

Grier (1)
FRS-4-21

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed

HB 476 _____ entitled:

AN ACT

To repeal section 324.009, RSMo, and to enact in lieu thereof one new section relating to license reciprocity for military members.

With SA 1, SA 2, SA 3, SA 4, SA 5, SA 6 and SA8

In which the concurrence of the House is respectfully requested.

Respectfully,



Adriane D. Crouse
Secretary of the Senate

MAY 04 2021

CHIEF CLERK

SENATE AMENDMENT NO. 1offered by Hoskins of 21Amend House Bill No. 476, Page 1, Section Title, Lines 2-3,

2 by striking the words "license reciprocity for military
3 members" and inserting in lieu thereof the following:

4 "professional registration"; and

5 Further amend said bill, page 3, section 324.009, line
6 80 by inserting after all of said line the following:

7 "339.150. 1. No real estate broker shall knowingly
8 employ or engage any person to perform any service to the
9 broker for which licensure as a real estate broker or a real
10 estate salesperson is required pursuant to sections 339.010
11 to 339.180 and sections 339.710 to 339.860, unless such a
12 person is:

13 (1) A licensed real estate salesperson or a licensed
14 real estate broker as required by section 339.020; or

15 (2) For a transaction involving commercial real estate
16 as defined in section 339.710, a person regularly engaged in
17 the real estate brokerage business outside the state of
18 Missouri who has, in such forms as the commission may adopt
19 by rule:

20 (a) Executed a brokerage agreement with the Missouri
21 real estate broker;

22 (b) Consented to the jurisdiction of Missouri and the
23 commission;

24 (c) Consented to disciplinary procedures under section
25 339.100; and

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26 (d) Appointed the commission as his or her agent for
27 service of process regarding any administrative or legal
28 actions relating to the conduct in Missouri; or

29 (3) For any other transaction, a person regularly
30 engaged in the real estate brokerage business outside of the
31 state of Missouri.

32 Any such action shall be unlawful as provided by section
33 339.100 and shall be grounds for investigation, complaint,
34 proceedings and discipline as provided by section 339.100.

35 2. No real estate licensee shall pay any part of a
36 fee, commission or other compensation received by the
37 licensee to any person for any service rendered by such
38 person to the licensee in buying, selling, exchanging,
39 leasing, renting or negotiating a loan upon any real estate,
40 unless such a person is a licensed real estate salesperson
41 regularly associated with such a broker, or a licensed real
42 estate broker, or a person regularly engaged in the real
43 estate brokerage business outside of the state of Missouri.

44 3. Notwithstanding the provisions of subsections 1 and
45 2 of this section, any real estate broker who shall refuse
46 to pay any person for services rendered by such person to
47 the broker, with the consent, knowledge and acquiescence of
48 the broker that such person was not licensed as required by
49 section 339.020, in buying, selling, exchanging, leasing,
50 renting or negotiating a loan upon any real estate for which
51 services a license is required, and who is employed or
52 engaged by such broker to perform such services, shall be
53 liable to such person for the reasonable value of the same
54 or similar services rendered to the broker, regardless of
55 whether or not the person possesses or holds any particular
56 license, permit or certification at the time the service was
57 performed. Any such person may bring a civil action for the

58 reasonable value of his services rendered to a broker
59 notwithstanding the provisions of section 339.160.

60 4. Notwithstanding provisions of this chapter to the
61 contrary, a broker may pay compensation directly to a
62 business entity owned by a licensee that has been formed for
63 the purpose of receiving compensation earned by such
64 licensee. A business entity that receives compensation
65 from a broker as provided for in this subsection shall not
66 be required to be licensed under this chapter and shall be
67 owned:

68 (1) Solely by the licensee;

69 (2) By the licensee together with the licensee's
70 spouse, but only if the spouse and licensee are both
71 licensed and associated with the same broker, or the spouse
72 is not also licensed; or

73 (3) By the licensee and one or more other licensees,
74 but only if all such owners are licensees which are
75 associated with the same broker.

76 5. For purposes of subsection 4 of this section, the
77 following terms shall mean:

78 (1) "Business entity", any corporation, partnership,
79 limited partnership, limited liability company, professional
80 corporation, or association;

81 (2) "Licensee", any real estate broker-salesperson or
82 real estate salesperson, as such terms are defined under
83 section 339.010."; and

84 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 2

Offered by

Brown

of

16Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "339.100. 1. The commission may, upon its own motion,
 4 and shall upon receipt of a written complaint filed by any
 5 person, investigate any real estate-related activity of a
 6 licensee licensed under sections 339.010 to 339.180 and
 7 sections 339.710 to 339.860 or an individual or entity
 8 acting as or representing themselves as a real estate
 9 licensee. In conducting such investigation, if the
 10 questioned activity or written complaint involves an
 11 affiliated licensee, the commission may forward a copy of
 12 the information received to the affiliated licensee's
 13 designated broker. The commission shall have the power to
 14 hold an investigatory hearing to determine whether there is
 15 a probability of a violation of sections 339.010 to 339.180
 16 and sections 339.710 to 339.860. The commission shall have
 17 the power to issue a subpoena to compel the production of
 18 records and papers bearing on the complaint. The commission
 19 shall have the power to issue a subpoena and to compel any
 20 person in this state to come before the commission to offer
 21 testimony or any material specified in the subpoena.
 22 Subpoenas and subpoenas duces tecum issued pursuant to this
 23 section shall be served in the same manner as subpoenas in a
 24 criminal case. The fees and mileage of witnesses shall be
 25 the same as that allowed in the circuit court in civil cases.

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26 2. The commission may cause a complaint to be filed
27 with the administrative hearing commission as provided by
28 the provisions of chapter 621 against any person or entity
29 licensed under this chapter or any licensee who has failed
30 to renew or has surrendered his or her individual or entity
31 license for any one or any combination of the following acts:

32 (1) Failure to maintain and deposit in a special
33 account, separate and apart from his or her personal or
34 other business accounts, all moneys belonging to others
35 entrusted to him or her while acting as a real estate broker
36 or as the temporary custodian of the funds of others, until
37 the transaction involved is consummated or terminated,
38 unless all parties having an interest in the funds have
39 agreed otherwise in writing;

40 (2) Making substantial misrepresentations or false
41 promises or suppression, concealment or omission of material
42 facts in the conduct of his or her business or pursuing a
43 flagrant and continued course of misrepresentation through
44 agents, salespersons, advertising or otherwise in any
45 transaction;

46 (3) Failing within a reasonable time to account for or
47 to remit any moneys, valuable documents or other property,
48 coming into his or her possession, which belongs to others;

49 (4) Representing to any lender, guaranteeing agency,
50 or any other interested party, either verbally or through
51 the preparation of false documents, an amount in excess of
52 the true and actual sale price of the real estate or terms
53 differing from those actually agreed upon;

54 (5) Failure to timely deliver a duplicate original of
55 any and all instruments to any party or parties executing
56 the same where the instruments have been prepared by the
57 licensee or under his or her supervision or are within his
58 or her control, including, but not limited to, the

59 instruments relating to the employment of the licensee or to
60 any matter pertaining to the consummation of a lease,
61 listing agreement or the purchase, sale, exchange or lease
62 of property, or any type of real estate transaction in which
63 he or she may participate as a licensee;

64 (6) Acting for more than one party in a transaction
65 without the knowledge of all parties for whom he or she
66 acts, or accepting a commission or valuable consideration
67 for services from more than one party in a real estate
68 transaction without the knowledge of all parties to the
69 transaction;

70 (7) Paying a commission or valuable consideration to
71 any person for acts or services performed in violation of
72 sections 339.010 to 339.180 and sections 339.710 to 339.860;

73 (8) Guaranteeing or having authorized or permitted any
74 licensee to guarantee future profits which may result from
75 the resale of real property;

76 (9) Having been finally adjudicated and been found
77 guilty of the violation of any state or federal statute
78 which governs the sale or rental of real property or the
79 conduct of the real estate business as defined in subsection
80 1 of section 339.010;

81 (10) Obtaining a certificate or registration of
82 authority, permit or license for himself or herself or
83 anyone else by false or fraudulent representation, fraud or
84 deceit;

85 (11) Representing a real estate broker other than the
86 broker with whom associated without the express written
87 consent of the broker with whom associated;

88 (12) Accepting a commission or valuable consideration
89 for the performance of any of the acts referred to in
90 section 339.010 from any person except the broker with whom

91 associated at the time the commission or valuable
92 consideration was earned;

93 (13) Using prizes, money, gifts or other valuable
94 consideration as inducement to secure customers or clients
95 to purchase, lease, sell or list property when the awarding
96 of such prizes, money, gifts or other valuable consideration
97 is conditioned upon the purchase, lease, sale or listing; or
98 soliciting, selling or offering for sale real property by
99 offering free lots, or conducting lotteries or contests, or
100 offering prizes for the purpose of influencing a purchaser
101 or prospective purchaser of real property;

102 (14) Placing a sign on or advertising any property
103 offering it for sale or rent without the written consent of
104 the owner or his or her duly authorized agent;

105 (15) Violation of, or attempting to violate, directly
106 or indirectly, or assisting or enabling any person to
107 violate, any provision of sections 339.010 to 339.180 and
108 sections 339.710 to 339.860, or of any lawful rule adopted
109 pursuant to sections 339.010 to 339.180 and sections 339.710
110 to 339.860;

111 (16) Committing any act which would otherwise be
112 grounds for the commission to refuse to issue a license
113 under section 339.040;

114 (17) Failure to timely inform seller of all written
115 offers unless otherwise instructed in writing by the seller;

116 (18) Been finally adjudicated and found guilty, or
117 entered a plea of guilty or nolo contendere, in a criminal
118 prosecution under the laws of this state or any other state
119 or of the United States, for any offense reasonably related
120 to the qualifications, functions or duties of any profession
121 licensed or regulated under this chapter, or for any offense
122 an essential element of which is fraud, dishonesty or an act
123 of violence, whether or not sentence is imposed;

124 (19) Any other conduct which constitutes
125 untrustworthy, improper or fraudulent business dealings,
126 demonstrates bad faith or incompetence, misconduct, or gross
127 negligence;

128 (20) Disciplinary action against the holder of a
129 license or other right to practice any profession regulated
130 under sections 339.010 to 339.180 and sections 339.710 to
131 339.860 granted by another state, territory, federal agency,
132 or country upon grounds for which revocation, suspension, or
133 probation is authorized in this state;

134 (21) Been found by a court of competent jurisdiction
135 of having used any controlled substance, as defined in
136 chapter 195, to the extent that such use impairs a person's
137 ability to perform the work of any profession licensed or
138 regulated by sections 339.010 to 339.180 and sections
139 339.710 to 339.860;

140 (22) Been finally adjudged insane or incompetent by a
141 court of competent jurisdiction;

142 (23) Assisting or enabling any person to practice or
143 offer to practice any profession licensed or regulated under
144 sections 339.010 to 339.180 and sections 339.710 to 339.860
145 who is not registered and currently eligible to practice
146 under sections 339.010 to 339.180 and sections 339.710 to
147 339.860;

148 (24) Use of any advertisement or solicitation which:

149 (a) Is knowingly false, misleading or deceptive to the
150 general public or persons to whom the advertisement or
151 solicitation is primarily directed; or

152 (b) Includes a name or team name that uses the terms
153 "realty", "brokerage", "company", or any other terms that
154 can be construed to advertise a real estate company other
155 than the licensee or a business entity licensed under this
156 chapter with whom the licensee is associated. The context

157 of the advertisement or solicitation may be considered by
158 the commission when determining whether a licensee has
159 committed a violation of this paragraph;

160 (25) Making any material misstatement,
161 misrepresentation, or omission with regard to any
162 application for licensure or license renewal. As used in
163 this section, "material" means important information about
164 which the commission should be informed and which may
165 influence a licensing decision;

166 (26) Engaging in, committing, or assisting any person
167 in engaging in or committing mortgage fraud, as defined in
168 section 443.930.

169 3. After the filing of such complaint, the proceedings
170 will be conducted in accordance with the provisions of law
171 relating to the administrative hearing commission. A
172 finding of the administrative hearing commissioner that the
173 licensee has performed or attempted to perform one or more
174 of the foregoing acts shall be grounds for the suspension or
175 revocation of his license by the commission, or the placing
176 of the licensee on probation on such terms and conditions as
177 the real estate commission shall deem appropriate, or the
178 imposition of a civil penalty by the commission not to
179 exceed two thousand five hundred dollars for each offense.
180 Each day of a continued violation shall constitute a
181 separate offense.

182 4. The commission may prepare a digest of the
183 decisions of the administrative hearing commission which
184 concern complaints against licensed brokers or salespersons
185 and cause such digests to be mailed to all licensees
186 periodically. Such digests may also contain reports as to
187 new or changed rules adopted by the commission and other
188 information of significance to licensees.

189 5. Notwithstanding other provisions of this section, a
190 broker or salesperson's license shall be revoked, or in the
191 case of an applicant, shall not be issued, if the licensee
192 or applicant has pleaded guilty to, entered a plea of nolo
193 contendere to, or been found guilty of any of the following
194 offenses or offenses of a similar nature established under
195 the laws of this, any other state, the United States, or any
196 other country, notwithstanding whether sentence is imposed:

197 (1) Any dangerous felony as defined under section
198 556.061 or murder in the first degree;

199 (2) Any of the following sexual offenses: rape in the
200 first degree, forcible rape, rape, statutory rape in the
201 first degree, statutory rape in the second degree, rape in
202 the second degree, sexual assault, sodomy in the first
203 degree, forcible sodomy, statutory sodomy in the first
204 degree, statutory sodomy in the second degree, child
205 molestation in the first degree, child molestation in the
206 second degree, sodomy in the second degree, deviate sexual
207 assault, sexual misconduct involving a child, sexual
208 misconduct in the first degree under section 566.090 as it
209 existed prior to August 28, 2013, sexual abuse under section
210 566.100 as it existed prior to August 28, 2013, sexual abuse
211 in the first or second degree, enticement of a child, or
212 attempting to entice a child;

213 (3) Any of the following offenses against the family
214 and related offenses: incest, abandonment of a child in the
215 first degree, abandonment of a child in the second degree,
216 endangering the welfare of a child in the first degree,
217 abuse of a child, using a child in a sexual performance,
218 promoting sexual performance by a child, or trafficking in
219 children;

220 (4) Any of the following offenses involving child
221 pornography and related offenses: promoting obscenity in

222 the first degree, promoting obscenity in the second degree
223 when the penalty is enhanced to a class E felony, promoting
224 child pornography in the first degree, promoting child
225 pornography in the second degree, possession of child
226 pornography in the first degree, possession of child
227 pornography in the second degree, furnishing child
228 pornography to a minor, furnishing pornographic materials to
229 minors, or coercing acceptance of obscene material; and

230 (5) Mortgage fraud as defined in section 570.310.

231 6. A person whose license was revoked under subsection
232 5 of this section may appeal such revocation to the
233 administrative hearing commission. Notice of such appeal
234 must be received by the administrative hearing commission
235 within ninety days of mailing, by certified mail, the notice
236 of revocation. Failure of a person whose license was
237 revoked to notify the administrative hearing commission of
238 his or her intent to appeal waives all rights to appeal the
239 revocation. Upon notice of such person's intent to appeal,
240 a hearing shall be held before the administrative hearing
241 commission."; and

242 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 3

Offered by

Riddle

of

10Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "337.068. 1. If the [board] committee finds merit to
 4 a complaint by an individual incarcerated or under the care
 5 and control of the department of corrections or who has been
 6 ordered to be taken into custody, detained, or held under
 7 sections 632.480 to 632.513, or who has been ordered to be
 8 evaluated under chapter 552, and takes further investigative
 9 action, no documentation may appear on file or disciplinary
 10 action may be taken in regards to the licensee's license
 11 unless the provisions of subsection 2 of section 337.035
 12 have been violated. Any case file documentation that does
 13 not result in the [board] committee filing an action
 14 pursuant to subsection 2 of section 337.035 shall be
 15 destroyed within three months after the final case
 16 disposition by the [board] committee. No notification to
 17 any other licensing board in another state or any national
 18 registry regarding any investigative action shall be made
 19 unless the provisions of subsection 2 of section 337.035
 20 have been violated.

21 2. Upon written request of the psychologist subject to
 22 a complaint, prior to August 28, 1999, by an individual
 23 incarcerated or under the care and control of the department
 24 of corrections or prior to August 28, 2008, by an individual
 25 who has been ordered to be taken into custody, detained, or
 26 held under sections 632.480 to 632.513, or prior to August

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27 28, 2021, by an individual who has been ordered to be
28 evaluated under chapter 552, that did not result in the
29 [board] committee filing an action pursuant to subsection 2
30 of section 337.035, the [board] committee and the division
31 of professional registration, shall in a timely fashion:

32 (1) Destroy all documentation regarding the complaint;

33 (2) Notify any other licensing board in another state
34 or any national registry regarding the [board's] committee's
35 actions if they have been previously notified of the
36 complaint; and

37 (3) Send a letter to the licensee that clearly states
38 that the [board] committee found the complaint to be
39 unsubstantiated, that the [board] committee has taken the
40 requested action, and notify the licensee of the provisions
41 of subsection 3 of this section.

42 3. Any person who has been the subject of an
43 unsubstantiated complaint as provided in subsection 1 or 2
44 of this section shall not be required to disclose the
45 existence of such complaint in subsequent applications or
46 representations relating to their psychology professions.

47 338.710. 1. There is hereby created in the Missouri
48 board of pharmacy the "RX Cares for Missouri Program". The
49 goal of the program shall be to promote medication safety
50 and to prevent prescription drug abuse, misuse, and
51 diversion in Missouri.

52 2. The board, in consultation with the department,
53 shall be authorized to expend, allocate, or award funds
54 appropriated to the board to private or public entities to
55 develop or provide programs or education to promote
56 medication safety or to suppress or prevent prescription
57 drug abuse, misuse, and diversion in the state of Missouri.
58 In no case shall the authorization include, nor the funds be
59 expended for, any state prescription drug monitoring program

60 including, but not limited to, such as are defined in 38 CFR
61 1.515. Funds disbursed to a state agency under this section
62 may enhance, but shall not supplant, funds otherwise
63 appropriated to such state agency.

64 3. The board shall be the administrative agency
65 responsible for implementing the program in consultation
66 with the department. The board and the department may enter
67 into interagency agreements between themselves to allow the
68 department to assist in the management or operation of the
69 program. The board may award funds directly to the
70 department to implement, manage, develop, or provide
71 programs or education pursuant to the program.

72 4. After a full year of program operation, the board
73 shall prepare and submit an evaluation report to the
74 governor and the general assembly describing the operation
75 of the program and the funds allocated. Unless otherwise
76 authorized by the general assembly, the program shall expire
77 on August 28, [2019] 2026."; and

78 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 4

Offered by Keenig of 1576

Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "324.012. 1. This section shall be known and may be
4 cited as the "Fresh Start Act of 2020".

5 2. As used in this section, the following terms mean:

6 (1) "Criminal conviction", any conviction, finding of
7 guilt, plea of guilty, or plea of nolo contendere;

8 (2) "Licensing", any required training, education, or
9 fee to work in a specific occupation, profession, or
10 activity in the state;

11 (3) "Licensing authority", an agency, examining board,
12 credentialing board, or other office of the state with the
13 authority to impose occupational fees or licensing
14 requirements on any profession. For purposes of the
15 provisions of this section other than subsection 7 of this
16 section, the term "licensing authority" shall not include
17 the state board of education's licensure of teachers
18 pursuant to chapter 168, the Missouri state board of
19 accountant's licensure of accountants pursuant to chapter
20 326, the board of podiatric medicine's licensure of
21 podiatrists pursuant to chapter 330, the Missouri dental
22 board's licensure of dentists pursuant to chapter 332, the
23 state board of registration for the healing art's licensure
24 of physicians and surgeons pursuant to chapter 334, the
25 Missouri state board of nursing's licensure of nurses
26 pursuant to chapter 335, the board of pharmacy's licensure

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27 of pharmacists pursuant to chapter 338, the Missouri real
28 estate commission's licensure of real estate brokers, real
29 estate salespersons, or real estate broker-salespersons
30 pursuant to sections 339.010 to 339.205, the Missouri
31 veterinary medical board's licensure of veterinarian's
32 pursuant to chapter 340, the Missouri director of finance
33 appointed pursuant to chapter 361, or the peace officer
34 standards and training commission's licensure of peace
35 officers or other law enforcement personnel pursuant to
36 chapter 590;

37 (4) "Political subdivision", a city, town, village,
38 municipality, or county.

39 3. Notwithstanding any other provision of law,
40 beginning January 1, 2021, no person shall be disqualified
41 by a state licensing authority from pursuing, practicing, or
42 engaging in any occupation for which a license is required
43 solely or in part because of a prior conviction of a crime
44 in this state or another state, unless the criminal
45 conviction directly relates to the duties and
46 responsibilities for the licensed occupation as set forth in
47 this section or is violent or sexual in nature.

48 4. Beginning August 28, 2020, applicants for
49 examination of licensure who have pleaded guilty to, entered
50 a plea of nolo contendere to, or been found guilty of any of
51 the following offenses or offenses of a similar nature
52 established under the laws of this state, any other state,
53 United States, or any other country, notwithstanding whether
54 sentence is imposed, shall be considered by state licensing
55 authorities to have committed a criminal offense that
56 directly relates to the duties and responsibilities of a
57 licensed profession:

58 (1) Any murder in the first degree, or dangerous
59 felony as defined under section 556.061 excluding an

60 intoxication-related traffic offense or intoxication-related
61 boating offense if the person is found to be a habitual
62 offender or habitual boating offender as such terms are
63 defined in section 577.001;

64 (2) Any of the following sexual offenses: rape in the
65 first degree, forcible rape, rape, statutory rape in the
66 first degree, statutory rape in the second degree, rape in
67 the second degree, sexual assault, sodomy in the first
68 degree, forcible sodomy, statutory sodomy in the first
69 degree, statutory sodomy in the second degree, child
70 molestation in the first degree, child molestation in the
71 second degree, sodomy in the second degree, deviate sexual
72 assault, sexual misconduct involving a child, sexual
73 misconduct in the first degree under section 566.090 as it
74 existed prior to August 28, 2013, sexual abuse under section
75 566.100 as it existed prior to August 28, 2013, sexual abuse
76 in the first or second degree, enticement of a child, or
77 attempting to entice a child;

78 (3) Any of the following offenses against the family
79 and related offenses: incest, abandonment of a child in the
80 first degree, abandonment of a child in the second degree,
81 endangering the welfare of a child in the first degree,
82 abuse of a child, using a child in a sexual performance,
83 promoting sexual performance by a child, or trafficking in
84 children; and

85 (4) Any of the following offenses involving child
86 pornography and related offenses: promoting obscenity in
87 the first degree, promoting obscenity in the second degree
88 when the penalty is enhanced to a class E felony, promoting
89 child pornography in the first degree, promoting child
90 pornography in the second degree, possession of child
91 pornography in the first degree, possession of child
92 pornography in the second degree, furnishing child

93 pornography to a minor, furnishing pornographic materials to
94 minors, or coercing acceptance of obscene material;

95 (5) The offense of delivery of a controlled substance,
96 as provided in section 579.020, may be a disqualifying
97 criminal offense for the following occupations: real estate
98 appraisers and appraisal management companies, licensed
99 pursuant to sections 339.500 to 339.549; and nursing home
100 administrators, licensed pursuant to chapter 344; and

101 (6) Any offense an essential element of which is fraud
102 may be a disqualifying criminal offense for the following
103 occupations: private investigators, licensed pursuant to
104 sections 324.1100 to 324.1148; accountants, licensed
105 pursuant to chapter 326; architects, licensed pursuant to
106 sections 327.091 to 327.172; engineers, licensed pursuant to
107 sections 327.181 to 327.271; land surveyors, licensed
108 pursuant to sections 327.272 to 327.371; landscape
109 architects, licensed pursuant to sections 327.600 to
110 327.635; chiropractors, licensed pursuant to chapter 331;
111 embalmers and funeral directors, licensed pursuant to
112 chapter 333; real estate appraisers and appraisal management
113 companies, licensed pursuant to sections 339.500 to 339.549;
114 and nursing home administrators, licensed pursuant to
115 chapter 344.

116 5. If an individual is charged with any of the crimes
117 set forth in subsection 4 of this section, and is convicted,
118 pleads guilty to, or is found guilty of a lesser-included
119 offense and is sentenced to a period of incarceration, such
120 conviction shall only be considered by state licensing
121 authorities as a criminal offense that directly relates to
122 the duties and responsibilities of a licensed profession for
123 four years, beginning on the date such individual is
124 released from incarceration.

125 6. (1) [Licensing authorities shall only list
126 criminal convictions that are directly related to the duties
127 and responsibilities for the licensed occupation.

128 (2)] The licensing authority shall determine whether
129 an applicant with a criminal conviction [listed under
130 subdivision (1) of this subsection] will be denied a license
131 based on the following factors:

132 (a) The nature and seriousness of the crime for which
133 the individual was convicted;

134 (b) The passage of time since the commission of the
135 crime, including consideration of the factors listed under
136 subdivision [(3)] (2) of this subsection;

137 (c) The relationship of the crime to the ability,
138 capacity, and fitness required to perform the duties and
139 discharge the responsibilities of the occupation; and

140 (d) Any evidence of rehabilitation or treatment
141 undertaken by the individual that might mitigate against a
142 direct relation.

143 [(3)] (2) If an individual has a valid criminal
144 conviction for a criminal offense that could disqualify the
145 individual from receiving a license, the disqualification
146 shall not apply to an individual who has been exonerated for
147 a crime for which he or she has previously been convicted of
148 or incarcerated.

149 7. An individual with a criminal record may petition a
150 licensing authority at any time for a determination of
151 whether the individual's criminal record will disqualify the
152 individual from obtaining a license. This petition shall
153 include details on the individual's criminal record. The
154 licensing authority shall inform the individual of his or
155 her standing within thirty days after the licensing
156 authority has met, but in no event more than four months
157 after receiving the petition from the applicant. The

158 decision shall be binding, unless the individual has
159 subsequent criminal convictions or failed to disclose
160 information in his or her petition. If the decision is that
161 the individual is disqualified, the individual shall be
162 notified in writing of the grounds and reasons for
163 disqualification. The licensing authority may charge a fee
164 by rule to recoup its costs as set by rulemaking authority
165 not to exceed twenty-five dollars for each petition.

166 8. (1) If a licensing authority denies an individual
167 a license solely or in part because of the individual's
168 prior conviction of a crime, the licensing authority shall
169 notify the individual in writing of the following:

170 (a) The grounds and reasons for the denial or
171 disqualification;

172 (b) That the individual has the right to a hearing as
173 provided by chapter 621 to challenge the licensing
174 authority's decision;

175 (c) The earliest date the person may reapply for a
176 license; and

177 (d) That evidence of rehabilitation may be considered
178 upon reapplication.

179 (2) Any written determination by the licensing
180 authority that an applicant's criminal conviction is a
181 specifically listed disqualifying conviction and is directly
182 related to the duties and responsibilities for the licensed
183 occupation shall be documented with written findings for
184 each of the grounds or reasons under paragraph (a) of
185 subdivision (1) of this subsection by clear and convincing
186 evidence sufficient for a reviewing court.

187 (3) In any administrative hearing or civil litigation
188 authorized under this subsection, the licensing authority
189 shall carry the burden of proof on the question of whether

190 the applicant's criminal conviction directly relates to the
191 occupation for which the license is sought.

192 9. The provisions of this section shall apply to any
193 profession for which an occupational license is issued in
194 this state, including any new occupational license created
195 by a state licensing authority after August 28, 2020.
196 Notwithstanding any other provision of law, political
197 subdivisions shall be prohibited from creating any new
198 occupational licenses after August 28, 2020. The provisions
199 of this section shall not apply to business licenses, where
200 the terms "occupational licenses" and "business licenses"
201 are used interchangeably in a city or county charter
202 definition."; and

203 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 5

Offered by

Bernskoetter

OF

6thAmend House Bill No. 476, Page 1, Section Title, Lines 2-3,

2 by striking "license reciprocity for military members" and
 3 inserting in lieu thereof the following: "professional
 4 registration, with a delayed effective date for certain
 5 sections"; and

6 Further amend said bill, page 1, section A, line 2, by
 7 inserting after said line the following:

8 "281.015. Sections 281.005 to 281.115 shall be
 9 administered by the director of the department of
 10 agriculture of the state of Missouri[, hereafter referred to
 11 as the "director"].

12 281.020. As used in sections 281.010 to 281.115, the
 13 following terms mean:

14 (1) "Animal", all vertebrate and invertebrate species,
 15 including but not limited to man and other mammals, birds,
 16 fish, and shellfish;

17 (2) "Applicator, operator or technician":

18 (a) "Certified applicator", includes certified
 19 commercial applicator, certified noncommercial applicator,
 20 certified private applicator, certified provisional private
 21 applicator, or certified public operator;

22 (b) "Certified commercial applicator", any individual,
 23 whether or not [he] the individual is a private applicator
 24 with respect to some uses, who is certified by the director
 25 as authorized to use, supervise the use of, [or] determine
 26 the need for the use of, or supervise the determination of

Offered 4/21/21
 Adopted 11

27 need for any pesticide, whether classified for restricted
28 use or for general use, while [he] the individual is engaged
29 in the business of using pesticides on the lands of another
30 as a direct service to the public in exchange for a fee or
31 compensation;

32 [(b)] (c) "Certified noncommercial applicator", any
33 individual, whether or not [he] the individual is a private
34 applicator with respect to some uses, who is certified by
35 the director as authorized to use, or to supervise the use
36 of, any pesticide which is classified for restricted use
37 only on lands owned or rented by [him or his] the individual
38 or the individual's employer;

39 [(c)] (d) "Certified private applicator", any
40 individual who is certified by the director as authorized to
41 use[, or to supervise the use of,] any pesticide [which]
42 that is classified for restricted use for purposes of
43 producing any agricultural commodity on property owned or
44 rented by [him or his] the individual or the individual's
45 employer or on the property of another person, if used
46 without compensation other than trading of personal services
47 between producers of agricultural commodities[, on the
48 property of another person];

49 (e) "Certified provisional private applicator", any
50 individual who is sixteen or seventeen years of age, an
51 immediate family member of a certified private applicator,
52 and certified by the director to use any pesticide that is
53 classified for restricted use for purposes of producing any
54 agricultural commodity on property owned or rented by the
55 individual's immediate family member, so long as the
56 following requirements are met:

57 a. The restricted use pesticide (RUP) is not a
58 fumigant;

59 b. The RUP does not contain sodium cyanide or sodium
60 fluoroacetate;

61 c. The individual will not apply any RUP using aerial
62 application equipment;

63 d. The individual will not supervise the use of any
64 RUP; and

65 e. The individual will not purchase any RUP;

66 [(d)] (f) "Certified public operator", any individual
67 who is certified by the director as authorized to use, or to
68 supervise the use of, any pesticide classified for
69 restricted use in the performance of [his] the individual's
70 duties as an official or employee of any agency of the state
71 of Missouri or any political subdivision thereof, or any
72 other governmental agency;

73 (g) "Noncertified restricted use pesticide (RUP)
74 applicator", any person who is not certified in accordance
75 with sections 281.010 to 281.115 who uses or determines the
76 need for the use of restricted use pesticides under the
77 direct supervision of a certified commercial applicator or
78 uses restricted use pesticides under the direct supervision
79 of a certified noncommercial applicator or certified public
80 operator;

81 [(e)] (h) "Private applicator", any person not holding
82 a certified private applicator's license or certified
83 provisional private applicator's license who [shall be
84 required to obtain a permit for the use of any restricted
85 use pesticide] uses general use pesticides or minimum risk
86 pesticides for the purposes of producing any agricultural
87 commodity on property owned or rented by [him or his] the
88 person or the person's employer or on the property of
89 another person, if used without compensation other than
90 trading of personal services between producers of
91 agricultural commodities[, such permit shall authorize the

92 one-time emergency purchase of a restricted use pesticide
93 for the purpose of a one-time emergency use of that
94 pesticide];

95 [(f)] (i) "Pesticide technician", any individual
96 working under the direct supervision of a commercial
97 applicator certified in categories as specified by
98 regulation, and who having met the competency requirements
99 of [this chapter] sections 281.010 to 281.115, is authorized
100 by the director to determine the need for the use of any
101 pesticide as well as to the use of any pesticide;

102 [(g)] (j) "Pesticide technician trainee", any
103 individual working in the physical presence and under the
104 direct supervision of a certified commercial applicator to
105 gain the required on-the-job training in preparation for
106 obtaining a pesticide technician's license;

107 (3) "Beneficial insects", those insects [which] that,
108 during their life cycle, are effective pollinators of
109 plants, are parasites or predators of pests, or are
110 otherwise beneficial;

111 (4) "Defoliant", any substance or mixture of
112 substances intended for causing the leaves or foliage to
113 drop from a plant, with or without causing abscission;

114 (5) "Department" or "department of agriculture", the
115 state department of agriculture, and when by sections
116 281.010 to 281.115 the department of agriculture is charged
117 to perform a duty, the director of the department of
118 agriculture is authorized to perform such duty;

119 (6) "Desiccant", any substance or mixture of
120 substances intended for artificially accelerating the drying
121 of plant tissue;

122 [(6)] (7) "Determining the need for the use of any
123 pesticide", the act of inspecting land for the presence of
124 pests for the purpose of contracting for their control or

125 prevention through the use of pesticides in categories as
126 specified by regulation;

127 [(7)] (8) "Device", any instrument or contrivance,
128 other than a firearm, [which] that is intended for trapping,
129 destroying, repelling, or mitigating any pest or any other
130 form of plant or animal life, other than man and other than
131 bacteria, viruses, or other microorganisms on or in living
132 man or other living animals, but not including equipment
133 used for the application of pesticides when sold separately
134 therefrom;

135 (9) "Director", the director of the department of
136 agriculture or the director's designee;

137 (10) "Distribute", to sell, offer for sale, hold for
138 sale, deliver for transportation in intrastate commerce, or
139 transport in intrastate commerce;

140 [(8)] (11) "Environment", includes water, air, land,
141 and all plants and man and other animals living therein, and
142 the interrelationships [which] that exist among these;

143 [(9)] (12) "Equipment" [means], any type of ground,
144 water or aerial equipment or contrivance using motorized,
145 mechanical or pressurized power and used to apply any
146 pesticide on land and anything that may be growing,
147 habitating or stored on or in such land, but shall not
148 include any pressurized hand-sized household apparatus used
149 to apply any pesticide, or any equipment or contrivance of
150 which the person who is applying the pesticide is the source
151 of power or energy in making such pesticide application;

152 [(10)] (13) "Fungus", any nonchlorophyll-bearing
153 thallophyte, [that] which is[,] any nonchlorophyll-bearing
154 plant of a lower order than mosses and liverworts, such as[,
155 for example,] rust, smut, mildew, mold, yeast, and bacteria,
156 except those on or in living man or other living animals,

157 and except those on or in processed food, beverages, or
158 pharmaceuticals;

159 (14) "General use pesticide", any pesticide, when
160 applied in accordance with its directions for use, warnings,
161 and cautions, and for the uses for which it is registered,
162 or for one or more of such uses, or in accordance with a
163 widespread and commonly recognized practice, that will not
164 generally cause unreasonable adverse effects on the
165 environment;

166 (15) "Immediate family", familial relationships
167 limited to the spouse, parents, stepparents, foster parents,
168 father-in-law, mother-in-law, children, stepchildren, foster
169 children, sons-in-law, daughters-in-law, grandparents,
170 brothers, sisters, brothers-in-law, sisters-in-law, aunts,
171 uncles, nieces, nephews, and first cousins. "First cousin"
172 means the child of a parent's sibling, i.e., the child of an
173 aunt or uncle;

174 [(11)] (16) "Individual", any responsible, natural
175 human being;

176 [(12)] (17) "Insect", any of the numerous small
177 invertebrate animals generally having the body more or less
178 obviously segmented, for the most part belonging to the
179 class Insecta, comprising six-legged, usually winged forms,
180 such as [, for example,] beetles, bugs, bees, flies, and to
181 other allied classes of arthropods whose members are
182 wingless and usually have more than six legs, such as [, for
183 example,] spiders, mites, ticks, centipedes, and wood lice;

184 [(13)] (18) "Land", all land and water areas,
185 including airspace, and all plants, animals, structures,
186 buildings, contrivances and machinery, appurtenant thereto
187 or situated thereon, fixed or mobile, including any used for
188 transportation;

189 (19) "Minimum risk pesticide", any pesticide product
190 exempted under 40 CFR Section 152.25(f) from registration
191 requirements under the Federal Insecticide, Fungicide, and
192 Rodenticide Act (FIFRA), as amended;

193 [(14)] (20) "Misuse of a pesticide", a use of any
194 [registered] pesticide in a manner inconsistent with its
195 labeling; provided, that the use of a lesser concentration
196 than provided on the label shall not be considered the
197 misuse of a pesticide when used strictly for agricultural
198 purposes, and when requested in writing by the person on
199 whose behalf a pesticide is used;

200 [(15)] (21) "Nematode", invertebrate animals of the
201 phylum Nematelminthes and class Nematoda, that is,
202 unsegmented round worms with elongated, fusiform, or sac-
203 like bodies covered with cuticle, and inhabiting soil,
204 water, plants, or plant parts; may also be called nemas or
205 eelworms;

206 (22) "Nontarget organism", any plant, animal, or
207 organism other than the target pests that a pesticide is
208 intended to affect;

209 [(16)] (23) "Person", any individual, partnership,
210 association, fiduciary, corporation, or any organized group
211 of persons whether incorporated or not;

212 [(17)] (24) "Pest":

213 (a) Any insect, snail, slug, rodent, nematode, fungus,
214 weed; or

215 (b) Any other form of terrestrial or aquatic plant or
216 animal life or virus, bacterium, or other microorganism,
217 except viruses, bacteria, or other microorganisms on or in
218 living man or other living animals, [which] that is normally
219 considered to be a pest;

220 [(18)] (25) "Pesticide":

221 (a) Any substance or mixture of substances intended
222 for preventing, destroying, repelling, or mitigating any
223 pest; or

224 (b) Any substance or mixture of substances intended
225 for use as a plant regulator, defoliant, or desiccant;

226 [(19)] (26) "Pesticide dealer", any individual who is
227 engaged in the business of distributing, selling, offering
228 for sale, or holding for sale at retail, or direct wholesale
229 to the end user, any pesticide classified for restricted use;

230 (27) "Pesticide dealership", any location or outlet
231 where restricted use pesticides are held for sale,
232 distributed, or sold;

233 [(20)] (28) "Plant regulator", any substance or
234 mixture of substances, intended, through physiological
235 action, for accelerating or retarding the rate of growth or
236 rate of maturation, or for otherwise altering the behavior
237 of plants or the produce thereof, but shall not include
238 substances to the extent that they are intended as plant
239 nutrients, trace elements, nutritional chemicals, plant
240 inoculants, or soil amendments. The term "plant regulator"
241 does not include any of those nutrient mixtures or soil
242 amendments [which] that are commonly known as vitamin-
243 hormone horticultural products, intended for improvement,
244 maintenance, survival, health and propagation of plants, and
245 [which] that are not for pest destruction and are nontoxic,
246 nonpoisonous in the undiluted package concentration;

247 [(21) "Private applicator permit", a written
248 certificate, issued by the director or his authorized agent,
249 authorizing the purchase, possession or use of certain
250 restricted use pesticides by a private applicator. Such
251 permit shall authorize the one-time emergency purchase of a
252 restricted use pesticide for the purpose of a one-time
253 emergency use of such pesticide;

254 (22)] (29) "Restricted use pesticide", any pesticide
255 when applied in accordance with its directions for use,
256 warnings and cautions and for the uses for which it is
257 registered, or for one or more of such uses, or in
258 accordance with a widespread and commonly recognized
259 practice, the director determines may cause, without
260 additional regulatory restrictions, unreasonable adverse
261 effects on the environment, including injury to the
262 applicator;

263 [(23)] (30) "Sale", selling or offering for sale any
264 pesticide;

265 [(24)] (31) "Snails" or "slugs" includes all harmful
266 mollusks;

267 [(25)] (32) "Unreasonable adverse effects on the
268 environment", any unreasonable risk to man or the
269 environment, taking into account the economic, social, and
270 environmental costs and benefits of the use of any pesticide;

271 [(26)] (33) "Under the direct supervision of a
272 certified applicator", when a pesticide is used by a
273 competent person acting under the instructions and control
274 of a certified applicator who is available if and when
275 needed, even though such certified applicator is not
276 physically present at the time and place the pesticide is
277 used;

278 [(27)] (34) "Use", mixing, loading, or applying [,
279 storing or disposing of a] any pesticide; cleaning pesticide
280 equipment; or storing or disposing of pesticide containers,
281 pesticides, spray mix, equipment wash waters, and other
282 pesticide-containing materials;

283 [(28)] (35) "Weed", any plant [which] that grows where
284 not wanted; [and

285 (29)] (36) "Wildlife", all living things that are
286 neither human, domesticated, or pests, including, but not
287 limited to, mammals, protected birds, and aquatic life.

288 281.025. 1. The director shall administer and enforce
289 the provisions of sections 281.010 to 281.115 and shall have
290 authority to issue regulations after a public hearing
291 following due notice of not less than thirty days to all
292 interested persons, in conformance with the provisions of
293 chapter 536, to carry out the provisions of sections 281.010
294 to 281.115. Where the director finds that such regulations
295 are needed to carry out the purpose and intent of sections
296 281.010 to 281.115, such regulations may relate to, but need
297 not be limited to, prescribing the time, place, manner,
298 methods, materials, and amounts and concentrations, in
299 connection with the use of the pesticide, and may restrict
300 or prohibit use of pesticides in designated areas during
301 specified periods of time and shall encompass all reasonable
302 factors [which] that the director deems necessary to prevent
303 damage or injury. In issuing such regulations, the director
304 may give consideration to pertinent research findings and
305 recommendations of other agencies of this state, the federal
306 government, or other reliable sources. The director may by
307 regulation require that notice of a proposed application of
308 a pesticide be given to landowners adjoining the property to
309 be treated or in the immediate vicinity thereof, if [he] the
310 director finds that such notice is necessary to carry out
311 the purpose of sections 281.010 to 281.115. [The director
312 may, by regulation, provide for the one-time emergency
313 purchase and one-time emergency use of a restricted use
314 pesticide by a private applicator.]

315 2. The pesticides on the list of restricted use
316 pesticides, as determined by the federal agency having
317 jurisdiction over the classification of pesticides, shall be

318 so restricted in the state of Missouri. The director shall
319 publish, at least annually, a list of pesticides [which]
320 that have restricted uses. Such publication shall be made
321 available to the public upon request. If the director
322 determines that a pesticide, when used in accordance with
323 its directions for use, warnings and cautions, and for uses
324 for which it is registered, may cause, without additional
325 regulatory restrictions, unreasonable adverse effects on the
326 environment, including injury to the applicator or other
327 persons, the pesticide shall be used only by or under the
328 direct supervision of a certified applicator[, or a private
329 applicator with a permit]. Such pesticides may be subject
330 to other restrictions as determined by the director, to
331 include the time and conditions of possession and use.

332 3. No regulation, or any amendment or repeal thereof,
333 provided for in sections 281.010 to 281.115 shall be
334 adopted, except after public hearing giving an opportunity
335 to the public to be heard, to be held after no less than
336 thirty days' prior notice of the date, time, and place of
337 hearing, to be given by regular mail to any person who has
338 registered with the director for purposes of notice of such
339 public hearings, in accordance with procedures prescribed by
340 the director.

341 4. At any hearing, opportunity to be heard shall be
342 afforded to any interested person upon written request
343 received not later than twenty-four hours prior to the
344 hearing, and may also be afforded to other persons. In
345 addition, any interested person, whether or not heard, may
346 submit within seven days subsequent to the hearing a written
347 statement of views. The director may solicit the views in
348 writing of persons who may be affected by, or interested in
349 any proposed regulation. Any person heard or represented at
350 the hearing, or making written request for notice, shall be

351 given written notice of the action of the director with
352 respect to the subject thereof.

353 5. No rule or portion of a rule promulgated under the
354 authority of this chapter shall become effective unless it
355 has been promulgated pursuant to the provisions of section
356 536.024.

357 281.030. 1. The director may, by regulation, classify
358 [certified applicator, operator or technician] licenses to
359 be issued under sections 281.010 to 281.115. Such
360 classifications may include but not be limited to commercial
361 applicators, noncommercial applicators, private applicators,
362 provisional private applicators, public operators [or],
363 pesticide technicians, or noncertified RUP applicators.
364 Separate classifications may be specified as to ground,
365 aerial, or manual methods used by any licensee to apply
366 pesticides or to the use of pesticides for the control of
367 pests.

368 2. The director may, by regulation, establish
369 certification categories to be provided under each license
370 classification. Each certification category shall be
371 subject to separate testing procedures and requirements;
372 provided, that no individual shall be required to pay an
373 additional fee if [he] the individual is certified in one or
374 all of the certification categories provided under the
375 license for which [he] the individual has applied. The
376 director may, by regulation, establish certification
377 categories limited to the use of certain pesticides and
378 issue a license therefor. Each certification category shall
379 be subject to separate testing procedures covering only
380 those pesticides for which the applicant seeks to be
381 licensed.

382 3. The director may by regulation establish fees for
383 identification documents.

384 281.035. 1. No individual shall engage in the
385 business of determining the need for the use of, supervising
386 the use of, supervising the determination of the need for
387 the use of, or using any pesticide, in categories as
388 specified by regulation, on the lands of another at any time
389 without a certified commercial applicator's license issued
390 by the director. A certified commercial applicator shall
391 not determine the need for the use of, supervise the use of,
392 supervise the determination of the need for the use of, or
393 use any pesticide for any particular purpose unless [he or
394 she] the certified commercial applicator has demonstrated
395 [his or her] such certified commercial applicator's
396 competence to use pesticides for that purpose by being
397 certified by the director in the proper certification
398 category. The director shall require an annual fee of sixty-
399 five dollars for each certified commercial applicator's
400 license issued. No certified commercial applicator shall
401 knowingly authorize, direct, or instruct any individual to
402 engage in determining the need for the use of or using any
403 general use pesticide or minimum risk pesticide on the land
404 of another at any time unless such individual is a pesticide
405 technician or pesticide technician trainee in such
406 categories as specified by regulation or is working under
407 the direct supervision of a certified commercial applicator
408 so authorizing, directing or instructing, in which case the
409 certified commercial applicator shall be liable for any use
410 of a general use pesticide or minimum risk pesticide by an
411 individual operating under [his or her] the certified
412 commercial applicator's direct supervision. The certified
413 commercial applicator or the employer shall assure that the
414 director is informed in writing within ten [working] days of
415 the employment of any person as a pesticide technician or
416 pesticide technician trainee.

417 2. No certified commercial applicator shall knowingly
418 authorize, direct, or instruct any individual to engage in
419 determining the need for the use of or using any restricted
420 use pesticide on the land of another at any time unless such
421 individual is licensed as a noncertified RUP applicator
422 while working under the direct supervision of a certified
423 commercial applicator so authorizing, directing, or
424 instructing, in which case the certified commercial
425 applicator shall be liable for any use of a restricted use
426 pesticide by an individual operating under the certified
427 commercial applicator's direct supervision.

428 3. Application for a certified commercial applicator's
429 license shall be [made in writing] submitted to the director
430 on a designated form obtained from the [director's office]
431 department. Each application shall include such information
432 as prescribed by the director by regulation.

433 [3.] 4. The director shall not issue a certified
434 commercial applicator's license until the applicant is
435 certified by passing an examination provided by the director
436 to demonstrate to the director [his or her] the applicant's
437 competence and knowledge of the proper use of pesticides
438 under the classifications [he or she] the applicant had
439 applied for, and [his or her] the applicant's knowledge of
440 the standards prescribed by regulations for the
441 certification of commercial applicators.

442 [4.] 5. The director may renew any certified
443 commercial applicator's license under the classification for
444 which such applicant is licensed, [subject to] upon
445 successful completion of approved recertification training
446 or reexamination for additional knowledge that may be
447 required to use pesticides safely and properly either
448 manually or with equipment the applicant has been licensed
449 to operate.

450 [5.] 6. If the director finds the applicant qualified
451 to use pesticides in the classification for which
452 application has been made, and if the applicant files
453 evidence that the requirement for bonds or insurance has
454 been met as required under section 281.065, the director
455 shall issue a certified commercial applicator's license
456 limited to the classifications for which [he or she] the
457 applicant is qualified, which shall expire one year from
458 date of issuance unless [it] the license has been revoked or
459 suspended prior thereto by the director for cause; provided,
460 such financial responsibility required under section 281.065
461 does not expire at an earlier date, in which case [said] the
462 license shall expire upon the expiration date of the
463 financial responsibility. The director may limit the
464 license of the applicant to the use of certain [restricted
465 use] pesticides, or to certain areas, or to certain types of
466 equipment if the applicant is only so qualified. If a
467 license is not issued as applied for, the director shall
468 inform the applicant in writing of the reasons therefor.

469 [6.] 7. The director shall require each certified
470 commercial applicator or [his or her] the certified
471 commercial applicator's employer to maintain records with
472 respect to applications of any pesticide, including
473 pesticides used under direct supervision by licensed
474 pesticide technicians, pesticide technician trainees, and
475 licensed noncertified RUP applicators. Such relevant
476 information as the director may deem necessary may be
477 specified by regulation. Such records shall be kept for a
478 period of three years from the date of the application of
479 the pesticide to which such records refer, and the director
480 shall, upon request in writing, be furnished with a copy of
481 such records by any certified commercial applicator or [his
482 or her] the certified commercial applicator's employer.

483 [7.] 8. A person or individual engaged in the business
484 of using pesticides on the lands of another, who is deprived
485 of [his or her] such person's or individual's sole certified
486 commercial applicator by reason of death, illness,
487 incapacity or any absence which the director determines is
488 unavoidable, is authorized to continue business operations
489 without the services of a certified commercial applicator
490 for a period of time deemed appropriate by the director, but
491 not to exceed sixty days; except that, no restricted-use
492 pesticide shall be used, or caused to be used, by such
493 person or individual. Any such person or individual shall
494 immediately notify the director as to the absence of [his or
495 her] such person's or individual's sole certified commercial
496 applicator.

497 [8.] 9. Every certified commercial applicator shall
498 display [his or her] the certified commercial applicator's
499 license in a prominent place at the site, location or office
500 from which [he or she] the certified commercial applicator
501 will operate as a certified commercial applicator; that
502 place, location or office being at the address printed on
503 the license.

504 [9.] 10. Every certified commercial applicator who
505 changes the address from which [he or she] the certified
506 commercial applicator will operate as a certified commercial
507 applicator shall immediately notify the director. The
508 director shall immediately issue a revised license upon
509 which shall be printed the changed address. The director
510 shall not collect a fee for the issuance of a revised
511 license. The expiration date of the revised license shall
512 be the same as the expiration date for the original license.

513 281.037. 1. Any individual who is not certified
514 pursuant to section 281.035, 281.040 or 281.045, [or has not
515 been issued a private applicator permit pursuant to

516 subsection 5 of section 281.040] shall not use, or supervise
517 the use of, any [restricted-use] restricted use pesticide
518 without a certified noncommercial applicator license. A
519 certified noncommercial applicator shall not use, or
520 supervise the use of, any restricted use pesticide for any
521 purpose unless [he or she] the certified noncommercial
522 applicator has demonstrated [his or her] the certified
523 noncommercial applicator's competence to use pesticides for
524 that purpose by being certified by the director in the
525 proper certification category.

526 2. No certified noncommercial applicator shall
527 knowingly authorize, direct, or instruct any individual to
528 engage in using any restricted use pesticide on lands or
529 structures owned, leased, or rented by the certified
530 noncommercial applicator or the certified noncommercial
531 applicator's employer unless such individual is licensed as
532 a noncertified RUP applicator while working under the direct
533 supervision of a certified noncommercial applicator so
534 authorizing, directing, or instructing, in which case the
535 certified noncommercial applicator shall be liable for any
536 use of a restricted use pesticide by an individual operating
537 under the certified noncommercial applicator's direct
538 supervision.

539 3. Application for a certified noncommercial
540 applicator license shall be [made in writing] submitted to
541 the director on a designated form obtained from the
542 [director's office] department. Each application shall
543 include such information as prescribed by the director by
544 regulation.

545 [3.] 4. The director shall not issue a certified
546 noncommercial applicator license until the applicant is
547 certified by passing an examination provided by the director
548 to demonstrate to the director [his or her] the applicant's

549 competence and knowledge of the proper use of pesticides
550 under the classifications for which [he or she] the
551 applicant has applied, and [his or her] the applicant's
552 knowledge of the standards prescribed by regulations for the
553 certification of noncommercial applicators.

554 [4.] 5. If the director finds the applicant qualified
555 to use restricted use pesticides in the classification for
556 which [he or she] the applicant has applied, the director
557 shall issue a certified noncommercial applicator license
558 limited to the applicator categories in which [he or she]
559 the applicant is certified. The license shall expire one
560 year from the date of issuance unless [it] the license has
561 been revoked or suspended prior thereto by the director for
562 cause. The director may limit the license of the applicant
563 to the use of certain restricted use pesticides, or to
564 certain areas, or to certain types of equipment if the
565 applicant is only so qualified. If a license is not issued
566 as applied for, the director shall inform the applicant in
567 writing of the reasons therefor.

568 [5.] 6. The director may renew any certified
569 noncommercial applicator license under the classification
570 for which the license is issued [subject to] upon successful
571 completion of approved recertification training or
572 reexamination for additional knowledge [which] that may be
573 required to apply pesticides safely and properly.

574 [6.] 7. The director shall collect a fee of thirty-
575 five dollars for each certified noncommercial applicator
576 license issued.

577 [7.] 8. Any certified noncommercial applicator may
578 use, or supervise the use of, restricted use pesticides only
579 to or on lands or structures owned, leased or rented by
580 [himself or herself or his or her] the certified

581 noncommercial applicator or the certified noncommercial
582 applicator's employer.

583 [8.] 9. The director shall require the certified
584 noncommercial applicator or [his or her] the certified
585 noncommercial applicator's employer to maintain records with
586 respect to applications of restricted use pesticides. Any
587 relevant information [which] that the director may deem
588 necessary may be required by regulation. Such records shall
589 be kept for a period of three years from the date of the
590 application of the pesticide to which such records refer,
591 and the director shall, upon request in writing, be
592 furnished with a copy of such records by any certified
593 noncommercial applicator or [his or her] the certified
594 noncommercial applicator's employer.

595 [9.] 10. Every certified noncommercial applicator
596 shall display [his or her] the certified noncommercial
597 applicator's license in a prominent place at the site,
598 location or office from which [he or she] the certified
599 noncommercial applicator will operate as a certified
600 noncommercial applicator; that place, location or office
601 being at the address printed on the license.

602 [10.] 11. Every certified noncommercial applicator who
603 changes the address from which [he or she] the certified
604 noncommercial applicator will operate as a certified
605 noncommercial applicator shall immediately notify the
606 director. The director shall immediately issue a revised
607 license upon which shall be printed the changed address.
608 The director shall not collect a fee for the issuance of a
609 revised license. The expiration date of the revised license
610 shall be the same as the expiration date for the original
611 license.

612 281.038. 1. [After July 1, 1990,] No individual
613 working under the direct supervision of a certified

614 commercial applicator shall determine the need for the use
615 of or use any general use pesticide [nor use any] or minimum
616 risk pesticide in categories as specified by regulation,
617 unless and until the individual has met the requirements of
618 [this chapter] sections 281.010 to 281.115.

619 2. Application for a pesticide technician's license
620 shall be [made in writing] submitted to the director on a
621 designated form obtained from the [director's office]
622 department. Each application shall include such information
623 as prescribed by the director by regulation and shall be
624 received by the director within forty-five days of
625 employment of the pesticide technician or pesticide
626 technician trainee.

627 3. The director shall not issue a pesticide
628 technician's license until the individual has demonstrated
629 [his or her] the applicant's competence by completion of an
630 approved training program to the satisfaction of the
631 director.

632 4. The director may renew any pesticide technician's
633 license under the classification for which that applicant is
634 licensed subject to completion of an additional approved
635 training program to the satisfaction of the director as
636 prescribed by regulation.

637 5. The director shall collect a fee of thirty-five
638 dollars for each pesticide technician license issued.

639 6. If the director finds the applicant qualified to
640 use pesticides in the classification for which application
641 has been made, the director shall issue a pesticide
642 technician's license limited to the classifications for
643 which [he or she] the applicant is qualified, which shall
644 expire one year from date of issuance unless [it] the
645 license has been revoked or suspended prior thereto by the
646 director for cause. The director may limit the license of

647 the applicant to the use of certain pesticides, or to
648 certain areas, or to certain types of equipment if the
649 applicant is only so qualified. If a license is not issued
650 as applied for, the director shall inform the applicant in
651 writing of the reasons for such denial of license.

652 7. In order for pesticide technicians to use or
653 determine the need for the use of any general use pesticide:

654 (1) A certified commercial applicator must be licensed
655 to work from the same physical location as the pesticide
656 technician; and

657 (2) The licensed certified commercial applicator must
658 be certified in the same use categories as the pesticide
659 technician as specified by regulation.

660 8. A pesticide technician may complete retraining
661 requirements and renew the technician's license without a
662 certified commercial applicator working from the same
663 physical location.

664 281.040. 1. No private applicator shall use any
665 restricted-use pesticide unless [he] the private applicator
666 first complies with the requirements determined pursuant to
667 subsection [2 or 5] 3 of this section, as necessary to
668 prevent unreasonable adverse effects on the environment,
669 including injury to the applicator or other persons, for
670 that specific pesticide use.

671 2. No certified private applicator shall knowingly
672 authorize, direct, or instruct any individual to engage in
673 using any restricted use pesticide on lands or structures
674 owned, leased, or rented by the certified private applicator
675 or the certified applicator's employer unless such
676 individual is licensed as a certified private applicator or
677 a certified provisional private applicator.

678 3. The private applicator shall qualify for a
679 certified private applicator's license or certified

680 provisional private applicator's license by [either]
681 attending [a course or completing an online course of
682 instruction] an approved certification training program
683 provided by University of Missouri extension, completing an
684 online certification training program provided by University
685 of Missouri extension, or by passing the required private
686 applicator certification examination provided by the
687 director on the use, handling, storage and application of
688 [restricted-use] restricted use pesticides in the proper
689 certification categories as specified by regulation. The
690 content of the instruction shall be determined and revised
691 as necessary by the director. Upon completion of the
692 [course] certification training program, completion of the
693 online certification training program, or passage of the
694 required private applicator certification examination, the
695 director shall issue a certified private applicator's
696 license or certified provisional private applicator's
697 license to the applicant. The director shall not collect a
698 fee for the issuance of such license[, but the]. University
699 of Missouri extension [service may] shall collect [a fee for
700 the actual cost of the materials necessary to complete the
701 course of instruction] reasonable fees for study materials
702 and for enrollment in certification or recertification
703 programs administered in-person or online. [However, no
704 fee] Such fees shall be assessed [or collected from an
705 individual completing an online course of instruction] based
706 on the majority decision of a review committee convened
707 every five years or as needed by the director. Such fees
708 shall not exceed seventy-five dollars per program per
709 applicant unless the members of the review committee
710 representing statewide agricultural organizations vote
711 unanimously in favor of setting the fee in an amount in
712 excess of seventy-five dollars. [Both the director of the

713 department and of the University of Missouri extension
714 service shall review such costs annually.] Such committee
715 shall be provided revenue and expense information for the
716 training program from University of Missouri extension and
717 information on the content of the instruction and method of
718 delivery from the director. The review committee shall also
719 determine a maximum in-seat training time for the training
720 programs. The committee shall report its minutes, fee
721 decisions, time limitation decisions, and its evaluation of
722 the training provided to the chairs of the house of
723 representatives and senate agriculture or equivalent
724 committees. The committee shall be composed of five members
725 including:

- 726 (1) The director;
727 (2) The director of University of Missouri extension
728 or his or her designee;
729 (3) The president of a statewide corn producers
730 organization who actively grows corn or his or her designee;
731 (4) The president of a statewide soybean producers
732 organization who actively grows soybeans or his or her
733 designee; and
734 (5) The president of the state's largest general farm
735 membership organization or his or her designee.

736 [3.] 4. A certified private applicator's license shall
737 expire five years from date of issuance and may then be
738 renewed without charge or additional fee. Any certified
739 private applicator holding a valid license may renew that
740 license for the next five years [without additional training
741 unless the director determines that additional knowledge
742 related to the use of agricultural pesticides makes
743 additional training necessary] upon successful completion of
744 approved recertification training or by passing the required
745 private applicator certification examination.

746 5. On the date of the certified provisional private
747 applicator's eighteenth birthday, his or her license will
748 automatically be converted to a certified private applicator
749 license reflecting the original expiration date from
750 issuance. A certified provisional private applicator's
751 license shall expire five years from date of issuance and
752 may then be renewed as a certified private applicator's
753 license without charge or additional fee.

754 [4.] 6. If the director does not qualify the private
755 applicator under this section [he] the director shall inform
756 the applicant in writing of the reasons therefor.

757 [5. The private applicator may apply to the director,
758 or his designated agent, for a private applicator permit for
759 the one-time emergency purchase and use of restricted use
760 pesticides. When the private applicator has demonstrated
761 his competence in the use of the pesticides to be purchased
762 and used on a one-time emergency basis, he shall be issued a
763 permit for the one-time emergency purchase and use of
764 restricted use pesticides. The director or his designated
765 agent shall not collect a fee for the issuance of such
766 permit.]

767 281.045. 1. All agencies of the state of Missouri and
768 the political subdivisions thereof, and any other
769 governmental agency shall be subject to the provisions of
770 sections 281.010 to 281.115 and rules adopted thereunder
771 concerning the use of restricted use pesticides.

772 2. Public operators for agencies listed in subsection
773 1 of this section shall not use, or supervise the use of,
774 any restricted use pesticides on any land or structure
775 without a certified public operator license issued by the
776 director. The certified public operator shall not use or
777 supervise the use of any restricted use pesticide for any
778 purpose unless [he] the certified public operator has

779 demonstrated [his] the certified public operator's
780 competence to use pesticides for that purpose by being
781 certified by the director in the proper certification
782 category. [Any employee of any agency listed in subsection
783 1 of this section who is not licensed as a certified public
784 operator may use restricted use pesticides only under the
785 direct supervision of a certified public operator.]

786 3. No certified public operator shall knowingly
787 authorize, direct, or instruct any individual to engage in
788 using any restricted use pesticide on lands or structures
789 unless such individual is licensed as a noncertified RUP
790 applicator while working under the direct supervision of a
791 certified public operator so authorizing, directing, or
792 instructing, in which case the certified public operator
793 shall be liable for any use of a restricted use pesticide by
794 an individual operating under the certified public
795 operator's direct supervision.

796 4. Application for a certified public operator license
797 shall be [made in writing] submitted to the director on a
798 designated form obtained from the [director's office]
799 department. Each application shall include all information
800 prescribed by the director by regulation.

801 [4.] 5. The director shall not issue a certified
802 public operator license until the applicant is certified by
803 passing an examination provided by the director to
804 demonstrate to the director [his] the applicant's competence
805 and knowledge of the proper use of pesticides under the
806 classifications for which [he] the applicant has applied,
807 and [his] the applicant's knowledge of the standards
808 prescribed by regulations for the certification of public
809 operators.

810 [5.] 6. If the director finds the applicant qualified
811 to use pesticides in the classification for which [he] the

812 applicant has applied, the director shall issue a license,
813 without a fee, to the certified public operator who has so
814 qualified. The certified public operator license shall be
815 valid only when the operator is acting as an operator using,
816 or supervising the use of, restricted use pesticides in the
817 course of [his] the operator's employment. A certified
818 public operator license shall expire three years from the
819 date of issuance unless [it] the license has been revoked or
820 suspended prior thereto by the director for cause. The
821 director may limit the license of the applicant to the use
822 of certain restricted use pesticides, or to certain areas,
823 or to certain types of equipment if the applicant is only so
824 qualified. If a license is not issued as applied for, the
825 director shall inform the applicant in writing of the
826 reasons therefor.

827 [6.] 7. The director may renew any certified public
828 operator license under the classification for which that
829 applicant is licensed, [subject to] upon successful
830 completion of approved recertification training or
831 reexamination for additional knowledge which may be required
832 to use pesticides safely and properly either manually or
833 with equipment the applicant has been licensed to operate.

834 [7.] 8. The director shall require the certified
835 public operator, or [his] the certified public operator's
836 employer, to maintain records with respect to applications
837 of restricted use pesticides. Any relevant information
838 which the director may deem necessary may be required by
839 regulation. Such records shall be kept for a period of
840 three years from the date of the application of the
841 pesticide to which such records refer, and the director
842 shall, upon request in writing, be furnished with a copy of
843 such records by any certified public operator or [his] the
844 certified public operator's employer.

845 [8.] 9. Agencies listed in subsection 1 of this
846 section shall be subject to a legal action by any person
847 damaged by any use of any pesticide, which may be brought in
848 the county where the damage or any part thereof occurred.

849 [9.] 10. Every certified public operator shall display
850 [his] the certified public operator's license in a prominent
851 place at the site, location or office from which [he] the
852 certified public operator will operate as a certified public
853 operator, that place, location or office being at the
854 address printed on the license.

855 [10.] 11. Every certified public operator who changes
856 the address from which [he] the certified public operator
857 will operate as a certified public operator shall
858 immediately notify the director. The director shall
859 immediately issue a revised license upon which shall be
860 printed the changed address. The director shall not collect
861 a fee for the issuance of a revised license. The expiration
862 date of the revised license shall be the same as the
863 expiration date for the original license.

864 12. Any person who volunteers to work for a public
865 agency may use general use pesticides without a license
866 under the supervision of the public agency on lands owned or
867 managed by the state agency, political subdivision, or
868 governmental agency.

869 281.048. 1. No individual shall use or determine the
870 need for the use of any restricted use pesticide while
871 working under the direct supervision of a certified
872 commercial applicator until the individual has met the
873 requirements of this section.

874 2. No individual shall use restricted use pesticides
875 while working under the direct supervision of a certified
876 noncommercial applicator or certified public operator until
877 the individual has met the requirements of this section.

878 3. Application for a noncertified RUP applicator's
879 license shall be submitted to the director on a designated
880 form obtained from the department. Each application shall
881 include such information as prescribed by the director by
882 regulation.

883 4. The director shall issue or renew a noncertified
884 RUP applicator license once an individual has met the
885 requirements set forth in 40 CFR section 171.201(c)(1) or
886 (3). The director shall collect an annual fee of thirty-
887 five dollars for each noncertified RUP applicator license
888 issued. The license shall be valid for one year unless
889 revoked or suspended by the department prior to its
890 expiration. Any individual whose application is denied
891 shall receive a written explanation as to the determination
892 of the denial.

893 5. Individuals holding a valid noncertified RUP
894 applicator license may use and determine the need for the
895 use of restricted use pesticides, general use pesticides,
896 and minimum risk pesticides under the direct supervision of
897 a certified commercial applicator and only for the
898 categories in which the commercial applicator is certified.
899 The director may limit the license of the applicant to the
900 use of certain pesticides, or to certain areas, or to
901 certain types of equipment if the applicant is only so
902 qualified.

903 6. Every certified commercial applicator, certified
904 noncommercial applicator, or certified public operator
905 providing direct supervision to a licensed noncertified RUP
906 applicator shall immediately notify the director when the
907 licensed noncertified RUP applicator has changed address
908 from which the applicator or operator will operate as a
909 licensed noncertified RUP applicator or when the
910 noncertified RUP applicator's employment has been

911 terminated. The director shall immediately issue a revised
912 license upon which shall be printed the change of address.
913 The director shall not collect a fee for the issuance of a
914 revised license. The expiration date of the revised license
915 shall be the same as the expiration date for the original
916 license.

917 7. A noncertified RUP applicator may complete
918 retraining requirements and renew the applicator's license
919 without a certified commercial applicator, certified
920 noncommercial applicator, or certified public operator
921 working from the same physical location.

922 8. Every licensed noncertified RUP applicator shall
923 display the applicator's license in a prominent place at the
924 site, location, or office from which the applicator will
925 operate as a noncertified RUP applicator that place,
926 location, or office being at the address printed on the
927 license.

928 281.050. 1. No individual shall act in the capacity
929 of a pesticide dealer or shall engage in the business of,
930 advertise as, or assume to act as a pesticide dealer unless
931 [he or she] the individual has obtained a license from the
932 director [which] that shall expire one year from date of
933 issuance. [An individual shall be required to obtain a
934 license for] Each pesticide dealership location or outlet
935 from which [such] restricted use pesticides are distributed,
936 sold, held for sale, or offered for sale at retail or
937 wholesale direct to the end user[. Pesticide dealers may be .
938 designated by the director as agents of the state for the
939 purpose of issuing permits for restricted use pesticides to
940 private applicators] shall have at least one individual
941 licensed as a pesticide dealer.. Any individual possessing
942 restricted use pesticides and selling or holding and
943 offering for sale restricted use pesticides at retail or

944 wholesale from a motor vehicle shall be licensed as a
945 pesticide dealer. For the purposes of this subsection,
946 "selling or holding and offering for sale" shall not include
947 solely transporting product in commerce. No individual shall
948 be issued more than one pesticide dealer license..

949 2. Application for a pesticide dealer's license shall
950 be made on a designated form obtained from the [director's
951 office] department. The director shall collect a fee of
952 thirty-five dollars for the issuance of each license. The
953 provisions of this section shall not apply to a pesticide
954 applicator who sells pesticides only as an integral part of
955 [his or her] the applicator's pesticide application service
956 when such pesticides are dispensed only through apparatuses
957 used for such pesticide applications. The provisions of
958 this section shall not apply to any federal, state, or
959 county agency [which] that provides pesticides for its own
960 programs.

961 3. Each applicant shall satisfy the director as to
962 [his or her] the applicant's knowledge of the laws and
963 regulations governing the use and sale of pesticides and
964 [his or her] the applicant's responsibility in carrying on
965 the business of a pesticide dealer by passing a pesticide
966 dealer examination provided by the director. Each licensed
967 pesticide dealer shall be responsible for [insuring]
968 ensuring that all of [his or her] the dealer's employees and
969 agents who sell or recommend restricted use pesticides have
970 adequate knowledge of the laws and regulations governing the
971 use and sale of such restricted use pesticides.

972 4. Each pesticide dealer shall be responsible for the
973 acts of each person employed by [him or her] the dealer in
974 the solicitation and sale of pesticides and all claims and
975 recommendations for use of pesticides. The dealer's license
976 shall be subject to denial, suspension, or revocation after

977 a hearing for any violation of sections 281.010 to 281.115
978 whether committed by the dealer, or by the dealer's officer,
979 agent or employee.

980 5. No pesticide dealer shall sell, give away or
981 otherwise make available any restricted use pesticides to
982 anyone but certified commercial applicators, certified
983 noncommercial applicators [or], certified public operators,
984 or to certified private applicators [who have met the
985 requirements of subsection 5 of section 281.040,] holding
986 valid certifications in proper certification categories or
987 to other licensed pesticide dealers, except that pesticide
988 dealers may allow the designated representative of such
989 certified applicators[, operators or private applicators] to
990 take possession of restricted use pesticides when those
991 restricted use pesticides are purchased by and for use by or
992 under the direct supervision of such certified applicator[,
993 operator or private applicator].

994 6. The director shall require the pesticide dealer, or
995 [his or her] the dealer's employer, to maintain books and
996 records with respect to sales of restricted use pesticides
997 at each dealership location or outlet. Such relevant
998 information as the director may deem necessary may be
999 specified by regulation. Such records shall be kept for a
1000 period of three years from the date of sale of the
1001 restricted use pesticide to which such records refer, and
1002 the director shall upon request in writing be furnished with
1003 a copy of such records by any licensed pesticide dealer or
1004 [his or her] the dealer's employer.

1005 7. Every licensed pesticide dealer who changes [his or
1006 her] the dealer's address or place of business shall
1007 immediately notify the director.

1008 281.055. 1. If the [application for] renewal of any
1009 license[,] or certification [or permit] provided for in

1010 [this chapter] sections 281.010 to 281.115 is not filed
1011 prior to the expiration date in any year, a penalty of
1012 twenty-five percent shall be assessed and added to the
1013 original fee and shall be paid by the applicant before the
1014 license[,] or certification [or permit] shall be renewed[;
1015 provided, that such penalty shall not apply if the applicant
1016 furnishes an affidavit certifying that he has not engaged in
1017 the business subsequent to the expiration of his license,
1018 certification or permit]. Any person holding a current
1019 valid license[,] or certification [or permit] may renew the
1020 license[,] or certification [or permit] for the next year
1021 without taking another examination unless the director
1022 determines that additional knowledge related to
1023 classifications for which the applicant has applied makes a
1024 new examination necessary. However, if the license is not
1025 renewed within sixty days following the date of expiration
1026 [then], the license shall be cancelled and the licensee
1027 shall be required to satisfy all the requirements of
1028 licensure as if such person was never licensed.

1029 2. The director may promulgate reasonable regulations
1030 requiring additional training and instruction on the part of
1031 any applicant for a license issued under sections 281.010 to
1032 281.115.

1033 3. The director shall have prepared for prospective
1034 licensee's use[,] a book of guidelines of factual necessary
1035 information related to the requirements of sections 281.010
1036 to 281.115. A reasonable fee may be collected for [said]
1037 the publication.

1038 281.060. 1. The director, after inquiry, and after
1039 opportunity for a hearing, may deny, suspend, revoke, or
1040 modify the provisions of any license[, permit,] or
1041 certification issued under sections 281.010 to 281.115, if
1042 [he] the director finds that the applicant or the holder of

1043 a license[, permit,] or certification has violated any
1044 provision of sections 281.010 to 281.115, or any regulation
1045 issued thereunder, or has been convicted or subject to a
1046 final order imposing a civil or criminal penalty pursuant to
1047 the Federal Insecticide, Fungicide and Rodenticide Act
1048 (FIFRA), as amended, or has been convicted, or is the
1049 subject of prosecution, in [another] this state or in any
1050 state or protectorate of the United States, or has had a
1051 pesticide applicator license[,] or certificate [or permit]
1052 denied, suspended, revoked or modified by [another] any
1053 state or protectorate of the United States, or the person
1054 has been finally adjudicated and found guilty, or entered a
1055 plea of guilty or nolo contendere, in a criminal prosecution
1056 under the laws of any state or of the United States, for any
1057 offense reasonably related to the qualifications, functions
1058 or duties of any profession licensed or regulated under
1059 [this chapter] sections 281.010 to 281.115, for any offense
1060 an essential element of which is fraud, dishonesty or an act
1061 of violence, or for any offense involving moral turpitude,
1062 whether or not sentence is imposed. Licensed certified
1063 applicators, licensed noncertified RUP applicators, licensed
1064 pesticide technicians, and licensed pesticide dealers shall
1065 notify the department within ten days of any conviction of
1066 or plea to any offense listed in this section.

1067 2. If the director determines, after inquiry and
1068 opportunity for a hearing, that any [individual] person is
1069 in violation of any provision of sections 281.010 to
1070 281.115, or any regulations issued thereunder, the director
1071 shall have the authority to assess a civil penalty of not
1072 more than one thousand dollars for each violation, and in
1073 addition, may order that restitution be made to any person.

1074 3. In the event that a person penalized or ordered to
1075 pay restitution under this section fails to pay the penalty

1076 or restitution, the director may apply to the circuit court
1077 of Cole County for, and the court is authorized to enter, an
1078 order enforcing the assessed penalty or restitution.

1079 281.063. The director may subpoena witnesses and
1080 compel the production of books, documents and records
1081 anywhere in the state in any hearing affecting the authority
1082 or privilege granted by a license[,] or certificate [or
1083 permit] issued under the provisions of sections 281.010 to
1084 281.115.

1085 281.065. 1. The director shall not issue a certified
1086 commercial applicator's license until the applicant or the
1087 employer of the applicant has furnished evidence of
1088 financial responsibility with the director consisting either
1089 of a surety bond or a liability insurance policy or
1090 certification thereof, protecting persons who may suffer
1091 legal damages as a result of [the operations of] pesticide
1092 use by the applicant; except that, such surety bond or
1093 liability insurance policy need not apply to damages or
1094 injury to crops, plants or land being worked upon by the
1095 applicant. Following the receipt of the initial license,
1096 the certified commercial applicator shall not be required to
1097 furnish evidence of financial responsibility to the
1098 department for the purpose of license renewal unless upon
1099 request. Annual renewals for surety bonds or liability
1100 insurance shall be maintained at the business location from
1101 which the certified commercial applicator is licensed.
1102 Valid surety bonds or liability insurance certificates shall
1103 be available for inspection by the director [or his or her
1104 designee] at a reasonable time during regular business hours
1105 or, upon a request in writing, the director shall be
1106 furnished a copy of the surety bond or liability insurance
1107 certificate within ten [working] days of receipt of the
1108 request.

1109 2. The amount of the surety bond or liability
1110 insurance required by this section shall be not less than
1111 fifty thousand dollars for each occurrence. Such surety
1112 bond or liability insurance shall be maintained at not less
1113 than that sum at all times during the licensed period. The
1114 director shall be notified by the surety or insurer within
1115 twenty days prior to any cancellation or reduction of the
1116 surety bond or liability insurance. If the surety bond or
1117 liability insurance policy which provides the financial
1118 responsibility for the certified commercial applicator is
1119 provided by the employer of the certified commercial
1120 applicator, the employer of the certified commercial
1121 applicator shall immediately notify the director upon the
1122 termination of the employment of the certified commercial
1123 applicator or when a condition exists under which the
1124 certified commercial applicator is no longer provided bond
1125 or insurance coverage by the employer. The certified
1126 commercial applicator shall then immediately execute and
1127 submit to the director a surety bond or an insurance policy
1128 to cover the financial responsibility requirements of this
1129 section and the certified commercial applicator or the
1130 applicator's employer shall maintain the surety bond or
1131 liability insurance certificate at the business location
1132 from which the certified commercial applicator is licensed.
1133 The director may accept a liability insurance policy or
1134 surety bond in the proper sum which has a deductible clause
1135 in an amount not exceeding one thousand dollars; except
1136 that, if the bond- or policyholder has not satisfied the
1137 requirement of the deductible amount in any prior legal
1138 claim, such deductible clause shall not be accepted by the
1139 director unless the bond- or policyholder executes and
1140 maintains a surety bond or liability insurance which shall
1141 satisfy the amount of the deductible as to all claims that

1142 may arise in [his or her] the bond- or policyholder's
1143 application of pesticides.

1144 3. If the surety becomes unsatisfactory, the
1145 commercial applicator license shall expire and become
1146 invalid and the bond- or policyholder shall immediately
1147 execute and submit to the director a new bond or insurance
1148 policy and maintain the surety bond or liability insurance
1149 certificate at the business location from which the
1150 certified commercial applicator is licensed, and if [he or
1151 she] the bond- or policyholder fails to do so, the director
1152 shall cancel [his or her] the bond- or policyholder's
1153 license, or deny the license of an applicant, and give [him
1154 or her] the bond- or policyholder notice of cancellation or
1155 denial, and it shall be unlawful thereafter for the
1156 applicant to engage in the business of using pesticides
1157 until the bond or insurance is brought into compliance with
1158 the requirements of subsection 1 of this section. If the
1159 bond- or policyholder does not execute a new bond or
1160 insurance policy within sixty days of expiration of such
1161 bond or policy, the licensee shall be required to satisfy
1162 all the requirements for licensure as if never before
1163 licensed.

1164 4. Nothing in sections 281.010 to 281.115 shall be
1165 construed to relieve any person from liability for any
1166 damage to the person or lands of another caused by the use
1167 of pesticides even though such use conforms to the rules and
1168 regulations of the director.

1169 281.070. 1. The director may investigate the use of
1170 any pesticide or claims of damages [which] that result from
1171 the use of any pesticide.

1172 2. Any person who claims to have been damaged as a
1173 result of a pesticide use and who requests an investigation
1174 of that damage by the director shall file with the director,

1175 on a form provided by the director, a written statement
1176 claiming that [he] the person has been damaged. Damage
1177 statements shall be filed within thirty days after the date
1178 the damage is alleged to have occurred, unless a growing
1179 crop is alleged to have been damaged. If a growing crop is
1180 alleged to have been damaged, the damage statement shall be
1181 filed at least two weeks prior to the time that twenty-five
1182 percent of that crop has been harvested. The director
1183 shall, upon receipt of the statement, notify the person
1184 alleged to have caused the damage and the owner or lessee of
1185 the land, or other person who may be charged with the
1186 responsibility of the damages claimed, and furnish copies of
1187 any statements which may be requested. The director shall
1188 inspect damages whenever possible and [he] the director
1189 shall make [his] the director's inspection reports available
1190 to the person claiming damage and to the person who is
1191 alleged to have caused the damage. Where damage is alleged
1192 to have occurred, the claimant shall permit the director,
1193 the licensee and [his] the licensee's representatives, such
1194 as the bondsman or insurer, to observe, within reasonable
1195 hours, the lands or nontarget organism alleged to have been
1196 damaged.

1197 3. The filing of or the failure to file need not be
1198 alleged in any complaint which might be filed in a court of
1199 law, and the failure to file a damage claim shall not be
1200 considered any bar to the maintenance of any criminal or
1201 civil action. The failure to file such a report shall not
1202 be a violation of sections 281.010 to 281.115. However, if
1203 the person failing to file such report is the only one
1204 injured from such use or application of a pesticide by
1205 others, the director may, when in the public interest,
1206 refuse to hold a hearing for the denial, suspension or

1207 revocation of a license [or permit] issued under sections
1208 281.010 to 281.115 until such report is filed.

1209 4. The director may in the conduct of any
1210 investigation or hearing authorized or held by [him] the
1211 director:

1212 (1) Examine, or cause to be examined, under oath, any
1213 person;

1214 (2) Examine, or cause to be examined, books and
1215 records of the sale or use of any pesticide directly related
1216 to the investigation;

1217 (3) Hear such testimony and take such evidence as will
1218 assist [him] the director in the discharge of [his] the
1219 director's duties under [this chapter] sections 281.010 to
1220 281.115;

1221 (4) Administer or cause to be administered [oath]
1222 oaths; and

1223 (5) Issue subpoenas to require the attendance of
1224 witnesses and the production of books and records directly
1225 related to the investigation.

1226 281.075. [1.] The director may issue a [license or]
1227 pesticide applicator certification on a reciprocal basis
1228 with other states without examination to a nonresident who
1229 is licensed [or] as a certified [in another state
1230 substantially] applicator in accordance with the
1231 reciprocating state's requirements and is a resident of the
1232 reciprocating state. A pesticide applicator certification
1233 shall be issued in accordance with the provisions of
1234 sections 281.010 to 281.115; except that, financial
1235 responsibility [must] shall be filed pursuant to section
1236 281.065. Fees collected shall be the same as for resident
1237 licenses or certification.

1238 [2. Any nonresident applying for any license under
1239 section 281.035, 281.037, 281.038 or 281.050 to operate in

1240 the state of Missouri shall designate in writing the
1241 secretary of state as the agent of such nonresident upon
1242 whom process may be served as provided by law; except that,
1243 any such nonresident who has designated a resident agent
1244 upon whom process may be served as provided by law shall not
1245 be required to designate the secretary of state as such
1246 agent. The secretary of state shall be allowed such fees
1247 therefor as provided by law for designating resident
1248 agents. The director shall be furnished with a copy of such
1249 designation of the secretary of state or of a resident
1250 agent, such copy to be certified by the secretary of state.]

1251 281.085. No person shall discard, transport, or store
1252 any pesticide or pesticide containers in such a manner that
1253 is inconsistent with label directions or as to cause injury
1254 to humans, vegetation, crops, livestock, wildlife,
1255 beneficial insects or to pollute any waterway. The director
1256 may promulgate rules and regulations governing the
1257 discarding and storing of such pesticide or pesticide
1258 containers. In determining these rules and regulations the
1259 director shall take into consideration any regulations
1260 issued by the Federal Environmental Protection Agency.

1261 281.101. 1. It shall be unlawful for any [individual]
1262 person to violate any provision of sections 281.010 to
1263 281.115, or any regulation issued thereunder.

1264 2. The following are determined to be unlawful acts:

1265 (1) It shall be unlawful to recommend for use, [to]
1266 cause to use, use, or [to] supervise the use of any
1267 pesticide in a manner inconsistent with its labeling
1268 required by labeling requirements of FIFRA, the Missouri
1269 pesticide use act, or the Missouri pesticide registration
1270 act;

1271 (2) It shall be unlawful for any [individual] person
1272 to misuse any pesticide;

1273 (3) It shall be unlawful for any person to use or
1274 supervise the use of pesticides that are cancelled or
1275 suspended;

1276 (4) It shall be unlawful for any person not holding a
1277 valid certified applicator license in proper certification
1278 categories or a valid pesticide dealer license to purchase
1279 or acquire restricted use pesticides;

1280 (5) It shall be unlawful to make any false or
1281 misleading statements during the course of an investigation
1282 into the sale, distribution, use or misuse of any pesticide;

1283 [(4)] (6) It shall be unlawful to make any false or
1284 misleading statement on any application, form or document
1285 submitted to the director concerning licensing pursuant to
1286 sections 281.010 to 281.115 or any regulations issued
1287 thereunder;

1288 [(5)] (7) It shall be unlawful to make any false,
1289 misleading or fraudulent statement or claim, through any
1290 media, [which] that misrepresents the effects of any
1291 pesticide, the methods to be utilized in the application of
1292 any pesticide, or the qualifications of the person
1293 determining the need for the use of any pesticide or using
1294 any pesticide;

1295 [(6)] (8) It shall be unlawful to make any false or
1296 misleading statement specifying[,] or inferring that a
1297 person or [his] the person's methods are recommended by any
1298 branch of government or that any pesticide work done will be
1299 inspected by any branch of government;

1300 [(7)] (9) It shall be unlawful to aid or abet any
1301 licensed or unlicensed individual in evading the provisions
1302 of sections 281.010 to 281.115 or any regulation issued
1303 thereunder, or to conspire with any licensed or unlicensed
1304 individual in evading the provisions of sections 281.010 to
1305 281.115 or any regulation issued thereunder;

1306 (10) It shall be unlawful for any person to steal or
1307 attempt to steal pesticide certification examinations or
1308 examination materials, cheat on pesticide certification
1309 examinations, evade completion of recertification or
1310 retraining requirements, or aid and abet any person to steal
1311 or attempt to steal examinations or examination materials,
1312 cheat on examinations, or evade recertification or
1313 retraining requirements.

1314 3. Other acts [which] that are not specified, but
1315 [which] that violate sections 281.010 to 281.115 or
1316 regulations issued thereunder, shall nevertheless be
1317 unlawful."; and

1318 Further amend said bill, page 3, section 324.009, line
1319 80, by inserting after all of said line the following:

1320 "Section B. The enactment of section 281.048 and the
1321 repeal and reenactment of sections 281.015, 281.020,
1322 281.025, 281.030, 281.035, 281.937, 281.038, 281.040,
1323 281.045, 281.050, 281.055, 281.060, 281.063, 281.065,
1324 281.070, 281.075, 281.085, and 281.101 of this act shall
1325 become effective on January 1, 2024."; and

1326 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 6

Offered by

RATER

of

7Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following;

3 "338.010. 1. The "practice of pharmacy" means the
 4 interpretation, implementation, and evaluation of medical
 5 prescription orders, including any legend drugs under 21
 6 U.S.C. Section 353; receipt, transmission, or handling of
 7 such orders or facilitating the dispensing of such orders;
 8 the designing, initiating, implementing, and monitoring of a
 9 medication therapeutic plan as defined by the prescription
 10 order so long as the prescription order is specific to each
 11 patient for care by a pharmacist; the compounding,
 12 dispensing, labeling, and administration of drugs and
 13 devices pursuant to medical prescription orders and
 14 administration of viral influenza, pneumonia, shingles,
 15 hepatitis A, hepatitis B, diphtheria, tetanus, pertussis,
 16 and meningitis vaccines by written protocol authorized by a
 17 physician for persons at least seven years of age or the age
 18 recommended by the Centers for Disease Control and
 19 Prevention, whichever is higher, or the administration of
 20 pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,
 21 tetanus, pertussis, meningitis, and viral influenza vaccines
 22 by written protocol authorized by a physician for a specific
 23 patient as authorized by rule; the participation in drug
 24 selection according to state law and participation in drug
 25 utilization reviews; the proper and safe storage of drugs
 26 and devices and the maintenance of proper records thereof;

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Adopted " "

27 consultation with patients and other health care
28 practitioners, and veterinarians and their clients about
29 legend drugs, about the safe and effective use of drugs and
30 devices; the prescribing and dispensing of any nicotine
31 replacement therapy product under section 338.665; the
32 dispensing of HIV postexposure prophylaxis pursuant to
33 section 338.730; and the offering or performing of those
34 acts, services, operations, or transactions necessary in the
35 conduct, operation, management and control of a pharmacy.
36 No person shall engage in the practice of pharmacy unless he
37 or she is licensed under the provisions of this chapter.
38 This chapter shall not be construed to prohibit the use of
39 auxiliary personnel under the direct supervision of a
40 pharmacist from assisting the pharmacist in any of his or
41 her duties. This assistance in no way is intended to
42 relieve the pharmacist from his or her responsibilities for
43 compliance with this chapter and he or she will be
44 responsible for the actions of the auxiliary personnel
45 acting in his or her assistance. This chapter shall also
46 not be construed to prohibit or interfere with any legally
47 registered practitioner of medicine, dentistry, or podiatry,
48 or veterinary medicine only for use in animals, or the
49 practice of optometry in accordance with and as provided in
50 sections 195.070 and 336.220 in the compounding,
51 administering, prescribing, or dispensing of his or her own
52 prescriptions.

53 2. Any pharmacist who accepts a prescription order for
54 a medication therapeutic plan shall have a written protocol
55 from the physician who refers the patient for medication
56 therapy services. The written protocol and the prescription
57 order for a medication therapeutic plan shall come from the
58 physician only, and shall not come from a nurse engaged in a
59 collaborative practice arrangement under section 334.104, or

60 from a physician assistant engaged in a collaborative
61 practice arrangement under section 334.735.

62 3. Nothing in this section shall be construed as to
63 prevent any person, firm or corporation from owning a
64 pharmacy regulated by sections 338.210 to 338.315, provided
65 that a licensed pharmacist is in charge of such pharmacy.

66 4. Nothing in this section shall be construed to apply
67 to or interfere with the sale of nonprescription drugs and
68 the ordinary household remedies and such drugs or medicines
69 as are normally sold by those engaged in the sale of general
70 merchandise.

71 5. No health carrier as defined in chapter 376 shall
72 require any physician with which they contract to enter into
73 a written protocol with a pharmacist for medication
74 therapeutic services.

75 6. This section shall not be construed to allow a
76 pharmacist to diagnose or independently prescribe
77 pharmaceuticals.

78 7. The state board of registration for the healing
79 arts, under section 334.125, and the state board of
80 pharmacy, under section 338.140, shall jointly promulgate
81 rules regulating the use of protocols for prescription
82 orders for medication therapy services and administration of
83 viral influenza vaccines. Such rules shall require
84 protocols to include provisions allowing for timely
85 communication between the pharmacist and the referring
86 physician, and any other patient protection provisions
87 deemed appropriate by both boards. In order to take effect,
88 such rules shall be approved by a majority vote of a quorum
89 of each board. Neither board shall separately promulgate
90 rules regulating the use of protocols for prescription
91 orders for medication therapy services and administration of
92 viral influenza vaccines. Any rule or portion of a rule, as

93 that term is defined in section 536.010, that is created
94 under the authority delegated in this section shall become
95 effective only if it complies with and is subject to all of
96 the provisions of chapter 536 and, if applicable, section
97 536.028. This section and chapter 536 are nonseverable and
98 if any of the powers vested with the general assembly
99 pursuant to chapter 536 to review, to delay the effective
100 date, or to disapprove and annul a rule are subsequently
101 held unconstitutional, then the grant of rulemaking
102 authority and any rule proposed or adopted after August 28,
103 2007, shall be invalid and void.

104 8. The state board of pharmacy may grant a certificate
105 of medication therapeutic plan authority to a licensed
106 pharmacist who submits proof of successful completion of a
107 board-approved course of academic clinical study beyond a
108 bachelor of science in pharmacy, including but not limited
109 to clinical assessment skills, from a nationally accredited
110 college or university, or a certification of equivalence
111 issued by a nationally recognized professional organization
112 and approved by the board of pharmacy.

113 9. Any pharmacist who has received a certificate of
114 medication therapeutic plan authority may engage in the
115 designing, initiating, implementing, and monitoring of a
116 medication therapeutic plan as defined by a prescription
117 order from a physician that is specific to each patient for
118 care by a pharmacist.

119 10. Nothing in this section shall be construed to
120 allow a pharmacist to make a therapeutic substitution of a
121 pharmaceutical prescribed by a physician unless authorized
122 by the written protocol or the physician's prescription
123 order.

124 11. "Veterinarian", "doctor of veterinary medicine",
125 "practitioner of veterinary medicine", "DVM", "VMD", "BVSe",

126 "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or an
127 equivalent title means a person who has received a doctor's
128 degree in veterinary medicine from an accredited school of
129 veterinary medicine or holds an Educational Commission for
130 Foreign Veterinary Graduates (EDFVG) certificate issued by
131 the American Veterinary Medical Association (AVMA).

132 12. In addition to other requirements established by
133 the joint promulgation of rules by the board of pharmacy and
134 the state board of registration for the healing arts:

135 (1) A pharmacist shall administer vaccines by protocol
136 in accordance with treatment guidelines established by the
137 Centers for Disease Control and Prevention (CDC);

138 (2) A pharmacist who is administering a vaccine shall
139 request a patient to remain in the pharmacy a safe amount of
140 time after administering the vaccine to observe any adverse
141 reactions. Such pharmacist shall have adopted emergency
142 treatment protocols;

143 (3) In addition to other requirements by the board, a
144 pharmacist shall receive additional training as required by
145 the board and evidenced by receiving a certificate from the
146 board upon completion, and shall display the certification
147 in his or her pharmacy where vaccines are delivered.

148 13. A pharmacist shall inform the patient that the
149 administration of the vaccine will be entered into the
150 ShowMeVax system, as administered by the department of
151 health and senior services. The patient shall attest to the
152 inclusion of such information in the system by signing a
153 form provided by the pharmacist. If the patient indicates
154 that he or she does not want such information entered into
155 the ShowMeVax system, the pharmacist shall provide a written
156 report within fourteen days of administration of a vaccine
157 to the patient's [primary] health care provider, if provided
158 by the patient, containing:

- 159 (1) The identity of the patient;
160 (2) The identity of the vaccine or vaccines
161 administered;
162 (3) The route of administration;
163 (4) The anatomic site of the administration;
164 (5) The dose administered; and
165 (6) The date of administration.

166 338.730. 1. Notwithstanding any other law to the
167 contrary, a pharmacist may dispense HIV postexposure
168 prophylaxis in accordance with this section. Such
169 prophylaxis shall be dispensed only if the pharmacist
170 follows a written protocol authorized by a licensed
171 physician.

172 2. For purposes of this section, "postexposure
173 prophylaxis" shall mean any drug approved by the Food and
174 Drug Administration that meets the same clinical eligibility
175 recommendations provided in CDC guidelines.

176 3. For purposes of this section, "CDC guidelines"
177 shall mean the current HIV guidelines published by the
178 federal Centers for Disease Control and Prevention.

179 4. The state board of registration for the healing
180 arts and the state board of pharmacy shall jointly
181 promulgate rules and regulations for the administration of
182 this section. Neither board shall separately promulgate
183 rules governing a pharmacist's authority to dispense HIV
184 postexposure prophylaxis under this section.

185 5. Any rule or portion of a rule, as that term is
186 defined in section 536.010, that is created under the
187 authority delegated in this section shall become effective
188 only if it complies with and is subject to all of the
189 provisions of chapter 536 and, if applicable, section
190 536.028. This section and chapter 536 are nonseverable and
191 if any of the powers vested with the general assembly

192 pursuant to chapter 536 to review, to delay the effective
193 date, or to disapprove and annul a rule are subsequently
194 held unconstitutional, then the grant of rulemaking
195 authority and any rule proposed or adopted after August 28,
196 2021, shall be invalid and void."; and
197 Further amend the title and enacting clause accordingly.

SENATE AMENDMENT NO. 8

Offered by

Burlison

of

20

Amend House Bill No. 476, Page 3, Section 324.009, Line 80,

2 by inserting after all of said line the following:

3 "324.087. SECTION 1. PURPOSE

4 The purpose of this Compact is to facilitate interstate
 5 practice of Occupational Therapy with the goal of improving
 6 public access to Occupational Therapy services. The
 7 Practice of Occupational Therapy occurs in the State where
 8 the patient/client is located at the time of the
 9 patient/client encounter. The Compact preserves the
 10 regulatory authority of States to protect public health and
 11 safety through the current system of State licensure. This
 12 Compact is designed to achieve the following objectives:

13 A. Increase public access to Occupational Therapy
 14 services by providing for the mutual recognition of other
 15 Member State licenses;

16 B. Enhance the States' ability to protect the public's
 17 health and safety;

18 C. Encourage the cooperation of Member States in
 19 regulating multi-State Occupational Therapy Practice;

20 D. Support spouses of relocating military members;

21 E. Enhance the exchange of licensure, investigative,
 22 and disciplinary information between Member States;

23 F. Allow a Remote State to hold a provider of services
 24 with a Compact Privilege in that State accountable to that
 25 State's practice standards; and

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Adopted "

26 G. Facilitate the use of Telehealth technology in
27 order to increase access to Occupational Therapy services.

28 SECTION 2. DEFINITIONS

29 As used in this Compact, and except as otherwise
30 provided, the following definitions shall apply:

31 A. "Active Duty Military" means full-time duty status
32 in the active uniformed service of the United States,
33 including members of the National Guard and Reserve on
34 active duty orders pursuant to 10 U.S.C. Chapter 1209 and
35 Section 1211.

36 B. "Adverse Action" means any administrative, civil,
37 equitable, or criminal action permitted by a State's laws
38 which is imposed by a Licensing Board or other authority
39 against an Occupational Therapist or Occupational Therapy
40 Assistant, including actions against an individual's license
41 or Compact Privilege such as censure, revocation,
42 suspension, probation, monitoring of the Licensee, or
43 restriction on the Licensee's practice.

44 C. "Alternative Program" means a non-disciplinary
45 monitoring process approved by an Occupational Therapy
46 Licensing Board.

47 D. "Compact Privilege" means the authorization, which
48 is equivalent to a license, granted by a Remote State to
49 allow a Licensee from another Member State to practice as an
50 Occupational Therapist or practice as an Occupational
51 Therapy Assistant in the Remote State under its laws and
52 rules. The Practice of Occupational Therapy occurs in the
53 Member State where the patient/client is located at the time
54 of the patient/client encounter.

55 E. "Continuing Competence/Education" means a
56 requirement, as a condition of license renewal, to provide
57 evidence of participation in, and/or completion of,

58 educational and professional activities relevant to practice
59 or area of work.

60 F. "Current Significant Investigative Information"
61 means Investigative Information that a Licensing Board,
62 after an inquiry or investigation that includes notification
63 and an opportunity for the Occupational Therapist or
64 Occupational Therapy Assistant to respond, if required by
65 State law, has reason to believe is not groundless and, if
66 proved true, would indicate more than a minor infraction.

67 G. "Data System" means a repository of information
68 about Licensees, including but not limited to license
69 status, Investigative Information, Compact Privileges, and
70 Adverse Actions.

71 H. "Encumbered License" means a license in which an
72 Adverse Action restricts the Practice of Occupational
73 Therapy by the Licensee or said Adverse Action has been
74 reported to the National Practitioners Data Bank (NPDB).

75 I. "Executive Committee" means a group of directors
76 elected or appointed to act on behalf of, and within the
77 powers granted to them by, the Commission.

78 J. "Home State" means the Member State that is the
79 Licensee's Primary State of Residence.

80 K. "Impaired Practitioner" means individuals whose
81 professional practice is adversely affected by substance
82 abuse, addiction, or other health-related conditions.

83 L. "Investigative Information" means information,
84 records, and/or documents received or generated by an
85 Occupational Therapy Licensing Board pursuant to an
86 investigation.

87 M. "Jurisprudence Requirement" means the assessment of
88 an individual's knowledge of the laws and rules governing
89 the Practice of Occupational Therapy in a State.

90 N. "Licensee" means an individual who currently holds
91 an authorization from the State to practice as an
92 Occupational Therapist or as an Occupational Therapy
93 Assistant.

94 O. "Member State" means a State that has enacted the
95 Compact.

96 P. "Occupational Therapist" means an individual who is
97 licensed by a State to practice 63 Occupational Therapy.

98 Q. "Occupational Therapy Assistant" means an
99 individual who is licensed by a State to assist in the
100 Practice of Occupational Therapy.

101 R. "Occupational Therapy," "Occupational Therapy
102 Practice," and the "Practice of Occupational Therapy" mean
103 the care and services provided by an Occupational Therapist
104 or an Occupational Therapy Assistant as set forth in the
105 Member State's statutes and regulations.

106 S. "Occupational Therapy Compact Commission" or
107 "Commission" means the national administrative body whose
108 membership consists of all States that have enacted the
109 Compact.

110 T. "Occupational Therapy Licensing Board" or
111 "Licensing Board" means the agency of a State that is
112 authorized to license and regulate Occupational Therapists
113 and Occupational Therapy Assistants.

114 U. "Primary State of Residence" means the state (also
115 known as the Home State) in which an Occupational Therapist
116 or Occupational Therapy Assistant who is not Active Duty
117 Military declares a primary residence for legal purposes as
118 verified by: driver's license, federal income tax return,
119 lease, deed, mortgage or voter registration or other
120 verifying documentation as further defined by Commission
121 Rules.

122 V. "Remote State" means a Member State other than the
123 Home State, where a Licensee is exercising or seeking to
124 exercise the Compact Privilege.

125 W. "Rule" means a regulation promulgated by the
126 Commission that has the force of law.

127 X. "State" means any state, commonwealth, district, or
128 territory of the United States of America that regulates the
129 Practice of Occupational Therapy.

130 Y. "Single-State License" means an Occupational
131 Therapist or Occupational Therapy Assistant license issued
132 by a Member State that authorizes practice only within the
133 issuing State and does not include a Compact Privilege in
134 any other Member State.

135 Z. "Telehealth" means the application of
136 telecommunication technology to deliver Occupational Therapy
137 services for assessment, intervention and/or consultation.

138 SECTION 3. STATE PARTICIPATION IN THE COMPACT

139 A. To participate in the Compact, a Member State shall:

140 1. License Occupational Therapists and Occupational
141 Therapy Assistants;

142 2. Participate fully in the Commission's Data System,
143 including but not limited to using the Commission's unique
144 identifier as defined in Rules of the Commission;

145 3. Have a mechanism in place for receiving and
146 investigating complaints about Licensees;

147 4. Notify the Commission, in compliance with the terms
148 of the Compact and Rules, of any Adverse Action or the
149 availability of Investigative Information regarding a
150 Licensee;

151 5. Implement or utilize procedures for considering the
152 criminal history records of applicants for an initial
153 Compact Privilege. These procedures shall include the
154 submission of fingerprints or other biometric-based

155 information by applicants for the purpose of obtaining an
156 applicant's criminal history record information from the
157 Federal Bureau of Investigation and the agency responsible
158 for retaining that State's criminal records;

159 a. A Member State shall, within a time frame
160 established by the Commission, require a criminal background
161 check for a Licensee seeking/applying for a Compact
162 Privilege whose Primary State of Residence is that Member
163 State, by receiving the results of the Federal Bureau of
164 Investigation criminal record search, and shall use the
165 results in making licensure decisions.

166 b. Communication between a Member State, the
167 Commission and among Member States regarding the
168 verification of eligibility for licensure through the
169 Compact shall not include any information received from the
170 Federal Bureau of Investigation relating to a federal
171 criminal records check performed by a Member State under
172 Public Law 92-544.

173 6. Comply with the Rules of the Commission;

174 7. Utilize only a recognized national examination as a
175 requirement for licensure pursuant to the Rules of the
176 Commission; and

177 8. Have Continuing Competence/Education requirements
178 as a condition for license renewal.

179 B. A Member State shall grant the Compact Privilege to
180 a Licensee holding a valid unencumbered license in another
181 Member State in accordance with the terms of the Compact and
182 Rules.

183 C. Member States may charge a fee for granting a
184 Compact Privilege.

185 D. A Member State shall provide for the State's
186 delegate to attend all Occupational Therapy Compact
187 Commission meetings.

188 E. Individuals not residing in a Member State shall
189 continue to be able to apply for a Member State's Single-
190 State License as provided under the laws of each Member
191 State. However, the Single-State License granted to these
192 individuals shall not be recognized as granting the Compact
193 Privilege in any other Member State.

194 F. Nothing in this Compact shall affect the
195 requirements established by a Member State for the issuance
196 of a Single-State License.

197 SECTION 4. COMPACT PRIVILEGE

198 A. To exercise the Compact Privilege under the terms
199 and provisions of the Compact, the Licensee shall:

- 200 1. Hold a license in the Home State;
- 201 2. Have a valid United States Social Security Number
202 or National Practitioner Identification number;
- 203 3. Have no encumbrance on any State license;
- 204 4. Be eligible for a Compact Privilege in any Member
205 State in accordance with Section 4D, F, G, and H;
- 206 5. Have paid all fines and completed all requirements
207 resulting from any Adverse Action against any license or
208 Compact Privilege, and two years have elapsed from the date
209 of such completion;
- 210 6. Notify the Commission that the Licensee is seeking
211 the Compact Privilege within a Remote State(s);
- 212 7. Pay any applicable fees, including any State fee,
213 for the Compact Privilege;
- 214 8. Complete a criminal background check in accordance
215 with Section 3A(5);
 - 216 a. The Licensee shall be responsible for the payment
217 of any fee associated with the completion of a criminal
218 background check.

219 9. Meet any Jurisprudence Requirements established by
220 the Remote State(s) in which the Licensee is seeking a
221 Compact Privilege; and

222 10. Report to the Commission Adverse Action taken by
223 any non-Member State within 30 days from the date the
224 Adverse Action is taken.

225 B. The Compact Privilege is valid until the expiration
226 date of the Home State license. The Licensee must comply
227 with the requirements of Section 4A to maintain the Compact
228 Privilege in the Remote State.

229 C. A Licensee providing Occupational Therapy in a
230 Remote State under the Compact Privilege shall function
231 within the laws and regulations of the Remote State.

232 D. Occupational Therapy Assistants practicing in a
233 Remote State shall be supervised by an Occupational
234 Therapist licensed or holding a Compact Privilege in that
235 Remote State.

236 E. A Licensee providing Occupational Therapy in a
237 Remote State is subject to that State's regulatory
238 authority. A Remote State may, in accordance with due
239 process and that State's laws, remove a Licensee's Compact
240 Privilege in the Remote State for a specific period of time,
241 impose fines, and/or take any other necessary actions to
242 protect the health and safety of its citizens. The Licensee
243 may be ineligible for a Compact Privilege in any State until
244 the specific time for removal has passed and all fines are
245 paid.

246 F. If a Home State license is encumbered, the Licensee
247 shall lose the Compact Privilege in any Remote State until
248 the following occur:

249 1. The Home State license is no longer encumbered; and

250 2. Two years have elapsed from the date on which the
251 Home State license is no longer encumbered in accordance
252 with Section 4(F)(1).

253 G. Once an Encumbered License in the Home State is
254 restored to good standing, the Licensee must meet the
255 requirements of Section 4A to obtain a Compact Privilege in
256 any Remote State.

257 H. If a Licensee's Compact Privilege in any Remote
258 State is removed, the individual may lose the Compact
259 Privilege in any other Remote State until the following
260 occur:

261 1. The specific period of time for which the Compact
262 Privilege was removed has ended;

263 2. All fines have been paid and all conditions have
264 been met;

265 3. Two years have elapsed from the date of completing
266 requirements for 4(H)(1) and (2); and

267 4. The Compact Privileges are reinstated by the
268 Commission, and the compact Data System is updated to
269 reflect reinstatement.

270 I. If a Licensee's Compact Privilege in any Remote
271 State is removed due to an erroneous charge, privileges
272 shall be restored through the compact Data System.

273 J. Once the requirements of Section 4H have been met,
274 the license must meet the requirements in Section 4A to
275 obtain a Compact Privilege in a Remote State.

276 SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE
277 OF COMPACT PRIVILEGE

278 A. An Occupational Therapist or Occupational Therapy
279 Assistant may hold a Home State license, which allows for
280 Compact Privileges in Member States, in only one Member
281 State at a time.

282 B. If an Occupational Therapist or Occupational
283 Therapy Assistant changes Primary State of Residence by
284 moving between two Member States:

285 1. The Occupational Therapist or Occupational Therapy
286 Assistant shall file an application for obtaining a new Home
287 State license by virtue of a Compact Privilege, pay all
288 applicable fees, and notify the current and new Home State
289 in accordance with applicable Rules adopted by the
290 Commission.

291 2. Upon receipt of an application for obtaining a new
292 Home State license by virtue of compact privilege, the new
293 Home State shall verify that the Occupational Therapist or
294 Occupational Therapy Assistant meets the pertinent criteria
295 outlined in Section 4 via the Data System, without need for
296 primary source verification except for:

297 a. an FBI fingerprint based criminal background check
298 if not previously performed or updated pursuant to
299 applicable Rules adopted by the Commission in accordance
300 with Public Law 92-544;

301 b. other criminal background check as required by the
302 new Home State; and

303 c. submission of any requisite Jurisprudence
304 Requirements of the new Home State.

305 3. The former Home State shall convert the former Home
306 State license into a Compact Privilege once the new Home
307 State has activated the new Home State license in accordance
308 with applicable Rules adopted by the Commission.

309 4. Notwithstanding any other provision of this
310 Compact, if the Occupational Therapist or Occupational
311 Therapy Assistant cannot meet the criteria in Section 4, the
312 new Home State shall apply its requirements for issuing a
313 new Single-State License.

314 5. The Occupational Therapist or the Occupational
315 Therapy Assistant shall pay all applicable fees to the new
316 Home State in order to be issued a new Home State license.

317 C. If an Occupational Therapist or Occupational
318 Therapy Assistant changes Primary State of Residence by
319 moving from a Member State to a non-Member State, or from a
320 non-Member State to a Member State, the State criteria shall
321 apply for issuance of a Single-State License in the new
322 State.

323 D. Nothing in this compact shall interfere with a
324 Licensee's ability to hold a Single-State License in
325 multiple States; however, for the purposes of this compact,
326 a Licensee shall have only one Home State license.

327 E. Nothing in this Compact shall affect the
328 requirements established by a Member State for the issuance
329 of a Single-State License.

330 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
331 SPOUSES

332 A. Active Duty Military personnel, or their spouses,
333 shall designate a Home State where the individual has a
334 current license in good standing. The individual may retain
335 the Home State designation during the period the service
336 member is on active duty. Subsequent to designating a Home
337 State, the individual shall only change their Home State
338 through application for licensure in the new State or
339 through the process described in Section 5.

340 SECTION 7. ADVERSE ACTIONS

341 A. A Home State shall have exclusive power to impose
342 Adverse Action against an Occupational Therapist's or
343 Occupational Therapy Assistant's license issued by the Home
344 State.

345 B. In addition to the other powers conferred by State
346 law, a Remote State shall have the authority, in accordance
347 with existing State due process law, to:

348 1. Take Adverse Action against an Occupational
349 Therapist's or Occupational Therapy Assistant's Compact
350 Privilege within that Member State.

351 2. Issue subpoenas for both hearings and
352 investigations that require the attendance and testimony of
353 witnesses as well as the production of evidence. Subpoenas
354 issued by a Licensing Board in a Member State for the
355 attendance and testimony of witnesses or the production of
356 evidence from another Member State shall be enforced in the
357 latter State by any court of competent jurisdiction,
358 according to the practice and procedure of that court
359 applicable to subpoenas issued in proceedings pending before
360 it. The issuing authority shall pay any witness fees,
361 travel expenses, mileage and other fees required by the
362 service statutes of the State in which the witnesses or
363 evidence are located.

364 C. For purposes of taking Adverse Action, the Home
365 State shall give the same priority and effect to reported
366 conduct received from a Member State as it would if the
367 conduct had occurred within the Home State. In so doing,
368 the Home State shall apply its own State laws to determine
369 appropriate action.

370 D. The Home State shall complete any pending
371 investigations of an Occupational Therapist or Occupational
372 Therapy Assistant who changes Primary State of Residence
373 during the course of the investigations. The Home State,
374 where the investigations were initiated, shall also have the
375 authority to take appropriate action(s) and shall promptly
376 report the conclusions of the investigations to the OT
377 Compact Commission Data System. The Occupational Therapy

378 Compact Commission Data System administrator shall promptly
379 notify the new Home State of any Adverse Actions.

380 E. A Member State, if otherwise permitted by State
381 law, may recover from the affected Occupational Therapist or
382 Occupational Therapy Assistant the costs of investigations
383 and disposition of cases resulting from any Adverse Action
384 taken against that Occupational Therapist or Occupational
385 Therapy Assistant.

386 F. A Member State may take Adverse Action based on the
387 factual findings of the Remote State, provided that the
388 Member State follows its own procedures for taking the
389 Adverse Action.

390 G. Joint Investigations

391 1. In addition to the authority granted to a Member
392 State by its respective State Occupational Therapy laws and
393 regulations or other applicable State law, any Member State
394 may participate with other Member States in joint
395 investigations of Licensees.

396 2. Member States shall share any investigative,
397 litigation, or compliance materials in furtherance of any
398 joint or individual investigation initiated under the
399 Compact.

400 H. If an Adverse Action is taken by the Home State
401 against an Occupational Therapist's or Occupational Therapy
402 Assistant's license, the Occupational Therapist's or
403 Occupational Therapy Assistant's Compact Privilege in all
404 other Member States shall be deactivated until all
405 encumbrances have been removed from the State license. All
406 Home State disciplinary orders that impose Adverse Action
407 against an Occupational Therapist's or Occupational Therapy
408 Assistant's license shall include a Statement that the
409 Occupational Therapist's or Occupational Therapy Assistant's

410 Compact Privilege is deactivated in all Member States during
411 the pendency of the order.

412 I. If a Member State takes Adverse Action, it shall
413 promptly notify the administrator of the Data System. The
414 administrator of the Data System shall promptly notify the
415 Home State of any Adverse Actions by Remote States.

416 J. Nothing in this Compact shall override a Member
417 State's decision that participation in an Alternative
418 Program may be used in lieu of Adverse Action.

419 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
420 COMPACT COMMISSION.

421 A. The Compact Member States hereby create and
422 establish a joint public agency known as the Occupational
423 Therapy Compact Commission:

424 1. The Commission is an instrumentality of the Compact
425 States.

426 2. Venue is proper and judicial proceedings by or
427 against the Commission shall be brought solely and
428 exclusively in a court of competent jurisdiction where the
429 principal office of the Commission is located. The
430 Commission may waive venue and jurisdictional defenses to
431 the extent it adopts or consents to participate in
432 alternative dispute resolution proceedings.

433 3. Nothing in this Compact shall be construed to be a
434 waiver of sovereign immunity.

435 B. Membership, Voting, and Meetings

436 1. Each Member State shall have and be limited to one
437 (1) delegate selected by that Member State's Licensing Board.

438 2. The delegate shall be either:

439 a. A current member of the Licensing Board, who is an
440 Occupational Therapist, Occupational Therapy Assistant, or
441 public member; or

442 b. An administrator of the Licensing Board.

443 3. Any delegate may be removed or suspended from
444 office as provided by the law of the State from which the
445 delegate is appointed.

446 4. The Member State board shall fill any vacancy
447 occurring in the Commission within 90 days.

448 5. Each delegate shall be entitled to one (1) vote
449 with regard to the promulgation of Rules and creation of
450 bylaws and shall otherwise have an opportunity to
451 participate in the business and affairs of the Commission.
452 A delegate shall vote in person or by such other means as
453 provided in the bylaws. The bylaws may provide for
454 delegates' participation in meetings by telephone or other
455 means of communication.

456 6. The Commission shall meet at least once during each
457 calendar year. Additional meetings shall be held as set
458 forth in the bylaws.

459 7. The Commission shall establish by Rule a term of
460 office for delegates.

461 C. The Commission shall have the following powers and
462 duties:

463 1. Establish a Code of Ethics for the Commission;

464 2. Establish the fiscal year of the Commission;

465 3. Establish bylaws;

466 4. Maintain its financial records in accordance with
467 the bylaws;

468 5. Meet and take such actions as are consistent with
469 the provisions of this Compact and the bylaws;

470 6. Promulgate uniform Rules to facilitate and
471 coordinate implementation and administration of this
472 Compact. The Rules shall have the force and effect of law
473 and shall be binding in all Member States;

474 7. Bring and prosecute legal proceedings or actions in
475 the name of the Commission, provided that the standing of

476 any State Occupational Therapy Licensing Board to sue or be
477 sued under applicable law shall not be affected;

478 8. Purchase and maintain insurance and bonds;

479 9. Borrow, accept, or contract for services of
480 personnel, including, but not limited to, employees of a
481 Member State;

482 10. Hire employees, elect or appoint officers, fix
483 compensation, define duties, grant such individuals
484 appropriate authority to carry out the purposes of the
485 Compact, and establish the Commission's personnel policies
486 and programs relating to conflicts of interest,
487 qualifications of personnel, and other related personnel
488 matters;

489 11. Accept any and all appropriate donations and
490 grants of money, equipment, supplies, materials and
491 services, and receive, utilize and dispose of the same;
492 provided that at all times the Commission shall avoid any
493 appearance of impropriety and/or conflict of interest;

494 12. Lease, purchase, accept appropriate gifts or
495 donations of, or otherwise own, hold, improve or use, any
496 property, real, personal or mixed; provided that at all
497 times the Commission shall avoid any appearance of
498 impropriety;

499 13. Sell, convey, mortgage, pledge, lease, exchange,
500 abandon, or otherwise dispose of any property real,
501 personal, or mixed;

502 14. Establish a budget and make expenditures;

503 15. Borrow money;

504 16. Appoint committees, including standing committees
505 composed of members, State regulators, State legislators or
506 their representatives, and consumer representatives, and
507 such other interested persons as may be designated in this
508 Compact and the bylaws;

- 509 17. Provide and receive information from, and
510 cooperate with, law enforcement agencies;
- 511 18. Establish and elect an Executive Committee; and
512 19. Perform such other functions as may be necessary
513 or appropriate to achieve the purposes of this Compact
514 consistent with the State regulation of Occupational Therapy
515 licensure and practice.
- 516 D. The Executive Committee
517 The Executive Committee shall have the power to act on
518 behalf of the Commission according to the terms of this
519 Compact.
- 520 1. The Executive Committee shall be composed of nine
521 members:
- 522 a. Seven voting members who are elected by the
523 Commission from the current membership of the Commission;
524 b. One ex-officio, nonvoting member from a recognized
525 national Occupational Therapy professional association; and
526 c. One ex-officio, nonvoting member from a recognized
527 national Occupational Therapy certification organization.
- 528 2. The ex-officio members will be selected by their
529 respective organizations.
- 530 3. The Commission may remove any member of the
531 Executive Committee as provided in bylaws.
- 532 4. The Executive Committee shall meet at least
533 annually.
- 534 5. The Executive Committee shall have the following
535 Duties and responsibilities:
- 536 a. Recommend to the entire Commission changes to the
537 Rules or bylaws, changes to this Compact legislation, fees
538 paid by Compact Member States such as annual dues, and any
539 Commission Compact fee charged to Licensees for the Compact
540 Privilege;

- 541 b. Ensure Compact administration services are
542 appropriately provided, contractual or otherwise;
- 543 c. Prepare and recommend the budget;
- 544 d. Maintain financial records on behalf of the
545 Commission;
- 546 e. Monitor Compact compliance of Member States and
547 provide compliance reports to the Commission;
- 548 f. Establish additional committees as necessary; and
- 549 g. Perform other duties as provided in Rules or bylaws.
- 550 E. Meetings of the Commission
- 551 1. All meetings shall be open to the public, and
552 public notice of meetings shall be given in the same manner
553 as required under the Rulemaking provisions in Section 10.
- 554 2. The Commission or the Executive Committee or other
555 committees of the Commission may convene in a closed, non-
556 public meeting if the Commission or Executive Committee or
557 other committees of the Commission must discuss:
- 558 a. Non-compliance of a Member State with its
559 obligations under the Compact;
- 560 b. The employment, compensation, discipline or other
561 matters, practices or procedures related to specific
562 employees or other matters related to the Commission's
563 internal personnel practices and procedures;
- 564 c. Current, threatened, or reasonably anticipated
565 litigation;
- 566 d. Negotiation of contracts for the purchase, lease,
567 or sale of goods, services, or real estate;
- 568 e. Accusing any person of a crime or formally
569 censuring any person;
- 570 f. Disclosure of trade secrets or commercial or
571 financial information that is privileged or confidential;

572 g. Disclosure of information of a personal nature
573 where disclosure would constitute a clearly unwarranted
574 invasion of personal privacy;

575 h. Disclosure of investigative records compiled for
576 law enforcement purposes;

577 i. Disclosure of information related to any
578 investigative reports prepared by or on behalf of or for use
579 of the Commission or other committee charged with
580 responsibility of investigation or determination of
581 compliance issues pursuant to the Compact; or

582 j. Matters specifically exempted from disclosure by
583 federal or Member State statute.

584 3. If a meeting, or portion of a meeting, is closed
585 pursuant to this provision, the Commission's legal counsel
586 or designee shall certify that the meeting may be closed and
587 shall reference each relevant exempting provision.

588 4. The Commission shall keep minutes that fully and
589 clearly describe all matters discussed in a meeting and
590 shall provide a full and accurate summary of actions taken,
591 and the reasons therefore, including a description of the
592 views expressed. All documents considered in connection
593 with an action shall be identified in such minutes. All
594 minutes and documents of a closed meeting shall remain under
595 seal, subject to release by a majority vote of the
596 Commission or order of a court of competent jurisdiction.

597 F. Financing of the Commission

598 1. The Commission shall pay, or provide for the
599 payment of, the reasonable expenses of its establishment,
600 organization, and ongoing activities.

601 2. The Commission may accept any and all appropriate
602 revenue sources, donations, and grants of money, equipment,
603 supplies, materials, and services.

604 3. The Commission may levy on and collect an annual
605 assessment from each Member State or impose fees on other
606 parties to cover the cost of the operations and activities
607 of the Commission and its staff, which must be in a total
608 amount sufficient to cover its annual budget as approved by
609 the Commission each year for which revenue is not provided
610 by other sources. The aggregate annual assessment amount
611 shall be allocated based upon a formula to be determined by
612 the Commission, which shall promulgate a Rule binding upon
613 all Member States.

614 4. The Commission shall not incur obligations of any
615 kind prior to securing the funds adequate to meet the same;
616 nor shall the Commission pledge the credit of any of the
617 Member States, except by and with the authority of the
618 Member State.

619 5. The Commission shall keep accurate accounts of all
620 receipts and disbursements. The receipts and disbursements
621 of the Commission shall be subject to the audit and
622 accounting procedures established under its bylaws.
623 However, all receipts and disbursements of funds handled by
624 the Commission shall be audited yearly by a certified or
625 licensed public accountant, and the report of the audit
626 shall be included in and become part of the annual report of
627 the Commission.

628 G. Qualified Immunity, Defense, and Indemnification

629 1. The members, officers, executive director,
630 employees and representatives of the Commission shall be
631 immune from suit and liability, either personally or in
632 their official capacity, for any claim for damage to or loss
633 of property or personal injury or other civil liability
634 caused by or arising out of any actual or alleged act,
635 error, or omission that occurred, or that the person against
636 whom the claim is made had a reasonable basis for believing

637 occurred within the scope of Commission employment, duties
638 or responsibilities; provided that nothing in this paragraph
639 shall be construed to protect any such person from suit
640 and/or liability for any damage, loss, injury, or liability
641 caused by the intentional or willful or wanton misconduct of
642 that person.

643 2. The Commission shall defend any member, officer,
644 executive director, employee, or representative of the
645 Commission in any civil action seeking to impose liability
646 arising out of any actual or alleged act, error, or omission
647 that occurred within the scope of Commission employment,
648 duties, or responsibilities, or that the person against whom
649 the claim is made had a reasonable basis for believing
650 occurred within the scope of Commission employment, duties,
651 or responsibilities; provided that nothing herein shall be
652 construed to prohibit that person from retaining his or her
653 own counsel; and provided further, that the actual or
654 alleged act, error, or omission did not result from that
655 person's intentional or willful or wanton misconduct.

656 3. The Commission shall indemnify and hold harmless
657 any member, officer, executive director, employee, or
658 representative of the Commission for the amount of any
659 settlement or judgment obtained against that person arising
660 out of any actual or alleged act, error, or omission that
661 occurred within the scope of Commission employment, duties,
662 or responsibilities, or that such person had a reasonable
663 basis for believing occurred within the scope of Commission
664 employment, duties, or responsibilities, provided that the
665 actual or alleged act, error, or omission did not result
666 from the intentional or willful or wanton misconduct of that
667 person.

668 SECTION 9. DATA SYSTEM

669 A. The Commission shall provide for the development,
670 maintenance, and utilization of a coordinated database and
671 reporting system containing licensure, Adverse Action, and
672 Investigative Information on all licensed individuals in
673 Member States.

674 B. A Member State shall submit a uniform data set to
675 the Data System on all individuals to whom this Compact is
676 applicable (utilizing a unique identifier) as required by
677 the Rules of the Commission, including:

678 1. Identifying information;

679 2. Licensure data;

680 3. Adverse Actions against a license or Compact
681 Privilege;

682 4. Non-confidential information related to Alternative
683 Program participation;

684 5. Any denial of application for licensure, and the
685 reason(s) for such denial;

686 6. Other information that may facilitate the
687 administration of this Compact, as determined by the Rules
688 of the Commission; and

689 7. Current Significant Investigative Information.

690 C. Current Significant Investigative Information and
691 other Investigative Information pertaining to a Licensee in
692 any Member State will only be available to other Member
693 States.

694 D. The Commission shall promptly notify all Member
695 States of any Adverse Action taken against a Licensee or an
696 individual applying for a license. Adverse Action
697 information pertaining to a Licensee in any Member State
698 will be available to any other Member State.

699 E. Member States contributing information to the Data
700 System may designate information that may not be shared with

701 the public without the express permission of the
702 contributing State.

703 F. Any information submitted to the Data System that
704 is subsequently required to be expunged by the laws of the
705 Member State contributing the information shall be removed
706 from the Data System.

707 SECTION 10. RULEMAKING

708 A. The Commission shall exercise its Rulemaking powers
709 pursuant to the criteria set forth in this Section and the
710 Rules adopted thereunder. Rules and amendments shall become
711 binding as of the date specified in each Rule or amendment.

712 B. The Commission shall promulgate reasonable rules in
713 order to effectively and efficiently achieve the purposes of
714 the Compact. Notwithstanding the foregoing, in the event
715 the Commission exercises its rulemaking authority in a
716 manner that is beyond the scope of the purposes of the
717 Compact, or the powers granted hereunder, then such an
718 action by the Commission shall be invalid and have no force
719 and effect.

720 C. If a majority of the legislatures of the Member
721 States rejects a Rule, by enactment of a statute or
722 resolution in the same manner used to adopt the Compact
723 within 4 years of the date of adoption of the Rule, then
724 such Rule shall have no further force and effect in any
725 Member State.

726 D. Rules or amendments to the Rules shall be adopted
727 at a regular or special meeting of the Commission.

728 E. Prior to promulgation and adoption of a final Rule
729 or Rules by the Commission, and at least thirty (30) days in
730 advance of the meeting at which the Rule will be considered
731 and voted upon, the Commission shall file a Notice of
732 Proposed Rulemaking:

733 1. On the website of the Commission or other publicly
734 accessible platform; and

735 2. On the website of each Member State Occupational
736 Therapy Licensing Board or other publicly accessible
737 platform or the publication in which each State would
738 otherwise publish proposed Rules.

739 F. The Notice of Proposed Rulemaking shall include:

740 1. The proposed time, date, and location of the
741 meeting in which the Rule will be considered and voted upon;

742 2. The text of the proposed Rule or amendment and the
743 reason for the proposed Rule;

744 3. A request for comments on the proposed Rule from
745 any interested person; and

746 4. The manner in which interested persons may submit
747 notice to the Commission of their intention to attend the
748 public hearing and any written comments.

749 G. Prior to adoption of a proposed Rule, the
750 Commission shall allow persons to submit written data,
751 facts, opinions, and arguments, which shall be made
752 available to the public.

753 H. The Commission shall grant an opportunity for a
754 public hearing before it adopts a Rule or amendment if a
755 hearing is requested by:

756 1. At least twenty five (25) persons;

757 2. A State or federal governmental subdivision or
758 agency; or

759 3. An association or organization having at least
760 twenty five (25) members.

761 I. If a hearing is held on the proposed Rule or
762 amendment, the Commission shall publish the place, time, and
763 date of the scheduled public hearing. If the hearing is
764 held via electronic means, the Commission shall publish the
765 mechanism for access to the electronic hearing.

766 1. All persons wishing to be heard at the hearing
767 shall notify the executive director of the Commission or
768 other designated member in writing of their desire to appear
769 and testify at the hearing not less than five (5) business
770 days before the scheduled date of the hearing.

771 2. Hearings shall be conducted in a manner providing
772 each person who wishes to comment a fair and reasonable
773 opportunity to comment orally or in writing.

774 3. All hearings will be recorded. A copy of the
775 recording will be made available on request.

776 4. Nothing in this section shall be construed as
777 requiring a separate hearing on each Rule. Rules may be
778 grouped for the convenience of the Commission at hearings
779 required by this section.

780 J. Following the scheduled hearing date, or by the
781 close of business on the scheduled hearing date if the
782 hearing was not held, the Commission shall consider all
783 written and oral comments received.

784 K. If no written notice of intent to attend the public
785 hearing by interested parties is received, the Commission
786 may proceed with promulgation of the proposed Rule without a
787 public hearing.

788 L. The Commission shall, by majority vote of all
789 members, take final action on the proposed Rule and shall
790 determine the effective date of the Rule, if any, based on
791 the Rulemaking record and the full text of the Rule.

792 M. Upon determination that an emergency exists, the
793 Commission may consider and adopt an emergency Rule without
794 prior notice, opportunity for comment, or hearing, provided
795 that the usual Rulemaking procedures provided in the Compact
796 and in this section shall be retroactively applied to the
797 Rule as soon as reasonably possible, in no event later than
798 ninety (90) days after the effective date of the Rule. For

799 the purposes of this provision, an emergency Rule is one
800 that must be adopted immediately in order to:

- 801 1. Meet an imminent threat to public health, safety,
802 or welfare;
803 2. Prevent a loss of Commission or Member State funds;
804 3. Meet a deadline for the promulgation of an
805 administrative Rule that is established by federal law or
806 Rule; or
807 4. Protect public health and safety.

808 N. The Commission or an authorized committee of the
809 Commission may direct revisions to a previously adopted Rule
810 or amendment for purposes of correcting typographical
811 errors, errors in format, errors in consistency, or
812 grammatical errors. Public notice of any revisions shall be
813 posted on the website of the Commission. The revision shall
814 be subject to challenge by any person for a period of thirty
815 (30) days after posting. The revision may be challenged
816 only on grounds that the revision results in a material
817 change to a Rule. A challenge shall be made in writing and
818 delivered to the chair of the Commission prior to the end of
819 the notice period. If no challenge is made, the revision
820 will take effect without further action. If the revision is
821 challenged, the revision may not take effect without the
822 approval of the Commission.

823 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND
824 ENFORCEMENT

825 A. Oversight

826 1. The executive, legislative, and judicial branches
827 of State government in each Member State shall enforce this
828 Compact and take all actions necessary and appropriate to
829 effectuate the Compact's purposes and intent. The
830 provisions of this Compact and the Rules promulgated
831 hereunder shall have standing as statutory law.

832 2. All courts shall take judicial notice of the
833 Compact and the Rules in any judicial or administrative
834 proceeding in a Member State pertaining to the subject
835 matter of this Compact which may affect the powers,
836 responsibilities, or actions of the Commission.

837 3. The Commission shall be entitled to receive service
838 of process in any such proceeding, and shall have standing
839 to intervene in such a proceeding for all purposes. Failure
840 to provide service of process to the Commission shall render
841 a judgment or order void as to the Commission, this Compact,
842 or promulgated Rules.

843 B. Default, Technical Assistance, and Termination

844 1. If the Commission determines that a Member State
845 has defaulted in the performance of its obligations or
846 responsibilities under this Compact or the promulgated
847 Rules, the Commission shall:

848 a. Provide written notice to the defaulting State and
849 other Member States of the nature of the default, the
850 proposed means of curing the default and/or any other action
851 to be taken by the Commission; and

852 b. Provide remedial training and specific technical
853 assistance regarding the default.

854 2. If a State in default fails to cure the default,
855 the defaulting State may be terminated from the Compact upon
856 an affirmative vote of a majority of the Member States, and
857 all rights, privileges and benefits conferred by this
858 Compact may be terminated on the effective date of
859 termination. A cure of the default does not relieve the
860 offending State of obligations or liabilities incurred
861 during the period of default.

862 3. Termination of membership in the Compact shall be
863 imposed only after all other means of securing compliance
864 have been exhausted. Notice of intent to suspend or

865 terminate shall be given by the Commission to the governor,
866 the majority and minority leaders of the defaulting State's
867 legislature, and each of the Member States.

868 4. A State that has been terminated is responsible for
869 all assessments, obligations, and liabilities incurred
870 through the effective date of termination, including
871 obligations that extend beyond the effective date of
872 termination.

873 5. The Commission shall not bear any costs related to
874 a State that is found to be in default or that has been
875 terminated from the Compact, unless agreed upon in writing
876 between the Commission and the defaulting State.

877 6. The defaulting State may appeal the action of the
878 Commission by petitioning the U.S. District Court for the
879 District of Columbia or the federal district where the
880 Commission has its principal offices. The prevailing member
881 shall be awarded all costs of such litigation, including
882 reasonable attorney's fees.

883 C. Dispute Resolution

884 1. Upon request by a Member State, the Commission
885 shall attempt to resolve disputes related to the Compact
886 that arise among Member States and between member and non-
887 Member States.

888 2. The Commission shall promulgate a Rule providing
889 for both mediation and binding dispute resolution for
890 disputes as appropriate.

891 D. Enforcement

892 1. The Commission, in the reasonable exercise of its
893 discretion, shall enforce the provisions and Rules of this
894 Compact.

895 2. By majority vote, the Commission may initiate legal
896 action in the United States District Court for the District
897 of Columbia or the federal district where the Commission has

898 its principal offices against a Member State in default to
899 enforce compliance with the provisions of the Compact and
900 its promulgated Rules and bylaws. The relief sought may
901 include both injunctive relief and damages. In the event
902 judicial enforcement is necessary, the prevailing member
903 shall be awarded all costs of such litigation, including
904 reasonable attorney's fees.

905 3. The remedies herein shall not be the exclusive
906 remedies of the Commission. The Commission may pursue any
907 other remedies available under federal or State law.

908 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
909 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
910 RULES, WITHDRAWAL, AND AMENDMENT

911 A. The Compact shall come into effect on the date on
912 which the Compact statute is enacted into law in the tenth
913 Member State. The provisions, which become effective at
914 that time, shall be limited to the powers granted to the
915 Commission relating to assembly and the promulgation of
916 Rules. Thereafter, the Commission shall meet and exercise
917 Rulemaking powers necessary to the implementation and
918 administration of the Compact.

919 B. Any State that joins the Compact subsequent to the
920 Commission's initial adoption of the Rules shall be subject
921 to the Rules as they exist on the date on which the Compact
922 becomes law in that State. Any Rule that has been
923 previously adopted by the Commission shall have the full
924 force and effect of law on the day the Compact becomes law
925 in that State.

926 C. Any Member State may withdraw from this Compact by
927 enacting a statute repealing the same.

928 1. A Member State's withdrawal shall not take effect
929 until six (6) months after enactment of the repealing
930 statute.

931 2. Withdrawal shall not affect the continuing
932 requirement of the withdrawing State's Occupational Therapy
933 Licensing Board to comply with the investigative and Adverse
934 Action reporting requirements of this act prior to the
935 effective date of withdrawal.

936 D. Nothing contained in this Compact shall be
937 construed to invalidate or prevent any Occupational Therapy
938 licensure agreement or other cooperative arrangement between
939 a Member State and a non-Member State that does not conflict
940 with the provisions of this Compact.

941 E. This Compact may be amended by the Member States.
942 No amendment to this Compact shall become effective and
943 binding upon any Member State until it is enacted into the
944 laws of all Member States.

945 SECTION 13. CONSTRUCTION AND SEVERABILITY

946 This Compact shall be liberally construed so as to
947 effectuate the purposes thereof. The provisions of this
948 Compact shall be severable and if any phrase, clause,
949 sentence or provision of this Compact is declared to be
950 contrary to the constitution of any Member State or of the
951 United States or the applicability thereof to any
952 government, agency, person, or circumstance is held invalid,
953 the validity of the remainder of this Compact and the
954 applicability thereof to any government, agency, person, or
955 circumstance shall not be affected thereby. If this Compact
956 shall be held contrary to the constitution of any Member
957 State, the Compact shall remain in full force and effect as
958 to the remaining Member States and in full force and effect
959 as to the Member State affected as to all severable matters.

960 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

961 A. A Licensee providing Occupational Therapy in a
962 Remote State under the Compact Privilege shall function
963 within the laws and regulations of the Remote State.

964 B. Nothing herein prevents the enforcement of any
965 other law of a Member State that is not inconsistent with
966 the Compact.

967 C. Any laws in a Member State in conflict with the
968 Compact are superseded to the extent of the conflict.

969 D. Any lawful actions of the Commission, including all
970 Rules and bylaws promulgated by the Commission, are binding
971 upon the Member States.

972 E. All agreements between the Commission and the
973 Member States are binding in accordance with their terms.

974 F. In the event any provision of the Compact exceeds
975 the constitutional limits imposed on the legislature of any
976 Member State, the provision shall be ineffective to the
977 extent of the conflict with the constitutional provision in
978 question in that Member State.

979 324.200. 1. Sections 324.200 to 324.225 shall be
980 known and may be cited as the "Dietitian Practice Act".

981 2. As used in sections 324.200 to 324.225, the
982 following terms shall mean:

983 (1) "Accreditation Council for Education in Nutrition
984 and Dietetics" or "ACEND", the Academy of Nutrition and
985 Dietetics accrediting agency for education programs
986 preparing students for professions as registered dietitians;

987 (2) "Committee", the state committee of dietitians
988 established in section 324.203;

989 (3) "Dietetics practice", the application of
990 principles derived from integrating knowledge of food,
991 nutrition, biochemistry, physiology, management, and
992 behavioral and social science to achieve and maintain the
993 health of people by providing nutrition assessment and
994 nutrition care services. The primary function of dietetic
995 practice is the provision of nutrition care services that
996 shall include, but not be limited to:

- 997 (a) Assessing the nutrition needs of individuals and
998 groups and determining resources and constraints in the
999 practice setting;
- 1000 (b) Establishing priorities, goals, and objectives
1001 that meet nutrition needs and are consistent with available
1002 resources and constraints;
- 1003 (c) Providing nutrition counseling or education in
1004 health and disease;
- 1005 (d) Developing, implementing, and managing nutrition
1006 care systems;
- 1007 (e) Evaluating, making changes in, and maintaining
1008 appropriate standards of quality and safety in food and in
1009 nutrition services;
- 1010 (f) Engaged in medical nutritional therapy as defined
1011 in subdivision (8) of this section;
- 1012 (4) "Dietitian", one engaged in dietetic practice as
1013 defined in subdivision (3) of this section;
- 1014 (5) "Director", the director of the division of
1015 professional registration;
- 1016 (6) "Division", the division of professional
1017 registration;
- 1018 (7) "Licensed dietitian", a person who is licensed
1019 pursuant to the provisions of sections 324.200 to 324.225 to
1020 engage in the practice of dietetics or medical nutrition
1021 therapy;
- 1022 (8) "Medical nutrition therapy", [nutritional
1023 diagnostic, therapy, and counseling services which are
1024 furnished by a registered dietitian or registered dietitian
1025 nutritionist] the provision of nutrition care services for
1026 the treatment or management of a disease or medical
1027 condition;
- 1028 (9) "Registered dietitian" or "registered dietitian
1029 nutritionist", a person who:

1030 (a) Has completed a minimum of a baccalaureate degree
1031 granted by a United States regionally accredited college or
1032 university or foreign equivalent;

1033 (b) Completed the academic requirements of a didactic
1034 program in dietetics, as approved by ACEND;

1035 (c) Successfully completed the registration
1036 examination for dietitians; and

1037 (d) Accrued seventy-five hours of approved continuing
1038 professional units every five years; as determined by the
1039 Committee on Dietetic Registration.

1040 324.206. 1. As long as the person involved does not
1041 represent or hold himself or herself out as a dietitian as
1042 defined by subdivision (4) of subsection 2 of section
1043 324.200, nothing in sections 324.200 to 324.225 is intended
1044 to limit, preclude, or otherwise interfere with:

1045 (1) Self-care by a person or gratuitous care by a
1046 friend or family member;

1047 (2) Persons in the military services or working in
1048 federal facilities from performing any activities described
1049 in sections 324.200 to 324.225 during the course of their
1050 assigned duties in the military service or a federal
1051 facility;

1052 (3) A licensed health care provider performing any
1053 activities described in sections 324.200 to 324.225 that are
1054 within the scope of practice of the licensee;

1055 (4) A person pursuing an approved educational program
1056 leading to a degree or certificate in dietetics at an
1057 accredited or approved educational program as long as such
1058 person does not provide dietetic services outside the
1059 educational program. Such person shall be designated by a
1060 title that clearly indicates the person's status as a
1061 student;

1062 (5) Individuals who do not hold themselves out as
1063 dietitians marketing or distributing food products including
1064 dietary supplements as defined by the Food and Drug
1065 Administration or engaging in the explanation and education
1066 of customers regarding the use of such products;

1067 (6) Any person furnishing general nutrition
1068 information as to the use of food, food materials, or
1069 dietary supplements, nor prevent in any way the free
1070 dissemination of literature;

1071 (7) A person credentialed in the field of nutrition
1072 from providing advice, counseling, or evaluations in matters
1073 of food, diet, or nutrition to the extent such acts are
1074 within the scope of practice listed by the credentialing
1075 body and do not constitute medical nutrition therapy;

1076 provided, however, no such individual may call himself or
1077 herself a dietitian unless he or she is licensed under this
1078 chapter.

1079 2. A credentialed person not representing or holding
1080 himself or herself out as a dietitian, who performs any of
1081 the acts or services listed in subsection 1 of this section,
1082 shall provide, prior to performing such act or service for
1083 another, the following:

1084 (1) The person's name and title;

1085 (2) The person's business address and telephone number;

1086 (3) A statement that the person is not a dietitian
1087 licensed by the state of Missouri;

1088 (4) A statement that the information provided or
1089 advice given may be considered alternative care by licensed
1090 practitioners in the state of Missouri; and

1091 (5) The person's qualifications for providing such
1092 information or advice, including educational background,
1093 training, and experience.

1094 327.011. As used in this chapter, the following words
1095 and terms shall have the meanings indicated:

1096 (1) "Accredited degree program from a school of
1097 architecture", a degree from any school or other institution
1098 which teaches architecture and whose curricula for the
1099 degree in question have been, at the time in question,
1100 certified as accredited by the National Architectural
1101 Accrediting Board;

1102 (2) "Accredited school of engineering", any school or
1103 other institution which teaches engineering and whose
1104 curricula on the subjects in question are or have been, at
1105 the time in question certified as accredited by the
1106 engineering accreditation commission of the accreditation
1107 board for engineering and technology or its successor
1108 organization;

1109 (3) "Accredited school of landscape architecture", any
1110 school or other institution which teaches landscape
1111 architecture and whose curricula on the subjects in question
1112 are or have been at the times in question certified as
1113 accredited by the Landscape Architecture Accreditation Board
1114 of the American Society of Landscape Architects;

1115 (4) "Architect", any person authorized pursuant to the
1116 provisions of this chapter to practice architecture in
1117 Missouri, as the practice of architecture is defined in
1118 section 327.091;

1119 (5) "Board", the Missouri board for architects,
1120 professional engineers, professional land surveyors and
1121 professional landscape architects;

1122 (6) "Corporation", any general business corporation,
1123 professional corporation or limited liability company;

1124 (7) "Design coordination", the review and coordination
1125 of technical submissions prepared by others including, as
1126 appropriate and without limitation, architects, professional

1127 engineers, professional land surveyors, professional
1128 landscape architects, and other consultants;

1129 (8) "Design survey", a survey which includes all
1130 activities required to gather information to support the
1131 sound conception, planning, design, construction,
1132 maintenance, and operation of design projects, but excludes
1133 the surveying of real property for the establishment of land
1134 boundaries, rights-of-way, easements, and the dependent or
1135 independent surveys or resurveys of the public land survey
1136 system;

1137 (9) "Incidental practice", the performance of other
1138 professional services licensed under chapter 327 that are
1139 related to a licensee's professional service, but are
1140 secondary and substantially less in scope and magnitude when
1141 compared to the professional services usually and normally
1142 performed by the licensee practicing in their licensed
1143 profession. This incidental professional service shall be
1144 safely and competently performed by the licensee without
1145 jeopardizing the health, safety, and welfare of the public.
1146 The licensee shall be qualified by education, training, and
1147 experience as determined by the board and in sections
1148 327.091, 327.181, 327.272, and 327.600 and applicable board
1149 rules to perform such incidental professional service;

1150 (10) "Licensee", a person licensed to practice any
1151 profession regulated under this chapter or a corporation
1152 authorized to practice any such profession;

1153 (11) "Partnership", any partnership or limited
1154 liability partnership;

1155 (12) "Person", any [person] individual, corporation,
1156 firm, partnership, association or other entity authorized to
1157 do business;

1158 (13) "Professional engineer", any person authorized
1159 pursuant to the provisions of this chapter to practice as a

1160 professional engineer in Missouri, as the practice of
1161 engineering is defined in section 327.181;

1162 (14) "Professional land surveyor", any person
1163 authorized pursuant to the provisions of this chapter to
1164 practice as a professional land surveyor in Missouri as the
1165 practice of land surveying is defined in section 327.272;

1166 (15) "Professional landscape architect", any person
1167 authorized pursuant to the provisions of this chapter to
1168 practice as a professional landscape architect in Missouri
1169 as the practice of landscape architecture is defined in
1170 section 327.600;

1171 (16) "Responsible charge", the independent direct
1172 control of a licensee's work and personal supervision of
1173 such work pertaining to the practice of architecture,
1174 engineering, land surveying, or landscape architecture.

1175 327.091. 1. [Any person practices as an architect in
1176 Missouri who renders or offers to render or represents
1177 himself or herself as willing or able to render service or
1178 creative work which requires architectural education,
1179 training and experience, including services and work such as
1180 consultation, evaluation, planning, aesthetic and structural
1181 design, the preparation of drawings, specifications and
1182 related documents, and the coordination of services
1183 furnished by structural, civil, mechanical and electrical
1184 engineers and other consultants as they relate to
1185 architectural work in connection with the construction or
1186 erection of any private or public building, building
1187 structure, building project or integral part or parts of
1188 buildings or of any additions or alterations thereto; or who
1189 uses the title "architect" or the terms "architect" or
1190 "architecture" or "architectural" alone or together with any
1191 words other than "landscape" that indicate or imply that
1192 such person is or holds himself or herself out to be an

1193 architect] The practice of architecture is the rendering of
1194 or offering to render services in connection with the design
1195 and construction of public and private buildings, structures
1196 and shelters, site improvements, in whole or part and
1197 including any additions or alterations thereto, as well as
1198 to the spaces within and the site surrounding such buildings
1199 and structures, which have as their principal purpose human
1200 occupancy or habitation. The services referred to include
1201 consultation, design surveys, feasibility studies,
1202 evaluation, planning, aesthetic and structural design,
1203 preliminary design, drawings, specifications, technical
1204 submissions, and other instruments of service, the
1205 administration of construction contracts, construction
1206 observation and inspection, and the coordination of any
1207 elements of technical submissions prepared by others,
1208 including professional engineers, landscape architects, and
1209 other consultants that pertain to the practice of
1210 architecture. A person shall be considered to be practicing
1211 architecture when such person uses the title "architect" or
1212 the terms "architect" or "architecture" or "architectural"
1213 alone or together with any words other than "landscape" to
1214 indicate or imply that such person is or holds himself or
1215 herself out to be an architect. Only a person with the
1216 required architectural education, practical training,
1217 relevant work experience, and licensure may practice as an
1218 architect in Missouri.

1219 2. Architects shall be in responsible charge of all
1220 architectural design of buildings and structures that can
1221 affect the health, safety, and welfare of the public within
1222 their scope of practice.

1223 327.101. 1. No person shall practice architecture in
1224 Missouri as defined in section 327.091 unless and until
1225 there is issued to the person a license or a certificate of

1226 authority certifying that the person has been duly licensed
1227 as an architect or authorized to practice architecture, in
1228 Missouri, and unless such license has been renewed as
1229 hereinafter specified[; provided, however, that nothing in
1230 this chapter shall apply to the following persons].

1231 2. Notwithstanding the provisions of subsection 1 of
1232 this section, the following persons may engage in actions
1233 defined as the practice of architecture in section 327.091,
1234 provided that such persons shall not use the title
1235 "architect" or the terms "architect" or "architecture" or
1236 "architectural" alone or together with any words other than
1237 "landscape" that indicate or imply that such person is or
1238 holds himself or herself out to be an architect:

1239 (1) Any person who is an employee of a person holding
1240 a currently valid license as an architect or who is an
1241 employee of any person holding a currently valid certificate
1242 of authority pursuant to this chapter, and who performs
1243 architectural work under the direction and continuing
1244 supervision of and is checked by one holding a currently
1245 valid license as an architect pursuant to this chapter;

1246 (2) Any person who is a regular full-time employee who
1247 performs architectural work for the person's employer if and
1248 only if all such work and service so performed is in
1249 connection with a facility owned or wholly operated by the
1250 employer and which is occupied by the employer of the
1251 employee performing such work or service, and if and only if
1252 such work and service so performed do not endanger the
1253 public health or safety;

1254 (3) Any holder of a currently valid license or
1255 certificate of authority as a professional engineer who
1256 performs only such architecture as incidental practice and
1257 necessary to the completion of professional services

1258 lawfully being performed by such licensed professional
1259 engineer;

1260 (4) Any person who is a professional landscape
1261 architect, city planner or regional planner who performs
1262 work consisting only of consultations concerning and
1263 preparation of master plans for parks, land areas or
1264 communities, or the preparation of plans for and the
1265 supervision of the planting and grading or the construction
1266 of walks and paving for parks or land areas and such other
1267 minor structural features as fences, steps, walls, small
1268 decorative pools and other construction not involving
1269 structural design or stability and which is usually and
1270 customarily included within the area of work of a
1271 professional landscape architect or planner;

1272 (5) Any person who renders architectural services in
1273 connection with the construction, remodeling or repairing of
1274 any privately owned building described in paragraphs (a),
1275 (b), or (c) [, (d), and (e)] which follow, and who indicates
1276 on any drawings, specifications, estimates, reports or other
1277 documents furnished in connection with such services that
1278 the person is not a licensed architect:

1279 (a) A dwelling house; or

1280 (b) A multiple family dwelling house, flat or
1281 apartment containing not more than two families; or

1282 (c) [A commercial or industrial building or structure
1283 which provides for the employment, assembly, housing,
1284 sleeping or eating of not more than nine persons; or

1285 (d) Any one structure containing less than two
1286 thousand square feet, except as provided in (b) and (c)
1287 above, and which is not a part or a portion of a project
1288 which contains more than one structure; or

1289 (e) A building or structure used exclusively for farm
1290 purposes] Any one building or structure, except for those

1291 buildings or structures referenced in subdivision (8) of
1292 this subsection, which provides for the employment,
1293 assembly, housing, sleeping, or eating of not more than nine
1294 persons, contains less than two thousand square feet, and is
1295 not part of another building or structure;

1296 (6) Any person who renders architectural services in
1297 connection with the remodeling or repairing of any privately
1298 owned multiple family dwelling house, flat or apartment
1299 containing three or four families, provided that the
1300 alteration, renovation, or remodeling does not affect
1301 architectural or engineering safety features of the building
1302 and who indicates on any drawings, specifications,
1303 estimates, reports or other documents furnished in
1304 connection with such services that the person is not a
1305 licensed architect;

1306 (7) Any person or corporation who is offering, but not
1307 performing or rendering, architectural services if the
1308 person or corporation is licensed to practice architecture
1309 in the state or country of residence or principal place of
1310 business; or

1311 (8) Any person who renders architectural services in
1312 connection with the construction, remodeling, or repairing
1313 of any building or structure used exclusively for
1314 agriculture purposes.

1315 327.131. Any person may apply to the board for
1316 licensure as an architect who is over the age of twenty-one,
1317 has acquired an accredited degree from an accredited degree
1318 program from a school of architecture, holds a certified
1319 Intern Development Program (IDP) or Architectural Experience
1320 Program (AXP) record with the National Council of
1321 Architectural Registration Boards, and has taken and passed
1322 all divisions of the Architect Registration Examination.

1323 327.191. 1. No person shall practice as a
1324 professional engineer in Missouri, as defined in section
1325 327.181 unless and until there is issued to such person a
1326 professional license or a certificate of authority
1327 certifying that such person has been duly licensed as a
1328 professional engineer or authorized to practice engineering
1329 in Missouri, and unless such license or certificate has been
1330 renewed as provided in section 327.261[; provided that
1331 section 327.181 shall not be construed to prevent the
1332 practice of engineering by the following persons].

1333 2. Notwithstanding the provisions of subsection 1 of
1334 this section, the following persons may engage in actions
1335 defined as the practice of professional engineering in
1336 section 327.181, provided that such persons shall not use
1337 the title "professional engineer" or "consulting engineer"
1338 or the word "engineer" alone or preceded by any word
1339 indicating or implying that such person is or holds himself
1340 or herself out to be a professional engineer, or use any
1341 word or words, letters, figures, degrees, titles, or other
1342 description indicating or implying that such person is a
1343 professional engineer or is willing or able to practice
1344 engineering:

1345 (1) Any person who is an employee of a person holding
1346 a currently valid license as a professional engineer or who
1347 is an employee of a person holding a currently valid
1348 certificate of authority pursuant to this chapter, and who
1349 performs professional engineering work under the direction
1350 and continuing supervision of and is checked by one holding
1351 a currently valid license as a professional engineer
1352 pursuant to this chapter;

1353 (2) Any person who is a regular full-time employee of
1354 a person or any former employee under contract to a person,
1355 who performs professional engineering work for such employer.

1356 if and only if all such work and service so performed is
1357 done solely in connection with a facility owned or wholly
1358 operated by the employer and occupied or maintained by the
1359 employer of the employee performing such work or service,
1360 and does not affect the health, safety, and welfare of the
1361 public;

1362 (3) Any person engaged in engineering who is a full-
1363 time, regular employee of a person engaged in manufacturing
1364 operations and which engineering so performed by such person
1365 relates to the manufacture, sale or installation of the
1366 products of such person, and does not affect the health,
1367 safety, and welfare of the public;

1368 (4) Any holder of a currently valid license or
1369 certificate of authority as an architect, professional land
1370 surveyor, or professional landscape architect who performs
1371 only such engineering as incidental practice and necessary
1372 to the completion of professional services lawfully being
1373 performed by such architect, professional land surveyor, or
1374 professional landscape architect;

1375 (5) Any person who renders engineering services in
1376 connection with the construction, remodeling, or repairing
1377 of any privately owned building described as follows, and
1378 who indicates on any drawings, specifications, estimates,
1379 reports, or other documents furnished in connection with
1380 such services that the person is not a licensed professional
1381 engineer:

1382 (a) A dwelling house;

1383 (b) A multiple family dwelling house, flat, or
1384 apartment containing no more than two families; or

1385 (c) Any one building or structure, except for those
1386 buildings or structures referenced in subdivision (8) of
1387 this subsection, which provides for the employment,
1388 assembly, housing, sleeping, or eating of not more than nine

1389 persons, contains less than two thousand square feet, and is
1390 not part of another building or structure;

1391 (6) Any person who renders engineering services in
1392 connection with the remodeling or repairing of any privately
1393 owned, multiple family dwelling house, flat, or apartment
1394 containing three or four families, provided that the
1395 alteration, renovation, or remodeling does not affect
1396 architectural or engineering safety features of the
1397 building, and who indicates on any drawings, specifications,
1398 estimates, reports, or other documents furnished in
1399 connection with such services that the person is not a
1400 licensed professional engineer;

1401 (7) Any person or corporation who is offering, but not
1402 performing or rendering, professional engineering services
1403 if the person or corporation is licensed to practice
1404 professional engineering in the state or country of
1405 residence or principal place of business;

1406 (8) Any person who renders engineering services in
1407 connection with the construction, remodeling, or repairing
1408 of any building or structure used exclusively for
1409 agricultural purposes.

1410 327.241. 1. After it has been determined that an
1411 applicant possesses the qualifications entitling the
1412 applicant to be examined, each applicant for examination and
1413 licensure as a professional engineer in Missouri shall
1414 appear before the board or its representatives for
1415 examination at the time and place specified.

1416 2. The examination or examinations shall be of such
1417 form, content and duration as shall be determined by the
1418 board to thoroughly test the qualifications of each
1419 applicant to practice as a professional engineer in Missouri.

1420 3. Any applicant to be eligible for a license must
1421 make a grade on each examination of at least seventy percent.

1422 4. The engineering examination shall consist of two
1423 parts; the first part may be taken by any person after such
1424 person has satisfied the educational requirements of section
1425 327.221, or who is in his or her final year of study in an
1426 accredited school of engineering; and upon passing part one
1427 of the examination and providing proof that such person has
1428 satisfied the educational requirements of section 327.221
1429 and upon payment of the required fee, such person shall be
1430 an engineer-intern, subject to the other provisions of this
1431 chapter.

1432 5. Any engineer-intern, as defined in subsection 4 of
1433 this section[, who has acquired at least four years of
1434 satisfactory engineering experience,] may take part two of
1435 the engineering examination and upon passing it and having
1436 acquired at least four years of satisfactory engineering
1437 experience shall be entitled to receive a license, subject,
1438 however, to the other provisions of this chapter.

1439 6. Notwithstanding the provisions of subsections 4 and
1440 5 of this section, the board may, in its discretion, provide
1441 by rule that any person who has graduated from and holds an
1442 engineering degree from an accredited school of engineering
1443 may thereupon be eligible to take both parts of the
1444 engineering examination and that upon passing said
1445 examination and acquiring four years of satisfactory
1446 engineering experience, after graduating and receiving a
1447 degree as aforesaid, shall be entitled to receive a license
1448 to practice as a professional engineer, subject, however, to
1449 the other provisions of this chapter.

1450 7. Any person who has graduated from and has received
1451 a degree in engineering from an accredited school of
1452 engineering may [then acquire four years of satisfactory
1453 engineering experience and thereafter] take both parts of
1454 the examination and upon passing and having acquired four

1455 years of satisfactory engineering experience shall be
1456 entitled to receive a license to practice as a professional
1457 engineer, subject, however, to the other provisions of this
1458 chapter.

1459 [8. Any person entitled to be licensed as a
1460 professional engineer as provided in subsection 5, 6, or 7
1461 of this section must be so licensed within four years after
1462 the date on which he or she was so entitled, and if one is
1463 not licensed within the time he or she is so entitled, the
1464 engineering division of the board may require him to take
1465 and satisfactorily pass such further examination as provided
1466 by rule before issuing to him a license.]

1467 327.612. Any person who [has attained the age of
1468 twenty-one years, and] has a degree in landscape
1469 architecture from an accredited school of landscape
1470 architecture [and], or possesses an education which in the
1471 opinion of the board equals or exceeds the education
1472 received by a graduate of an accredited school, has acquired
1473 at least three years satisfactory landscape architectural
1474 experience after acquiring such a degree, and who has taken
1475 and passed all sections of the landscape architectural
1476 registration examination administered by the Council of
1477 Landscape Architectural Registration Boards may apply to the
1478 board for licensure as a professional landscape architect.";
1479 and

1480 Further amend the title and enacting clause accordingly.