

SECOND REGULAR SESSION

SENATE BILL NO. 882

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time January 17, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4352S.01

AN ACT

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

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 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. In underground
15 mines, at least fifteen feet of a solid rib, pillar, or broken rock can be
16 substituted for the fifty foot distance;

17 (5) "Board", the state blasting safety board created in section
18 319.324;

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

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

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

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

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

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

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

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

47 materials determined to be within the coverage of sections 319.300 to
48 319.339 shall include all such materials listed in 18 U.S.C. Chapter 40,
49 as issued at least annually by the Department of Justice, Bureau of
50 Alcohol, Tobacco, Firearms and Explosives;

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

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

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

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

63 (18) "Local government", a city, county, fire district, or other
64 political subdivision of the state;

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

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

74 (21) "Regulatory authority", the Missouri division of fire safety,
75 office of the state fire marshal;

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

80 (23) "Seismograph", an instrument that measures ground
81 vibration and acoustic effects;

82 (24) "Spacing", the distance between adjacent bore holes;

83 (25) "Stemming", inert material that is placed above explosives

84 that have been placed in a blast hole in preparation for detonation or
85 vertically between columnar decks of explosives that have been placed
86 in a hole in preparation for detonation;

87 (26) "Uncontrolled structure", any dwelling, public building,
88 school, church, commercial building, institutional building,
89 underground pipeline, or water well that is not owned or leased by the
90 person using explosives, or otherwise under the direct contractual
91 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 17 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 social security number;
- 16 (7) The applicant's driver's license number;
- 17 (8) The applicant's current place of employment;
- 18 (9) A listing of any other blasting license or certification held by
19 the applicant, to include the name, address, and phone number of the
20 regulatory authority that issued the license or certification;
- 21 (10) Any other information required to fulfill the obligations of
22 sections 319.300 to 319.339.

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

25 3. An applicant for a blaster's license shall submit an application
26 fee and two copies of the applicant's photograph with the application
27 submitted to the division of fire safety. The amount of such fee shall
28 be established by rule promulgated by the division of fire safety under
29 rulemaking authority established in section 319.327. The fee

30 established by rule shall be no greater than the cost of administering
31 this section, but shall not exceed one hundred dollars.

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

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

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

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

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

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

44 (6) Is not a fugitive from justice;

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

47 (8) Except as provided in subsection 11 of this section, has
48 completed an approved blaster's training course that meets the
49 requirements of subdivision (1) of subsection 12 of this section and has
50 successfully passed the certification examination under the provisions
51 of subdivisions (1) to (5) of subsection 13 of this section;

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

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

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

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

66 6. If the division of fire safety finds that the requirements for a

67 blaster's license have been satisfied, such a license shall be issued to
68 the applicant.

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

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

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

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

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

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

102 (c) Knowingly or habitually failed to create a record of blasts as
103 required by section 319.315;

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

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

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

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

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

138 11. Any person whose license has been expired for a period of
139 three years or less shall be required to successfully pass the
140 examination as provided in subdivisions (1) to (5) of subsection 13 of

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

148 12. License reciprocity may be granted to applicants that within
149 the last three years have held a valid license or certification from any
150 other source if all of the qualifications for obtaining the license or
151 certification meets or exceeds the provisions of this section. Licenses
152 or certification held prior to the effective date of the rule required by
153 subsection 18 of this section shall be deemed to meet requirements for
154 reciprocity, provided that they meet requirements of the rule. It is the
155 duty of the division of fire safety to investigate the qualifications
156 required for obtaining a license or certification that is listed on a
157 completed application on which the applicant is attempting to obtain
158 a license issued by the division of fire safety.

159 13. (1) The division of fire safety or its authorized agent shall
160 offer at least two courses of instruction annually that fulfills the
161 training requirement of qualifying for a blaster's license and renewal
162 of a blaster's license. In addition, any person may apply to the division
163 of fire safety for approval of a course of instruction that meets the
164 training requirement of obtaining a blaster's license or renewal of a
165 blaster's license. The application shall include a description of the
166 qualifications of the instructor, a description of instructional materials
167 to be used in the course, and an outline of the subject matter to be
168 taught, including minimum hours of instruction on each topic. The
169 division of fire safety shall review the application regarding the
170 knowledge and experience of proposed instructors, the total hours of
171 training and the adequacy of proposed training in subject matter with
172 regard to the provisions of sections 319.300 to 319.339. If the division
173 of fire safety determines that training proposed by the applicant is
174 adequate, a letter of approval shall be issued to the applicant. The
175 letter of approval shall be effective for a period of three years. If at
176 any time the division of fire safety determines that an approved
177 training course no longer meets the standards of this section, the letter

178 of approval may be revoked with written notice.

179 (2) To be approved by the division of fire safety, a blaster's
180 training course shall contain at least twenty hours of instruction to
181 prepare attendees for obtaining a blaster's license the first time, or
182 eight hours of instruction to prepare attendees for obtaining a license
183 renewal.

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

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

193 14. (1) The division of fire safety shall approve a standard
194 examination or examinations for the purpose of qualifying an
195 individual to obtain a blaster's license. Each individual taking the
196 examination shall pay a fee to the division of fire safety, or the
197 division's agent, that is established by regulation. Testing fees shall be
198 no greater than what is required to administer the testing provisions
199 of this section and shall not exceed fifty dollars per test.

200 (2) Except as provided in subsection 10 of this section, no
201 individual shall be allowed to take an examination for purposes of
202 obtaining a blaster's license unless that individual has completed a
203 training course approved by the division of fire safety. The individual
204 must have completed an approved course of instruction as provided in
205 subdivision (1) of subsection 12 of this section no longer than two years
206 prior to taking the examination. The examination may be administered
207 by any person approved to provide a course of instruction, as provided
208 in subdivision (1) of subsection 12 of this section, at the site of
209 instruction, or by the division of fire safety under the supervision of
210 the state fire marshal or his or her designee. The division of fire safety
211 may also administer such examinations at other times and locations.

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

214 (4) The division of fire safety or its authorized agent shall

215 provide a written statement within thirty days to the individual taking
216 the examination as to whether that individual passed or failed.

217 (5) Any individual failing to pass the examination may retake the
218 examination within six months without having to complete an
219 additional approved course of instruction. If the individual fails the
220 second examination, the person must complete another course of
221 instruction as required in subdivision (1) of subsection 12 of this
222 section before taking the examination again. No limit will be placed on
223 how many times any individual may take the examination, subject to
224 the provisions of this subdivision of this subsection.

225 (6) Individuals having previously taken an approved course, and
226 passed an approved examination, and having taken an approved
227 refresher training course, or that have obtained a blaster's license as
228 provided in subsection 11 of this section are eligible for renewal of a
229 blaster's license after meeting the requirements of subsection 6 of this
230 section. The fee for renewal of a license shall be the same as the fee
231 specified in subsection 3 of this section.

232 15. No individual shall load or fire explosives or direct, order, or
233 otherwise cause any individual to load or fire explosives in this state
234 unless that individual has a valid blaster's license or is under the direct
235 supervision and responsibility of an individual having a valid blaster's
236 license. An individual without a blaster's license that is loading or
237 firing explosives while under the direct supervision and responsibility
238 of someone having a blaster's license shall not be in violation of
239 sections 319.300 to 319.339.

240 16. Persons found guilty of loading or firing explosives, or
241 directing, ordering, or otherwise causing any individual to load or fire
242 explosives in this state without having a valid blaster's license, or that
243 loads and fires explosives without being under the direct supervision
244 and responsibility of an individual holding a blaster's license as
245 provided in sections 319.300 to 319.339, shall be guilty of a class B
246 misdemeanor for the first offense or a class A misdemeanor for the
247 second offense. Any individual convicted of a class A misdemeanor
248 under the provisions of sections 319.300 to 319.339 shall be permanently
249 prohibited from obtaining a blaster's license in this state.

250 17. The requirement for obtaining a blaster's license shall not
251 apply to:

252 (1) Individuals employed by universities, colleges, or trade
253 schools when the use of explosives is confined to instruction or
254 research;

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

258 (3) Individuals conducting training or emergency operations of
259 any federal, state, or local government including all departments,
260 agencies, and divisions thereof, provided they are acting in their
261 official capacity and in the proper performance of their duties or
262 functions;

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

266 (5) Individuals using pyrotechnics, commonly known as
267 fireworks, including signaling devices such as flares, fuses, and
268 torpedoes;

269 (6) Individuals using small arms ammunition and components
270 thereof which are subject to the Gun Control Act of 1968, Title 18,
271 Chapter 44 U.S.C., and regulations promulgated thereunder;

272 (7) Any individual performing duties regulated by 30 CFR Part
273 48, Subpart A and 30 CFR Part 57 of the Code of Federal Regulations,
274 as amended, or using explosives within an industrial furnace;

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

279 (9) Individuals using agricultural fertilizers when used for
280 agricultural or horticultural purposes;

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

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

285 (12) Individuals handling explosives while engaged in the
286 process of explosives manufacturing;

287 (13) Employees, agents, or contractors of rural electric
288 cooperatives organized or operating under chapter 394, RSMo.

289 18. The division of fire safety shall promulgate rules under this
290 section to become effective no later than July 1, 2007. Any individual
291 loading or firing explosives after the effective date of such rule shall
292 obtain a license within one-hundred eighty days of the effective date of
293 such rule. Any experience or training prior to the effective date of
294 such rule that meets the standards established by the rule shall be
295 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 to one hundred thirty-three decibels
22 using a two hertz flat response measuring system based on the Office
23 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 controlled structure;
- 45 (16) Location of the nearest controlled structure, using the best
46 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 required
55 record 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 the subject of state enforcement.

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 within
12 thirty days after first using explosives in Missouri. The initial
13 registration shall state the name of the person, address, telephone
14 number, facsimile number, e-mail address, and name of the principal
15 individual having responsibility for supervision of the use of
16 explosives. A fee of one hundred dollars shall be submitted with the
17 initial registration.

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

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

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

28 (3) The report shall include:

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

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

37 **(4) The person shall submit with the annual report a fee per ton,**
38 **as established under this section, based on the amount of explosives**
39 **reported. If the report of total pounds purchased results in a portion**
40 **of a ton, the cumulative total of the fee shall be rounded to the nearest**
41 **ton. The minimum total fee submitted by any person required to**
42 **annually report shall be five hundred dollars. In addition to the**
43 **minimum fee, any person using explosives during any year shall pay a**
44 **fee of one dollar and fifteen cents on each ton of explosives used. The**
45 **state blasting safety board shall review the fee schedule on a biennial**
46 **basis and make recommendations for adjustments.**

47 **5. (1) The state fire marshal may audit the records of any person**
48 **required to annually report under subsection 4 of this section to**
49 **determine the accuracy of the number of pounds of explosives reported.**
50 **In connection with such audit, the state fire marshal may also require**
51 **any distributor of explosives to provide a statement of sales during the**
52 **year to persons required to report under subsection 4 of this section.**

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

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

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

67 **(2) Fail to calculate the scaled distance, conduct monitoring of**

68 vibration and noise levels, and conduct record keeping as required by
69 sections 319.300 to 319.339.

70 7. Upon a conviction or guilty plea to violation of subsection 6
71 of this section, the person shall be subject to a penalty as a class B
72 misdemeanor upon the first offense, and upon a second or subsequent
73 offense, the person shall be subject to a penalty as a class A
74 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 regulated by 30 CFR Part 48,
23 Subpart A and 30 CFR Part 57 of the Code of Federal Regulations, as
24 amended, or using explosives within an industrial furnace;

25 (8) The use of agricultural fertilizers when used for agricultural
26 or horticultural purposes;

27 (9) The use of explosives for demolition of structures; and

28 (10) The use of explosives by employees, agents, or contractors
29 of rural electric cooperatives organized or operating under chapter 394,
30 RSMo.

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 person using explosives that is
7 engaged in underground mining;

8 (2) One representative of a person using explosives that is
9 engaged in surface mining;

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

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

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

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

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

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

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

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

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

43 **7. It shall be the duty of the board to:**

44 **(1) Advise the state fire marshal in the development of**
45 **application and registration forms, training and examinations, and**
46 **setting fees for the filing of required applications, registrations, and**
47 **reports;**

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

50 **(3) Hold hearings and make decisions by majority vote upon**
51 **appeals of revocation or suspension of blaster's licenses, notices of**
52 **violation, and orders of cessation of the use of explosives;**

53 **(4) Approve or disapprove the state fire marshal's referral of a**
54 **violation of sections 319.300 to 319.339 to the appropriate prosecuting**
55 **attorney or the attorney general for enforcement action;**

56 **(5) Approve or disapprove any rule proposed by the division of**
57 **fire safety for the administration of sections 319.300 to 319.339;**

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

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

34 (5) Upon approval by majority vote of the state blasting safety
35 board, refer any violation of sections 319.300 to 319.339 to the
36 appropriate prosecuting attorney or the attorney general of Missouri
37 for enforcement action.

38 (6) Receive and provide information and assistance, in
39 cooperation with local governments, federal agencies, and agencies of
40 other states, in administration and enforcement of sections 319.300 to
41 319.339 and similar laws, regulations, and requirements in other
42 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 and shall
6 approve disbursements from the fund in accordance with sections
7 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall
8 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 an underground
7 or surface mine, the person shall only be required to make one notice
8 to the division of fire 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 fire department or public works department, or an official at the main
7 office maintained by the municipality. The notice required by this
8 section shall state the name, address, and telephone number of the
9 person using explosives, the name of the individual responsible for
10 supervision of blasting, the date or approximate period over which
11 blasting will be conducted, the location of blasting by street address,
12 route, or other description, and the nature of the project or reason for
13 blasting. If blasting will be conducted at an ongoing project, such as
14 a long term construction project, or at a permanent site, such as an

15 underground or surface mine, the person shall only be required to
16 make one notice to the local government in advance of the first use of
17 explosives. Any such ongoing projects or permanent sites in existence
18 at the time of the effective date of sections 319.300 to 319.339 shall not
19 be required to provide notice as described in this subsection.

20 2. Any person using explosives which will conduct blasting
21 within the jurisdiction of a municipality shall notify the owner or
22 occupant of any residence or business located within a scaled distance
23 of fifty-five from the site of blasting prior to the start of blasting at any
24 new location. One notification by mail, telephone, or in person to any
25 such owner or occupant meets the requirements of this subsection. A
26 municipality shall provide the name, last known address, and telephone
27 number of the owners or occupants of any residence or business that
28 may be located within the scaled distance of fifty-five from the site of
29 blasting to the person using explosives upon request.

30 3. Any municipality or authorized representative of a
31 municipality may:

32 (1) Require any person engaged in blasting to show proof that
33 blasting is being conducted by an individual that is licensed under the
34 provisions of section 319.306;

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

38 (3) Specify that blasting may not be conducted on Sundays
39 except in emergency situations and specify the hours of any day during
40 which blasting may be conducted, provided that the hours specified
41 allow a total time span of not less than six consecutive hours per day;

42 (4) Examine records of blasting required to be maintained by
43 sections 319.309 and 319.315. However, no municipality shall require
44 a person using explosives or a blaster to surrender such records or a
45 copy of such records to the municipality;

46 (5) Report suspected violations of sections 319.300 to 319.339 to
47 the division of fire safety.

48 4. Subsections 1, 2, and 3 of this section shall not apply to any
49 blasting required by a contract with any agency of the state of
50 Missouri, any federal agency, or any political subdivision.

51 5. The state of Missouri hereby preempts existing regulation,

52 licensing, and inspection of persons using explosives, blasters, and
53 blasting by local governments or other political subdivisions, except as
54 authorized in this section. It shall be unlawful for any local
55 government or other political subdivision to impose any future
56 ordinance, order, permit or regulation upon persons using explosives
57 or blasters which duplicates, exceeds or conflicts with the requirements
58 of sections 319.300 to 319.339.

✓

Unofficial

Bill

Copy