

FIRST REGULAR SESSION

HOUSE BILL NO. 881

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ATKINS.

1801L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 324, RSMo, by adding thereto sixteen new sections relating to the Missouri radon certification program, 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 sixteen new sections, to
2 be known as sections 324.800, 324.803, 324.806, 324.809, 324.812, 324.815, 324.818, 324.821,
3 324.824, 324.827, 324.830, 324.833, 324.836, 324.839, 324.842, and 324.845, to read as
4 follows:

**324.800. 1. There is hereby established within the department of health and senior
2 services the "Missouri Radon Certification Program". The program shall require national
3 certification and Missouri state certification and registration of all individuals and
4 businesses performing radon services in the state of Missouri. Radon measurement, radon
5 laboratories, individuals and businesses that conduct radon mitigation services in Missouri
6 shall be certified through one of two national radon certification programs. Certification
7 requirements are set forth in subsection 2 of section 324.809.**

**2. The department of health and senior services shall administer the Missouri
9 radon certification program. No person shall provide radon services except as authorized
10 under sections 324.800 to 324.845. Any violation of sections 324.800 to 324.845 is a
11 misdemeanor punishable by a fine of not more than one thousand dollars per violation.**

324.803. As used in sections 324.800 to 324.845, the following terms shall mean:

**(1) "Certified radon professional program (CRPP)", curriculum provided by the
3 National Radon Safety Board. The curriculum and examinations provide the necessary
4 information about the policies, requirements, and procedures that follow strict national**

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.

5 protocols established by the United States Environmental Protection Agency to measure
6 and mitigate radon gas;

7 (2) "Department", the department of health and senior services;

8 (3) "Laboratory", a commercial entity nationally certified to analyze radon levels
9 of tests conducted;

10 (4) "Measurement provider - standard and analytical services", an individual who:

11 (a) Is nationally certified and has demonstrated knowledge of measurement
12 protocols for the placement and retrieval of radon measurement devices;

13 (b) Has demonstrated knowledge and successfully completed a device type
14 certification examination from a nationally certified laboratory for the proper
15 interpretation and reporting of results obtained through the recovery and review of data
16 obtained from the radon testing device used;

17 (5) "Measurement provider - standard services", an individual who is nationally
18 certified and has demonstrated knowledge of measurement protocols for the placement and
19 retrieval of radon measurement devices;

20 (6) "Mitigator", a person nationally certified and trained to design and install
21 radon reduction or mitigation systems;

22 (7) "National radon proficiency program (NRPP)", curriculum provided by the
23 National Environmental and Health Association (NEHA). The curriculum and
24 examinations provide the necessary information about the policies, requirements, and
25 procedures that follow strict national protocols established by the United States
26 Environmental Protection Agency to measure and mitigate radon gas;

27 (8) "Radon services", any of the following:

28 (a) A laboratory;

29 (b) A measurement provider - standard services;

30 (c) A measurement provider - standard and analytical services; or

31 (d) A mitigator.

324.806. Sections 324.800 to 324.845 shall not apply to any of the following:

2 (1) A person who is testing for or mitigating radon in a building that such person
3 owns or occupies;

4 (2) A person who designs mitigation plans for radon resistant new construction;

5 (3) State officials conducting tests in state facilities, public schools, and other state-
6 funded facilities deemed appropriate by the state radon office; or

7 (4) A person who is performing scientific research regarding testing or mitigation
8 of radon, but only if such person informs the owner and the occupant of the building of all
9 of the following:

- 10 (a) That he or she is not state or nationally certified by the NEHA or NRSB;
11 (b) Any test results are not certified nor valid for legal purposes; and
12 (c) Any measurement or mitigation methods suggested or used are experimental
13 and no compensation for such services is solicited or made.

324.809. 1. Beginning January 1, 2012, no person may provide radon services for
2 the measurement or mitigation of the presence of radon in the state of Missouri unless such
3 person has been nationally certified and certified by the department of health and senior
4 services under sections 324.800 to 324.845.

5 **2.** No certification shall be approved unless the following conditions have been met:

- 6 **(1)** The applicant is qualified to perform the activities for which the applicant is
7 seeking certification, including the training and experience required in section 324.800;
8 **(2)** Successful completion of the National Environmental Health Association
9 (NEHA) National Radon Proficiency Program (NRPP) or the National Radon Safety Board
10 (NRSB) Certified Radon Professional Program (CRPP) for the radon services which the
11 applicant is seeking certification;
12 **(3)** Continued verification of the credentials provided by the NEHA or the NRSB
13 are current and certification has not been suspended, expired, or revoked; and
14 **(4)** Any radon proficiency certification that has been suspended, expired, or
15 revoked by the NEHA or the NRSB shall result in the department suspending or revoking
16 any existing state certification to provide radon services in Missouri.

324.812. 1. In the deployment of radon measurement and radon mitigation
2 activities, the protocols defined by the NEHA or the NRSB shall apply.

3 **2.** Protocols used by the radon service provider shall be in accordance with the
4 organization the radon service provider completed his or her certification exam.

5 **3.** In all cases where discrepancies exist with radon mitigation system
6 configurations and deployment, the most current version of ASTM Standard E2121 shall
7 be used.

8 **4.** Where discrepancies exist between NEHA or the NRSB protocols and local codes
9 or regulations, local codes and regulations shall take precedence.

10 **5.** Local codes shall not take precedence with regard to alterations to a radon
11 mitigation system which may adversely impact the performance of the system to reduce
12 radon levels for which the system was originally designed.

13 **6.** Due to the wide variation in building design, size, operation, and use, such
14 requirements do not include detailed guidance on how to select the most appropriate
15 mitigation strategy for a given building.

324.815. Certification as a measurement provider - standard services shall include all of the following by an applicant:

- 3 (1) Successful completion of a NEHA NRPP or NRSB CRPP;**
- 4 (2) Agreement to the terms and conditions of the department as stipulated on the**
5 Missouri certification program application;
- 6 (3) Maintenance of radon measurement accreditation with the NEHA or NRSB,**
7 including reporting any disruption in accreditation status with the National Environmental
8 Health Association or the National Radon Safety Board to the department within fifteen
9 calendar days of the disruption in accreditation.

324.818. Certification as a measurement provider - standard and analytical services shall include all of the following by an applicant:

- 3 (1) Successful completion of a NEHA NRPP or the NRSB CRPP;**
- 4 (2) Successful completion of the laboratory radon device type analytical proficiency**
5 program requirements;
- 6 (3) Agreement to the terms and conditions of the department as stipulated on the**
7 Missouri radon certification program application;
- 8 (4) Maintenance of radon measurement accreditation with the NEHA or the NRSB,**
9 including reporting any disruption in accreditation status with the NEHA or the NRSB to
10 the department within fifteen calendar days of the disruption in accreditation.

324.821. Certification as a radon mitigation provider shall include all of the following by an applicant:

- 3 (1) Successful completion of the radon measurement and mitigation courses of the**
4 NEHA NRPP or the NRSB CRPP;
- 5 (2) Agreement to the terms and conditions of the department as stipulated on the**
6 Missouri radon certification program application;
- 7 (3) Presence of a state certified radon mitigator at every mitigation job site to**
8 inspect and assure the radon mitigation system meets the NEHA NRPP or NRSB CRPP
9 and local code requirements;
- 10 (4) Maintenance of radon mitigation accreditation with the NEHA or the NRSB,**
11 including reporting any disruption in accreditation status with the NEHA or the NRSB to
12 the department within fifteen calendar days of the disruption in accreditation.

324.824. 1. The department of health and senior services shall maintain a list of persons that are certified as radon service providers by their department. Such list shall be made available to the public and to the state realtors board.

4 **2. The list of Missouri certified radon service providers shall be provided to the**
5 **state realtors board for dissemination and communication with their members, realtors,**
6 **consultants, and constituents.**

7 **3. The state realtors board shall require their members, realtors, consultants, and**
8 **constituents to adhere to the guidelines of sections 324.800 to 324.845 in the course of all**
9 **real estate transactions where radon service providers are requested.**

324.827. 1. Radon mitigation providers shall include a statement in all documents
2 **construed as a contract to install a mitigation system that the mitigation system installed**
3 **should be tested by an independent radon measurement professional. Testing should occur**
4 **not less than twenty-four hours nor more than thirty days after the mitigation system has**
5 **been installed.**

6 **2. The requirement for independent post-radon mitigation radon measurement**
7 **testing shall be included in the Missouri certification program to alleviate the possible**
8 **conflict of interests between the radon mitigation provider and the need to impartially**
9 **assess the success of the mitigation system.**

10 **3. If such requirement is waived, the contract shall be signed by the client agreeing**
11 **that post-mitigation system testing by an independent radon measurement professional was**
12 **not requested.**

13 **4. Radon mitigation providers may provide a short- or long-term radon**
14 **measurement test kit to the client to meet the independent radon measurement post-**
15 **mitigation test requirement, provided that the test results are analyzed by an independent**
16 **qualified radon laboratory as defined in section 324.800.**

324.830. 1. Analytical laboratories shall meet the requirements for certification
2 **with the National Environmental Health Association's National Radon Proficiency**
3 **Program.**

4 **2. All laboratories shall have a responsible party who is certified as a residential**
5 **measurement provider through the National Environmental Health Association or the**
6 **National Radon Safety Board.**

324.833. 1. Individuals and businesses providing radon services in Missouri:

2 **(1) Shall complete continuing education requirements set by the NEHA or the**
3 **NRSB;**

4 **(2) Shall complete two or more accredited continuing education hours promoting**
5 **radon awareness to the citizens of Missouri. Such promotion includes, but is not limited**
6 **to, public outreach, presentations, forums, meetings, and presentations to interested**
7 **professional organizations. The authoritative source for qualified continuing education**
8 **credits to meet such requirement may be obtained from the NEHA or the NRSB. State**

9 certification requirements to satisfy such requirement shall be included with all radon
10 service provider renewal applications.

11 2. Continuing education requirements set forth by the NHEA or the NRSB shall
12 meet Missouri radon service providers' continuing education requirements set forth in
13 subdivision (2) of subsection 1 of this section.

324.836. 1. An application for state radon services certification may be submitted
2 at any time.

3 2. If the requirements of sections 324.809 to 324.821 have been met, the department
4 shall review the completed application and validate the supportive documentation for
5 inclusion into the state radon services certification program. The validation shall include,
6 but not be limited to, validating the applicant's accreditation with the NEHA or the NRSB.

7 3. All applicants shall agree to the terms and conditions of the department as
8 stipulated on the Missouri radon certification program application.

9 4. Missouri state radon service provider certification renewal periods shall coincide
10 with the radon service providers' accreditation period with the NEHA or the NRSB.

11 5. Radon service provider accreditation with the NEHA or the NRSB shall be
12 validated by the department.

324.839. 1. Missouri state radon service providers shall retain the following copies
2 of records associated with the provision of services to clients for a period of five years,
3 which may be in paper or electronic form:

4 (1) Any contracts and description of services provided;

5 (2) Any radon measurement tests performed;

6 (3) Any equipment calibration certificates;

7 (4) Any radon mitigation contracts;

8 (5) Any post-mitigation tests provided by the radon service provider, independent
9 radon measurement provider, or laboratory;

10 (6) All working level (WL) radon exposure records for employees maintained by
11 the radon service provider in accordance with the NEHA NRPP or the NRSB CRPP;

12 (7) Any accreditation documents provided by the National Environmental Health
13 Association or the National Radon Safety Board; and

14 (8) Any official documents validating the successful completion of the radon
15 measurement device type analytical certification program.

16 2. The department may require copies of any or all records maintained by the
17 radon service provider at any time and may require statistical information from radon
18 service providers on a periodic basis.

19 **3. Random documentation audits shall be made by the department to assure the**
20 **integrity of the Missouri radon certification program.**

21 **4. The department may, at the department's discretion, make arrangements for an**
22 **on-site visit to the radon service provider's registered place of business to inspect document**
23 **retention policies and procedures.**

24 **5. Radon service providers shall comply with requests for records or on-site**
25 **inspections or audits in order to maintain their state certification status.**

26 **6. Failure to comply or cooperate with requests for documentation by the**
27 **department may result in the suspension or revocation of the service provider's Missouri**
28 **state certification status.**

29 **7. Upon request, radon service providers shall allow authorized representatives of**
30 **the department to accompany him or her while performing any radon measurement or**
31 **mitigation activities for the purpose of inspecting such activities, with the approval of the**
32 **property owner or resident on whose property such activity is being performed.**

324.842. 1. A radon service provider who resides outside the boundaries of
2 **Missouri and holds a radon measurement or a radon measurement and mitigation**
3 **certification from the NEHA or the NRSB may apply for certification with the department.**

4 **2. All requirements and conditions of sections 324.800 to 324.845 shall apply to each**
5 **individual or business residing outside this state that applies for certification to conduct**
6 **business as a radon service provider.**

324.845. 1. Complaints filed with the department against a state certified radon
2 **service provider related to noncompliance with the NEHA NRPP or NRSB CRPP protocols**
3 **shall be investigated. The department shall provide a copy of the filed complaint to the**
4 **radon service provider electronically and by United States mail.**

5 **2. The radon service provider shall have thirty calendar days to remedy the**
6 **complaint with the complainant to the satisfaction of the department.**

7 **3. In all cases, the most current version of ASTM E2121 shall be used to adjudicate**
8 **the complaint.**

9 **4. (1) In the event the complaint filed is valid and not remedied to the satisfaction**
10 **of the complainant and the department, the radon service provider may ask for a review**
11 **with the panel of professionals comprised as follows:**

12 **(a) A state certified and registered radon mitigator selected at random by the**
13 **department;**

14 **(b) A state certified and registered mitigator selected by the radon service provider.**
15 **The radon service provider shall not select themselves or a radon service provider from**
16 **their company to meet such requirement; and**

17 (c) A representative from the department.

18 (2) The review shall be conducted within ninety days after the date the request is
19 received by the department and shall be chaired by the representative from the
20 department.

21 (3) Upon completion of the review by the panel listed in subdivision (1) of this
22 subsection, a simple majority vote of the panel shall determine if the complaint has been
23 remedied using the guidelines of ASTM E2121.

24 (4) The determination of the panel is final.

25 (5) If the panel determines the complaint has merit, the offending radon service
26 provider may be required to make restitution as follows:

27 (a) Be prosecuted by the complainant in the appropriate court of law to solicit
28 recovery of any and all costs or damages; and

29 (b) Be required to make monetary restitution to the department not to exceed one
30 thousand dollars per complaint. The amount of restitution to the department shall be set
31 by the panel listed in subdivision (1) of this subsection.

32 (6) All costs, excluding monetary restitution to the department, associated with
33 subsection 4 of this section shall be borne by the radon service provider requesting the
34 review.

35 (7) If repeated complaints with merit are filed against a certified radon service
36 provider, the national certifying organization shall be notified by the department to assess
37 disciplinary action up to and including revoking state certification and requesting
38 revocation of national certification. For purposes of this subdivision, national certifying
39 organizations are the NEHA or the NRSB.