

SECOND REGULAR SESSION

HOUSE BILL NO. 1733

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SELBY.

Read 1st time January 30, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3244L.01I

AN ACT

To amend chapter 324, RSMo, by adding thereto twelve new sections relating to the creation of a board of licensed private fire investigator examiners, 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 twelve new sections, to
2 be known as sections 324.800, 324.805, 324.810, 324.815, 324.820, 324.825, 324.830, 324.835,
3 324.840, 324.845, 324.850, and 324.855, to read as follows:

324.800. For the purposes of sections 324.800 to 324.855, the following terms mean:

- 2 (1) "Board", the board of licensed private fire investigator examiners;
- 3 (2) "Client", any person who engages the services of a private fire investigator;
- 4 (3) "Division", the division of fire safety within the department of public safety;
- 5 (4) "Insurance adjuster", any person who receives any consideration, either
6 directly or indirectly, for adjusting in the disposal of any claim under or in connection with
7 a policy of insurance or engaging in soliciting insurance adjustment business;
- 8 (5) "License", a private fire investigator license;
- 9 (6) "Licensed private fire investigator", any person who receives any consideration,
10 either directly or indirectly, for engaging in the investigation of the origin, cause, or
11 responsibility of fires;
- 12 (7) "Licensed private fire investigator agency", a person or firm that employs any
13 person to engage in the investigation of fires to determine the origin, cause, and
14 responsibility of such fires;
- 15 (8) "Licensed private fire investigation", the furnishing of, making of, or agreeing
16 to make any investigation of a fire for the origin, cause, or responsibility of such fire;
- 17 (9) "Organization", a corporation, trust, estate, partnership, cooperation, or

18 association;

19 (10) "Person", an individual;

20 (11) "Principal place of business", the place where the licensee maintains a
21 permanent office which may be a residence or business address.

324.805. 1. The "Board of Licensed Private Fire Investigator Examiners" is hereby
2 created within the division of fire safety. The board shall be composed of six members
3 appointed by the governor, with the advice and consent of the senate. The board shall
4 consist of:

5 (1) The state fire marshal, or his or her designee;

6 (2) A representative of a private fire investigation agency;

7 (3) A representative of the insurance industry;

8 (4) A representative of the Missouri chapter of the International Association of
9 Arson Investigators;

10 (5) A representative of the Professional Fire and Fraud Investigators Association;

11 (6) A representative of the Kansas City Arson Task Force; and

12 (7) One person who is an independent private fire investigator.

13 2. Each member of the board shall be a citizen of the United States, a resident of
14 this state, at least thirty years of age, and shall have been actively engaged in fire
15 investigation for the previous five years. No more than one board member shall be
16 employed by or affiliated with the same licensed private fire investigation agency. The
17 initial board members shall not be required to be licensed but shall obtain a license within
18 one hundred eighty days after appointment to the board.

19 3. The members of the board shall be appointed for terms of three years, except
20 those first appointed, in which case two members shall be appointed for terms of three
21 years, two members shall be appointed for terms of two years, and two members shall be
22 appointed for a one-year term. Any vacancy on the board shall be filled for the remainder
23 of the unexpired term of that member. The members of the board shall serve without pay,
24 but they shall receive per diem expenses in an equivalent amount as allowed for members
25 of the general assembly.

324.810. The following persons or organizations shall not be deemed to be engaging
2 in licensed private fire investigation:

3 (1) Any officer or employee of the United States, this state, or a political subdivision
4 of this state, while engaged in the performance of the officer's or employee's official duties;

5 (2) An attorney performing duties as an attorney;

6 (3) An investigator who is an employee of an insurance company;

7 (4) Insurers, agents, and insurance brokers licensed by the state, performing duties

8 in connection with insurance transacted by them;

9 (5) An insurance adjuster; or

10 (6) An investigator employed by and under the supervision of a licensed attorney
11 while acting within the scope of employment, who does not represent himself or herself to
12 be a licensed private fire investigator.

324.815. 1. Every person desiring to be licensed in this state as a licensed private
2 fire investigator or licensed private fire investigator agency shall make an application to
3 the board. An application for a license pursuant to the provisions of sections 324.800 to
4 324.855 shall be on a form prescribed by the board and accompanied by the required
5 application fee. An application shall be verified and shall include:

6 (1) The full name and business address of the applicant;

7 (2) The name that the applicant intends to do business under;

8 (3) A statement as to the general nature of the business that the applicant intends
9 to engage in;

10 (4) Two recent passport photographs of the applicant and two classifiable sets of
11 the applicant's fingerprints;

12 (5) A verified statement of the applicant's experience qualifications; and

13 (6) Such other information, evidence, statements, or documents as may be required
14 by the state fire marshal.

15 2. To be eligible for licensure, the applicant shall:

16 (1) Be at least twenty-one years of age;

17 (2) Be a citizen of the United States;

18 (3) Not have a felony conviction or a conviction of a crime involving moral
19 turpitude;

20 (4) Provide proof of liability insurance with amount to be no less than one million
21 dollars in coverage; and

22 (5) Comply with such other qualifications as the board shall require.
23

24 For the purposes of sections 324.800 to 324.855, the record of conviction, or a certified copy
25 thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is
26 deemed to be a conviction within the meaning thereof.

27 3. The board shall require as a condition of licensure that the applicant:

28 (1) Successfully complete a course of training approved by the state fire marshal's
29 office;

30 (2) Pass a written examination as evidence of knowledge of fire investigation.
31 Certification as a fire investigator by the state fire marshal or other agencies approved by

32 the state fire marshal shall constitute passing a written examination;

33 (3) Provide a background check from an authorized state law enforcement agency.

34 The board shall conduct a complete investigation of the background of each applicant for
35 licensure as a licensed private fire investigator or agency to determine whether the
36 applicant is qualified for licensure pursuant to sections 324.800 to 324.855; and

37 (4) Pass any other basic qualification requirements as the board shall outline.

38 4. The board may deny a request for a license if the applicant has:

39 (1) Committed any act that, if committed by a licensee, would be grounds for the
40 suspension or revocation of a license pursuant to the provisions of sections 324.800 to
41 324.855;

42 (2) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo
43 contendere in a criminal prosecution under the laws of any state or the United States for
44 any offense reasonably related to the qualifications, functions, or duties of any profession
45 licensed or regulated under this chapter or for any offense an essential element of which
46 is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude,
47 whether or not a sentence is imposed;

48 (3) Been refused a license pursuant to the provisions of sections 324.800 to 324.855
49 or had a license revoked in this state or in any other state;

50 (4) Prior to being licensed, committed, aided, or abetted the commission of any act
51 that requires a license pursuant to sections 324.800 to 324.855; and

52 (5) Knowingly made any false statement in the application.

53 5. Every application submitted pursuant to the provisions of sections 324.800 to
54 324.855 shall be accompanied by a fee as determined by the board as follows:

55 (1) A separate fee shall be paid for an individual license, agency license, and
56 employees being licensed to work under an agency license; and

57 (2) If a license is issued for a period of less than two years, the fee shall be prorated
58 for the months, or fraction thereof, for which the license is issued.

59 6. All fees required pursuant to this section shall be paid to and collected by the
60 division of fire safety and transmitted to the department of revenue for deposit in the state
61 general revenue fund. The board shall set fees at a level to produce revenue that will not
62 substantially exceed or fail to cover the costs and expenses of administering sections
63 324.800 to 324.855. These fees shall be exclusive and no municipality may require any
64 person licensed pursuant to sections 324.800 to 324.855 to furnish any bond or pass any
65 examination to practice as a licensed private fire investigator.

66 7. Renewal of a license shall be made in the manner prescribed by the board,
67 including the payment of a renewal fee.

324.820. 1. The board shall determine the form of the license which shall include:

- (1) The name of the licensee;**
- (2) The name under which the licensee is to operate; and**
- (3) The number and date of the license.**

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee.

3. Upon the issuance of the license, a pocket card of such size, design, and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.800 to 324.855. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board for cancellation.

324.825. 1. The owner of a company seeking any agency license must first be licensed as a private fire investigator. The agency may hire individuals to work for the agency whom shall conduct investigations for such agency only. Persons hired shall make application as determined by the board and shall meet all requirements set forth by the board. They shall not be required to meet any experience requirements and shall be allowed to begin work immediately. Employees shall attend an approved training program within a time to be determined by the board and will be under the direct supervision of a licensed private fire investigator until all requirements are met.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee. A licensee is legally responsible for any acts committed by the licensee's employees or agents which are in violation of sections 324.800 to 324.855. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.830. No licensee or officer, director, partner, associate, or employee of the licensee shall:

- (1) Knowingly make any false report to his or her employer or client for whom information was being obtained;**
- (2) Cause any written report to be submitted to a client except by the licensee and the person submitting the report shall exercise diligence in ascertaining whether or not the**

7 facts and information in such report are true and correct;

8 (3) Use a title, wear a uniform, use an insignia or identification card, or make any
9 statement with the intent to give an impression that such person is connected in any way
10 with the federal or state government or any political subdivision of the federal or state
11 government;

12 (4) Appear as an assignee party in any proceeding involving claim and delivery,
13 replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien,
14 materialman's lien, or any other lien;

15 (5) Manufacture false evidence;

16 (6) Allow anyone other than the individual licensed by the state to conduct an
17 investigation; or

18 (7) Assign or transfer a license issued pursuant to sections 324.800 to 324.855.

324.835. 1. Every advertisement by a licensee soliciting or advertising business
2 shall contain the licensee's name and address as they appear in the records of the board.

3 2. A licensee shall not advertise or conduct business from any address in this state
4 other than that shown on the records of the board as the licensee's principal place of
5 business unless the licensee has received a branch office certificate for such location after
6 compliance with the provisions of sections 324.800 to 324.855 and such additional
7 requirements necessary for the protection of the public as the board may prescribe by
8 regulation. A licensee shall notify the board in writing within ten days after closing or
9 changing the location of a branch office.

324.840. 1. The board may deny a request for a license, or may suspend or revoke
2 a license issued pursuant to sections 324.800 to 324.855, or censure or place a license on
3 probation if, after notice and opportunity for hearing in accordance with the provisions
4 of chapter 621, RSMo, the board determines the licensee has:

5 (1) Made any false statement or given any false information in connection with an
6 application for a license or a renewal or reinstatement thereof;

7 (2) Violated any provisions of sections 324.800 to 324.855;

8 (3) Violated any rule of the board adopted pursuant to the authority contained in
9 sections 324.800 to 324.855;

10 (4) Been convicted of a felony or been convicted of a crime involving moral
11 turpitude;

12 (5) Impersonated, or permitted or aided and abetted an employee to impersonate
13 a law enforcement officer or employee of the United States, or of any state or political
14 subdivision;

15 (6) Committed or permitted any employee to commit any act while the license was

16 expired that could be cause for the suspension or revocation of any license, or grounds for
17 the denial of an application for a license;

18 (7) Knowingly violated, or advised, encouraged, or assisted the violation of any
19 court order or injunction in the course of business as a licensee;

20 (8) Used any letterhead, advertisement, or other printed matter or in any manner
21 representing that such person is an instrumentality of the federal or state government or
22 any political subdivision of a federal or state government;

23 (9) Used a name different from that under which such person is currently licensed
24 in any advertisement, solicitation, or contact for business; or

25 (10) Committed any act that is grounds for denial of an application for a license
26 pursuant to the provisions of sections 324.800 to 324.855.

27 2. Any person whose license status is affected by any official action of the state fire
28 marshal or board of licensed private fire investigator examiners, including, but not limited
29 to, revocation, suspension, failure to renew a license, or refusal to grant a license, may seek
30 a determination by the administrative hearing commission pursuant to the provisions of
31 section 621.045, RSMo. After the filing of a complaint before the administrative hearing
32 commission, the proceedings shall be conducted in accordance with the provisions of
33 chapter 621, RSMo. Upon a finding by the administrative hearing commission that the
34 grounds, provided in subsection 1 of this section, for disciplinary action are met, the board
35 may singly or in combination censure or place the person named in the complaint on
36 probation on such terms and conditions as the board deems appropriate for a period not
37 to exceed five years or may suspend, for a period not to exceed three years, or revoke the
38 license.

39 3. A licensed private fire investigator agency may continue under the direction of
40 another employee if the individual holding the license is suspended or revoked as approved
41 by the board. The board shall establish a time from within which the licensed private fire
42 investigator agency shall identify an acceptable person who is qualified to assume control
43 of the agency as required by the board.

324.845. 1. For the purpose of enforcing the provisions of sections 324.800 to
2 324.855, or in making investigations relating to any violation thereof or to the character,
3 competency, or integrity of the applicants or licensees, or for the purpose of investigating
4 the business, business practices, or business methods of any applicant or licensee, or of the
5 officers, directors, partners, or associates thereof, the board shall have the power to
6 subpoena and bring before the board any person in this state and require the production
7 of any books, records, or papers that the board deems relative to the inquiry. A subpoena
8 issued pursuant to this section shall be governed by this state's rules of civil procedure.

9 2. Any person subpoenaed who fails to obey such subpoena without reasonable
10 cause or who without such cause refuses to be examined or to answer any legal or pertinent
11 question as to the character or qualifications of such applicant or licensee or such
12 applicant's or licensee's business, business practices, or methods or such violations shall
13 be guilty of a class A misdemeanor.

14 3. The board may administer an oath and take the testimony of any person, or
15 cause such person's deposition to be taken, except that any applicant or licensee or officer,
16 director, partner, or associate thereof shall not be entitled to any fees or mileage. The
17 testimony of witnesses in any investigative proceeding shall be under oath and willful.
18 False swearing in such proceeding shall be perjury.

 324.850. 1. The board shall adopt such rules and regulations as may be necessary
2 to carry out the provisions of sections 324.800 to 324.855.

3 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
4 that is created under the authority delegated in sections 324.800 to 324.855 shall become
5 effective only if it complies with and is subject to all of the provisions of chapter 536,
6 RSMo, and, if applicable, section 536.020, RSMo. This section and chapter 536, RSMo, are
7 nonseverable and if any of the powers vested with the general assembly pursuant to
8 chapter 536, RSMo, to review, delay the effective date, or disapprove and annul a rule are
9 subsequently held unconstitutional, the grant of rulemaking authority and any rule
10 proposed or adopted by the board after August 28, 2002, shall be void.

 324.855. Any person who knowingly falsifies the fingerprints or photographs or
2 other information requested to be submitted pursuant to sections 324.800 to 324.855 is
3 guilty of a class D felony. Any person who violates any other provisions of sections 324.800
4 to 324.855 is guilty of a class A misdemeanor.