

FIRST REGULAR SESSION

SENATE BILL NO. 10

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0157S.011

AN ACT

To repeal section 621.045, RSMo, and to enact in lieu thereof twenty-six new sections relating to private investigators, with penalty provisions.

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

Section A. Section 621.045, RSMo, is repealed and twenty-six new sections
2 enacted in lieu thereof, to be known as sections 324.1100, 324.1102, 324.1104,
3 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120,
4 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136,
5 324.1138, 324.1140, 324.1142, 324.1144, 324.1146, 324.1148, and 621.045, to read
6 as follows:

**324.1100. As used in sections 324.1100 to 324.1148, the following
2 terms mean:**

3 **(1) "Board", the board of private investigator examiners
4 established in section 324.1102;**

5 **(2) "Client", any person who engages the services of a private
6 investigator;**

7 **(3) "Department", the department of insurance, financial
8 institutions and professional registration;**

9 **(4) "Law enforcement officer", a law enforcement officer as defined
10 in section 556.061, RSMo;**

11 **(5) "Organization", a corporation, trust, estate, partnership,
12 cooperative, or association;**

13 **(6) "Person", an individual or organization;**

14 **(7) "Private investigator", any person who receives any
15 consideration, either directly or indirectly, for engaging in the private**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 investigator business;

17 (8) "Private investigator agency", a person who regularly employs
18 any other person, other than an organization, to engage in the private
19 investigator business;

20 (9) "Private investigator business", the furnishing of, making of,
21 or agreeing to make, any investigation for the purpose of obtaining
22 information pertaining to:

23 (a) Crimes or wrongs done or threatened against the United
24 States or any state or territory of the United States;

25 (b) The identity, habits, conduct, business, occupation, honesty,
26 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
27 activity, movement, whereabouts, affiliations, associations, transactions,
28 acts, reputation, or character of any person;

29 (c) The location, disposition, or recovery of lost or stolen
30 property;

31 (d) Securing evidence to be used before any court, board, officer,
32 or investigating committee;

33 (e) Sale of personal identification information to the public; or

34 (f) The cause of responsibility for libel, losses, accident, or
35 damage or injury to persons or property or protection of life or property.

324.1102. 1. The "Board of Private Investigator Examiners" is
2 hereby created within the division of professional registration. The
3 board shall be a body corporate and may sue and be sued.

4 2. The board shall be composed of five members, including two
5 public members, appointed by the governor with the advice and consent
6 of the senate. Except for the public members, each member of the board
7 shall be a citizen of the United States, a resident of Missouri, at least
8 thirty years of age, and shall have been actively engaged in the private
9 investigator business for the previous five years. No more than one
10 private investigator board member may be employed by, or affiliated
11 with, the same private investigator agency. The initial private
12 investigator board members shall not be required to be licensed but
13 shall obtain a license within one hundred eighty days after the effective
14 date of the rules promulgated under sections 324.1100 to 324.1148
15 regarding licensure. The public members shall each be a registered
16 voter and a person who is not and never was a member of any profession
17 licensed or regulated under sections 324.1100 to 324.1148 or the spouse

18 of such person; and a person who does not have and never has had a
19 material, financial interest in either the providing of the professional
20 services regulated by sections 324.1100 to 324.1148, or an activity or
21 organization directly related to any profession licensed or regulated
22 under sections 324.1100 to 324.1148. The duties of the public members
23 shall not include the determination of the technical requirements to be
24 met for licensure or whether any person meets such technical
25 requirements or of the technical competence or technical judgment of a
26 licensee or a candidate for licensure.

27 3. The members shall be appointed for terms of two years, except
28 those first appointed, in which case two members, who shall be private
29 investigators, shall be appointed for terms of four years, two members
30 shall be appointed for terms of three years, and one member shall be
31 appointed for a one-year term. Any vacancy on the board shall be filled
32 for the unexpired term of the member and in the manner as the first
33 appointment. No member may serve consecutive terms.

34 4. The members of the board may receive compensation, as
35 determined by the director for their services, if appropriate, and shall
36 be reimbursed for actual and necessary expenses incurred in performing
37 their official duties on the board.

38 5. There is hereby created in the state treasury the "Board of
39 Private Investigator Examiners Fund", which shall consist of money
40 collected under sections 324.1100 to 324.1148. The state treasurer shall
41 be custodian of the fund and shall approve disbursements from the fund
42 in accordance with the provisions of sections 30.170 and 30.180,
43 RSMo. Upon appropriation, money in the fund shall be used solely for
44 the administration of sections 324.1100 to 324.1148. Notwithstanding the
45 provisions of section 33.080, RSMo, to the contrary, any moneys
46 remaining in the fund at the end of the biennium shall not revert to the
47 credit of the general revenue fund. The state treasurer shall invest
48 moneys in the fund in the same manner as other funds are invested. Any
49 interest and moneys earned on such investments shall be credited to the
50 fund.

324.1104. Unless expressly exempted from the provisions of
2 sections 324.1100 to 324.1148:

3 (1) It shall be unlawful for any person to engage in the private
4 investigator business in this state unless such person is licensed as a

5 private investigator under sections 324.1100 to 324.1148;

6 (2) It shall be unlawful for any person to engage in business in
7 this state as a private investigator agency unless such person is licensed
8 under sections 324.1100 to 324.1148.

324.1106. The following persons shall not be deemed to be
2 engaging in the private investigator business:

3 (1) A person employed exclusively and regularly by one employer
4 in connection only with the affairs of such employer and where there
5 exists an employer-employee relationship;

6 (2) Any officer or employee of the United States, or of this state
7 or a political subdivision thereof while engaged in the performance of
8 the officer's or employee's official duties;

9 (3) Any employee, agent, or independent contractor employed by
10 any government agency, division, or department of the state whose work
11 relationship is established by a written contract while working within
12 the scope of employment established under such contract;

13 (4) An attorney performing duties as an attorney, or an attorney's
14 paralegal or employee retained by such attorney assisting in the
15 performance of such duties or investigation on behalf of such attorney;

16 (5) A collection agency or an employee thereof while acting within
17 the scope of employment, while making an investigation incidental to
18 the business of the agency, including an investigation of the location of
19 a debtor or a debtor's property where the contract with an assignor
20 creditor is for the collection of claims owed or due, or asserted to be
21 owed or due, or the equivalent thereof;

22 (6) Insurers and insurance producers licensed by the state,
23 performing duties in connection with insurance transacted by them;

24 (7) Any bank subject to the jurisdiction of the director of the
25 division of finance of the state of Missouri or the comptroller of
26 currency of the United States;

27 (8) An insurance adjuster. For the purposes of sections 324.1100
28 to 324.1148, an "insurance adjuster" means any person who receives any
29 consideration, either directly or indirectly, for adjusting in the disposal
30 of any claim under or in connection with a policy of insurance or
31 engaging in soliciting insurance adjustment business;

32 (9) Any private fire investigator whose primary purpose of
33 employment is the determination of the origin, nature, cause, or

34 calculation of losses relevant to a fire;

35 (10) Employees of a not-for-profit organization or its affiliate or
36 subsidiary who makes and processes requests on behalf of health care
37 providers and facilities for employee criminal and other background
38 information under section 660.317, RSMo;

39 (11) Any real estate broker, real estate salesperson, or real estate
40 appraiser acting within the scope of his or her license;

41 (12) Expert witnesses who have been certified or accredited by a
42 national or state association associated with the expert's scope of
43 expertise;

44 (13) Any person who does not hold themselves out to the public
45 as a private investigator but is under contract with a state agency or
46 political subdivision; or

47 (14) Any person performing duties or conducting investigations
48 relating to serving legal process when such person's investigation is
49 incidental to the serving of legal process.

324.1108. 1. Every person desiring to be licensed in this state as
2 a private investigator or private investigator agency shall make
3 application therefor to the board of private investigator examiners. An
4 application for a license under the provisions of sections 324.1100 to
5 324.1148 shall be on a form prescribed by the board of private
6 investigator examiners and accompanied by the required application fee.
7 application shall be verified and shall include:

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

9 (2) The name under which the applicant intends to conduct
10 business;

11 (3) A statement as to the general nature of the business in which
12 the applicant intends to engage;

13 (4) A statement as to the classification or classifications under
14 which the applicant desires to be qualified;

15 (5) Two recent photographs of the applicant, of a type prescribed
16 by the board of private investigator examiners, and two classifiable sets
17 of the applicant's fingerprints processed in a manner approved by the
18 Missouri state highway patrol, criminal records and identification
19 division, under section 43.543, RSMo;

20 (6) A verified statement of the applicant's experience
21 qualifications; and

22 (7) Such other information, evidence, statements, or documents
23 as may be required by the board of private investigator examiners.

24 2. Before an application for a license may be granted, the
25 applicant shall:

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

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

28 (3) Provide proof of liability insurance with amount to be no less
29 than two hundred fifty thousand dollars in coverage and proof of
30 workers' compensation insurance if required under chapter 287,
31 RSMo. The board shall have the authority to raise the requirements as
32 deemed necessary; and

33 (4) Comply with such other qualifications as the board adopts by
34 rules and regulations.

324.1110. 1. The board of private investigator examiners shall
2 require as a condition of licensure as a private investigator that the
3 applicant pass a written examination as evidence of knowledge of
4 investigator rules and regulations.

5 2. The department shall conduct a complete investigation of the
6 background of each applicant for licensure as a private investigator to
7 determine whether the applicant is qualified for licensure under
8 sections 324.1100 to 324.1148. The board will outline basic qualification
9 requirements for licensing as a private investigator and agency.

10 3. In the event requirements have been met so that testing has
11 been waived, qualification shall be dependent on a showing of, for the
12 two previous years:

13 (1) Registration and good standing as a business in this state; and

14 (2) Two hundred fifty thousand dollars in business general
15 liability insurance.

16 4. The board may review applicants seeking reciprocity. An
17 applicant seeking reciprocity shall have undergone a licensing
18 procedure similar to that required by this state and shall meet this
19 state's minimum insurance requirements.

324.1112. The board of private investigator examiners may deny
2 a request for a license if the applicant:

3 (1) Has committed any act which, if committed by a licensee,
4 would be grounds for the suspension or revocation of a license under the
5 provisions of sections 324.1100 to 324.1148;

6 **(2) Within two years prior to the application date:**

7 **(a) Has been convicted of or entered a plea of guilty or nolo**
8 **contendere to a felony offense, including the receiving of a suspended**
9 **imposition of sentence following a plea or finding of guilty to a felony**
10 **offense;**

11 **(b) Has been convicted of or entered a plea of guilty or nolo**
12 **contendere to a misdemeanor offense involving moral turpitude;**

13 **(c) Has falsified or willfully misrepresented information in an**
14 **employment application, records of evidence, or in testimony under**
15 **oath;**

16 **(d) Has been dependent on or abused alcohol or drugs; or**

17 **(e) Has used, possessed, or trafficked in any illegal substance;**

18 **(3) Has been refused a license under the provisions of sections**
19 **324.1100 to 324.1148 or had a license revoked in this state or in any other**
20 **state;**

21 **(4) While unlicensed, committed or aided and abetted the**
22 **commission of any act for which a license is required by sections**
23 **324.1100 to 324.1148 after the effective date of this section; or**

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

324.1114. 1. Every application submitted under the provisions of
2 **sections 324.1100 to 324.1148 shall be accompanied by a fee as**
3 **determined by the board as follows:**

4 **(1) For an individual license, agency license and employees being**
5 **licensed to work under an agency license; or**

6 **(2) If a license is issued for a period of less than one year, the fee**
7 **shall be prorated for the months, or fraction thereof, for which the**
8 **license is issued.**

9 **2. The board shall set fees as authorized by sections 324.1100 to**
10 **324.1148 at a level to produce revenue which will not substantially**
11 **exceed the cost and expense of administering sections 324.1100 to**
12 **324.1148.**

13 **3. The fees prescribed by sections 324.1100 to 324.1148 shall be**
14 **exclusive and notwithstanding any other provision of law. No**
15 **municipality may require any person licensed under sections 324.1100**
16 **to 324.1148 to furnish any bond, pass any examination, or pay any license**
17 **fee or occupational tax relative to practicing the person's profession.**

18 **4. A private investigator license shall allow only the individual**

19 licensed by the state to conduct investigations. An agency license shall
20 be applied for separately and held by an individual who is licensed as
21 a private investigator. The agency may hire individuals to work for the
22 agency conducting investigations for the agency only. Persons hired
23 shall make application as determined by the board and meet all
24 requirements set forth by the board except that they shall not be
25 required to meet any experience requirements and shall be allowed to
26 begin working immediately upon the agency submitting their
27 applications.

324.1116. A private investigator agency shall not hire any
2 individual as an employee unless the individual:

- 3 (1) Is at least twenty-one years of age;
- 4 (2) Provides two recent photographs of themselves, of a type
5 prescribed by the board of private investigator examiners;
- 6 (3) Has been fingerprinted in a manner approved by the Missouri
7 state highway patrol, criminal records and identification division, under
8 section 43.543, RSMo; and
- 9 (4) Complies with any other qualifications and requirements the
10 board adopts by rule.

324.1118. A private investigator agency shall not hire an
2 individual, who is not licensed as a private investigator, as an employee
3 if the individual:

- 4 (1) Has committed any act which, if committed by a licensee,
5 would be grounds for the suspension or revocation of a license under the
6 provisions of sections 324.1100 to 324.1148;
- 7 (2) Within two years prior to the application date:
 - 8 (a) Has been convicted of or entered a plea of guilty or nolo
9 contendere to a felony offense, including the receiving of a suspended
10 imposition of sentence following a plea or finding of guilty to a felony
11 offense;
 - 12 (b) Has been convicted of or entered a plea of guilty or nolo
13 contendere to a misdemeanor offense involving moral turpitude;
 - 14 (c) Has falsified or willfully misrepresented information in an
15 employment application, records of evidence, or in testimony under
16 oath;
 - 17 (d) Has been dependent on or abused alcohol or drugs; or
 - 18 (e) Has used, possessed, or trafficked in any illegal substance;

19 **(3) Has been refused a license under the provisions of sections**
20 **324.1100 to 324.1148 or had a license revoked in this state or in any other**
21 **state;**

22 **(4) While unlicensed, committed or aided and abetted the**
23 **commission of any act for which a license is required by sections**
24 **324.1100 to 324.1148 after the effective date of this section; or**

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

324.1120. An individual, who is not licensed as a private
2 **investigator, hired as an employee by a private investigator agency shall**
3 **work only under the direct supervision of the agency whose**
4 **identification number appears on their application and shall work only**
5 **for one agency at any one time.**

324.1122. A licensee shall successfully complete sixteen hours of
2 **continuing education units biennially. An individual not licensed as a**
3 **private investigator who is hired as an employee by a private**
4 **investigator agency shall successfully complete eight hours of continuing**
5 **education units biennially. Such continuing education shall be relevant**
6 **to the private investigator business and shall be approved by the board**
7 **as such.**

324.1124. 1. The board of private investigator examiners shall
2 **determine the form of the license which shall include the:**

3 **(1) Name of the licensee;**

4 **(2) Name under which the licensee is to operate; and**

5 **(3) Number and date of the license.**

6 **2. The license shall be posted at all times in a conspicuous place**
7 **in the principal place of business of the licensee. Upon the issuance of**
8 **a license, a pocket card of such size, design, and content as determined**
9 **by the division shall be issued without charge to each licensee. Such**
10 **card shall be evidence that the licensee is licensed under sections**
11 **324.1100 to 324.1148. When any person to whom a card is issued**
12 **terminates such person's position, office, or association with the**
13 **licensee, the card shall be surrendered to the licensee and within five**
14 **days thereafter shall be mailed or delivered by the licensee to the board**
15 **of private investigator examiners for cancellation. Within thirty days**
16 **after any change of address, a licensee shall notify the board of the**
17 **address change. The principal place of business may be at a residence**
18 **or at a business address, but it shall be the place at which the licensee**

19 maintains a permanent office.

324.1126. 1. Any license issued under sections 324.1100 to 324.1148
2 shall expire two years after the date of its issuance. Renewal of any
3 such license shall be made in the manner prescribed for obtaining an
4 original license, including payment of the appropriate fee, except that:

5 (1) The application upon renewal need only provide information
6 required of original applicants if the information shown on the original
7 application or any renewal thereof on file with the board is no longer
8 accurate;

9 (2) A new photograph shall be submitted with the application for
10 renewal only if the photograph on file with the board has been on file
11 more than two years; and

12 (3) The applicant does not have to be tested again but must
13 instead provide proof that the applicant successfully completed sixteen
14 hours of continuing education credits; and

15 (4) Additional information may be required by rules and
16 regulations adopted by the board of private investigator examiners.

17 2. A licensee shall at all times be legally responsible for the good
18 conduct of each of the licensee's employees or agents while engaged in
19 the business of the licensee and the licensee is legally responsible for
20 any acts committed by such licensee's employees or agents which are in
21 violation of sections 324.1100 to 324.1148. A person receiving an agency
22 license shall directly manage the agency and employees.

23 3. A license issued under sections 324.1100 to 324.1148 shall not be
24 assignable.

324.1128. 1. Any licensee may divulge to the board, any law
2 enforcement officer, prosecuting attorney, or such person's
3 representative any information such person may acquire about any
4 criminal offense. The licensee may instruct his or her client to divulge
5 such information if the client is the victim, but such person shall not
6 divulge to any other person, except as he or she may be required by law,
7 any information acquired by such person at the direction of the
8 employer or client for whom the information was obtained.

9 2. No licensee officer, director, partner, associate, or employee
10 thereof shall:

11 (1) Knowingly make any false report to his or her employer or
12 client for whom information was being obtained;

13 **(2) Cause any written report to be submitted to a client except by**
14 **the licensee, and the person submitting the report shall exercise**
15 **diligence in ascertaining whether or not the facts and information in**
16 **such report are true and correct;**

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

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

24 **(5) Manufacture false evidence; or**

25 **(6) Create any video recording of an individual in their domicile**
26 **without the individual's permission. Furthermore, if such video**
27 **recording is made, it shall not be admissible as evidence in any civil**
28 **proceeding.**

324.1130. Each licensee shall maintain a record containing such
2 **information relative to the licensee's employees as may be prescribed by**
3 **the board of private investigator examiners. Such licensee shall file**
4 **with the board the complete address of the location of the licensee's**
5 **principal place of business. The board may require the filing of other**
6 **information for the purpose of identifying such principal place of**
7 **business.**

324.1132. Every advertisement by a licensee soliciting or
2 **advertising business shall contain the licensee's name, city, and state as**
3 **it appears in the records of the board of private investigator examiner. No**
4 **individual or business can advertise as a private investigator, private**
5 **detective, or private investigator agency without including their state**
6 **private investigator or private investigator agency license number in the**
7 **advertisement. A licensee shall not advertise or conduct business from**
8 **any Missouri address other than that shown on the records of the board**
9 **as the licensee's principal place of business unless the licensee has**
10 **received an additional agency license for such location after compliance**
11 **with the provisions of sections 324.1100 to 324.1148 and such additional**
12 **requirements necessary for the protection of the public as the board may**
13 **prescribe by regulation. A licensee shall notify the board in writing**
14 **within ten days after closing or changing the location of a branch**

15 office. The fee for the additional license shall be one-half the cost of the
16 fee for the agency's original license.

324.1134. 1. The board may suspend or refuse to renew any
2 certificate of registration or authority, permit or license required under
3 sections 324.1100 to 324.1148 for one or any combination of causes stated
4 in subsection 2 of this section. The board shall notify the applicant in
5 writing of the reasons for the suspension or refusal and shall advise the
6 applicant of the applicant's right to file a complaint with the
7 administrative hearing commission as provided by chapter 621, RSMo. As
8 an alternative to a refusal to issue or renew any certificate, registration
9 or authority, the board may, at its discretion, issue a license which is
10 subject to probation, restriction or limitation to an applicant for
11 licensure for any one or any combination of causes stated in subsection
12 2 of this section. The board's order of probation, limitation or
13 restriction shall contain a statement of the discipline imposed, the basis
14 therefor, the date such action shall become effective, and a statement
15 that the applicant has thirty days to request in writing a hearing before
16 the administrative hearing commission. If the board issues a
17 probationary, limited or restricted license to an applicant for licensure,
18 either party may file a written petition with the administrative hearing
19 commission within thirty days of the effective date of the probationary,
20 limited or restricted license seeking review of the board's determination.
21 If no written request for a hearing is received by the administrative
22 hearing commission within the thirty-day period, the right to seek
23 review of the board's decision shall be considered as waived.

24 2. The board may cause a complaint to be filed with the
25 administrative hearing commission as provided by chapter 621, RSMo,
26 against any holder of any certificate of registration or authority, permit
27 or license required by this chapter or any person who has failed to
28 renew or has surrendered the person's certificate of registration or
29 authority, permit or license for any one or any combination of the
30 following causes:

31 (1) Making any false statement or given any false information in
32 connection with an application for a license or a renewal or
33 reinstatement thereof;

34 (2) Violating any provision of sections 324.1100 to 324.1148;

35 (3) Violating any rule of the board of private investigator

36 examiners adopted under the authority contained in sections 324.1100
37 to 324.1148;

38 (4) Impersonating, or permitting or aiding and abetting an
39 employee to impersonate, a law enforcement officer or employee of the
40 United States of America, or of any state or political subdivision thereof;

41 (5) Committing, or permitting any employee to commit any act,
42 while the license was expired, which would be cause for the suspension
43 or revocation of a license, or grounds for the denial of an application for
44 a license;

45 (6) Knowingly violating, or advising, encouraging, or assisting the
46 violation of, any court order or injunction in the course of business as
47 a licensee;

48 (7) Using any letterhead, advertisement, or other printed matter,
49 or in any manner whatever represented that such person is an
50 instrumentality of the federal government, a state, or any political
51 subdivision thereof;

52 (8) Using a name different from that under which such person is
53 currently licensed in any advertisement, solicitation, or contract for
54 business; or

55 (9) Committing any act which is grounds for denial of an
56 application for a license under section 324.1112.

57 3. The record of conviction, or a certified copy thereof, shall be
58 conclusive evidence of such conviction, and a plea or verdict of guilty is
59 deemed to be a conviction within the meaning thereof.

60 4. The agency may continue under the direction of another
61 employee if the licensee's license is suspended or revoked by the
62 board. The board shall establish a time frame in which the agency shall
63 identify an acceptable person who is qualified to assume control of the
64 agency, as required by the board.

65 5. After the filing of a complaint before the administrative
66 hearing commission, the proceedings shall be conducted in accordance
67 with the provisions of chapter 621, RSMo. Upon a finding by the
68 administrative hearing commission that the grounds in subsection 1 of
69 this section for disciplinary action are met, the board may singly or in
70 combination censure or place the person named in the complaint on
71 probation under such terms and conditions as the board deems
72 appropriate for a period not to exceed five years, may suspend for a

73 period not to exceed three years, or revoke the license.

324.1136. 1. Each private investigator or investigator agency
2 operating under the provisions of sections 324.1100 to 324.1148 shall be
3 required to keep a complete record of the business transactions of such
4 investigator or investigator agency for a period of seven years. Upon the
5 service of a court order issued by a court of competent jurisdiction or
6 upon the service of a subpoena issued by the board that is based on a
7 complaint supported by oath or affirmation, which particularly
8 describes the records and reports, any licensed private investigator who
9 is the owner, partner, director, corporate officer, or custodian of
10 business records shall provide an opportunity for the inspection of the
11 same and to inspect reports made. Any information obtained by the
12 board shall be kept confidential, except as may be necessary to
13 commence and prosecute any legal proceedings. The board shall not
14 personally enter a licensee's place of business to inspect records, but
15 shall utilize an employee of the division of professional registration to
16 act as a gatherer of information and facts to present to the board
17 regarding any complaint or inspection under investigation.

18 2. For the purpose of enforcing the provisions of sections 324.1100
19 to 324.1148, and in making investigations relating to any violation
20 thereof, the board shall have the power to subpoena and bring before the
21 board any person in this state and require the production of any books,
22 records, or papers which the board deems relevant to the inquiry. The
23 board also may administer an oath to and take the testimony of any
24 person, or cause such person's deposition to be taken, except that any
25 applicant or licensee or officer, director, partner, or associate thereof
26 shall not be entitled to any fees or mileage. A subpoena issued under
27 this section shall be governed by the Missouri rules of civil procedure
28 and shall comply with any confidentiality standards or legal limitations
29 imposed by privacy or open records acts, fair credit reporting acts,
30 polygraph acts, driver privacy protection acts, judicially recognized
31 privileged communications, and the bill of rights of both the United
32 States and Missouri Constitutions. Any person duly subpoenaed who
33 fails to obey such subpoena without reasonable cause, or without such
34 cause refuses to be examined or to answer any legal or pertinent
35 question as to the character or qualification of such applicant or
36 licensee or such applicant's alleged unlawful or deceptive practices or

37 methods, shall be guilty of a class A misdemeanor. The testimony of
38 witnesses in any investigative proceeding shall be under oath.

324.1138. 1. The board shall adopt such rules and regulations as
2 may be necessary to carry out the provisions of sections 324.1100 to
3 324.1148.

4 2. Any rule or portion of a rule, as that term is defined in section
5 536.010, RSMo, that is created under the authority delegated in sections
6 324.1100 to 324.1148 shall become effective only if it complies with and
7 is subject to all of the provisions of chapter 536, RSMo, and, if
8 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
9 are nonseverable and if any of the powers vested with the general
10 assembly under chapter 536, RSMo, to review, to delay the effective date,
11 or to disapprove and annul a rule are subsequently held
12 unconstitutional, then the grant of rulemaking authority and any rule
13 proposed or adopted after August 28, 2007, shall be invalid and void.

324.1140. 1. The board of private investigator examiners shall
2 certify persons who are qualified to train private investigators.

3 2. In order to be certified as a trainer under this section, a trainer
4 shall:

5 (1) Be twenty-one or more years of age;

6 (2) Have a minimum of one-year supervisory experience with a
7 private investigator agency; and

8 (3) Be personally licensed as a private investigator under sections
9 324.1100 to 324.1148 and qualified to train private investigators.

10 3. Persons wishing to become certified trainers shall make
11 application to the board of private investigator examiners on a form
12 prescribed by the board and accompanied by a fee determined by the
13 board. The application shall contain a statement of the plan of
14 operation of the training offered by the applicant and the materials and
15 aids to be used and any other information required by the board.

16 4. A certificate shall be granted to a trainer if the board finds that
17 the applicant:

18 (1) Meets the requirements of subsection 2 of this section;

19 (2) Has sufficient knowledge of private investigator business in
20 order to train private investigators sufficiently;

21 (3) Has supplied all required information to the board; and

22 (4) Has paid the required fee.

23 5. The certificate issued under this section shall expire on the
24 third year after the year in which it is issued and shall be renewable
25 triennially upon application and payment of a fee.

 324.1142. Any person who knowingly falsifies the fingerprints or
2 photographs or other information required to be submitted under
3 sections 324.1100 to 324.1148 is guilty of a class D felony; and any person
4 who violates any of the other provisions of sections 324.1100 to 324.1148
5 is guilty of a class A misdemeanor.

 324.1144. The board may negotiate and enter into reciprocal
2 agreements with appropriate officials in other states to permit licensed
3 private investigator agencies and licensed private investigators who
4 meet or exceed the qualifications established in sections 324.1100 to
5 324.1148 to operate across state lines under mutually acceptable terms.

 324.1146. Law enforcement officers who perform private
2 investigations shall be licensed under this chapter subject to the
3 following qualifications and limitations:

4 (1) The board may waive testing for law enforcement officers
5 currently certified under existing peace officer standards and training
6 requirements under chapter 590, RSMo;

7 (2) Law enforcement officers shall pay the appropriate licensing
8 fees;

9 (3) Law enforcement officers shall assume individual liability for
10 their actions while performing private investigations, complying with
11 any insurance or bonding requirements imposed under sections 324.1100
12 to 324.1148;

13 (4) Law enforcement officers shall not utilize their official
14 capacity in the course of a private investigation, including but not
15 limited to:

16 (a) Accessing information intended only for police officials. Law
17 enforcement officers shall comply with the legal limits on access to the
18 information of private citizens;

19 (b) Utilizing any official item, such as a uniform, badge, or
20 vehicle, while performing a private investigation. Law enforcement
21 officers shall provide their own equipment;

22 (c) Utilizing law enforcement officer arrest and use of force
23 standards. Law enforcement officers shall use private citizen arrest and
24 use of force standards while operating as a private investigator;

25 **(5) Law enforcement officers shall produce evidence of training**
 26 **and experience concerning the legal limits imposed on private**
 27 **investigations or pass a test on such subject produced by the board; and**

28 **(6) The provisions of sections 324.1100 to 324.1148 shall not apply**
 29 **to law enforcement officers who provide only private security services**
 30 **and not private investigator services.**

324.1148. Any person who violates sections 324.1100 to 324.1148 is
 2 **guilty of a class A misdemeanor. Any second or subsequent violation of**
 3 **sections 324.1100 to 324.1148 is a class D felony.**

 621.045. 1. The administrative hearing commission shall conduct hearings
 2 and make findings of fact and conclusions of law in those cases when, under the
 3 law, a license issued by any of the following agencies may be revoked or
 4 suspended or when the licensee may be placed on probation or when an agency
 5 refuses to permit an applicant to be examined upon his qualifications or refuses
 6 to issue or renew a license of an applicant who has passed an examination for
 7 licensure or who possesses the qualifications for licensure without examination:

8 Missouri State Board of Accountancy
 9 Missouri Board of Registration for Architects, Professional Engineers and,
 10 Land Surveyors
 11 Board of Barber Examiners
 12 Board of Cosmetology
 13 Board of Chiropody and Podiatry
 14 Board of Chiropractic Examiners
 15 Missouri Dental Board
 16 Board of Embalmers and Funeral Directors
 17 Board of Registration for the Healing Arts
 18 Board of Nursing
 19 Board of Optometry
 20 Board of Pharmacy
 21 Missouri Real Estate Commission
 22 Missouri Veterinary Medical Board
 23 Supervisor of Liquor Control
 24 Department of Health and Senior Services
 25 Department of Insurance
 26 Department of Mental Health
 27 **Board of Private Investigator Examiners.**

28 2. If in the future there are created by law any new or additional

29 administrative agencies which have the power to issue, revoke, suspend, or place
30 on probation any license, then those agencies are under the provisions of this law.

31 3. Notwithstanding any other provision of this section to the contrary,
32 after August 28, 1995, in order to encourage settlement of disputes between any
33 agency described in subsection 1 or 2 of this section and its licensees, any such
34 agency shall:

35 (1) Provide the licensee with a written description of the specific conduct
36 for which discipline is sought and a citation to the law and rules allegedly
37 violated, together with copies of any documents which are the basis thereof and
38 the agency's initial settlement offer, or file a contested case against the licensee;

39 (2) If no contested case has been filed against the licensee, allow the
40 licensee at least sixty days, from the date of mailing, to consider the agency's
41 initial settlement offer and to contact the agency to discuss the terms of such
42 settlement offer;

43 (3) If no contested case has been filed against the licensee, advise the
44 licensee that the licensee may, either at the time the settlement agreement is
45 signed by all parties, or within fifteen days thereafter, submit the agreement to
46 the administrative hearing commission for determination that the facts agreed to
47 by the parties to the settlement constitute grounds for denying or disciplining the
48 license of the licensee; and

49 (4) In any contact [pursuant to] **under** this subsection by the agency or
50 its counsel with a licensee who is not represented by counsel, advise the licensee
51 that the licensee has the right to consult an attorney at the licensee's own
52 expense.

53 4. If the licensee desires review by the administrative hearing commission
54 [pursuant to] **under** subdivision (3) of subsection 3 of this section at any time
55 prior to the settlement becoming final, the licensee may rescind and withdraw
56 from the settlement and any admissions of fact or law in the agreement shall be
57 deemed withdrawn and not admissible for any purposes under the law against the
58 licensee. Any settlement submitted to the administrative hearing commission
59 shall not be effective and final unless and until findings of fact and conclusions
60 of law are entered by the administrative hearing commission that the facts agreed
61 to by the parties to the settlement constitute grounds for denying or disciplining
62 the license of the licensee.

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