

SECOND REGULAR SESSION

# SENATE BILL NO. 927

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 9, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

3165S.051

## AN ACT

To amend chapter 320, RSMo, by adding thereto nine new sections relating to fire sprinkler contractor regulation.

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

Section A. Chapter 320, RSMo, is amended by adding thereto nine new sections, to be known as sections 320.400, 320.402, 320.404, 320.406, 320.408, 320.410, 320.412, 320.414, and 320.416, to read as follows:

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

(1) "Advisory council", the fire sprinkler advisory council established in section 320.404;

(2) "Certificate of registration", the document issued to a contractor under sections 320.400 to 320.416 authorizing such organization to conduct business in this state;

(3) "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;

(4) "Fire sprinkler system", a 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,

21 thermal systems used in connection with fire sprinkler systems, and  
22 tanks and pumps connected to fire sprinkler systems;

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

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

31 (7) "NICET"; National Institute of Certification in Engineering  
32 Technologies;

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

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

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

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

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

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

320.402. 1. Any contractor who engages in the installation of fire  
2 sprinkler systems or services fire sprinkler systems shall register with

3 the state fire marshal.

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 not enact an  
8 order, ordinance, rule, or regulation requiring a person or organization  
9 to obtain a certificate of registration or license from the municipality  
10 or county.

11           3. Notwithstanding any other provisions of sections 320.400 to  
12 320.416, a municipality, county, or any other local governmental body  
13 or jurisdiction may require a contractor to obtain a permit and pay a  
14 fee for the installation of a fire sprinkler system and require the  
15 installation of such system in conformance with the building code or  
16 other construction requirements of the municipality, county, or any  
17 other local governmental body or jurisdiction, but shall not impose  
18 qualification or financial responsibility requirements other than proof  
19 of a valid certificate of registration.

20           4. Sections 320.400 to 320.416 do not apply to:

21           (1) A person or organization that only sells or supplies products  
22 or materials used in fire sprinkler systems;

23           (2) Inspection activities performed by a government official as  
24 part of code enforcement activities; or

25           (3) A person or organization who designs, plans, sells, places, or  
26 maintains special agent fire suppression systems.

27           5. Nothing in sections 320.400 to 320.416 shall be deemed to limit  
28 or restrict the practice of engineering by licensed professional  
29 engineers.

          320.404. 1. There is hereby established the "Fire Sprinkler  
2 System Advisory Council", which shall guide, advise, and make  
3 recommendations to the state fire marshal and assist the state fire  
4 marshal in carrying out the provisions of sections 320.400 to 320.416.

5           2. The advisory council shall consist of seven members. Four  
6 members shall be qualified to hold a certificate of registration and have  
7 at least five years of experience with fire sprinkler systems preceding  
8 their appointment. For such members, the largest fire sprinkler  
9 contractor association in the state shall nominate four persons, of  
10 which two shall be chosen by the state fire marshal as members, and

11 the second largest fire sprinkler association in the state shall nominate  
12 four persons, of which two shall be chosen by the state fire marshal as  
13 members. The state fire marshal shall also appoint: one member who  
14 is an insurance claims adjuster with at least five years experience in  
15 investigating residential and commercial property losses caused by fire,  
16 one member who is a licensed professional engineer, and one member  
17 who is a representative of the state fire marshal's office, who shall  
18 serve as secretary for the council, in addition to being a voting  
19 member.

20 3. Beginning with the appointments made after August 28, 2010,  
21 three members shall be appointed for four-year terms, two members  
22 shall be appointed for three-year terms, and two members shall be  
23 appointed for two-year terms. As the initial term of a member expires,  
24 the state fire marshal shall appoint a member to fill the vacancy for a  
25 term of four years. A vacancy in the membership of the advisory  
26 council for any reason shall be filled by appointment by the state fire  
27 marshal for the balance of the unexpired term.

28 4. The state fire marshal may remove a council member for  
29 misconduct, incompetence, or neglect of official duties after giving the  
30 council member written notice of the reasons and allowing the council  
31 member an opportunity to be heard. Members may also be terminated  
32 for the following reasons: change of legal residence by moving out of  
33 the state; missing three consecutive meetings; or having their  
34 certificate of registration revoked or suspended.

35 5. As soon as practicable after the effective date of sections  
36 320.400 to 320.416, the advisory council shall meet to elect officers from  
37 its membership. A majority of the advisory council shall constitute a  
38 quorum. No member of the advisory council shall be paid a salary as  
39 such member, but each shall receive necessary expenses while  
40 attending advisory council meetings and reimbursement, including  
41 travel in performance of his or her duties, as provided in state law.

320.406. 1. The advisory council 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) Educational or experience requirements for a certificate of

7 registration;

8 (3) The standards and methods to be used in assessing  
9 competency as a contractor;

10 (4) All applicable fees, set at a level to produce revenue which  
11 shall not exceed the cost and expense of administering the provisions  
12 of sections 320.400 to 320.416;

13 (5) Establishment of procedures for granting reciprocity with  
14 other states.

15 2. Any rule or portion of a rule, as that term is defined in section  
16 536.010 that is created under the authority delegated in this section  
17 shall become effective only if it complies with and is subject to all of  
18 the provisions of chapter 536 and, if applicable, section 536.028. This  
19 section and chapter 536 are nonseverable and if any of the powers  
20 vested with the general assembly pursuant to chapter 536 to review, to  
21 delay the effective date, or to disapprove and annul a rule are  
22 subsequently held unconstitutional, then the grant of rulemaking  
23 authority and any rule proposed or adopted after August 28, 2010, shall  
24 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 demonstrate a thorough knowledge of the  
5 design and installation of fire sprinkler systems in general, and  
6 specifically backflow devices, assemblies, and methods relating to fire  
7 suppression systems. Such knowledge shall require a minimum of five  
8 years of experience as a bona fide fire sprinkler system contractor or  
9 other experience or training as the advisory council determines to be  
10 equivalent;

11 (2) The applicant shall employ as a full-time employee a person  
12 with a bachelors of science degree in fire protection engineering from  
13 an accredited university, from which the employee shall have received  
14 training in design, planning, and installation of fire sprinkler systems,  
15 and such employee shall be a professional engineer licensed in the state  
16 of Missouri;

17 (3) The applicant shall employ as a full-time employee a person  
18 with a NICET Level IV certification in the automatic sprinkler system  
19 layout subfield demonstrating the certified person has received

20 training in design, planning, and installation of fire sprinkler systems,  
21 or equivalent certification as approved by the advisory council, and  
22 such employee shall have at least three years of such experience in a  
23 supervisory capacity;

24 (4) The applicant shall employ as a full-time employee a person  
25 with a NICET Level III certification in the automatic sprinkler system  
26 layout subfield demonstrating the certified person has received  
27 training in design, planning, and installation of fire sprinkler systems,  
28 or equivalent certification as approved by the advisory council, and  
29 such employee shall have at least five years of such experience in a  
30 supervisory capacity; or

31 (5) The applicant's credentials have been reviewed and approved  
32 by the advisory council as to qualifications and experience. Under such  
33 circumstances, the applicant is required to provide proof of knowledge,  
34 training, and experience through transcripts from employers and other  
35 documents as requested by the advisory council.

36 2. Any organization that holds a certificate of registration in this  
37 state under sections 320.400 to 320.416 may use the title "certified fire  
38 sprinkler contractor". No other person or organization may use the  
39 title "certified fire sprinkler contractor". No other person or  
40 organization shall assume any title or use any abbreviation or any  
41 other words, letters, signs, or devices to indicate that the person or  
42 organization using the same is a certified fire sprinkler contractor.

43 3. A certificate of registration shall be valid for a period of two  
44 years from the date of issue and is renewable biennially on payment of  
45 a fee; provided however, that the initial certificates of registration  
46 issued on or after August 28, 2010, may be issued for periods of less  
47 than two years and the fee shall be prorated proportionally.

48 4. A fee shall be charged by the state fire marshal for any request  
49 for a duplicate certificate of registration or any request requiring  
50 change to a certificate of registration. The fee shall be set by the fire  
51 marshal, after consultation with the advisory council.

52 5. Each certificate of registration issued under sections 320.400  
53 to 320.416 shall be posted in a conspicuous place in the contractor's  
54 place of business.

55 6. All plans, bids, proposals, offers, and installation drawings for  
56 fire sprinkler systems shall prominently display the contractor's

57 certificate of registration number.

58 7. A certificate of registration issued under sections 320.400 to  
59 320.416 shall not be transferable.

60 8. The state fire marshal shall collect the fees established by  
61 advisory council rule. There is hereby created in the state treasury the  
62 "Fire Sprinkler Contractor Registration Fund", which shall consist of  
63 money collected under sections 320.400 to 320.416. The state treasurer  
64 shall be custodian of the fund and may approve disbursements from the  
65 fund in accordance with sections 30.170 and 30.180. Upon  
66 appropriation, money in the fund shall be used solely for the  
67 administration of sections 320.400 to 320.416. Any money remaining in  
68 the fund at the end of the biennium shall revert to the credit of the  
69 general revenue fund. The state treasurer shall invest moneys in the  
70 fund in the same manner as other funds are invested. Any interest and  
71 moneys earned on such 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. An unexpired certificate of registration may only be renewed  
6 by paying the required renewal fee to the state fire marshal before the  
7 expiration date of the certificate of registration. If a certificate of  
8 registration has been expired for not longer than ninety days, the  
9 certificate of registration may be renewed by paying the required  
10 renewal fee and a fee that is one-half of the original fee for the  
11 certificate of registration. If a certificate of registration has been  
12 expired for longer than ninety days but less than one hundred and  
13 eighty days, the certificate of registration may be renewed by paying  
14 to the state fire marshal all unpaid renewal fees and a fee that is equal  
15 to the original fee for the certificate of registration. If a certificate of  
16 registration has been expired for one hundred and eighty days or  
17 longer, the certificate of registration may not be renewed. A new  
18 certificate of registration may be obtained by complying with the  
19 requirements and procedures for obtaining an initial certificate of  
20 registration. This section shall not be construed to prevent the state  
21 fire marshal from denying or refusing to renew a certificate of  
22 registration under applicable law or rules of the state fire marshal.

23           3. At least thirty days before the expiration of a certificate of  
24 registration, the state fire marshal shall send written notice of the  
25 impending certificate of registration expiration to the registrant at the  
26 last known address.

27           4. The state fire marshal may, by rule, adopt a system under  
28 which certificates of registration expire on various dates during the  
29 year. When the certificate of registration expiration date is less than  
30 two years from its issuance or anniversary date, the fee shall be  
31 prorated on a monthly basis so that each registrant shall pay only that  
32 portion of the fee that is allocable to the number of months during  
33 which the registration is valid. On each subsequent renewal, the total  
34 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.

          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 required by sections  
12 320.400 to 320.416 or any person or organization who has failed to  
13 renew or has surrendered their certificate for any one or any

14 combination of the following causes:

15 (1) Use of fraud, deception, misrepresentation, or bribery in  
16 securing a certificate issued pursuant to the provisions of sections  
17 320.400 to 320.416;

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

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

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

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

33 (6) Incompetence, misconduct, gross negligence, fraud,  
34 misrepresentation, or dishonesty in the performance of the functions  
35 or duties of the profession that is regulated by sections 320.400 to  
36 320.416;

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

40 (8) A person is finally adjudged insane or incompetent by a court  
41 of competent jurisdiction;

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

44 3. After the filing of a complaint pursuant to subsection 2 of this  
45 section, the proceedings shall be conducted in accordance with the  
46 provisions of chapter 621. Upon a finding by the administrative  
47 hearing commission that the grounds, provided in subsection 2 of this  
48 section, for disciplinary action are met, the advisory council may,  
49 singly or in combination, censure or place the person or organization  
50 named in the complaint on probation on such terms and conditions as

51 the advisory council deems appropriate for a period not to exceed five  
52 years, or may suspend, for a period not to exceed three years, or revoke  
53 the certificate of registration of the person or organization. An  
54 individual whose certificate of registration has been revoked shall wait  
55 three years from the date of revocation to apply for another  
56 certificate. Certification shall be at the discretion of the advisory  
57 council after compliance with all requirements of sections 320.400 to  
58 320.416 relative to the certification of an applicant for the first time.

59 4. The state fire marshal shall maintain an information file  
60 containing each complaint filed with the advisory council relating to  
61 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:

5 (1) Offering to engage or engaging in the performance of any acts  
6 or practices for which a certificate of registration is required by  
7 sections 320.400 to 320.416 upon a showing that such acts or practices  
8 were performed or offered to be performed without a certificate of  
9 registration; or

10 (2) Engaging in any practice or business authorized by a  
11 certificate of registration issued under sections 320.400 to 320.416 upon  
12 a showing that the holder presents a probability of serious danger to  
13 the health, safety, or welfare of any resident of the state.

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

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

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