

## CHAPTER 326

## EMPLOYMENTS LICENSED BY STATE

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**326.03 LICENSE REQUIRED.**

*[For text of subd 1, see M.S.1986]*

Subd. 2. Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

- (a) Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;
- (b) Two family dwellings;
- (c) Any farm building or accessory thereto; or
- (d) Temporary buildings or sheds used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters.

*[For text of subds 3 to 5, see M.S.1986]*

**History:** 1987 c 8 s 1; 1987 c 384 art 1 s 30

**326.06 GENERAL POWERS AND DUTIES OF BOARD.**

Each member of the board shall receive a certificate of appointment from the governor, and, before beginning a term of office, shall file with the secretary of state the constitutional oath of office. The board shall adopt and have an official seal, which shall be affixed to all licenses granted; shall make all rules, not inconsistent with law, needed in performing its duties; and shall fix standards for determining the qualifications of applicants for certificates, which shall not exceed the requirements contained in the curriculum of a recognized school of architecture, landscape architecture or engineering. The board shall make rules to define classes of buildings with respect to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare.

**History:** 1987 c 8 s 2; 1987 c 384 art 1 s 31

**326.241 BOARD OF ELECTRICITY.**

*[For text of subs 1 and 2, see M.S.1986]*

Subd. 3. **Fees and finances; disposition.** All fees collected under the provisions of sections 326.241 to 326.248 are to be credited to a special account in the state treasury. Money in the account is appropriated to the board of electricity to administer and enforce sections 326.241 to 326.248, to pay indirect costs, to compensate contract electrical inspectors for inspections performed, and to make refunds.

**History:** 1987 c 358 s 116

**326.2421 ALARM AND COMMUNICATION SYSTEMS.**

*[For text of subs 2 to 4, see M.S.1986]*

Subd. 6. **Existing contractors.** Persons who on July 1, 1985, are in the business of laying out, installing, maintaining, or repairing alarm and communication systems and who have filed a license application with the electrical board by September 1, 1987, shall be allowed to continue in that business as if licensed under subdivision 3 until final action is taken by the board upon their applications. Contractors who are in the business on July 1, 1985, and who file a license application with the board by September 1, 1987, are exempt from the requirements of subdivision 4.

Subd. 7. [Repealed, 1987 c 384 art 3 s 14]

*[For text of subs 8 and 9, see M.S.1986]*

**History:** 1987 c 279 s 2

**326.244 INSPECTION.**

*[For text of subs 1 and 1a, see M.S.1986]*

Subd. 2. **Procedure.** (a) At or before commencement of any installation required to be inspected by the board, the electrical contractor, installer, special electrician, or owner making the installation shall submit to the board a request for inspection, in a form prescribed by the board, together with the fees required for the installation.

(b) The fees required are a handling fee and an inspection fee. The handling fee shall be set by the board in an amount sufficient to pay the cost of printing and handling the form requesting an inspection. The inspection fee shall be set by the board in an amount sufficient to pay the actual costs of the inspection and the board's costs in administering the inspection. All fees shall be set pursuant to the procedure of sections 14.01 to 14.70.

(c) If the inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by section 326.243, the inspector shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of the order to the board. If the installation or the noncomplying part will seriously and proximately endanger human life and property, the order of the inspector, when approved by the inspector's superior, shall require immediate condemnation or disconnection. In all other cases, the order of the inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established for condemnation or disconnection.

(d) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the electrical contractor, installer, or special electrician making the installation, and other persons as the board by rule may direct. An aggrieved party may appeal any condemnation or disconnection order by filing with the board a notice of appeal within ten days after (1) service upon the aggrieved party of the condemnation or disconnection order, if this service is required, or (2) filing of

the order with the board, whichever is later. The appeal shall proceed and the order of the inspector shall have the effect the order, by its terms, and the rules of the board provides. The board shall adopt rules providing procedures for the conduct of appeals, including provisions for the stay of enforcement of the order of the inspector pending such appeal when justified by the circumstances.

*[For text of subs 3 to 5, see M.S.1986]*

**History:** 1987 c 358 s 117

### 326.32 DEFINITIONS.

Subdivision 1. As used in sections 326.32 to 326.339, the terms defined in this section have the meanings given them.

*[For text of subs 2 to 4, see M.S.1986]*

Subd. 5. "Board review" means the process by which the board reviews and evaluates private detective or protective agent license applications.

Subd. 6. [Repealed, 1987 c 360 s 26]

Subd. 7. [Repealed, 1987 c 360 s 26]

*[For text of subs 8 to 10, see M.S.1986]*

Subd. 10a. "Minnesota manager" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The Minnesota manager must be actively involved in the day to day management and supervision of the licensed activity in the Minnesota office.

Subd. 10b. "Minnesota office" means an office maintained in Minnesota by a license holder for the conduct or solicitation of business when the principal place of business of the license holder is located outside the state of Minnesota.

Subd. 11. "Public member" means a person who is not, nor ever was, a member of the profession or occupation being licensed, or the spouse of any such person or a person who has not, nor ever has had, a material or financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession being licensed.

Subd. 12. "Qualified representative" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The qualified representative must be actively involved in the day to day management and supervision of the licensed activity.

**History:** 1987 c 360 s 1-6

### 326.33 BOARD OF PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES.

Subdivision 1. **Members.** There is hereby created a board of private detective and protective agent services, consisting of the superintendent of the bureau of criminal apprehension or an assistant superintendent designated by the superintendent, and the following members appointed by the commissioner of public safety: a licensed protective agent, or qualified representative for a licensed protective agent partnership or corporation, a licensed private detective, or qualified representative for a licensed private detective partnership or corporation, and two public members. Filling of member vacancies shall be the responsibility of the commissioner of public safety. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, unless otherwise provided in sections 326.32 to 326.339; administrative services and office space; the review and processing of complaints; the setting of board fees, unless otherwise provided in sections 326.32 to 326.339; and other provisions relating to board operations shall be as provided in chapter 214.

Subd. 2. **Meetings; chair.** The board shall meet at the times it considers necessary to conduct business ascribed to the board by the provisions of sections 326.32 to 326.339. The board shall designate one of its members to fill the position of board chair, and that person may remain in the capacity of chair for a term of one year. The board has the option of replacing a board member as chair.

Subd. 3. [Repealed, 1987 c 360 s 26]

Subd. 4. [Repealed, 1987 c 360 s 26]

Subd. 5. [Repealed, 1987 c 360 s 26]

*[For text of subd 6, see M.S.1986]*

**History:** 1987 c 360 s 7,8

**326.331** [Repealed, 1987 c 360 s 26]

### **326.3311 POWERS AND DUTIES.**

The board has the following powers and duties:

(1) to receive and review all applications for private detective and protective agent licenses;

(2) to approve applications for private detective and protective agent licenses and issue, or reissue licenses as provided in sections 326.32 to 326.339;

(3) to deny applications for private detective and protective agent licenses if the applicants do not meet the requirements of sections 326.32 to 326.339; upon denial of a license application, the board shall notify the applicant of the denial and the facts and circumstances that constitute the denial; the board shall advise the applicant of the right to a contested case hearing under chapter 14;

(4) to enforce all laws and rules governing private detectives and protective agents; and

(5) to suspend or revoke the license of a license holder or impose a civil penalty on a license holder for violations of any provision of sections 326.32 to 326.339 or the rules of the board.

**History:** 1987 c 360 s 9

**326.332** [Repealed, 1987 c 360 s 26]

### **326.3321 EMPLOYEES.**

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

Subd. 2. **Others.** The board may employ and assign duties to other employees or agents as it considers necessary to discharge the functions of the board.

**History:** 1987 c 360 s 10

**326.333** [Repealed, 1987 c 360 s 26]

### **326.3331 RULEMAKING.**

The board shall adopt rules under chapter 14 to govern the selection, training, conduct, discipline, and licensing of private detectives and protective agents, and any other matters necessary to carry out duties imposed by sections 326.32 to 326.339.

**History:** 1987 c 360 s 11

**326.334** [Repealed, 1987 c 360 s 26]

### **326.3341 EXEMPTIONS.**

Sections 326.32 to 326.339 do not apply to:

(1) an employee while providing security or conducting an investigation of a pending or potential claim against the employee's employer;

(2) a peace officer or employee of the United States, this state or one of its political subdivisions, while engaged in the discharge of official duties for the government employer;

(3) persons engaged exclusively in obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(4) an attorney-at-law while performing the duties of an attorney-at-law or an investigator employed exclusively by an attorney or a law firm engaged in investigating legal matters;

(5) a collection agency or finance company licensed to do business under the laws of this state or an employee of one of those companies while acting within the scope of employment when making an investigation incidental to the business of the agency, including an investigation as to location of a debtor, of the debtor's assets or property, provided the client has a financial interest in or a lien upon the assets or property of the debtor;

(6) an insurance adjuster employed exclusively by an insurance company, or licensed as an adjuster with the state of Minnesota and engaged in the business of adjusting insurance claims; or

(7) persons engaged in responding to alarm signals including, but not limited to, fire alarms, industrial process failure alarms and burglary alarms, for purposes of maintaining, repairing or resetting the alarm, or for opening the premises for law enforcement personnel or responding agents.

**History:** 1987 c 360 s 12

### 326.336 EMPLOYEES OF LICENSE HOLDERS.

Subdivision 1. A license holder may employ, in connection with the business of private detective or protective agent, as many unlicensed persons as may be necessary; provided that every license holder is at all times accountable for the good conduct of every person employed. The employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee or prospective employee for the bureau to determine whether that person has a criminal record.

Subd. 2. An identification card must be issued by the license holder to each employee. The card must be in the possession of the employee to whom it is issued at all times. The identification card must contain the license holder's name, logo (if any), address or Minnesota office address, and the employee's photograph and physical description. The card must be signed by the employee and by the license holder, qualified representative, or Minnesota office manager.

Subd. 3. Any person who shall be issued an identification card, badge, holster, weapon, shield, or any other equipment bearing the name, trademark or trade name, or any combination thereof, of any licensed agency, or indicating that such person is a private detective, protective agent, or employee of same, who does not return such badge, weapon, holster, identification card, uniform emblem, or other equipment to the owner thereof within ten days of the termination of employment, or of receiving a written request to return same, made by certified mail to the person's last known address, whichever shall last occur, shall be guilty of a misdemeanor.

Subd. 4. No employee of any license holder shall divulge to anyone other than the employer, or as the employer shall direct, except as may be required by law, any information acquired during such employment in respect of any matter or investigation undertaken or done by such employer. Any employee who shall make any false statement in an employment statement or who willfully makes a false report to the employer in respect to any matter in the course of the employer's business, or who shall otherwise violate the provisions of this subdivision is guilty of a misdemeanor.

**History:** 1987 c 360 s 13

326.337 [Repealed, 1987 c 360 s 26]

### 326.338 PERSONS ENGAGED AS PRIVATE DETECTIVES OR PROTECTIVE AGENTS.

Subdivision 1. **Private detective.** Persons who for a fee, reward, or other consideration, undertake any of the following acts for the purpose of obtaining information for others are considered to be engaged in the business of a private detective:

- (1) investigating crimes or wrongs done or threatened against the government of the United States or of any state, county, or municipal subdivision thereof;
- (2) investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation, or character of any person or organization;
- (3) investigating the credibility of witnesses or other persons;
- (4) investigating the location or recovery of lost or stolen property;
- (5) investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to persons or property;
- (6) investigating the affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;
- (7) investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, or contractors and subcontractors;
- (8) obtaining through investigation evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in preparation for trial of civil or criminal cases; or
- (9) investigating the identity or apprehension of persons suspected of crimes or misdemeanors.

Subd. 2. [Repealed, 1987 c 360 s 26]

Subd. 3. [Repealed, 1987 c 360 s 26]

Subd. 4. **Protective agent.** A person who for a fee, reward, or other valuable consideration undertakes any of the following acts is considered to be engaged in the business of protective agent:

- (1) providing guards, private patrol, or other security personnel to protect persons or their property or to prevent the theft, unlawful taking of goods, merchandise, or money, or to prevent the misappropriation or concealment of goods, merchandise, money, or other valuable things, or to procure the return of those things;
- (2) physically responding to any alarm signal device, burglar alarm, television camera, still camera, or a mechanical or electronic device installed or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or other security measures;
- (3) providing armored car services for the protection of persons or property;
- (4) controlling motor traffic on public streets, roads, and highways for the purpose of escorting a funeral procession; or
- (5) providing management and control of crowds for the purpose of safety and protection.

**History:** 1987 c 360 s 14, 15

### 326.3381 LICENSES.

Subdivision 1. **Prohibition.** No person shall engage in the business of private detective or protective agent, or advertise or indicate in any verbal statement or in written material that the person is so engaged or available to supply those services, without having first obtained a license as provided in sections 326.32 to 326.339.

Subd. 2. **Application procedure.** The board shall issue a license upon application to any person qualified under sections 326.32 to 326.339 and under the rules of the board to engage in the business of private detective or protective agent. The license shall remain effective for two years as long as the license holder complies with sections

326.32 to 326.339, the laws of Minnesota, and the rules of the board. Upon receipt of an application for private detective or protective agent license, the board shall:

(1) post notice of the application in its office for a period of 20 days, and notify all persons who have requested notification of applications;

(2) conduct an investigation as it considers necessary to determine the qualifications of the applicant, qualified representative, Minnesota manager, and if appropriate, a partner or corporate officer; and

(3) notify the applicant of the date on which the board will conduct a review of the license application.

**Subd. 3. Disqualification.** No person is qualified to hold a license who has:

(1) been convicted of (i) a felony by the courts of this or any other state or of the United States; (ii) acts which, if done in Minnesota, would be assault; theft; larceny; burglary; robbery; unlawful entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; possession, production, sale, or distribution of narcotics unlawfully; or (iii) in any other country of acts which, if done in Minnesota, would be a felony or would be any of the other offenses provided in this clause and for which a full pardon or similar relief has not been granted;

(2) made any false statement in an application for a license or any document required to be submitted to the board; or

(3) failed to demonstrate to the board good character, honesty, and integrity.

**Subd. 4. Business entity applicant.** If the applicant for a license is a corporation or partnership, one member of that corporation or partnership must meet the licensing requirements in sections 326.32 to 326.339.

**Subd. 5. Nonresident applicant.** If an applicant's home office is located outside of Minnesota, and the applicant establishes a Minnesota office, the applicant shall provide a manager for the Minnesota office who meets the licensing requirements in sections 326.32 to 326.339.

*History: 1987 c 360 s 16*

### 326.3382 APPLICATION FOR LICENSE.

**Subdivision 1. Application form.** (a) Application for a private detective or protective agent license shall be made on a form prescribed by the board. Each applicant shall provide the following information:

(1) the full name, date of birth, and sex of each person signing the application, and the residences of those persons for the past five years;

(2) all past and present occupations and employers, length of employment, and the name, address, and telephone numbers of supervisors for all persons signing the application;

(3) the address or a description indicating the location of the place of business of the applicant;

(4) a statement indicating that each person signing the application has attained the age of 18;

(5) if the applicant is a corporation, the name of the corporation, the date and place of incorporation, and the location of its principal place of business or registered office in its state of incorporation; and

(6) further facts as may be required by the board to show the good character, competency, and integrity of each person signing the application; and

(b) each application shall be signed and acknowledged as follows:

(1) if the applicant is an individual, by the individual;

(2) if the applicant is a partnership, by each partner, one of whom must be a qualified representative; or

(3) if the applicant is a corporation, by the chief executive officer, chief financial

officer, and the qualified representative of the corporation. If the principal place of the applicant's business is outside Minnesota, the application shall also include the signature of the Minnesota manager.

**Subd. 2. Documents accompanying application.** (a) Each individual signing the application shall submit:

(1) references, on forms provided by the board, from five persons who have known the signer for at least five years, and who are not related by blood or marriage to the signer; and

(2) a recent photograph and a full set of fingerprints for each person signing the application.

(b) If the application is for a private detective license, the individual signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager, as appropriate, has been employed as an investigator for a minimum of 6,000 hours by any of the following:

(1) a licensed private detective agency;

(2) a United States government investigative service;

(3) a city police department or sheriff's office; or

(4) an occupation that, the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed;

and has the qualifications established in the rules of the board.

(c) If the application is for a protective agent license, each person signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager has been employed as an investigator or protective agent for a minimum of 6,000 hours by any of the following:

(1) a licensed protective agent or licensed private detective, having gained experience in security systems, audits, and supervision;

(2) a United States government investigative service;

(3) a city police department or sheriff's office; or

(4) an occupation that the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed;

and has the qualifications established in the rules of the board.

**Subd. 3. Proof of insurance.** (a) No license may be issued to a private detective or protective agent applicant until the applicant has complied with the requirements in this subdivision.

(b) The applicant shall execute a surety bond to the state of Minnesota in the penal sum of \$10,000 and file it with the board. The surety bond must be executed by a company authorized to do business in the state of Minnesota, must name the applicant as principal, and must state that the applicant and each of the applicant's employees shall faithfully observe all of the laws of Minnesota and of the United States and shall pay all damages suffered by any person by reason of a violation of law by the applicant or by the commission of any willful and malicious wrong by the applicant in the course of business.

(c) The applicant shall furnish proof, acceptable to the board, of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings arising out of the ownership and operation of a private detective or protective agent business. Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility for purposes of this paragraph.

(d) The applicant may file with the board a certificate of insurance demonstrating coverage for general liability, completed operations, and personal injury. Personal injury insurance must include coverage for:

(1) false arrest, detention, imprisonment, and malicious prosecution;



- (2) libel, slander, defamation, and violation of rights of privacy; and
- (3) wrongful entry, eviction, and other invasion of rights of private occupancy.

The certificate must provide that the insurance may not be modified or canceled unless 30 days prior notice is given to the board.

(e) The applicant may file with the board an annual net worth statement, signed by a licensed certified public accountant, evidencing that the applicant has a net worth of at least the following:

- (1) for an applicant with no employees, \$10,000;
- (2) for an applicant with one to ten employees, \$15,000;
- (3) for an applicant with 11 to 25 employees, \$25,000;
- (4) for an applicant with 26 to 50 employees, \$50,000; or
- (5) for an applicant with 51 or more employees, \$100,000.

Data indicating with which of the above requirements an applicant must comply is public data. The contents of the net worth statement are private data on individuals or nonpublic data, as defined in section 13.02.

(f) The applicant may file with the board an irrevocable letter of credit from a financial institution acceptable to the board in the amount listed in the appropriate category in paragraph (e).

**Subd. 4. License disqualification.** Unlicensed activity will not be considered as legitimate experience for qualification in being licensed. An individual, partnership, corporation, qualified representative, or Minnesota manager engaged in the business of a private detective or protective agent without a license issued by the board is prohibited from applying for licensing for a period of one year from the date of a finding of the violation.

**History:** 1987 c 360 s 17

### 326.3383 LICENSE REISSUANCE.

**Subdivision 1. Requirements.** The board shall reissue a private detective or protective agent license to a license holder without further board review, if the license holder who has complied with all applicable laws and rules:

- (1) submits to the board an application for license reissuance on a form prescribed by the board;
- (2) submits to the board a list of all current employees; and
- (3) remits the expired license to the board.

**Subd. 2. Appearance.** Nothing in this section shall preclude the board from requiring the appearance of the license holder at a board meeting prior to the reissuance of the license.

**Subd. 3. Bond and proof of financial responsibility.** Each applicant for license reissuance shall maintain a \$10,000 surety bond, and show proof of financial responsibility as required in section 326.3382, subdivision 3.

**History:** 1987 c 360 s 18

### 326.3384 PROHIBITED ACTS.

**Subdivision 1. Prohibition.** No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

- (1) the words "police," "constable," "highway patrol," "sheriff," "trooper," or "law enforcement"; or
- (2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

**Subd. 2. Penalty.** A license holder violating subdivision 1 is guilty of a gross misdemeanor.

**History:** 1987 c 360 s 19

**326.3385 CONDITIONS OF LICENSING.**

Subdivision 1. **Notice of address change.** A license holder who moves to an address other than that given on the license certificate shall give written notice to the board within seven days of the move. The notice shall give the new address or location, the date the move was made, and be accompanied by the license, at which time a new license will be made showing the new address or location.

Subd. 2. **Notice of successor.** A corporate or partnership license holder shall, within seven days of the death, resignation, or removal of a person signing the license application, give written notice to the board of the change and the name and address of the successor in the vacated position.

Within seven days of the death, resignation, or removal of a person signing the license application for a partnership or corporate license holder, the successor qualified representative, partner, Minnesota manager, chief executive officer, or chief financial officer who shall qualify under the same procedure and criteria, and submit the documents required, as for an original application.

Subd. 3. **Surrender of license.** Every license issued to a license holder shall be surrendered to the board within seven days after its expiration, or upon notice to a license holder that a license has been revoked or suspended. If the license cannot be returned, a notarized statement indicating the circumstances shall be submitted to the board.

Subd. 4. **Penalty.** Failure to comply with the provisions of subdivision 1, 2, or 3 may result in the revocation or suspension of the license, or the imposition of an administrative penalty.

**History:** 1987 c 360 s 20

**326.3386 FEES.**

Subdivision 1. **Application fee.** Each applicant for a private detective or protective agent license shall pay to the board a nonrefundable application fee, as determined by the board.

Subd. 2. **License fee.** Each applicant for a private detective or protective agent license shall pay to the board a license fee, as determined by the board. In the event that an applicant is denied licensing by the board, one-half of the license fee shall be refunded to the applicant.

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 application fee shall be submitted to the board.

Subd. 4. **Status fee.** At the time a licensed private detective or protective agent wishes to change a license status, as in the case of an individual license holder establishing a corporation, the difference between the individual license fee and the corporate license fee shall be paid to the board.

Subd. 5. **Reissuance fee.** License holders seeking license reissuance shall pay to the board a license reissuance fee as determined by the board.

Subd. 6. **Business or division fee.** If a private detective or protective agent license holder wishes to add additional business names or corporate division names to an existing license, the license holder shall be required to pay a fee as determined by the board.

Subd. 7. **Rules.** All fees authorized by this section shall be established by rule by the board. All fees paid to the board shall be paid to the general fund. The cost of administering sections 326.32 to 326.339, shall be paid from appropriations made to the board.

**History:** 1987 c 360 s 21

**326.3387 DISCIPLINARY ACTION.**

Subdivision 1. **Basis for action.** The board may revoke or suspend or refuse to issue or reissue a private detective or protective agent license if:

- (a) the license holder violates a provision of sections 326.32 to 326.339 or a rule adopted under those sections;
- (b) the license holder has engaged in fraud, deceit, or misrepresentation while in the business of private detective or protective agent;
- (c) the license holder has made a false statement in an application submitted to the board or in a document required to be submitted to the board; or
- (d) the license holder violates an order of the board.

Subd. 2. **Hearing required.** The board may impose the following penalties only after a contested case hearing under chapter 14:

- (a) revoke or suspend a private detective or protective agent license; or
- (b) impose an administrative penalty in excess of \$500.

**History:** 1987 c 360 s 22

**326.3388 ADMINISTRATIVE PENALTIES.**

The board shall, by rule, establish a graduated schedule of administrative penalties for violations of sections 326.32 to 326.339 or the board's rules. The schedule must include minimum and maximum penalties for each violation and be based on and reflect the culpability, frequency, and severity of the violator's actions. The board may impose a penalty from the schedule on a license holder for a violation of sections 326.32 to 326.339 or the rules of the board. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative penalties imposed by the board must be paid to the general fund.

**History:** 1987 c 360 s 23

**326.3389 LICENSES NONTRANSFERABLE.**

A license issued under sections 326.32 to 326.339 may not be transferred.

**History:** 1987 c 360 s 24

**326.339 VIOLATIONS; PENALTY.**

Unless otherwise specifically provided any violation of any provision or requirement of sections 326.32 to 326.339 is a gross misdemeanor.

**History:** 1987 c 360 s 25

**326.461 DEFINITIONS.**

*[For text of subd 1, see M.S.1986]*

Subd. 2. **High pressure piping.** "High pressure piping" means all high pressure piping used in the installation of hot water or steam heating boilers, any systems of piping hot water or other medium used for heating that exceed 30 p.s.i. gauge and 250 degrees Fahrenheit, or any system of high pressure steam piping, but shall not include any high pressure piping under the direct jurisdiction of the United States.

*[For text of subd 3, see M.S.1986]*

**History:** 1987 c 132 s 1

**326.47 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.**

*[For text of subs 1 and 2, see M.S.1986]*

Subd. 3. **Surcharge.** For the purpose of defraying the cost of administering sections 326.46 to 326.52, there is imposed on all municipalities except municipalities

which have a letter of agreement with the department of labor and industry to perform inspections, a surcharge on the filing fees, inspection fees and permits issued after December 31, 1984, in connection with the construction or installation of high pressure piping systems. The surcharge shall be set by the commissioner pursuant to section 16A.128, but shall not be less than \$25, nor greater than \$5,000. All surcharges collected under this section must be paid to the commissioner for deposit in the state treasury for credit to the special revenue fund.

*[For text of subs 4 to 6, see M.S.1986]*

**History:** 1987 c 132 s 2

### **326.48 PIPEFITTERS MUST BE LICENSED.**

Subdivision 1. No person, firm, or corporation shall engage in or work at the business of a contracting pipefitter or journeyman pipefitter unless licensed to do so by the department of labor and industry. No license shall be required for repairs on existing installations. A contracting pipefitter may also work as a journeyman pipefitter.

No person, firm, or corporation shall engage in the business of installing high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, a licensed pipefitter, who shall be responsible for proper installation, is in charge of the high pressure pipefitting work of the person, firm, or corporation.

The department of labor and industry shall prescribe rules, not inconsistent herewith, for the examination and licensing of pipefitters and for issuance of permits for the installation of high pressure piping.

An employee performing the duties of inspector for the department of labor and industry in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

*[For text of subs 2 to 5, see M.S.1986]*

**History:** 1987 c 132 s 3

### **326.50 APPLICATION; FEES.**

Application for a pipefitter's license shall be made to the department of labor and industry, with fees. The applicant shall be licensed only after passing an examination by the department of labor and industry. Fees and conditions for renewal of journeyman and contracting pipefitter's licenses shall be set by the commissioner under chapter 14 and section 16A.128.

**History:** 1987 c 132 s 4

### **326.51 DEPARTMENT MAY REVOKE LICENSES.**

The department may revoke or suspend, for cause, any license obtained through error or fraud, or if the licensee is shown to be incompetent, or for a violation of any of its rules and regulations applicable to such work. The licensee shall have notice, in writing, enumerating the charges, and be entitled to a hearing on at least ten days' notice, with the right to produce testimony. The hearing shall be held pursuant to chapter 14. The commissioner shall issue a final order based on testimony and the record at hearing. One year from the date of revocation application may be made for a new license.

**History:** 1987 c 132 s 5

### **326.521 VIOLATIONS; PENALTY PROVISIONS.**

Unless otherwise specifically provided, any violation of any provision or requirement of sections 326.46 to 326.52 is a misdemeanor.

**History:** 1987 c 132 s 6

## ASBESTOS ABATEMENT ACT

**326.70 TITLE.**

Sections 326.70 to 326.82 may be cited as the "asbestos abatement act."

**History:** 1987 c 303 s 1

**326.71 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 326.70 to 326.82.

Subd. 2. **Asbestos.** "Asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, and actinolite.

Subd. 3. **Asbestos-containing material.** "Asbestos-containing material" means material that contains more than one percent asbestos by weight.

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 the United States Environmental Protection Agency's requirement of 260 lineal feet of friable asbestos on pipes or 160 square feet of friable asbestos on other facility components.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of health and the commissioner's authorized delegates.

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 an employer or person to do asbestos-related work for the benefit of the contracting entity.

Subd. 7. **Employee.** "Employee" means a person who works directly or indirectly for an employer.

Subd. 8. **Employer.** "Employer" means an individual, body, board, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity directly or indirectly employing an employee. This term applies to private employers and to the state, its political subdivisions, and any boards, commissions, schools, institutions, or authorities created or recognized by them.

**History:** 1987 c 303 s 2

**326.72 ASBESTOS LICENSE.**

Subdivision 1. **When license required.** An employer or other person within the state intending to directly perform or cause to be performed through subcontracting or similar delegation any asbestos-related work either for financial gain or with respect to the employer's or person's own property shall first apply for and obtain a license from the commissioner. The license shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and give the name and address of the employer or person to whom it is issued.

Subd. 2. **Display of license.** Licensees shall post a sign with the words, in letters four or more inches high, "licensed by the state of Minnesota for asbestos work" in a conspicuous place outside of the asbestos abatement work area. The actual license or a copy certified by the commissioner 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:** 1987 c 303 s 3

**NOTE:** This section, as added by Laws 1987, chapter 303, section 3, is effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

**326.73 EMPLOYEE ASBESTOS CERTIFICATIONS.**

Before an employee performs asbestos-related work, the employee shall first obtain

a certificate from the commissioner certifying that the employee is qualified to perform the work. No certificate shall be issued unless the employee has taken a course of training in asbestos control and removal, passed an examination in those subjects, and demonstrated to the commissioner the ability to perform asbestos-related work safely in accordance with the current state-of-the-art technology. The commissioner shall specify the course of training necessary. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the employee to whom it is issued. The certificate shall be carried by the employee and be readily available 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:** 1987 c 303 s 4

**NOTE:** This section, as added by Laws 1987, chapter 303, section 4, is effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

### 326.74 REPORTING ASBESTOS WORK.

An employer, at least five calendar days before engaging in asbestos-related work, shall give written notice to the commissioner of the project. 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:** 1987 c 303 s 5

### 326.75 FEES.

**Subdivision 1. Licensing fee.** An employer or other person required to be licensed under section 326.72 shall, before receipt of the license and before causing asbestos-related work to be performed, pay the commissioner an annual license fee of \$100.

**Subd. 2. Certification fee.** Employees required to be certified under section 326.72 shall, before performing asbestos-related work, pay the commissioner a certification fee of \$50.

**Subd. 3. Permit fee.** Before beginning asbestos-related work, an employer shall pay a project permit fee to the commissioner equal to one percent of the total costs of the asbestos-related work.

**Subd. 4. Deposit of fees.** Fees collected under this section shall be deposited in the asbestos abatement revolving fund created by section 326.82.

**History:** 1987 c 303 s 6

**NOTE:** Subdivisions 1 and 2, as added by Laws 1987, chapter 303, section 6, are effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

**NOTE:** Subdivisions 3 and 4, as added by Laws 1987, chapter 303, section 6, are effective April 1, 1988. See Laws 1987, chapter 303, section 15.

### 326.76 DUTIES OF CONTRACTING ENTITIES.

A contracting entity intending to have asbestos-related work 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 by the commissioner under sections 326.70 to 326.82. No contracting entity shall allow asbestos-related work to be performed for its benefit unless it has seen that the employer has a valid license. A contracting entity's failure to comply with this section does not relieve an employer from any of its responsibilities under sections 326.70 to 326.82.

**History:** 1987 c 303 s 7

**NOTE:** This section, as added by Laws 1987, chapter 303, section 7, is effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

**326.77 INDOOR AIR STANDARD.**

(a) The commissioner may adopt rules establishing an indoor air standard for asbestos.

(b) Until the rules become effective, asbestos remaining in the air following the completion of an abatement project shall not exceed .01 fibers greater than five microns in length per cubic centimeter of air.

**History:** 1987 c 303 s 8**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 326.82. 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 employee certification;
- (5) qualifications for managers of asbestos abatement projects;
- (6) abatement 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 326.82.

Subd. 2. **Issuance of licenses and certificates.** The commissioner may issue licenses to employers and certificates to employees who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates shall be valid for at least 12 months.

Subd. 3. **Delegation.** The commissioner may, in writing, delegate the inspection and enforcement authority granted in sections 326.70 to 326.82 to other state agencies regulating asbestos.

Subd. 4. **Access to information and property.** (a) Any person who the commissioner has reason to believe is engaged in asbestos-related work, or who is the owner of real property where the asbestos-related work is being undertaken, when requested by the commissioner, or any member, employee, or agent thereof who is authorized by the commissioner, shall furnish the commissioner any information that the person may have or may reasonably obtain that is relevant to the asbestos-related work.

(b) The commissioner or any person authorized by the commissioner, upon presentation of credentials, and with reason to believe that violation of sections 326.70 to 326.82 may be occurring, may:

- (1) examine and copy any books, papers, records, memoranda, or data related to the asbestos-related project of any person who has a duty to provide information to the department under paragraph (a); and
- (2) enter upon any public or private property to take action authorized by this section including obtaining information from any person who has a duty to provide the information under paragraph (a), and conducting surveys or investigations.

Subd. 5. **Subpoenas.** In matters under investigation by or pending before the commissioner under sections 326.70 to 326.82, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of papers, books, records, documents, and other relevant evidentiary material. A person failing or refusing to comply with the subpoena or order may, upon application by the commissioner to the district court in any district, be ordered by the court to comply with the order or subpoena. The commissioner may also administer oaths and affirmations to witnesses. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage costs paid, and in the manner as prescribed by law, for process of the state district courts. Fees and mileage and other costs of persons subpoenaed by the commissioner shall be paid in the manner prescribed for proceedings in district court.

Subd. 6. **Cease and desist order.** (a) The commissioner may issue an order requiring an employer to cease asbestos-related work if the commissioner determines that a condition exists that poses an immediate danger to the public health. For purposes of this subdivision, an immediate danger to the public health exists if the commissioner determines that:

- (1) air quality standards are being exceeded;
- (2) asbestos-related work is being undertaken in a manner violative of applicable state or federal law;
- (3) the employer or an employee working at the project site is not licensed or certified, or in possession of a current license or certificate, as the case may be; or
- (4) the employer has not reported the project under section 5.

(b) The order is effective for a maximum of 60 days. Following issuance of the order, the commissioner shall provide the contractor or individual with an opportunity for a hearing under the contested case provisions of chapter 14. At the hearing, the commissioner shall decide whether to rescind, modify, or reissue the previously made order. A modified or reissued order is effective for a maximum of 60 days from the date of modification or reissuance.

Subd. 7. **Order for corrective action.** After notice and opportunity for hearing under the contested case provisions of chapter 14, the commissioner may issue an order requiring anyone violating sections 326.70 to 326.82 or a rule of the commissioner to take corrective action as the commissioner determines will accomplish the purpose of the project and prevent future violation. The order shall contain a date by which the violation must be corrected.

Subd. 8. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which an asbestos-related work is being undertaken to halt the work or an activity connected with it. A temporary restraining order or other injunctive relief may be granted by the court in the proceeding if continuation of the work or an activity connected with it would result in an imminent risk of harm to any person.

**History:** 1987 c 303 s 9

### 326.79 MISDEMEANOR PENALTY.

A person who:

- (1) hinders or delays the commissioner or the commissioner's authorized representative in the performance of the duty to enforce sections 326.70 to 326.82;
- (2) undertakes asbestos-related work without a license or with a revoked, expired, or suspended license;
- (3) refuses to make a license or certificate accessible to either the commissioner or the commissioner's authorized representative;



- (4) uses an employee who does not have a certificate to do asbestos-related work;
  - (5) fails to report asbestos-related work as required by section 326.74;
  - (6) undertakes asbestos-related work for which the person is not qualified under department rules; or
  - (7) makes a material false statement related to a license, certificate, report, or other document required under sections 326.70 to 326.82
- is guilty of a misdemeanor and may be sentenced to payment of a fine of not more than \$700, imprisonment for not more than 30 days, or both, for each violation.

**History:** 1987 c 303 s 10

**NOTE:** This section, as added by Laws 1987, chapter 303, section 10, is effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

### **326.80 SUSPENSIONS; REVOCATIONS.**

As an alternative, or in addition to, the criminal penalties provided in section 326.79, the commissioner or the commissioner's designee may suspend or revoke a license or certificate for repeated or serious violations of sections 326.70 to 326.82 in accordance with procedures adopted by rule by the commissioner and the contested case procedures of chapter 14.

**History:** 1987 c 303 s 11

**NOTE:** This section, as added by Laws 1987, chapter 303, section 11, is effective on the date on which rules adopted by the commissioner under section 326.78 become effective. See Laws 1987, chapter 303, section 15.

### **326.81 DISCRIMINATION; SANCTIONS.**

An employer who discriminates against or otherwise sanctions an employee who complains to or cooperates with the commissioner in administering sections 326.70 to 326.82 is guilty of a misdemeanor.

**History:** 1987 c 303 s 12

### **326.82 ASBESTOS ABATEMENT REVOLVING FUND.**

**Subdivision 1. Creation; appropriation.** The asbestos abatement revolving fund is created as a separate account in the state treasury. The fund consists of the fees collected under section 326.75. The money in the fund is continually appropriated to the commissioner for the purposes of sections 326.70 to 326.82.

**Subd. 2. Unobligated excess transferred.** When the unobligated money in the asbestos abatement revolving fund exceeds \$500,000 at the end of any fiscal year, the unobligated amount in excess of that amount shall be transferred to the general fund.

**History:** 1987 c 303 s 13