

FIRST REGULAR SESSION

HOUSE BILL NO. 834

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOBBS.

2030L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 324, RSMo, by adding thereto twenty-seven 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-seven new sections, to be known as sections 324.1180, 324.1183, 324.1186, 324.1189, 324.1192, 324.1195, 324.1198, 324.1201, 324.1204, 324.1207, 324.1210, 324.1213, 324.1216, 324.1219, 324.1222, 324.1225, 324.1228, 324.1231, 324.1237, 324.1240, 324.1243, 324.1246, 324.1249, 324.1252, 324.1255, 324.1258, and 324.1261, to read as follows:

324.1180. For purposes of sections 324.1180 to 324.1261, the following terms mean:

- 2 (1) "Auto body physical damage appraiser", any individual who assesses,
3 compares, or estimates damage to motor vehicles not owned by that individual, company,
4 or their agents;
- 5 (2) "Auto body repair facility", a business that repairs physical damage to motor
6 vehicles that are not owned by the shop or its officers or employees by mending,
7 straightening, or replacing body parts, painting, or paintless dent repair;
- 8 (3) "Board", the board of auto body repair;
- 9 (4) "Department", the department of insurance, financial institutions and
10 professional registration;
- 11 (5) "Director", the director of the division of professional registration.
- 12 (6) "Division", the division of professional registration in the department of
13 insurance, financial institutions and professional registration;

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.

14 (7) "Practice of auto body repair", renders or repairs physical damage of motor
15 vehicles by mending, straightening, or replacing body parts, painting, or paintless dent
16 repair, or changes the appearance of over four motor vehicles per year.

324.1183. 1. There is hereby established within the division the "Board of Auto
2 Body Repair" which shall guide, advise, and make recommendations to the division and
3 fulfill other responsibilities designated by sections 324.1180 to 324.1261.

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

12 **3.** Of the initial members appointed, three members shall be appointed for four
13 years, two members shall be appointed for three years, and two members shall be
14 appointed for two years. Thereafter, all members shall be appointed to serve four-year
15 terms.

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

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

22 **6.** The governor may remove a board member for misconduct, incompetence, or
23 neglect of official duties after giving the board member written notice of the charges and
24 allowing the board member an opportunity to be heard. Members can also be terminated
25 for the following reasons: change of legal residence by moving out of the state; missing
26 three consecutive meetings; or having the professional license revoked or suspended.

27 **7.** The public member shall be, at the time of appointment, a citizen of the United
28 States; a resident of this state for a period of one year preceding appointment and a
29 registered voter; but may not have been engaged in any business or profession licensed or
30 regulated by the board or be an immediate family member of a person engaged in any
31 business or profession licensed or regulated by the board; and may not have had a
32 material, financial interest in the practice of auto body repair or in an activity or
33 organization directly related to any profession licensed or regulated under sections

34 **324.1180 to 324.1261. The duties of the public member shall not include any determination**
35 **of the technical requirements to be met for licensure, whether a candidate for licensure**
36 **meets such technical requirements, or of the technical competence or technical judgment**
37 **of a licensee or a candidate for licensure.**

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

42 **9. No licensing activity or other statutory requirements shall become effective until**
43 **expenditures or personnel are specifically appropriated for the purpose of conducting the**
44 **business as required to administer the provisions of sections 324.1180 to 324.1261 and the**
45 **initial rules filed have become effective.**

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

49 **11. There is hereby created in the state treasury the "Board of Auto Body Repair**
50 **Fund", which shall consist of money collected under sections 324.1180 to 324.1261. The**
51 **state treasurer shall be custodian of the fund and shall approve disbursements from the**
52 **fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money**
53 **in the fund shall be used solely for the administration of sections 324.1180 to 324.1261.**
54 **Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this**
55 **fund shall not be transferred and placed to the credit of general revenue until the amount**
56 **in the fund at the end of the biennium exceeds three times the amount of the appropriation**
57 **from the fund for the preceding fiscal year. The state treasurer shall invest moneys in the**
58 **fund in the same manner as other funds are invested. Any interest and moneys earned on**
59 **such investments shall be credited to the fund.**

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

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

7 **3. Applications for a new or renewal of an auto body repair facility license shall be**
8 **reviewed by the board and a license shall be issued or denied within ninety days following**
9 **receipt by the board of the completed application and supporting documents. If the**

10 application for a license is denied, the auto body repair facility may request a hearing in
11 accordance with section 324.1213.

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

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

3 (1) Have all required licenses, permits, and registrations for the conduct of business
4 including, but not limited to: a federal tax identification number; a Missouri tax
5 identification number; a hazardous waste license and an Environmental Protection Agency
6 identification number or evidence of exemption from such permits; and any other licenses
7 and permits as the board may find applicable;

8 (2) Provide proof of insurance coverage for damage to property and for liability
9 arising from bodily injury, including, but not limited to: garage keeper's liability
10 insurance or other type of liability insurance that protects customers' property and
11 provides the public and employees with remedies for liability arising from the business
12 operations; workers' compensation insurance coverage as required by chapter 287, RSMo;
13 fire insurance, and any other insurance coverage in an amount and form that conforms to
14 the rules and regulations adopted by the board;

15 (3) Provide evidence of compliance with the Environmental Protection Agency and
16 Occupational Safety and Health Administration requirements for annual training in safety
17 and environmental concerns as set forth in 29 CFR 1910.1200(h)(1), 29 CFR 1910.120(e)(8),
18 40 CFR 68.71, 40 CFR 721.72(d), and 40 CFR 763;

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

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

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

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

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

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

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

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

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

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

6 2. An auto body repair facility with proof of continuous operation for a five-year
7 period prior to August 28, 2009, shall be able to obtain a provisional license. The facility
8 shall have one calendar year to meet any requirements that they do not meet at the time
9 of application. Continuing education requirements must be commenced within ninety days
10 of the issuance of license. If after the period of one year the auto body repair facility has
11 not met the licensing requirements of sections 324.1180 to 324.1219, the board shall notify
12 the holder of the provisional license by certified mail of the failure to qualify for a license
13 and that operation must cease until such time as the requirements of sections 324.1180 to
14 324.1219 are met. If the auto body repair facility fails to cease operations, the board may
15 levy a fine of two hundred fifty dollars per calendar day that the facility continues to
16 operate.

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

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

324.1204. A licensed auto body repair facility with a repair order signed by the
2 vehicle owner on the auto body repair facility estimate or work order shall be deemed to
3 have a contract with the owner of the vehicle for the repair of that vehicle. No auto body
4 repair facility shall start work on the vehicle without the vehicle owner's signature. The
5 licensed auto body repair facility is entitled to recover any and all costs and expenses if the
6 contract is cancelled before the repair work is completed. Costs shall be payable before
7 the vehicle is removed from the licensed facility's premises.

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

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

11 (1) Being finally adjudicated and found guilty, or having entered a plea of guilty
12 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the
13 United States, for any offense reasonably related to the qualifications, functions, or duties
14 of any activity licensed or regulated under sections 324.1180 to 324.1219, for any offense
15 an essential element of which is fraud, dishonesty, or an act of violence, whether or not
16 sentence is imposed;

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

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

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

24 **(5) Posing as a facility holding a license or allowing any person or facility to use his**
25 **or her license;**

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

27 **(7) Violation of any professional trust or confidence;**

28 **(8) Use of any advertisement or solicitation which is false, misleading, or deceptive**
29 **to the general public or persons to whom the advertisement or solicitation is primarily**
30 **directed;**

31 **(9) Refusal of any applicant or licensee to cooperate with the board during any**
32 **investigation;**

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

35 **(11) Operating an auto body repair facility without a license as required under**
36 **section 324.1186;**

37 **(12) Repeated negligence in the performance of the functions or duties of any**
38 **activity licensed by sections 324.1180 to 324.1219.**

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

48 **4. The applicant or licensee shall have the right to appeal the board's decision in**
49 **the manner provided in chapter 536, RSMo.**

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

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

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

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

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

10 **2. Any such actions shall be commenced either in the county in which such conduct**
11 **occurred or in the county in which the defendant resides.**

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

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

324.1216. The board is authorized to promulgate rules and regulations to
2 **administer and implement the provisions of sections 324.1180 to 324.1219. Any rule or**
3 **portion of a rule, as that term is defined in section 536.010, RSMo, that is created under**
4 **the authority delegated in this section shall become effective only if it complies with and**
5 **is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,**
6 **RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers**
7 **vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the**
8 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
9 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
10 **2009, shall be invalid and void.**

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

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

324.1222. 1. The board shall establish and administer a licensing program for auto
2 **body physical damage appraisers. A person may not appraise or estimate auto body**
3 **physical damage unless such person is licensed by the board under the provisions of**
4 **sections 324.1222 to 324.1261. A person may be licensed as an auto body physical damage**
5 **appraiser upon submission and approval of a written application and payment of a fee of**
6 **one hundred dollars. An auto body physical damage appraiser license issued under this**
7 **section shall expire two years from the date of issuance unless renewed according to the**
8 **rules adopted by the board. The fee for renewing a license issued under this section shall**
9 **be one hundred dollars. If a license issued under sections 324.1222 to 324.1261 lapses or**
10 **if such license is not renewed in a timely manner, then a fee to be set forth in board rules**
11 **or regulation shall accompany the renewal application.**

12 **2. Application for a license under sections 324.1222 to 324.1261 shall be on a form**
13 **prescribed by the board, and shall contain all information the board may require by rule**
14 **and regulation.**

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

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

20 **(1) Possess Damage Analysis and Estimating Certification B6, from the National**
21 **Institute for Automotive Service Excellence; and**

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

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

27 **6. An auto body physical damage appraiser license shall be considered lapsed if not**
28 **renewed within thirty days of the expiration date of the license.**

2 **324.1225.** If an applicant for a license can verify that they have been employed
3 continuously as a physical damage appraiser or adjuster for a five-year period prior to
4 August 28, 2009, the licensing fee of one hundred dollars shall entitle the individual to a
5 provisional appraiser license upon application. If the applicant has Damage Analysis and
6 Estimating Certification B6 from the National Institute for Automotive Service Excellence,
7 then the applicant shall receive a license.

2 **324.1228. 1.** In the case of catastrophic losses such as floods, hail, or tornados, an
3 auto body physical damage appraiser from any other state requiring licensure under
4 sections 324.1222 to 324.1261 shall have his or her license from that state recognized by
5 submitting information as required by the board and payment of a twenty-five dollar
6 temporary permit fee.

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

6 **3.** As provided in subsections 1 and 2 of this section, an out-of-state auto body
7 physical damage appraiser shall be allowed to perform his or her normal activities as long
8 as he or she can provide proof of application for a temporary permit.
9

10 **4.** In cases where the temporary permit is not issued by the board, the board shall
11 notify the auto body physical damage appraiser immediately by either United States mail
12 or electronic mail. Upon receipt of such notice, the auto body physical damage appraiser
13 shall immediately cease performing as an auto body physical damage appraiser in
14 Missouri.
15

16 **5.** Any person violating the provisions of this section shall be subject to a penalty
17 of five hundred dollars by the board.
18

19 **324.1231. 1.** The board may refuse to issue or deny renewal of any license required
2 under sections 324.1222 to 324.1261 for failure to comply with the provisions of sections
3 324.1222 to 324.1261 or any regulations promulgated by the board to implement its
4 provisions. The board shall notify the applicant in writing of the reasons for the refusal
5 and shall advise the applicant of his or her right to file a complaint with the administrative
6 hearing commission as provided by chapter 621, RSMo.
7

2 **2.** The board may cause a complaint to be filed with the administrative hearing
3 commission as provided by chapter 621, RSMo, against any holder of any license or person
4 providing services covered by sections 324.1222 to 324.1261 or any person who has failed
5 to renew or has surrendered his or her license for any one or any combination of the
6 following causes:
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- 12 **(1) Use or unlawful possession of any controlled substance, as defined in chapter**
13 **195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to**
14 **perform the work of any activity licensed or regulated by sections 324.1222 to 324.1261;**
- 15 **(2) Being finally adjudicated and found guilty, or having entered a plea of guilty**
16 **or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the**
17 **United States, for any offense reasonably related to the qualifications, functions, or duties**
18 **of any activity licensed or regulated under sections 324.1222 to 324.1261, for any offense**
19 **an essential element of which is fraud, dishonesty, or an act of violence, whether or not**
20 **sentence is imposed;**
- 21 **(3) Use of fraud, deception, misrepresentation, or bribery in securing any**
22 **certificate, permit, or license issued under sections 324.1222 to 324.1261;**
- 23 **(4) Obtaining or attempting to obtain any fee, charge, tuition, or other**
24 **compensation by fraud, deception, or misrepresentation;**
- 25 **(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or**
26 **dishonesty in the performance of the functions or duties of any activity licensed or**
27 **regulated by sections 324.1222 to 324.1261;**
- 28 **(6) Violation of, or assisting or enabling any person to violate, any provision of**
29 **sections 324.1222 to 324.1261, or of any lawful rule or regulation adopted by the board**
30 **under sections 324.1222 to 324.1261;**
- 31 **(7) Disciplinary action against the holder of a license regulated by sections 324.1222**
32 **to 324.1261 granted by another state upon grounds for which discipline is authorized in**
33 **this state;**
- 34 **(8) For an individual, being finally adjudged insane or incompetent by a court of**
35 **competent jurisdiction;**
- 36 **(9) Issuance of a license based upon a material mistake of fact;**
- 37 **(10) Violation of any professional trust or confidence;**
- 38 **(11) Use of any advertisement or solicitation which is false, misleading, or deceptive**
39 **to the general public or persons to whom the advertisement or solicitation is primarily**
40 **directed;**
- 41 **(12) Violation of the drug laws or rules and regulations of this state, any other state**
42 **or the federal government;**
- 43 **(13) Refusal of any applicant or licensee to cooperate with the board during any**
44 **investigation;**
- 45 **(14) Repeated negligence in the performance of the functions or duties of any**
46 **activity licensed by sections 324.1222 to 324.1261.**

47 **3. Upon a finding by the administrative hearing commission that the grounds for**
48 **disciplinary action are met, as provided in subsection 2 of this section, the board may**
49 **censure or place the person named in the complaint on probation on such terms and**
50 **conditions as the board deems appropriate for a period not to exceed five years, or may**
51 **suspend the license for a period not to exceed three years, or revoke the license in**
52 **accordance with section 324.1237.**

53 **4. An individual whose license has been revoked shall wait one year from the date**
54 **of revocation to apply for a license. The board at its discretion may issue a license after**
55 **compliance with all the requirements of sections 324.1222 to 324.1261. Any individual**
56 **whose license has been revoked twice within a five-year period shall not be eligible for**
57 **licensure.**

58 **5. The board may notify the proper licensing authority of any other state in which**
59 **the person whose license was disciplined was also licensed of the discipline in this state.**

60 **6. Any person, organization, association, or corporation who reports or provides**
61 **information to the board under the provisions of sections 324.1222 to 324.1261 and who**
62 **does so in good faith shall not be subject to an action for civil damages as a result thereof.**

324.1237. 1. The board may impose a civil penalty up to a maximum of two
2 **thousand five hundred dollars for every violation of sections 324.1225 to 324.1261**
3 **occurring within a calendar year.**

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

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

10 **4. The board shall impose a civil penalty of five thousand dollars against any**
11 **person who practices as an auto body physical damage appraiser without a license. The**
12 **board shall seek an injunction in circuit court to require a person operating as an auto**
13 **body physical damage appraiser to cease and desist operations for failing to comply with**
14 **sections 324.1222 to 324.1261.**

324.1240. The board shall maintain a current roster of all auto body physical
2 **damage appraisers that are licensed to do business in the state of Missouri. The roster**
3 **shall be available electronically in a format prescribed by the board.**

324.1243. A licensed Missouri auto body physical damage appraiser, while engaged
2 **in appraisal duties, shall carry on his or her person at all times his or her license. The**
3 **appraiser shall produce such license, upon request, to an owner whose vehicle is being**

4 inspected, to the auto body repair facility representative involved, or to any authorized
5 representative of the board.

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

324.1249. An estimate prepared by an auto body repair facility based on a given
2 flat rate manual or automated appraisal system that is questioned by the insurer shall be
3 subject to audit only by the same manual or system.

324.1252. No auto body physical damage appraiser or other person shall adjust or
2 change a damage appraisal or estimate when the extent of damage is in dispute without
3 making arrangements for a physical inspection of the motor vehicle with the auto body
4 repair facility.

324.1255. When preparing an estimate of damage, an auto body physical damage
2 appraiser shall use an accepted published flat rate manual or automated appraisal system.
3 The flat rate manual or automated appraisal system shall be used in its entirety and
4 without modifications to establish the cost of repairs to a motor vehicle. Retail labor rates
5 shall be used in determining any prevailing labor rate. An auto body physical damage
6 appraiser shall execute the same duty of care when preparing an estimate of damage for
7 a motor vehicle owner in the absence of a licensed auto body repair facility.

324.1258. 1. In any motor vehicle damage case, no auto body physical damage
2 appraiser or insurer, officer, broker, agent, attorney-in-fact, employee, or other
3 representative of an insurer shall:

4 (1) Limit the freedom of a claimant to choose an auto body repair facility;

5 (2) Require a claimant to present the automobile for loss adjustment or inspection
6 at any facility under the control of the insurer;

7 (3) Use intimidation, or coercive tactics in negotiating repairs to damaged motor
8 vehicles;

9 (4) Attempt to persuade, require, coerce, or pressure the vehicle owner to use an
10 auto body repair facility other than a facility of his or her choice after the vehicle owner
11 states a choice;

12 (5) Adjust or pay a claim for repairs of an insured's or claimant's vehicle with an
13 auto body repair facility which does not have a current auto body repair facility license
14 under sections 324.1180 to 324.1219.

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

324.1261. All appraisals or estimates for a motor vehicle physical damage claim
2 **written on behalf of an insurer shall include immediately below the heading of the estimate**
3 **the following notice, printed in not less than ten-point boldfaced type:**

4

5 **NOTICE UNDER MISSOURI LAW, THE VEHICLE OWNER AND/OR LESSEE HAS**
6 **THE RIGHT TO CHOOSE THE REPAIR FACILITY TO MAKE REPAIRS TO THEIR**
7 **MOTOR VEHICLE. NO ONE SHALL USE INTIMIDATION OR COERCIVE**
8 **TACTICS TO ALTER THE OWNER'S CHOICE.**

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