

CHAPTER 326

EMPLOYMENTS LICENSED BY STATE

326.243	Safety standards.	326.90	Local licenses.
326.32	Definitions.	326.91	Denial, suspension, or revocation of licenses.
326.3361	Training.	326.975	Contractor's recovery fund.
326.38	Local regulations.		
326.53	Violations; penalty provisions.		

NOTE: Sections 326.165 to 326.229 are repealed by Laws 2001, chapter 109, article 1, section 18, effective January 1, 2003. Laws 2001, chapter 109, article 1, section 19.

326.243 SAFETY STANDARDS.

All electrical wiring, apparatus and equipment for electric light, heat and power, alarm and communication systems shall comply with the rules of the department of commerce or the department of labor and industry, as applicable, and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this chapter, the rules and safety standards stated at the time the work is done in the then most recently published edition of the National Electrical Code as adopted by the National Fire Protection Association, Inc. and approved by the American National Standards Institute, and the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc. and approved by the American National Standards Institute, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota Building Code is formulated pursuant to section 16B.61, containing approved methods of electrical construction for safety to life and property, compliance with said methods of electrical construction of said Minnesota Building Code shall also constitute compliance with this section, and provided further, that nothing herein contained shall prohibit any political subdivision from making and enforcing more stringent requirements than set forth herein and such requirements shall be complied with by all licensed electricians working within the jurisdiction of such political subdivisions.

History: *1Sp2001 c 4 art 6 s 74*

326.32 DEFINITIONS.

[For text of subd 1, see M.S.2000]

Subd. 1a. **Armed with a firearm.** An individual is "armed with a firearm" if at any time in the performance of the individual's duties the individual wears, carries, possesses, or has access to a firearm.

Subd. 1b. **Armed with a weapon.** An individual is "armed with a weapon" if at any time in the performance of the individual's duties the individual wears, carries, possesses, or has access to:

- (1) a weapon other than a firearm; or
- (2) an immobilizing or restraining device.

[For text of subds 2 to 13, see M.S.2000]

History: *2001 c 168 s 1,2*

326.3361 TRAINING.

Subdivision 1. **Rules.** The board shall, by rule, prescribe the requirements, duration, contents, and standards for successful completion of certified training programs for license holders, qualified representatives, Minnesota managers, partners, and employees, including:

- (1) for those individuals who are armed with a firearm, training in the proper use of, and the risks and dangers arising from the use of, firearms;

(2) for those individuals who are armed with a weapon, training in the proper use of, and the risks and dangers arising from the use of, weapons other than firearms, including, but not limited to, bludgeons, nightsticks, batons, chemical weapons, and electronic incapacitation devices, and restraint or immobilization techniques;

(3) for those individuals who are armed with a firearm or armed with a weapon, training in first aid and alternatives to the use of force, including advantages to not using force and specifically when force should not be used;

(4) for those individuals who are armed with a firearm or armed with a weapon, training in the legal limitations on the justifiable use of force and deadly force as specified in sections 609.06 and 609.065;

(5) standards for weapons and equipment issued to or carried or used by those individuals;

(6) preassignment or on-the-job training, or its equivalent, required before applicants may be certified as having completed training; and

(7) continuing training for license holders, qualified representatives, Minnesota managers, partners, employees, individuals armed with a firearm, and individuals armed with a weapon.

Subd. 2. **Required contents.** The rules adopted by the board must require:

(1) 12 hours of preassignment or on-the-job certified training within the first 21 days of employment, or evidence that the employee has successfully completed equivalent training before the start of employment;

(2) certification by the board of completion of certified training for a license holder, qualified representative, Minnesota manager, partner, and employee to carry or use a firearm, a weapon other than a firearm, or an immobilizing or restraint technique; and

(3) six hours a year of certified continuing training for all license holders, qualified representatives, Minnesota managers, partners, and employees, and an additional six hours a year for individuals who are armed with firearms or armed with weapons, which must include annual certification of the individual.

An individual may not carry or use a weapon while undergoing on-the-job training under this subdivision.

[For text of subs 3 and 4, see M.S.2000]

History: 2001 c 168 s 3,4

326.38 LOCAL REGULATIONS.

Any city having a system of waterworks or sewerage, or any town in which reside over 5,000 people exclusive of any statutory cities located therein, or the metropolitan airports commission, may, by ordinance, adopt local regulations providing for plumbing permits, bonds, approval of plans, and inspections of plumbing, which regulations are not in conflict with the plumbing standards on the same subject prescribed by the state commissioner of health. No city or such town shall prohibit plumbers licensed by the state commissioner of health from engaging in or working at the business, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person, firm, or corporation engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the state commissioner of health, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and

provided the connections so made comply with minimum standards prescribed by the state commissioner of health.

History: *1Sp2001 c 9 art 1 s 56*

326.53 VIOLATIONS; PENALTY PROVISIONS.

Subdivision 1. **Generally.** (1) Any violation of chapter 326A is a gross misdemeanor.

(2) Every person violating any of the provisions of sections 326.523 to 326.526, or assisting in such violation, shall, upon conviction thereof, be punished by a fine not exceeding \$3,000 or, in default of the payment of such fine, by imprisonment in the county jail for not more than one year. In the case of a corporation, the violation of these sections shall be deemed to be also that of the individual directors, officers, or agents of such corporation who have assisted in such violation, or who have authorized, ordered, or done the acts or omissions constituting, in whole or in part, such violation; and, upon conviction thereof, any such directors, officers, or agents shall be punished by fine or imprisonment as herein provided.

History: *2001 c 109 art 2 s 5*

NOTE: The amendment to this section by Laws 2001, chapter 109, article 2, section 5, is effective January 1, 2003. Laws 2001, chapter 109, article 2, section 10.

326.90 LOCAL LICENSES.

Subdivision 1. **Local license prohibited.** Except as provided in sections 326.90, subdivision 2, and 326.991, a political subdivision may not require a person licensed under sections 326.83 to 326.991 to also be licensed or pay a registration or other fee related to licensure under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

[For text of subd 2, see M.S.2000]

History: *2001 c 207 s 7*

326.91 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

Subdivision 1. **Cause.** The commissioner may by order deny, suspend, or revoke any license or may censure a licensee, and may impose a civil penalty as provided for in section 45.027, subdivision 6, if the commissioner finds that the order is in the public interest, and that the applicant, licensee, or affiliate of an applicant or licensee, or other agent, owner, partner, director, governor, shareholder, member, officer, qualifying person, or managing employee of the applicant or licensee or any person occupying a similar status or performing similar functions:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98 or any rule or order under sections 326.83 to 326.98;

(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;

(7) has been convicted of a violation of the State Building Code or, in jurisdictions that do not enforce the State Building Code, has refused to correct a violation of the

State Building Code when the violation has been certified by a Minnesota licensed structural engineer;

(8) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 17, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;

(9) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;

(10) has engaged in conduct which was the basis for a contractor's recovery fund payment pursuant to section 326.975, which payment has not been reimbursed;

(11) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit arising out of their activities as a licensee under this chapter;

(12) has had a judgment entered against them for failure to make payments to employees or subcontractors, and all appeals of the judgment have been exhausted or the period for appeal has expired;

(13) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious license number or the license number of another, or, if licensed, has knowingly allowed an unlicensed person to use the licensee's license number for the purpose of fraudulently obtaining a building permit; or

(14) has made use of forged mechanics' lien waivers under chapter 514.

[For text of subds 2 to 4, see M.S.2000]

History: 2001 c 208 s 22

326.975 CONTRACTOR'S RECOVERY FUND.

Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.34 with the following exceptions:

(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2) the sole purpose of this fund is to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994;

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

(4) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

[For text of subds 2 and 3, see M.S.2000]

History: 2001 c 208 s 23