall invest moneys in the fund in the same manner as
53 other funds are invested. Any interest and moneys earned on such
54 investments shall be credited to the fund.

320.410. 1. As provided in subsection 3 of section 320.408, each
2 renewal of a certificate of registration issued under sections 320.400 to
3 320.416 is valid for a period of two years. The certificate of registration
4 fee is payable on renewal.

5 2. At least thirty days before the expiration of a certificate of
6 registration, the state fire marshal shall send written notice of the
7 impending certificate of registration expiration to the registrant at the
8 last known address.

9 3. The state fire marshal may, by rule, adopt a system under
10 which certificates of registration expire on various dates during the
11 year. When the certificate of registration expiration date is less than
12 two years from its issuance or anniversary date, the fee shall be
13 prorated on a monthly basis so that each registrant shall pay only that
14 portion of the fee that is allocable to the number of months during
15 which the registration is valid. On each subsequent renewal, the total
16 renewal fee is payable.

320.412. The state fire marshal shall not issue a certificate of
2 registration under sections 320.400 to 320.416 unless the applicant files
3 evidence of a general liability insurance policy that includes products
4 and completed operations coverage. The limits of insurance coverage
5 required by this section shall be in an amount not less than one million
6 dollars aggregate for all occurrences per policy year. The general
7 liability policy shall be conditioned to pay on behalf of the insured
8 those amounts that the insured is legally obligated to pay as damages
9 because of bodily injury and property damage caused by an occurrence
10 involving the insured or the insured's servant, officer, agent, or
11 employee in the conduct of any business registered under sections
12 320.400 to 320.416.

320.414. 1. The state fire marshal may refuse to issue any

2 certificate of registration or renew any certificate of registration
3 required by one or any provisions of sections 320.400 to 320.416 for one
4 or any combination of reasons stated in subsection 2 of this
5 section. The state fire marshal shall notify the applicant in writing of
6 the reasons for the refusal and shall advise the applicant of the right
7 to file a complaint with the administrative hearing commission as
8 provided in chapter 621.

9 2. The state fire marshal may cause a complaint to be filed with
10 the administrative hearing commission as provided in chapter 621
11 against the holder of any certificate of registration granted under
12 sections 320.400 to 320.416 for any one or any combination of the
13 following causes:

14 (1) Use of fraud, deception, misrepresentation, or bribery in
15 securing a certificate issued pursuant to the provisions of sections
16 320.400 to 320.416;

17 (2) Impersonation of any organization holding a certificate or
18 allowing any person or organization to use his or her certificate;

19 (3) Disciplinary action against the holder of a certificate by
20 another state, territory, federal agency, or country upon grounds for
21 which revocation or suspension is authorized in this state;

22 (4) Issuance of a certificate based upon a material mistake of
23 fact;

24 (5) The person or organization has been finally adjudicated and
25 found guilty, or entered a plea of guilty or nolo contendere, in a
26 criminal prosecution under the laws of any state or of the United
27 States, for any offense reasonably related to the qualifications,
28 functions, or duties of any profession regulated under sections 320.400
29 to 320.416, for any offense an essential element of which is fraud,
30 dishonesty or an act of violence, or for any offense involving moral
31 turpitude, whether or not sentence is imposed;

32 (6) Incompetence, misconduct, gross negligence, fraud,
33 misrepresentation, or dishonesty in the performance of the functions
34 or duties of the profession that is regulated by sections 320.400 to
35 320.416;

36 (7) Violation of, or assisting or enabling any person or
37 organization to violate, any provision of sections 320.400 to 320.416, or
38 any lawful rule or regulation adopted pursuant to such sections;

39 (8) A person is finally adjudged insane or incompetent by a court

40 of competent jurisdiction;

41 (9) Operating without at least one million dollars in liability
42 insurance coverage.

43 3. After the filing of a complaint pursuant to subsection 2 of this
44 section, the proceedings shall be conducted in accordance with the
45 provisions of chapter 621. Upon a finding by the administrative
46 hearing commission that the grounds, provided in subsection 2 of this
47 section, for disciplinary action are met, the state fire marshal may,
48 singly or in combination, censure or place the person or organization
49 named in the complaint on probation on such terms and conditions as
50 the state fire marshal deems appropriate for a period not to exceed five
51 years, or may suspend, for a period not to exceed three years, or revoke
52 the certificate of registration of the person or organization. An
53 individual whose certificate of registration has been revoked shall wait
54 three years from the date of revocation to apply for another
55 certificate. Certification shall be at the discretion of the state fire
56 marshal after compliance with all requirements of sections 320.400 to
57 320.416 relative to the certification of an applicant for the first time.

58 4. The state fire marshal shall maintain an information file
59 containing each complaint filed with the state fire marshal relating to
60 a holder of a certificate of registration.

320.416. 1. Upon proper application by the state fire marshal, a
2 court of competent jurisdiction may grant an injunction, restraining
3 order, or other order as may be appropriate to enjoin a person or
4 organization from holding himself, herself, or itself out as a certified
5 fire sprinkler contractor.

6 2. Any such actions shall be commenced either in the county in
7 which such conduct occurred or in the county in which the defendant
8 resides.

9 3. Any action brought under this section shall be in addition and
10 not in lieu of any penalty provided by law and may be brought
11 concurrently with other actions to enforce sections 320.400 to 320.416.

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