

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 882**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Economic Development, Tourism, and Local Government, March 16, 2006, with recommendation that the Senate Committee Substitute do pass.

4352S.02C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To amend chapter 319, RSMo, by adding thereto fifteen new sections relating to blasting and excavation, with penalty provisions.

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

Section A. Chapter 319, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 319.300, 319.303, 319.306, 319.309, 319.312, 319.315, 319.318, 319.321, 319.324, 319.327, 319.330, 319.333, 319.336, 319.338, and 319.339, to read as follows:

**319.300. Sections 319.300 to 319.339 shall be known as the "Missouri Blasting Safety Act". The purpose of sections 319.300 to 319.339 shall be to foster the safe use of explosives in mining and construction by establishing and enforcing consistent statewide industry standards for licensing of blasters and persons using explosives. The provisions of sections 319.300 to 319.339 or any rules or regulations promulgated thereunder shall not be construed to amend, supersede, or conflict with any requirement of federal law or regulation governing the manufacturing, transporting, or storage of explosives.**

**319.303. As used in sections 319.300 to 319.339, the following terms shall mean:**

**(1) "Blaster", a person qualified to be in charge of and responsible for the loading and firing of an explosive or explosive material;**

**(2) "Blast", detonation of explosives;**

**(3) "Blasting", the use of explosives in mining or construction;**

**(4) "Blast site", the area where explosives are handled during**

9 loading of a bore hole, including fifty feet in all directions from the  
10 perimeter formed by loaded holes. A minimum of thirty feet may  
11 replace the fifty feet requirement if the perimeter of loaded holes is  
12 marked and separated from nonblast site areas by a barrier. The fifty  
13 feet or thirty feet distance requirements, as applicable, shall apply in  
14 all directions along the full depth of the bore hole;

15 (5) "Board", the state blasting safety board created in section  
16 319.324;

17 (6) "Bore hole", a hole made with a drill, auger, or other tool in  
18 which explosives are placed in preparation for detonation;

19 (7) "Burden", the distance from an explosive charge to the  
20 nearest free or open face at the time of detonation;

21 (8) "Business day", any day of the week except Saturday, Sunday,  
22 or a federal or state holiday;

23 (9) "Deck", charge of explosives separated from other charges by  
24 stemming;

25 (10) "Delay period", the time delay provided by blasting caps  
26 which permits firing of bore holes in sequence;

27 (11) "Detonation", the action of converting the chemicals in an  
28 explosive charge to gases at a high pressure by means of a self-  
29 propagating shock wave passing through the charge;

30 (12) "Detonator", any device containing initiating or primary  
31 explosive that is used for initiating detonation of another explosive  
32 material. A detonator may not contain more than ten grams of total  
33 explosives by weight, excluding ignition or delay charges. The term  
34 includes, but is not limited to, electric blasting caps of instantaneous  
35 and delay types, blasting caps for use with safety fuse, detonating cord  
36 delay connectors, and non-electric instantaneous and delay blasting  
37 caps which use detonating cord, shock tube, or any other replacement  
38 for electric leg wires;

39 (13) "Explosives", any chemical compound, mixture, or device, the  
40 primary or common purpose of which is to function by explosion,  
41 including, but not limited to, dynamite, black powder, pellet powder,  
42 initiating explosives, detonators, safety fuses, squibs, detonating cord,  
43 igniter cord, and igniters; includes explosive materials such as any  
44 blasting agent, emulsion explosive, water gel, or detonator. Explosive  
45 materials determined to be within the coverage of sections 319.300 to

46 319.339 shall include all such materials listed in 18 U.S.C. Chapter 40,  
47 as issued at least annually by the Department of Justice, Bureau of  
48 Alcohol, Tobacco, Firearms and Explosives;

49 (14) "Firing", causing explosives to be detonated by the use of a  
50 fuse or electric detonator;

51 (15) "Fire Protection official", an authorized representative of a  
52 municipal fire department, fire protection district, or volunteer fire  
53 protection association for the area where blasting occurs;

54 (16) "Fugitive from justice", any person who has fled from the  
55 jurisdiction of any court of record to avoid prosecution for any crime  
56 or to avoid giving testimony in any criminal proceeding. The term  
57 shall also include any person who has been convicted of any crime and  
58 has fled to avoid case disposition;

59 (17) "Initiation system", components of an explosive charge that  
60 cause the charge to detonate, such as primers, electric detonators, and  
61 detonating charge;

62 (18) "Loading", placing of explosives in a hole in preparation for  
63 detonation;

64 (19) "Local government", a city, county, fire protection district,  
65 volunteer fire protection association, or political subdivision of the  
66 state;

67 (20) "Person", any individual, proprietorship, partnership, firm,  
68 corporation, company, joint venture, association, teaching institution,  
69 municipality, county, political subdivision, or department, board,  
70 commission, institution, or agency of the state of Missouri;

71 (21) "Person using explosives", any business, company, or other  
72 person that is required to hold authority to receive or use explosives  
73 under statutes or regulations administered by the U.S. Department of  
74 Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives and who  
75 employs blasters as required to be licensed by section 319.306;

76 (22) "Regulatory authority", the Missouri division of fire safety,  
77 office of the state fire marshal;

78 (23) "Scaled distance", the linear distance, in feet, from the blast  
79 to a specified location, divided by the square root of the maximum  
80 weight of explosives, in pounds, to be detonated in any eight  
81 millisecond period;

82 (24) "Seismograph", an instrument that measures ground

83 vibration and acoustic effects;

84 (25) "Spacing", the distance between adjacent bore holes;

85 (26) "Stemming", inert material that is placed above explosives  
86 that have been placed in a blast hole in preparation for detonation or  
87 vertically between columnar decks of explosives that have been placed  
88 in a hole in preparation for detonation;

89 (27) "Uncontrolled structure", any dwelling, public building,  
90 school, church, commercial building, or institutional building, that is  
91 not owned or leased by the person using explosives, or otherwise under  
92 the direct contractual responsibility of the person using explosives.

319.306. 1. Any individual who uses explosives in Missouri shall  
2 obtain a blaster's license, except those exempted in subsection 18 of  
3 this section. A company, business, or other person defined as a "person  
4 using explosives" shall not be required to hold a blaster's license, but  
5 all blasting on behalf of such company, business, or other person as  
6 governed by sections 319.300 to 319.339 shall be performed only by  
7 licensed blasters. Applications for a blaster's license or renewal of a  
8 blaster's license shall be on a form designated by the Missouri division  
9 of fire safety, and shall contain the following:

10 (1) The applicant's full name;

11 (2) The applicant's home address;

12 (3) The applicant's date of birth;

13 (4) The applicant's sex;

14 (5) The applicant's physical description;

15 (6) The applicant's driver's license number;

16 (7) The applicant's current place of employment;

17 (8) A listing of any other blasting license or certification held by  
18 the applicant, to include the name, address, and phone number of the  
19 regulatory authority that issued the license or certification;

20 (9) Any other information required to fulfill the obligations of  
21 sections 319.300 to 319.339.

22 2. Any individual who has met the qualifications set forth in  
23 subsection 4 of this section may apply for a blaster's license.

24 3. An applicant for a blaster's license shall submit an application  
25 fee and two copies of the applicant's photograph with the application  
26 submitted to the division of fire safety. The amount of such fee shall  
27 be established by rule promulgated by the division of fire safety under

28 rulemaking authority established in section 319.327. The fee  
29 established by rule shall be no greater than the cost of administering  
30 this section, but shall not exceed one hundred dollars.

31 4. Any applicant for a blaster's license shall meet the following  
32 qualifications:

33 (1) Is at least twenty-one years of age;

34 (2) Has not willfully violated any provisions of sections 319.300  
35 to 319.339;

36 (3) Has not knowingly withheld information or has not made any  
37 false or fictitious statement intended or likely to deceive in connection  
38 with the application;

39 (4) Has familiarity and understanding of relevant federal and  
40 state laws relating to explosives materials;

41 (5) Has not been convicted in any court of, or plead guilty to, a  
42 felony;

43 (6) Is not a fugitive from justice;

44 (7) Is not an unlawful user of any controlled substance in  
45 violation of chapter 195, RSMo;

46 (8) Except as provided in subsections 11 and 13 of this section,  
47 has completed an approved blaster's training course that meets the  
48 requirements of subdivision (1) of subsection 14 of this section and has  
49 successfully passed the licensing examination under the provisions of  
50 subdivisions (1) to (5) of subsection 15 of this section;

51 (9) Has accumulated at least one thousand hours of experience  
52 directly relating to the use of explosives within two years immediately  
53 prior to applying for a blaster's license and shall provide signed  
54 documentation from an employer, supervisor, or other responsible  
55 party verifying the applicant's experience;

56 (10) Has not been adjudicated as mentally defective; and

57 (11) Is a citizen of the United States and does not advocate or  
58 knowingly belong to any organization or group that advocates violent  
59 action against any federal, state, or local government, or against any  
60 person.

61 5. Any individual holding a blaster's license under the provisions  
62 of this section shall promptly notify the division of fire safety if he or  
63 she has had any change of material fact relating to these qualifications  
64 of holding a blaster's license.

65           **6. If the division of fire safety finds that the requirements for a**  
66 **blaster's license have been satisfied, such a license shall be issued to**  
67 **the applicant.**

68           **7. A blaster's license shall expire three years from the date of**  
69 **issuance. To qualify for a renewal of a blaster's license, an individual**  
70 **will be required to provide documentation of completing eight hours of**  
71 **training in an explosives-related course of instruction that is approved**  
72 **by the division of fire safety, half of which shall have been completed**  
73 **within the year prior to renewal. The remainder of such training for**  
74 **renewal of the license may be acquired at any time during the three-**  
75 **year period that a license is valid. Additional training beyond an**  
76 **accumulated eight hours during any three-year period is not valid for**  
77 **more than one subsequent renewal of the license.**

78           **8. Each license issued under the provision of this section shall**  
79 **provide documentation to the license holder in the form of a letter or**  
80 **letter-sized certificate and a card that is approximately two inches by**  
81 **three inches in size. Each shall specify a unique license number, the**  
82 **name of the individual, his or her driver's license number, the**  
83 **individual's photograph, the blaster's license's effective date and its**  
84 **expiration date, and any other record-keeping information needed by**  
85 **the division of fire safety. In addition, the card form of the license**  
86 **shall contain a photographic image of the license holder.**

87           **9. Each individual required to have a blaster's license shall**  
88 **provide documentation that he or she has a currently valid license to**  
89 **a representative of the division of fire safety within two business days**  
90 **of a written or verbal request. No enforcement action shall be taken**  
91 **against any individual that cannot comply with such a request so long**  
92 **as the division of fire safety's records provide documentation that the**  
93 **individual has a valid blaster's license.**

94           **10. (1) A blaster's license issued under the provisions of this**  
95 **section may be suspended or revoked by the division of fire safety upon**  
96 **substantial proof that the individual holding the license has:**

97           **(a) Knowingly failed to monitor the use of explosives as provided**  
98 **in section 319.309;**

99           **(b) Negligently or habitually exceeded the limits established**  
100 **under section 319.312;**

101           **(c) Knowingly or habitually failed to create a record of blasts as**

102 required by section 319.315;

103 (d) Had a change in material fact relating to their qualifications  
104 for holding a blaster's license as described in subsection 4 of this  
105 section;

106 (e) Failed to advise the division of fire safety of any change of  
107 material fact relating to his or her qualifications for holding a blaster's  
108 license; or

109 (f) Knowingly made a material misrepresentation of any  
110 information by any means of false pretense, deception, fraud,  
111 misrepresentation, or cheating for the purpose of obtaining training or  
112 otherwise meeting the qualifications of obtaining a license.

113 (2) The division of fire safety shall provide any notice of  
114 suspension or revocation, as provided in subdivision (1) of this  
115 subsection, in writing, sent by certified mail to the last known address  
116 of the holder of the license. The notice may also be verbal, but this  
117 does not eliminate the requirement for written notice. Upon receipt of  
118 a verbal or written notice of suspension or revocation from the division  
119 of fire safety, the person holding the license shall immediately  
120 surrender all copies of the license to a representative of the division of  
121 fire safety and shall immediately cease all blasting activity.

122 (3) The person holding the license may appeal any suspension or  
123 revocation to the state blasting safety board established under section  
124 319.324 within forty-five days of the date written notice was  
125 received. The division of fire safety shall immediately notify the  
126 chairman of the board that an appeal has been received and a hearing  
127 before the board shall be held. The board shall consider and make a  
128 decision on any appeal received by the division of fire safety within  
129 thirty days of the date the appeal is received by the division of fire  
130 safety. The board shall make a decision on the appeal by majority vote  
131 of the board and shall immediately notify the licensee of its decision in  
132 writing. The written statement of the board's decision shall be  
133 prepared by the division of fire safety or its designee and shall be  
134 approved by the chairman of the board. The approved statement of the  
135 board's decision shall be sent by certified mail to the last known  
136 address of the holder of the license.

137 11. Any person whose license has been expired for a period of  
138 three years or less shall be required to successfully pass the

139 examination as provided in subdivisions (1) to (5) of subsection 15 of  
140 this section and attend the eight hours of training required for renewal  
141 of a license as minimum qualifications for submitting an application for  
142 re-instatement of the license. Any person whose license has been  
143 expired for a period of more than three years shall meet the  
144 qualifications set forth in subsection 4 of this section, including  
145 completing twenty hours of training and passing the examination, prior  
146 to applying for a blaster's license.

147       12. License reciprocity may be granted to applicants that within  
148 the last three years have held a valid license or certification from any  
149 other source if all of the qualifications for obtaining the license or  
150 certification meets or exceeds the provisions of this section. Licenses  
151 or certification held prior to the effective date of the rule required by  
152 subsection 19 of this section shall be deemed to meet requirements for  
153 reciprocity, provided that they meet requirements of the rule. It is the  
154 duty of the division of fire safety to investigate the qualifications  
155 required for obtaining a license or certification that is listed on a  
156 completed application on which the applicant is attempting to obtain  
157 a license issued by the division of fire safety.

158       13. License reciprocity also may be granted upon the application  
159 of a person employed as a blaster on or before December 31, 1995, and  
160 who has accumulated one thousand hours of experience working for a  
161 specific person using explosives within two years immediately prior to  
162 applying for reciprocity. The application shall include a statement of  
163 hours of experience in the form of an affidavit signed by the person  
164 using explosives who has employed or contracted with the blaster for  
165 the preceding two years. Such applicant for reciprocity also shall meet  
166 the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11)  
167 of subsection 4 of this section. Any person granted a license under this  
168 subsection shall be limited to blasting performed for the person  
169 submitting the affidavit required by this subsection. Such blaster  
170 granted reciprocity shall meet the requirements for continuing training  
171 required by subsection 7 of this section.

172       14. (1) The division of fire safety or its authorized agent shall  
173 offer at least two courses of instruction annually that fulfill the  
174 training requirement of qualifying for a blaster's license and renewal  
175 of a blaster's license. In addition, any person may apply to the division



176 of fire safety for approval of a course of instruction that meets the  
177 training requirement of obtaining a blaster's license or renewal of a  
178 blaster's license. The application shall include a description of the  
179 qualifications of the instructor, a description of instructional materials  
180 to be used in the course, and an outline of the subject matter to be  
181 taught, including minimum hours of instruction on each topic. The  
182 division of fire safety shall review the application regarding the  
183 knowledge and experience of proposed instructors, the total hours of  
184 training and the adequacy of proposed training in subject matter with  
185 regard to the provisions of sections 319.300 to 319.339. If the division  
186 of fire safety determines that training proposed by the applicant is  
187 adequate, a letter of approval shall be issued to the applicant. The  
188 letter of approval shall be effective for a period of three years. If at  
189 any time the division of fire safety determines that an approved  
190 training course no longer meets the standards of this section, the letter  
191 of approval may be revoked with written notice. The division of fire  
192 safety or any person providing a course of instruction may charge an  
193 appropriate fee to recover the cost of conducting such instruction.

194 (2) To be approved by the division of fire safety, a blaster's  
195 training course shall contain at least twenty hours of instruction to  
196 prepare attendees for obtaining a blaster's license the first time, or  
197 eight hours of instruction to prepare attendees for obtaining a license  
198 renewal.

199 (3) Any person providing training in a course of instruction  
200 approved by the division of fire safety shall submit a list of individuals  
201 that attended any such course to the division of fire safety within ten  
202 working days after completion of the course.

203 (4) The division of fire safety shall maintain a current list of  
204 persons who provide approved training and shall make this list  
205 available by any reasonable means to professional and trade  
206 associations, labor organizations, universities, vocational schools, and  
207 others upon request.

208 15. (1) The division of fire safety shall approve a standard  
209 examination or examinations for the purpose of qualifying an  
210 individual to obtain a blaster's license. Each individual taking the  
211 examination shall pay a fee to the division of fire safety, or the  
212 division's agent, that is established by regulation. Testing fees shall be

213 no greater than what is required to administer the testing provisions  
214 of this section and shall not exceed fifty dollars per test.

215 (2) Except as provided in subsection 11 of this section, no  
216 individual shall be allowed to take an examination for purposes of  
217 obtaining a blaster's license unless that individual has completed a  
218 training course approved by the division of fire safety. The individual  
219 must have completed an approved course of instruction as provided in  
220 subdivision (1) of subsection 14 of this section no longer than two years  
221 prior to taking the examination. The examination may be administered  
222 by any person approved to provide a course of instruction, as provided  
223 in subdivision (1) of subsection 14 of this section, at the site of  
224 instruction, provided that any such examination may, at the discretion  
225 of the fire marshal, be conducted under the supervision of the state fire  
226 marshal or his or her designee. The division of fire safety may also  
227 administer such examinations at other times and locations.

228 (3) Standards for passing the examination shall be set by the  
229 division of fire safety by rule.

230 (4) The division of fire safety or its authorized agent shall  
231 provide a written statement within thirty days to the individual taking  
232 the examination as to whether that individual passed or failed.

233 (5) Any individual failing to pass the examination may retake the  
234 examination within six months without having to complete an  
235 additional approved course of instruction. If the individual fails the  
236 second examination, the person must complete another course of  
237 instruction as required in subdivision (1) of subsection 14 of this  
238 section before taking the examination again. No limit will be placed on  
239 how many times any individual may take the examination, subject to  
240 the provisions of this subdivision of this subsection.

241 (6) Individuals having previously taken an approved course, and  
242 passed an approved examination, and having taken an approved  
243 refresher training course, or that have obtained a blaster's license as  
244 provided in subsections 12 and 13 of this section are eligible for  
245 renewal of a blaster's license after meeting the requirements of  
246 subsection 7 of this section. The fee for renewal of a license shall be  
247 the same as the fee specified in subsection 3 of this section.

248 16. No individual shall load or fire explosives or direct, order, or  
249 otherwise cause any individual to load or fire explosives in this state

250 unless that individual has a valid blaster's license or is under the direct  
251 supervision and responsibility of an individual having a valid blaster's  
252 license. An individual without a blaster's license that is loading or  
253 firing explosives while under the direct supervision and responsibility  
254 of someone having a blaster's license shall not be in violation of  
255 sections 319.300 to 319.339.

256 17. Persons found guilty of loading or firing explosives, or  
257 directing, ordering, or otherwise causing any individual to load or fire  
258 explosives in this state without having a valid blaster's license, or that  
259 loads and fires explosives without being under the direct supervision  
260 and responsibility of an individual holding a blaster's license as  
261 provided in sections 319.300 to 319.339, shall be guilty of a class B  
262 misdemeanor for the first offense or a class A misdemeanor for the  
263 second offense. Any individual convicted of a class A misdemeanor  
264 under the provisions of sections 319.300 to 319.339 shall be permanently  
265 prohibited from obtaining a blaster's license in this state.

266 18. The requirement for obtaining a blaster's license shall not  
267 apply to:

268 (1) Individuals employed by universities, colleges, or trade  
269 schools when the use of explosives is confined to instruction or  
270 research;

271 (2) Individuals using explosive materials in the forms prescribed  
272 by the official U.S. Pharmacopoeia or the National Formulary and used  
273 in medicines and medicinal agents;

274 (3) Individuals conducting training or emergency operations of  
275 any federal, state, or local government including all departments,  
276 agencies, and divisions thereof, provided they are acting in their  
277 official capacity and in the proper performance of their duties or  
278 functions;

279 (4) Individuals that are members of the armed forces or any  
280 military unit of Missouri or the United States who are using explosives  
281 while on official training exercises or who are on active duty;

282 (5) Individuals using pyrotechnics, commonly known as  
283 fireworks, including signaling devices such as flares, fuses, and  
284 torpedoes;

285 (6) Individuals using small arms ammunition and components  
286 thereof which are subject to the Gun Control Act of 1968, Title 18,

287 Chapter 44 U.S.C., and regulations promulgated thereunder;

288 (7) Any individual performing duties in underground mines  
289 regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing  
290 duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77  
291 of the Code of Federal Regulations, as amended, or using explosives  
292 within an industrial furnace;

293 (8) Any individual having a valid blaster's license or certificate  
294 issued under the provisions of any requirement of the U.S. government  
295 in which the requirements for obtaining the license or certificate meet  
296 or exceed the requirements of sections 319.300 to 319.339;

297 (9) Individuals using agricultural fertilizers when used for  
298 agricultural or horticultural purposes;

299 (10) Individuals handling explosives while in the act of  
300 transporting them from one location to another;

301 (11) Individuals assisting or training under the direct  
302 supervision of a licensed blaster;

303 (12) Individuals handling explosives while engaged in the  
304 process of explosives manufacturing;

305 (13) Employees, agents, or contractors of rural electric  
306 cooperatives organized or operating under chapter 394, RSMo; and

307 (14) Individuals discharging historic firearms and cannon or  
308 reproductions of historic firearms and cannon.

309 19. The division of fire safety shall promulgate rules under this  
310 section to become effective no later than July 1, 2007. Any individual  
311 loading or firing explosives after the effective date of such rule shall  
312 obtain a license within one-hundred eighty days of the effective date of  
313 such rule. Any experience or training prior to the effective date of  
314 such rule that meets the standards established by the rule shall be  
315 deemed to comply with this section.

319.309. 1. Any person using explosives in the state of Missouri  
2 shall calculate the scaled distance to the nearest uncontrolled  
3 structure. If more than one uncontrolled structure is the same  
4 approximate distance from the blast site, then the person using  
5 explosives may select one representative structure for calculation of  
6 scaled distance.

7 2. For the purposes of this section, the term uncontrolled  
8 structure shall not apply to the following:

9           (1) Buildings in a state of disrepair or neglect which are not  
10 being used as a permanent residence;

11           (2) Noncommercial storage sheds;

12           (3) Temporary structures;

13           (4) Any unoccupied mobile recreational vehicle, trailer, or  
14 camper;

15           (5) Agricultural barns, storage sheds, and animal shelters;

16           (6) Any building on mine property that is owned by the mine  
17 operator or contained on property leased by the mine operator.

18           3. In any instance when the scaled distance value is fifty-five or  
19 less, any person using explosives, except as provided in 319.321, shall  
20 use at least one seismograph calibrated to the manufacturer's standard  
21 for use to record the ground vibration and acoustic levels that occur  
22 from the use of such explosives or explosive materials. When  
23 measuring ground vibration and acoustic levels, the seismograph shall  
24 be placed in the proximity of the nearest uncontrolled structure or, at  
25 the option of the person using explosives, closer to the blast site. If  
26 more than one uncontrolled structure is the same approximate distance  
27 from the blast site, then the person using explosives may select one  
28 representative structure for placement of the seismograph.

29           4. Any person voluntarily using a seismograph calibrated to the  
30 manufacturer's standard for use for all blasting is exempt from the  
31 requirements of this section.

          319.312. 1. (1) Any person using explosives in the state of  
2 Missouri in which monitoring with a seismograph is required, as  
3 provided in section 319.309, shall comply with ground vibration limits  
4 based on the U.S. Bureau of Mines Report of Investigations 8507,  
5 Appendix B.

6           (2) In lieu of the ground vibration limit established in  
7 subdivision (1) of this subsection, the person using explosives may  
8 submit a written request to the division of fire safety to use an  
9 alternate compliance method. Such written request must be supported  
10 by sufficient technical information, which may include but not be  
11 limited to, documented approval of such method by other federal, state,  
12 or local political subdivisions which regulate the use of  
13 explosives. Upon submittal by the person using explosives of a request  
14 to use an alternate compliance method, the state blasting safety board

15 shall issue a written determination as to whether the technical  
16 information submitted provides sufficient justification for the alternate  
17 method to be used as a method of demonstrating compliance with the  
18 provisions of this section.

19       2. Any person using explosives in the state of Missouri in which  
20 monitoring with a seismograph is required, as provided in section  
21 319.309, shall limit acoustic values from blasting to one hundred thirty-  
22 three decibels using a two hertz flat response measuring system based  
23 on the Office of Surface Mining regulation 816.67(b)(I).

319.315. 1. Seismograph recordings of the ground vibration and  
2 acoustic levels created by the use of explosives, when required by  
3 section 319.309, shall be retained for at least three years. Such  
4 recordings shall be made available to the division of fire safety within  
5 twenty-four hours of a request by any representative of the division of  
6 fire safety. Each seismograph recording and the accompanying records  
7 shall include the:

- 8       (1) Maximum ground vibration and acoustics levels recorded;
- 9       (2) Specific location of the seismograph equipment, its distance  
10 from the detonation of the explosives, the date of the recording, and the  
11 time of the recording;
- 12       (3) Name of the individual responsible for operation of the  
13 seismograph equipment and performing an analysis of each recording;  
14 and
- 15       (4) Type of seismograph instrument, its sensitivity and  
16 calibration signal or certification date of the last calibration.

17       2. When seismograph recordings of the use of explosives are  
18 required by section 319.309, a record of each such use of explosives  
19 shall be made and retained for at least three years. The record shall be  
20 completed by the end of the work day following the day in which the  
21 explosives were detonated. Such records shall be made available to the  
22 division of fire safety, upon request, within twenty-four hours of the  
23 request. Each record shall include the:

- 24       (1) Name of the person using the explosives;
- 25       (2) Location, date, and time of the detonation;
- 26       (3) Name of the licensed blaster responsible for use of the  
27 explosives;
- 28       (4) Type of material blasted;

- 29           **(5) Number of bore holes, burden, and spacing;**  
30           **(6) Diameter and depth of bore holes;**  
31           **(7) Type of explosives used;**  
32           **(8) Weight of explosives used per bore hole and total weight of**  
33 **explosives used;**  
34           **(9) Maximum weight of explosives detonated within any eight**  
35 **millisecond period;**  
36           **(10) Maximum number of bore holes or decks detonated within**  
37 **any eight millisecond period;**  
38           **(11) Initiation system, including number of circuits and the timer**  
39 **interval, if a sequential timer is used;**  
40           **(12) Type and length of stemming;**  
41           **(13) Type of detonator and delay periods used, in milliseconds;**  
42           **(14) Sketch of delay pattern, including decking;**  
43           **(15) Distance and scaled distance, if required under the**  
44 **provisions of 319.309, to the nearest uncontrolled structure;**  
45           **(16) Location of the nearest uncontrolled structure, using the**  
46 **best available information.**

47           **3. It shall be the duty of each licensed blaster and each person**  
48 **using explosives to assure that the requirements of this section are**  
49 **met. Any person using explosives shall provide properly calibrated**  
50 **seismographic equipment at the closest practical proximity to the**  
51 **nearest uncontrolled structure, or at the option of the person using**  
52 **explosives the seismograph equipment may be located nearer to the**  
53 **blast site on an approximate line between the nearest uncontrolled**  
54 **structure and the blast site. Licensed blasters shall create the record**  
55 **required in subsection 2 of this section and provide such record to the**  
56 **person using explosives, who shall be responsible for maintaining**  
57 **records required in this section.**

**319.318. 1. Any person using explosives shall comply with the**  
2 **provisions of this section.**

3           **2. Provisions of federal law and regulation regarding the**  
4 **manufacturing, transportation, distribution, and storage of explosives**  
5 **shall be enforced by the appropriate federal agency and shall not be**  
6 **subject to enforcement under sections 319.300 through 319.339.**

7           **3. Within sixty days after the effective date of sections 319.300 to**  
8 **319.339, each person using explosives or intending to use explosives in**

9 Missouri shall register with the state fire marshal. Any person not  
10 required to register on the effective date, who subsequently uses  
11 explosives in Missouri, shall register with the state fire marshal prior  
12 to first using explosives in Missouri. The initial registration shall state  
13 the name of the person, address, telephone number, facsimile number,  
14 e-mail address, and name of the principal individual having  
15 responsibility for supervision of the use of explosives. A fee of one  
16 hundred dollars shall be submitted with the initial registration.

17 4. Each person using explosives that is required to register  
18 under subsection 3 of this section shall by January thirty-first of each  
19 year after registering, file an annual report with the state fire marshal  
20 for the preceding calendar year.

21 (1) The annual report shall state any material change or addition  
22 to the information stated in the report required by subsection 3 of this  
23 section.

24 (2) The initial annual report shall only include that portion of  
25 the preceding calendar year after the date the person became subject  
26 to the requirement to register under subsection 3 of this section.

27 (3) The report shall include:

28 (a) The name and address of the explosives distributors from  
29 which explosives were purchased;

30 (b) The total number of pounds of explosives purchased during  
31 the period required to be covered by the report. For persons who  
32 purchase explosives for use in multiple states, the report need only  
33 state the total number of pounds which were delivered for use in  
34 Missouri. Persons required to annually report shall maintain records  
35 sufficient to prove the accuracy of the information reported.

36 (4) The person shall submit with the annual report a fee per ton,  
37 as established under this section, based on the amount of explosives  
38 reported. If the report of total pounds purchased results in a portion  
39 of a ton, the cumulative total of the fee shall be rounded to the nearest  
40 ton. The minimum total fee submitted by any person required to  
41 annually report shall be five hundred dollars. In addition to the  
42 minimum fee, any person using explosives during any year shall pay a  
43 fee of one dollar and fifteen cents on each ton of explosives used. The  
44 fee authorized under this subdivision may be adjusted by rule provided  
45 the fee shall not exceed one dollar and fifty cents per ton. The state



46 **blasting safety board shall review the fee schedule on a biennial basis**  
47 **and make recommendations for adjustments.**

48 **5. (1) The state fire marshal may audit the records of any person**  
49 **required to annually report under subsection 4 of this section to**  
50 **determine the accuracy of the number of pounds of explosives reported.**  
51 **In connection with such audit, the state fire marshal may also require**  
52 **any distributor of explosives to provide a statement of sales during the**  
53 **year to persons required to report under subsection 4 of this section.**

54 **(2) It shall be a violation of sections 319.300 to 319.339 to fail to**  
55 **register as required by subsection 3 of this section or knowingly report**  
56 **false information in the reports required under subsections 3 and 4 of**  
57 **this section. The state fire marshal may issue a notice of violation for**  
58 **reporting false information. The notice of violation shall be subject to**  
59 **the same procedures and rights of appeal as established in sections**  
60 **319.324, 319.327, and 319.333. Upon conviction for knowingly filing a**  
61 **false report, the person shall be subject to a penalty as a class B**  
62 **misdemeanor. Conviction upon a second or subsequent offense shall be**  
63 **subject to penalty as a class A misdemeanor.**

64 **6. It shall also be a violation of sections 319.300 to 319.339 for**  
65 **any person using explosives to:**

66 **(1) Engage in blasting other than by a licensed blaster or an**  
67 **individual working under the direct supervision of a licensed blaster;**

68 **(2) Fail to calculate the scaled distance, conduct monitoring of**  
69 **vibration and noise levels, and conduct record keeping as required by**  
70 **sections 319.300 to 319.339;**

71 **(3) Fail to carry a minimum of one million dollars in commercial**  
72 **general liability insurance.**

73 **7. Upon a conviction or guilty plea to violation of subsection 6**  
74 **of this section, the person shall be subject to a penalty as a class B**  
75 **misdemeanor upon the first offense, and upon a second or subsequent**  
76 **offense, the person shall be subject to a penalty as a class A**  
77 **misdemeanor as provided in subsection 1 of section 560.021, RSMo.**

**319.321. Sections 319.309, 319.312, 319.315, and 319.318 shall not**  
2 **apply to:**

3 **(1) Universities, colleges, or trade schools when confined to the**  
4 **purpose of instruction or research;**

5 **(2) The use of explosive materials in the forms prescribed by the**

6 official U.S. Pharmacopoeia or the National Formulary and used in  
7 medicines and medicinal agents;

8 (3) The training or emergency operations of any federal, state,  
9 or local government including all departments, agencies, and divisions  
10 thereof, provided they are acting in their official capacity and in the  
11 proper performance of their duties or functions;

12 (4) The use of explosives by the military or any agency of the  
13 United States;

14 (5) The use of pyrotechnics, commonly known as fireworks,  
15 including signaling devices such as flares, fuses, and torpedoes;

16 (6) The use of small arms ammunition and components thereof  
17 which are subject to the Gun Control Act of 1968, Title 18, Chapter 44,  
18 U.S.C., and regulations promulgated thereunder. Any small arms  
19 ammunition and components thereof exempted by the Gun Control Act  
20 of 1968 and regulations promulgated thereunder are also exempted  
21 from the provisions of sections 319.300 to 319.339;

22 (7) Any person performing duties in underground mines  
23 regulated by 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing  
24 duties in coal mining regulated by 30 CFR Part 75, and 30 CFR Part 77  
25 of the Code of Federal Regulations, as amended, or using explosives  
26 within an industrial furnace;

27 (8) The use of agricultural fertilizers when used for agricultural  
28 or horticultural purposes;

29 (9) The use of explosives for demolition of structures;

30 (10) The use of explosives by employees, agents, or contractors  
31 of rural electric cooperatives organized or operating under chapter 394,  
32 RSMo and;

33 (11) Individuals discharging historic firearms and cannon or  
34 reproductions of historic firearms and cannon.

319.324. 1. A state blasting safety board is hereby created and  
2 assigned to the division of fire safety under the state fire  
3 marshal. There shall be seven members of this board, as appointed by  
4 the governor, with the advice and consent of the senate, to be  
5 comprised of:

6 (1) One representative of a municipality who serves in the  
7 capacity of director of public works or a similar position;

8 (2) One representative of a person using explosives that is

9 engaged in surface mining that is subject to the requirements of section  
10 319.300 to 319.339;

11 (3) One representative of a person using explosives that is  
12 engaged in construction;

13 (4) One representative of a person that is in the business of  
14 providing contract blast monitoring services;

15 (5) Two representatives of persons that manufacture or  
16 distribute explosives; and

17 (6) The state fire marshal or his or her designee.

18 2. Each board member shall serve for a term of six years, except  
19 for the members initially appointed one term shall be for one year, one  
20 term shall be for two years, one term shall be for three years, one term  
21 shall be for four years, one term shall be for five years, and one term  
22 shall be for six years. Members appointed and serving shall serve until  
23 their successor is named and shall be eligible for reappointment. The  
24 state fire marshal or his or her designee shall be a standing member of  
25 the board and shall have the power to vote.

26 3. Members of the board shall serve without compensation but  
27 may be reimbursed by the division of fire safety for reasonable and  
28 necessary expenses. Meetings of the board shall be held in facilities  
29 arranged by the division of fire safety. Hearings of the board may be  
30 held at a location in Missouri agreed upon by the state fire marshal and  
31 the chairman of the board. Upon agreement by the licensee, the state  
32 fire marshal, and the chairman of the state blasting safety board,  
33 hearings may be conducted by conference call.

34 4. The board shall annually by January thirty first elect a  
35 chairman from one of the members other than the state fire marshal or  
36 his or her designee. The chairman shall be elected by majority vote of  
37 the board and shall preside over all meetings and hearings and perform  
38 any specific duties set out in sections 319.300 to 319.339.

39 5. The state fire marshal or his or her designee shall perform the  
40 duties of secretary of the board.

41 6. The board shall meet as needed at the call of the chairman or  
42 upon written notice by the state fire marshal. The board shall meet at  
43 least once each calendar year.

44 7. It shall be the duty of the board to:

45 (1) Advise the state fire marshal in the development of

46 application and registration forms, training and examinations, and  
47 setting fees for the filing of required applications, registrations, and  
48 reports;

49 (2) Approve or disapprove any examination for licensing of  
50 blasters;

51 (3) Hold hearings and make decisions by majority vote upon  
52 appeals under section 319.306 and upon notices of violation under  
53 section 319.333;

54 (4) Approve or disapprove any rule proposed by the division of  
55 fire safety for the administration of sections 319.300 to 319.339;

56 (5) Advise or assist the division of fire safety in any other matter  
57 regarding administration or enforcement, within the scope and  
58 requirements of sections 319.300 to 319.339.

59 8. For any matter upon which a hearing is held under  
60 subdivision (3) of subsection 7 of this section, any referral of a notice  
61 of violation or request for criminal or civil enforcement action or  
62 injunctive relief shall be made by the state fire marshal to the attorney  
63 general or a prosecuting attorney, only upon a positive majority vote  
64 by the board.

319.327. It shall be the duty of the division of fire safety to:

2 (1) Develop and distribute all forms, certificates, and printed  
3 material necessary for carrying out duties relating to applications,  
4 registrations, training, testing, and licensing required by sections  
5 319.300 to 319.339.

6 (2) Publish, distribute, and administer an examination that tests  
7 the knowledge of applicants for a blaster's license in the safe and  
8 proper use of explosives. The examination may be given to applicants  
9 by representatives of the division of fire safety, by persons approved  
10 by division of fire safety to provide training under section 319.306, or  
11 by other persons designated by the division of fire safety.

12 (3) Upon approval by majority vote of the state blasting safety  
13 board, promulgate any rule necessary for carrying out the purposes of  
14 sections 319.300 to 319.339. No rule promulgated by the state fire  
15 marshal shall duplicate, amend, supersede, or conflict with the  
16 provisions of any statute, regulation, or policy established by:

17 (a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco,  
18 Firearms and Explosives;

19           **(b) 18 U.S.C., Chapter 40, Importation, Manufacturing,**  
20 **Distribution and Storage of Explosive Materials;**

21           **(c) The U.S. Department of Transportation;**

22           **(d) The federal Mine Safety and Health Administration;**

23           **(e) The federal Occupational Safety and Health Administration;**

24           **(4) Investigate possible violations of sections 319.300 to 319.339**  
25 **upon the complaint of any citizen that believes explosives are being**  
26 **used in such a way to endanger the public's safety or property, or upon**  
27 **any cause for the state fire marshal to believe that a violation is**  
28 **occurring. To conduct such investigations, the state fire marshal shall**  
29 **assign adequately trained personnel within the division of fire safety**  
30 **to inspect blasting sites, examine records and seismograph recordings,**  
31 **inspect blaster's licenses, inspect registration and reporting records**  
32 **required by section 319.315, or determine if any other provision of**  
33 **sections 319.300 to 319.339 has been violated. Such inspectors shall be**  
34 **employees of the division of fire safety and may act on a full-time or**  
35 **part-time basis. Any such inspector shall meet the requirements of**  
36 **section 319.306 for being licensed as a blaster in the state of Missouri.**

37           **(5) The division of fire safety may enforce any provision of**  
38 **sections 319.300 to 319.339 by referral of violations to the attorney**  
39 **general or a prosecuting attorney and may seek criminal penalties and**  
40 **may seek injunctive relief. For any matter upon which a hearing is**  
41 **held under subdivision (3) of subsection 7 of this section, any referral**  
42 **of a notice of violation or request for criminal or civil enforcement**  
43 **action or injunctive relief shall be made by the state fire marshal to the**  
44 **attorney general or a prosecuting attorney, only upon a positive**  
45 **majority vote by the board.**

46           **(6) Receive and provide information and assistance, in**  
47 **cooperation with local governments, federal agencies, and agencies of**  
48 **other states, in administration and enforcement of sections 319.300 to**  
49 **319.339 and similar laws, regulations, and requirements in other**  
50 **jurisdictions.**

**319.330. There is hereby created in the state treasury the**  
2 **"Missouri Explosives Safety Act Administration Fund", which shall**  
3 **consist of all fees collected under sections 319.300 to 319.339,**  
4 **appropriations of the general assembly, federal grants, and private**  
5 **donations. The state treasurer shall be custodian of the fund. In**

6 accordance with sections 30.170 and 30.180, RSMo, the state treasurer  
7 may approve disbursements. Upon appropriation, money in the fund  
8 shall be used solely for the administration of sections 319.300 to  
9 319.339. Notwithstanding the provisions of section 33.080, RSMo, to the  
10 contrary, any moneys remaining in the fund at the end of the biennium  
11 shall not revert to the credit of the general revenue fund. The state  
12 treasurer shall invest moneys in the fund in the same manner as other  
13 funds are invested. Any interest and moneys earned on such  
14 investments shall be credited to the fund. The state fire marshal shall  
15 submit a report to the state blasting safety board and the public each  
16 year that describes the revenue created by fees established under the  
17 provisions of sections 319.300 to 319.339 and how the revenue was  
18 expended to enforce the provisions of sections 319.300 to 319.339,  
19 including the number of employees used and activities performed.

319.333. Any person the state fire marshal or his or her  
2 representative determines, upon substantial evidence, to be in violation  
3 of sections 319.300 to 319.339 may be issued a notice of violation by the  
4 division of fire safety. Any hearings regarding suspension or  
5 revocation of a blaster's license shall be conducted under the  
6 provisions of subsection 10 of section 319.306, rather than the  
7 provisions of this section. The notice of violation shall be in writing  
8 and shall state the section or sections violated and the circumstance of  
9 the violation, including date, place, person involved, and the act or  
10 omission constituting the violation. The notice shall also inform the  
11 person receiving the notice of the right to request a hearing before the  
12 state blasting safety board. The recipient may request a hearing within  
13 forty-five days of the date the notice was received. If a hearing is  
14 requested, the state fire marshal shall immediately inform the  
15 chairman of the board. The person receiving the notice, the state fire  
16 marshal, and the chairman of the board shall establish a mutually  
17 acceptable date and place for the hearing, which in no case shall be  
18 more than thirty days after the hearing was requested. The hearing  
19 shall be conducted as an uncontested case, although the person or the  
20 state fire marshal may be represented by an attorney. Within fifteen  
21 days of such hearing, the board shall notify the person of its decision  
22 on the appeal, which may include upholding, modifying, or  
23 disapproving the notice of violation. The board's action upon the

24 appeal shall be decided by majority vote. If the notice of violation is  
25 upheld by the board, in whole or part, upon a separate majority vote of  
26 the board, the person may be referred for enforcement action as  
27 provided in section 319.327.

319.336. Any person aggrieved by any official action of the state  
2 blasting safety board or the division of fire safety affecting their  
3 licensed status, including revocation, suspension, failure to renew, or  
4 refusal to grant a license may seek a determination thereon by the  
5 administrative hearing commission under the provisions of section  
6 621.045, RSMo.

319.338. 1. Any person using explosives within Missouri shall  
2 notify the division of fire safety in writing or by telephone at least two  
3 business days in advance of first using explosives at a site where  
4 blasting has not previously been conducted at that location. If blasting  
5 will be conducted at an ongoing project, such as a long term  
6 construction project, or at a permanent site, such as a surface mine, the  
7 person shall only be required to make one notice to the division of fire  
8 safety in advance of the first use of explosives.

9 2. The notice required by this section shall state the name,  
10 address, and telephone number of the person using explosives, the  
11 name of the individual responsible for supervision of blasting, the date  
12 or approximate period over which blasting will be conducted, the  
13 location of blasting by street address, route, or other description, and  
14 the nature of the project or reason for blasting.

15 3. This section shall not apply to any blasting required by a  
16 contract with any agency of the state of Missouri, any federal agency,  
17 or any political subdivision.

319.339. 1. Any person using explosives which will conduct  
2 blasting within the jurisdiction of a municipality shall notify the  
3 appropriate representative of the municipality in writing or by  
4 telephone at least two business days in advance of blasting at that  
5 location. An appropriate representative shall be deemed to be the city's  
6 public works department, code enforcement official, or an official at  
7 the main office maintained by the municipality. In any area where  
8 blasting will be conducted, whether in a municipality or in an  
9 unincorporated area, the person using explosives also shall notify the  
10 appropriate fire protection official for the jurisdiction where blasting

11 will occur, which may be a city fire department, fire protection district,  
12 or volunteer fire protection association. The notice required by this  
13 section shall state the name, address, and telephone number of the  
14 person using explosives, the name of the individual responsible for  
15 supervision of blasting, the date or approximate period over which  
16 blasting will be conducted, the location of blasting by street address,  
17 route, or other description, and the nature of the project or reason for  
18 blasting. If blasting will be conducted at an ongoing project, such as  
19 a long term construction project, or at a permanent site, such as a  
20 surface mine, the person shall only be required to make one notice to  
21 the municipality or appropriate fire protection official in advance of  
22 the first use of explosives. Any such ongoing projects or permanent  
23 sites in existence at the time of the effective date of sections 319.300 to  
24 319.339 shall not be required to provide notice as described in this  
25 subsection.

26       2. Any person using explosives which will conduct blasting  
27 within the jurisdiction of a municipality shall notify the owner or  
28 occupant of any residence or business located within a scaled distance  
29 of fifty-five feet from the site of blasting prior to the start of blasting  
30 at any new location. One notification by mail, telephone, printed  
31 notification posted prominently on the premises or the property, or  
32 delivered in person to any such owner or occupant meets the  
33 requirements of this subsection. A municipality may provide the name,  
34 last known address, and telephone number of the owners or occupants  
35 of any residence or business that may be located within the scaled  
36 distance of fifty-five feet from the site of blasting to the person using  
37 explosives upon request.

38       3. Any municipality or county may by ordinance:

39       (1) Require that a permit be obtained in addition to the notice  
40 required by subsection 1 of this section, with such application for  
41 permit being due no more than ten days prior to the first use of  
42 explosives;

43       (2) Require that the application for the permit contain specific  
44 information about the type of explosives to be used and their storage  
45 location at the site where used;

46       (3) Require the applicant to demonstrate an acceptable plan for  
47 signage or other means of informing the public of blasting in proximity



48 to public streets or highways and any request for temporary closing of  
49 streets or routing of traffic;

50 (4) Specify the times of days blasting may be conducted, which  
51 shall not be less than eight consecutive hours, and provide that blasting  
52 may not be conducted on Sunday except upon application of the person  
53 using explosives and approval by the municipality;

54 (5) Require that the applicant submit proof that the person using  
55 explosives is registered with the division of fire safety and that blasting  
56 will be conducted by blasters licensed by the state of Missouri, division  
57 of fire safety;

58 (6) Require that the applicant submit proof of commercial  
59 general liability insurance in an acceptable amount, which shall be no  
60 less than one million dollars and no more than five million dollars;

61 (7) Require that the applicant conduct a pre-blast survey of any  
62 uncontrolled structures within a scaled distance of fifty-five feet from  
63 the blast site.

64 4. A permit for blasting under a municipal ordinance authorized  
65 by subsection 3 of this section shall be granted by the municipality  
66 upon satisfying the requirements of the ordinance and upon the  
67 applicant's payment of a reasonable fee to cover the administration of  
68 the permit system.

69 5. Any authorized representative of a municipality or an  
70 appropriate fire protection official may:

71 (1) Require any person using explosives to show proof that he or  
72 she is registered with the division of fire safety and blasting is being  
73 conducted by an individual that is licensed under the provisions of  
74 section 319.306;

75 (2) Request and be allowed access to the site of blasting by the  
76 person using explosives and shall be allowed to observe blasting from  
77 a safe location as designated by the blaster;

78 (3) Examine records of blasting required to be maintained by  
79 sections 319.309 and 319.315. However, no municipality or fire  
80 protection official shall require a person using explosives or a blaster  
81 to surrender such records or a copy of such records to the municipality  
82 or fire protection official;

83 (4) Report suspected violations of section 319.300 to 319.339 to  
84 the division of fire safety.

85           **6. Subsections 1, 2, 3, and 4 of this section shall not apply to any**  
86 **blasting required by a construction contract with any agency of the**  
87 **state of Missouri, any federal agency, or any political subdivision.**

88           **7. The state of Missouri hereby preempts existing regulation,**  
89 **licensing, and inspection of persons using explosives, blasters, and**  
90 **blasting by local governments, except as authorized in this section. It**  
91 **shall be unlawful for any local government to impose any future**  
92 **ordinance, order, permit or regulation upon persons using explosives**  
93 **or blasters which duplicates, exceeds or conflicts with the requirements**  
94 **of sections 319.300 to 319.339. Nothing in this section shall preempt the**  
95 **rights and remedies afforded by the general assembly or common law**  
96 **to persons damaged by blasting.**

✓

Bill

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