

## CHAPTER 326

## EMPLOYMENTS LICENSED BY STATE

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**326.2421 ALARM AND COMMUNICATION SYSTEMS.**

Subd. 2. **Exemption.** Except as provided in subdivision 3, no person licensed pursuant to subdivision 3 may be required to obtain any authorization, permit, franchise, or license from, or pay any fee, franchise tax, or other assessment to, any agency, department, board, or political subdivision of the state as a condition for performing any work described herein. The requirements of this section shall not apply to telephone companies as defined under section 237.01 nor to their employees, that are only engaged in the laying out, installation, and repair of telephone systems.

*[For text of subs 3 to 9, see M.S.1996]*

**History:** 1997 c 7 art 1 s 125

**326.3321 EMPLOYEES.**

Subdivision 1. **Executive director.** The commissioner of public safety shall appoint an executive director to serve in the unclassified service at the pleasure of the commissioner. The executive director shall perform the duties as the board and commissioner shall prescribe.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 239 art 8 s 24

**326.3386 FEES.**

*[For text of subs 1 and 2, see M.S.1996]*

Subd. 3. **Designation fee.** When a licensed private detective or protective agent who is a partnership or corporation, desires to designate a new qualified representative or Minnesota manager, a fee equal to one-half of the license fee shall be submitted to the board.

*[For text of subs 4 to 6, see M.S.1996]*

Subd. 6a. **Training course certification fee.** An applicant for training course certification, as specified in section 326.3361, shall pay to the board a course certification fee determined by the board.

Subd. 6b. **Training course recertification fee.** An applicant for training course recertification shall pay to the board a course recertification fee determined by the board.

*[For text of subd 7, see M.S.1996]*

**History:** 1997 c 239 art 8 s 25-27

**326.37 RULES; CAPACITY STANDARDS; LICENSE EXEMPTION.**

Subdivision 1. **Rules.** The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for

all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

*[For text of subds 2 and 3, see M.S.1996]*

**History:** 1997 c 203 art 2 s 28

### 326.71 DEFINITIONS.

*[For text of subds 1 to 3, see M.S.1996]*

Subd. 4. **Asbestos-related work.** "Asbestos-related work" means the enclosure, removal, or encapsulation of asbestos-containing material in a quantity that meets or exceeds 260 linear feet of friable asbestos-containing material on pipes, 160 square feet of friable asbestos-containing material on other facility components, or, if linear feet or square feet cannot be measured, a total of 35 cubic feet of friable asbestos-containing material on or off all facility components in one facility. In the case of single or multifamily residences, "asbestos-related work" also means the enclosure, removal, or encapsulation of greater than ten but less than 260 linear feet of friable asbestos-containing material on pipes, greater than six but less than 160 square feet of friable asbestos-containing material on other facility components, or, if linear feet or square feet cannot be measured, greater than one cubic foot but less than 35 cubic feet of friable asbestos-containing material on or off all facility components in one facility. This provision excludes asbestos-containing floor tiles and sheeting, roofing materials, siding, and all ceilings with asbestos-containing material in single family residences and buildings with no more than four dwelling units. Asbestos-related work includes asbestos abatement area preparation; enclosure, removal, or encapsulation operations; and an air quality monitoring specified in rule to assure that the abatement and adjacent areas are not contaminated with asbestos fibers during the project and after completion.

For purposes of this subdivision, the quantity of asbestos containing material applies separately for every project.

*[For text of subds 4a to 5, see M.S.1996]*

Subd. 6. **Contracting entity.** "Contracting entity" means a public or private body, board, natural person, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity that contracts with a person to do asbestos-related work or asbestos management activity for the benefit of the contracting entity.

*[For text of subd 8, see M.S.1996]*

**History:** 1997 c 205 s 32,33; 1Sp1997 c 5 s 1

### 326.72 ASBESTOS LICENSE.

*[For text of subd 1, see M.S.1996]*

Subd. 2. **Display of license.** Licensees shall post a project permit, obtained from the commissioner after compliance with the provisions of section 326.74 and rules promulgated under section 326.78, in a conspicuous place outside of the asbestos work area. The actual license or a copy shall be readily available at the work site for inspection by the commissioner, other public officials charged with the health, safety, and welfare of the state's citizens, and the contracting entity.

**History:** 1997 c 205 s 34

**326.74 REPORTING ASBESTOS WORK.**

Written notice shall be given to the commissioner of an asbestos-related work project by the person holding the license issued under section 326.72, subdivision 1. Unless the project is an emergency project, the notice shall be given to the commissioner at least five calendar days before the project begins. The notice shall contain the following information:

- (1) a brief description of the work to be performed;
- (2) the name of the contracting entity;
- (3) the location and address of the project work site;
- (4) the approximate duration of the project;
- (5) the approximate amount of the asbestos involved in the project;
- (6) the name of any project manager; and
- (7) other information required by the commissioner.

**History:** 1997 c 205 s 35

**326.76 DUTIES OF CONTRACTING ENTITIES.**

A contracting entity intending to have asbestos-related work or asbestos management activity performed for its benefit shall include in the specifications and contracts for the work a requirement that the work be performed by contractors and subcontractors licensed or certified by the commissioner under sections 326.70 to 326.81 and in accordance with rules prescribed by the commissioner related to asbestos-related work and asbestos management activity. No contracting entity shall allow asbestos-related work or asbestos management activity to be performed for its benefit unless it has seen that the person has a valid license or certificate. A contracting entity's failure to comply with this section does not relieve a person from any responsibilities under sections 326.70 to 326.81.

**History:** 1997 c 205 s 36

**326.78 DUTIES OF THE COMMISSIONER.**

Subdivision 1. **Rulemaking.** The commissioner shall adopt and begin enforcement of rules necessary to implement sections 326.70 to 326.81. The rules adopted shall not be duplicative of rules adopted by the commissioner of the department of labor and industry. The rules shall include rules in the following areas:

- (1) application, enclosure, removal, and encapsulation procedures;
- (2) license and certificate qualification requirements;
- (3) examinations for obtaining a license and certificate;
- (4) training necessary for individual certification;
- (5) qualifications for managers of asbestos-related work projects;
- (6) asbestos-related work and asbestos management activity specifications;
- (7) any contractor bonding and insurance requirements deemed necessary by the commissioner;
- (8) license and certificate issuance and revocation procedures;
- (9) suspension or revocation of licenses or certificates;
- (10) license and certificate suspension and revocation criteria;
- (11) cleanup standards;
- (12) continuing education requirements; and
- (13) other rules necessary to implement sections 326.70 to 326.81.

*[For text of subs 2 to 9, see M.S.1996]*

**History:** 1997 c 205 s 37

**326.785 ASBESTOS CONTAINMENT BARRIERS.**

Notwithstanding Minnesota Rules, part 4620.3568, subparts 1 to 4, containment barriers, in the case of tunnel abatement enclosures, are limited to double critical barriers.

**History:** 1997 c 205 s 38

**326.83 DEFINITIONS.**

*[For text of subs 1 to 10, see M.S.1996]*

Subd. 11. **Owner.** Except in section 326.91, subdivision 1, "owner" means a person who has any legal or equitable interest in real property. For purposes of sections 326.83 to 326.991, "owner" does not include a residential building contractor or residential remodeler who constructs or improves its own property for purposes of speculation. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if it constructs or improves more than one property within any 24-month period.

*[For text of subs 12 to 18, see M.S.1996]*

Subd. 19. **Special skill.** "Special skill" means one of the following eight categories:

(a) **Excavation.** Excavation includes work in any of the following areas:

- (1) excavation;
- (2) trenching;
- (3) grading; and
- (4) site grading.

(b) **Masonry and concrete.** Masonry and concrete includes work in any of the following areas:

- (1) drain systems;
- (2) poured walls;
- (3) slabs and poured-in-place footings;
- (4) masonry walls;
- (5) masonry fireplaces;
- (6) masonry veneer; and
- (7) water resistance and waterproofing.

(c) **Carpentry.** Carpentry includes work in any of the following areas:

- (1) rough framing;
- (2) finish carpentry;
- (3) doors, windows, and skylights;
- (4) porches and decks, excluding footings;
- (5) wood foundations; and
- (6) drywall installation, excluding taping and finishing.

(d) **Interior finishing.** Interior finishing includes work in any of the following areas:

- (1) floor covering;
- (2) wood floors;
- (3) cabinet and counter top installation;
- (4) insulation and vapor barriers;
- (5) interior or exterior painting;
- (6) ceramic, marble, and quarry tile;
- (7) ornamental guardrail and installation of prefabricated stairs; and
- (8) wallpapering.

(e) **Exterior finishing.** Exterior finishing includes work in any of the following areas:

- (1) siding;
- (2) soffit, fascia, and trim;
- (3) exterior plaster and stucco;
- (4) painting; and
- (5) rain carrying systems, including gutters and down spouts.

(f) **Drywall and plaster.** Drywall and plaster includes work in any of the following areas:

- (1) installation;
- (2) taping;
- (3) finishing;
- (4) interior plaster;
- (5) painting; and
- (6) wallpapering.
- (g) **Roofing.** Roofing includes work in any of the following areas:

- (1) roof coverings;
- (2) roof sheathing;
- (3) roof weatherproofing and insulation; and
- (4) repair of roof support system, but not construction of new roof support system.

(h) **General installation specialties.** Installation includes work in any of the following areas:

- (1) garage doors and openers;
- (2) pools, spas, and hot tubs;
- (3) fireplaces and wood stoves;
- (4) asphalt paving and seal coating;
- (5) exterior plaster and stucco; and
- (6) ornamental guardrail and prefabricated stairs.

*[For text of subs 20 and 21, see M.S.1996]*

**History:** 1997 c 222 s 45,46

### 326.84 LICENSING REQUIREMENTS.

*[For text of subs 1 to 1c, see M.S.1996]*

**Subd. 3. Exemptions.** The license requirement does not apply to:

- (1) an employee of a licensee performing work for the licensee;
- (2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;
- (3) an owner or owners of residential real estate who build or improve residential real estate and who do the work themselves or jointly with the owner's own bona fide employees. This exemption does not apply to a person who engages in a pattern of building or improving real estate for purposes of resale. Such a pattern is presumed to exist if the person constructs or improves more than one property within any 24-month period;
- (4) an architect or engineer engaging in professional practice as defined in this chapter;
- (5) a person whose total gross annual receipts from projects regulated under this section do not exceed \$15,000;
- (6) a mechanical contractor;
- (7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of licensure;
- (8) specialty contractors who provide only one special skill as defined in section 326.83;
- (9) a school district, or a technical college governed under chapter 136F;
- (10) manufactured housing installers; and
- (11) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensing from the commissioner.

A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annu-

al receipts derived from contracting activities during the calendar year for which the exemption is requested.

To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year, and the applicant does not expect to exceed \$15,000 in gross annual receipts during the calendar year for which the exemption is requested.

If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for this exemption for the next calendar year.

**History:** 1997 c 222 s 47

### **326.841 MANUFACTURED HOME INSTALLERS.**

Manufactured home installers are subject to all of the requirements of sections 326.83 to 326.98, except for the following:

(1) manufactured home installers are not members of the advisory council under section 326.85;

(2) manufactured home installers are not subject to the continuing education requirements of section 326.87;

(3) the examination requirement of section 326.89, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination designed specifically for manufactured home installers. The examination must be designed by the commissioner in conjunction with the state building code division. The commissioner and state building code division shall seek advice on the grading, monitoring, and updating of examinations from the Minnesota manufactured housing association;

(4) the amount of the bond required by section 326.94 shall be \$2,500 for manufactured home installers;

(5) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers;

(6) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326.83 to 326.98; and

(7) the exemption under section 326.84, subdivision 3, clause (5), does not apply.

**History:** 1997 c 206 s 11

NOTE: The amendment to this section by Laws 1997, chapter 206, section 11, is effective April 1, 1998. Laws 1997, chapter 206, section 14.

### **326.85 ADVISORY COUNCIL.**

*[For text of subs 1 to 3, see M.S.1996]*

Subd. 4. **Nonexpiration.** The council is not subject to the expiration provisions of section 15.059, subdivision 5.

**History:** 1997 c 222 s 48

### **326.86 FEES.**

Subdivision 1. **Licensing fee.** The licensing fee for persons licensed pursuant to sections 326.83 to 326.991 is \$75 per year. The commissioner may adjust the fees under section 16A.1285 to recover the costs of administration and enforcement. The fees must be limited to the cost of license administration and enforcement and must be deposited in the state treasury and credited to the general fund.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 200 art 1 s 72

**326.921 BUILDING PERMIT CONDITIONED ON LICENSURE.**

A political subdivision shall not issue a building permit to an unlicensed person who is required to be licensed under sections 326.83 to 326.991. A political subdivision that issues zoning or land use permits in lieu of a building permit shall not issue those permits to an unlicensed person who is required to be licensed under sections 326.83 to 326.911. The political subdivision shall report the person applying for the permit to the commissioner who may bring an action against the person.

**History:** 1997 c 222 s 49