

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 824
95TH GENERAL ASSEMBLY

4020L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 267.565, 267.600, 270.260, 270.400, 273.327, 273.329, 274.180, 319.306, 319.321, and 537.296, RSMo, and to enact in lieu thereof seventeen new sections relating to animals and agriculture, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 267.565, 267.600, 270.260, 270.400, 273.327, 273.329, 274.180, 2 319.306, 319.321, and 537.296, RSMo, are repealed and seventeen new sections enacted in lieu 3 thereof, to be known as sections 267.565, 267.600, 267.810, 270.260, 270.270, 270.400, 4 273.327, 273.329, 274.180, 319.306, 319.321, 537.296, 537.850, 537.853, 537.856, 537.859, and 5 537.862, to read as follows:

267.565. Unless the context requires otherwise, as used in sections 267.560 to 267.660, 2 the following terms mean:

3 (1) "Accredited approved veterinarian", a veterinarian who has been accredited by the 4 United States Department of Agriculture and approved by the state department of agriculture and 5 who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine, 6 or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri, 7 duly licensed under laws of the state in which he resides, accredited by the United States 8 Department of Agriculture, and approved by the chief livestock sanitary official of that state;

9 (2) "Animal", an animal of the equine, bovine, porcine, ovine, caprine, or species 10 domesticated or semidomesticated;

11 (3) "Approved laboratory", a laboratory approved by the department;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 (4) "Approved vaccine" or "bacterin", a vaccine or bacterin produced under the license
13 of the United States Department of Agriculture and approved by the department for the
14 immunization of animals against infectious and contagious disease;

15 (5) "Bird", a bird of the avian species;

16 (6) "Certified free herd", a herd of cattle, swine, goats or a flock of sheep or birds which
17 has met the requirements and the conditions set forth in sections 267.560 to 267.660 and as
18 required by the department and as recommended by the United States Department of Agriculture,
19 and for such status for a specific disease and for a herd of cattle, swine, goats or flock of sheep
20 or birds in another state which has met those minimum requirements and conditions under the
21 supervision of the livestock sanitary authority of the state in which said animals or birds are
22 domiciled, and as recommended by the United States Department of Agriculture for such status
23 for a specific disease;

24 (7) **"Condition", upon examination of any animal or bird in this state by the state**
25 **veterinarian or his or her duly authorized representative, the findings of which indicate**
26 **the presence or suspected presence of a toxin in such animal or bird that warrants further**
27 **examination or observation for confirmation of the presence or nonpresence of such toxin;**

28 (8) "Department" or "department of agriculture", the department of agriculture of the
29 state of Missouri, and when by this law the said department of agriculture is charged to perform
30 a duty, it shall be understood to authorize the performance of such duty by the director of
31 agriculture of the state of Missouri, or by the state veterinarian of the state of Missouri or his duly
32 authorized deputies acting under the supervision of the director of agriculture;

33 (9) **"Holding period", restriction of movement of animals or birds into or out of a**
34 **premise under such terms and conditions as may be designated by order of the state**
35 **veterinarian or his or her duly authorized representative prior to confirmation of a**
36 **contagious disease or condition;**

37 [(8)](10) "Infected animal" or "infected bird", an animal or bird which shows a positive
38 reaction to any recognized serological test or growth on culture or any other recognized test for
39 the detection of any disease of livestock or poultry as approved by the department or when
40 clinical symptoms and history justifies designating such animal or bird as being infected with a
41 contagious or infectious disease;

42 [(9)](11) "Isolated" or "isolation", a condition in which animals or birds are quarantined
43 to a certain designated premises and quarantined separately and apart from any other animals or
44 birds on adjacent premises;

45 [(10)](12) "Licensed market", a market as defined and licensed under chapter 277,
46 RSMo;

47 [(11)] (13) "Livestock", horses, cattle, swine, sheep, goats, ratite birds including but not
48 limited to ostrich and emu, aquatic products as defined in section 277.024, RSMo, llamas,
49 alpaca, buffalo, elk documented as obtained from a legal source and not from the wild and raised
50 in confinement for human consumption or animal husbandry, poultry and other domesticated
51 animals or birds;

52 [(12)] (14) "Official health certificate" is a legal record covering the requirements of the
53 state of Missouri executed on an official form of the standard size from the state of origin and
54 approved by the proper livestock sanitary official of the state of origin or an equivalent form
55 provided by the United States Department of Agriculture and issued by an approved, accredited,
56 licensed, graduate veterinarian;

57 [(13)] (15) "Public stockyards", any public stockyards located within the state of
58 Missouri and subject to regulations of the United States Department of Agriculture or the
59 Missouri department of agriculture;

60 [(14)] (16) "Quarantine", a condition in which an animal or bird of any species is
61 restricted in movement to a particular premises under such terms and conditions as may be
62 designated by order of the state veterinarian or his duly authorized deputies;

63 [(15)] (17) "Traders" or "dealers", any person, firm or corporation engaged in the
64 business of buying, selling or exchange of livestock on any basis other than on a commission
65 basis at any sale pen, concentration point, farm, truck or other conveyance including persons,
66 firms or corporations employed as an agent of the vendor or purchaser excluding public
67 stockyards under federal supervision or markets licensed under sections 267.560 to 267.660 and
68 under the supervision of the department, breed association sales or any private farm sale.

267.600. **1.** Animals, livestock or birds under test **or investigation** for a contagious and
2 infectious disease **or condition** may not be removed from the premises until the results of the
3 tests are known and the owner of such animals, livestock or birds receives a record of the test
4 from the veterinarian certifying that the animals or birds are free of the disease **or specified**
5 **condition** and until any infected animals or birds are sold for slaughter on permit and as may be
6 required by the state veterinarian, or until such animals or birds are recovered and incapable of
7 spreading the disease **or condition** or until the animals or birds in the herd or flock have been
8 released by the state veterinarian or his representative. The method of eradicating the disease
9 **or condition** shall be at the discretion of the state veterinarian and in accordance with such
10 procedures as may be outlined by the state veterinarian or his representative.

11 **2. The state veterinarian or his or her representative may implement a holding**
12 **period for the premise until the investigation and confirmation of the contagious and**
13 **infectious disease or condition is completed.**

14 **3. Once investigation and testing is complete, animals or birds shall be released**
15 **from the holding period or placed under permanent quarantine by the state veterinarian**
16 **or his or her representative.**

267.810. 1. There is hereby established within the department of agriculture the
2 **"Missouri Animal Care Advisory Committee". The Missouri animal care advisory**
3 **committee shall have the authority to review and make recommendations on the welfare**
4 **of poultry, livestock, and licensed dog breeding facilities in this state.**

5 **2. The committee shall be comprised of the following members:**

6 **(1) The director of the department of agriculture, who shall be a nonvoting member**
7 **and serve as chair of the board;**

8 **(2) The chair of the Missouri Senate Agriculture Committee, who shall be a**
9 **nonvoting member;**

10 **(3) The chair of the Missouri House Agriculture Committee, who shall be a**
11 **nonvoting member;**

12 **(4) The state veterinarian;**

13 **(5) The chair of the University of Missouri Animal Sciences Division;**

14 **(6) The chair of the Missouri State University Animal Sciences Division;**

15 **(7) The University of Missouri Food Animal Veterinary Extension Specialist;**

16 **(8) A producer member representative of the Missouri Cattlemen's Association;**

17 **(9) A producer member representative of the Missouri Pork Association;**

18 **(10) A producer member representative of the Missouri Egg Council;**

19 **(11) A producer member representative of the Missouri Dairy Association;**

20 **(12) A producer member representative of the Poultry Federation;**

21 **(13) A producer member representative of the Missouri Corn Growers Association;**

22 **(14) A producer member representative of the Missouri Soybean Association;**

23 **(15) A producer member representative of the Missouri Farm Bureau;**

24 **(16) A member representative of the Equine Council;**

25 **(17) A member representative of the Missouri Livestock Marketing Association;**

26 **(18) A member representative of the Missouri Federation of Animal Owners; and**

27 **(19) A producer member representative of the Missouri**

28 **Rice Council.**

29 **3. The committee shall review the animal care practices related to poultry,**
30 **livestock, and licensed dog breeding facilities in this state and, when necessary, make**
31 **recommendations to the general assembly. When reviewing such practices, the committee**
32 **shall consider all of the following:**

33 **(1) The health and husbandry of poultry, livestock, and dogs at licensed dog**
34 **breeding facilities;**

35 **(2) Generally accepted farm management practices;**

36 **(3) Generally accepted veterinary standards and practices;**

37 **(4) The economic impact on poultry and livestock farmers, licensed dog breeders,**
38 **consumers, and the affected sector as a whole;**

39 **(5) Species specific animal care guidelines established by the respective national**
40 **poultry, livestock, and licensed dog breeders organizations.**

41 **4. The committee shall review national species specific animal care guidelines once**
42 **every five years.**

43 **5. Members of the committee shall not be compensated for their service on the**
44 **committee nor shall members be reimbursed for any expenses associated with their service**
45 **on the committee. Members of the committee shall serve as long as they hold their**
46 **respective positions or until they are replaced on the committee by their respective**
47 **organizations.**

48 **6. The department of agriculture shall provide technical support to the board and**
49 **provide a meeting place for the committee.**

50 **7. All meetings, business, and activities of the board shall be subject to the**
51 **provisions of chapter 610.**

 270.260. **1. Any person who recklessly or knowingly releases any swine to live in a**
2 **wild or feral state upon any public land or private land not completely enclosed by a fence**
3 **capable of containing such animals is guilty of a class A misdemeanor. Each swine so released**
4 **shall be a separate offense.**

5 **2. Every person who has previously pled guilty to or been found guilty of violating**
6 **the provisions of section 270.260 committed on two separate occasions where such offence**
7 **occurred within ten years of the date of the occurrence of the present offence and who**
8 **subsequently pleads guilty to or is found guilty of violating section 270.260 is guilty of a**
9 **class D felony.**

 270.270. **1. Any person possessing or transporting live Russian and European wild**
2 **boar or wild-caught swine on or through public land without a Missouri department of**
3 **agriculture permit is guilty of a class A misdemeanor. Each violation of this subsection**
4 **shall be a separate offense.**

5 **2. Any law enforcement officer, any agent of the conservation commission, or the**
6 **state veterinarian is authorized to enforce the provisions of this section, section 270.260,**
7 **and section 270.400.**

270.400. 1. For purposes of this section, the term "feral hog" means any hog, including
2 Russian and European wild boar, that is not conspicuously identified by ear tags or other forms
3 of identification and is roaming freely upon public or private lands without the landowner's
4 permission.

5 2. A person may kill a feral hog roaming freely upon such person's land and shall not be
6 liable to the owner of the hog for the loss of the hog.

7 3. Any person may take or kill a feral hog on public land or private land with the consent
8 of the landowner; except that, during the firearms deer and turkey hunting season the regulations
9 of the Missouri wildlife code shall apply. Such person shall not be liable to the owner of the hog
10 for the loss of such hog.

11 4. No person except a landowner or such landowner's agent on such landowner's property
12 shall take, **attempt to take**, or kill a feral hog with the use of an artificial light.

13 **5. The director of the department of agriculture shall promulgate rules for fencing**
14 **and health standards for Russian and European wild boar and wild-caught swine held**
15 **alive on private land. Any person holding Russian and European wild boar or wild-caught**
16 **swine on private land shall annually submit an application to the department for a permit.**
17 **Any applicant that successfully meets the requirements under this section as determined**
18 **by the department and pays an application fee shall be issued a permit.**

19 **6. Russian and European wild boar and wild-caught swine may move only from a**
20 **farm to a farm or directly to slaughter or to a slaughter-only market. The department**
21 **shall promulgate rules for exemption permits and a fee structure to offset the actual and**
22 **necessary costs incurred to enforce the provisions of this section.**

23 **7. (1) There is hereby created in the state treasury the "Animal Health Fund",**
24 **which shall consist of all fees and administrative penalties collected by the department of**
25 **agriculture under this section and section 270.260. The state treasurer shall be custodian**
26 **of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may**
27 **approve disbursements. Upon appropriation, moneys in the fund shall be used for the**
28 **administration of this section and section 270.260.**

29 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
30 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
31 **general revenue fund.**

32 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**
33 **funds are invested. Any interest and moneys earned on such investments shall be credited**
34 **to the fund.**

35 **8. Any person who violates subsection 2 of section 270.260 may, in addition to the**
36 **penalty imposed under section 270.260, be assessed an administrative penalty of up to one**

37 **thousand dollars per violation. Any person who is assessed an administrative penalty**
38 **under this section shall be notified in writing of the right to appeal. Such person may**
39 **request a hearing before the director of the department of agriculture. Such request shall**
40 **be made in writing no later than thirty days after the date on which the person was notified**
41 **of the violation of section 270.260.**

42 **9. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
43 **created under the authority delegated in this section shall become effective only if it**
44 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
45 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
46 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
47 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
48 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
49 **shall be invalid and void.**

50 **10. Nothing in this section shall be construed to apply to domestic swine.**

273.327. No person shall operate an animal shelter, pound or dog pound, boarding
2 kennel, commercial kennel, contract kennel, pet shop, or exhibition facility, other than a limited
3 show or exhibit, or act as a dealer or commercial breeder, unless [he] **such person** has obtained
4 a license for such operations from the director. An applicant shall obtain a separate license for
5 each separate physical facility subject to sections 273.325 to 273.357 which is operated by the
6 applicant. Any person exempt from the licensing requirements of sections 273.325 to 273.357
7 may voluntarily apply for a license. Application for such license shall be made in the manner
8 provided by the director. The license shall expire annually unless revoked. As provided by rules
9 to be promulgated by the director, the license fee shall range from one hundred to five hundred
10 dollars per year. Pounds[,] **or** dog pounds [and animal shelters] shall be exempt from payment
11 of such fee. License fees shall be levied for each license issued or renewed on or after January
12 1, 1993.

273.329. 1. The director may refuse to issue or renew or may revoke a license on any
2 one or more of the following grounds:

3 (1) Material and deliberate misstatement in the application for any original license or for
4 any renewal license under sections 273.325 to 273.357;

5 (2) Disregard or violation of sections 273.325 to 273.357 or of any rules promulgated
6 pursuant thereto;

7 (3) Conviction of any violation of any state or federal law relating to the disposition or
8 treatment of animals;

9 (4) Failure to provide adequate food, water, housing or sanitary facilities for animals
10 under the control of an animal shelter, boarding kennel, commercial breeder, commercial kennel,
11 contract kennel, dealer, pet shop, pound, or exhibitor as defined by regulations of the USDA.

12 **2. The department of agriculture shall not retain, contract with, or otherwise utilize**
13 **the services of the personnel of any nonprofit organization for the purpose of inspection**
14 **or licensing of any animal shelter, pound, or dog pound, boarding kennel, commercial**
15 **kennel, contract kennel, commercial breeder, hobby or show breeder, or pet shop under**
16 **sections 273.325 to 273.357.**

17 **3. Operation of an animal shelter, pound or dog pound, boarding kennel, commercial**
18 **kennel, contract kennel, pet shop, or exhibition facility, or activity as a commercial breeder or**
19 **dealer without a valid license shall constitute a class A misdemeanor.**

274.180. Each association organized hereunder shall pay an annual fee of ten dollars
2 only, in lieu of all franchise or license or corporation or other taxes, or taxes, **or state sales taxes,**
3 or charges upon reserves held by it for members.

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

- 7 (1) The applicant's full name;
- 8 (2) The applicant's home address;
- 9 (3) The applicant's date of birth;
- 10 (4) The applicant's sex;
- 11 (5) The applicant's physical description;
- 12 (6) The applicant's driver's license number;
- 13 (7) The applicant's current place of employment;
- 14 (8) A listing of any other blasting license or certification held by the applicant, to include
15 the name, address, and phone number of the regulatory authority that issued the license or
16 certification;
- 17 (9) Any other information required to fulfill the obligations of sections 319.300 to
18 319.345.

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

21 3. An applicant for a blaster's license shall submit an application fee and two copies of
22 the applicant's photograph with the application submitted to the division of fire safety. The

23 amount of such fee shall be established by rule promulgated by the division of fire safety. The
24 fee established by rule shall be no greater than the cost of administering this section, but shall
25 not exceed one hundred dollars.

26 4. An applicant for a blaster's license shall:

27 (1) Be at least twenty-one years of age;

28 (2) Not have willfully violated any provisions of sections 319.300 to 319.345;

29 (3) Not have knowingly withheld information or [has not] **have** made any false or
30 fictitious statement intended or likely to deceive in connection with the application;

31 (4) Have familiarity and understanding of relevant federal and state laws relating to
32 explosives materials;

33 (5) Not have been convicted in any court of, or pled guilty to, a felony;

34 (6) Not be a fugitive from justice;

35 (7) Not be an unlawful user of any controlled substance in violation of chapter 195,
36 RSMo;

37 (8) Except as provided in subsections 11 and 13 of this section, have completed an
38 approved blaster's training course that meets the requirements of subsection 14 of this section
39 and [has] **have** successfully passed the licensing examination under the provisions of
40 subdivisions (1) to (5) of subsection 15 of this section;

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

45 (10) Not have been adjudicated as mentally defective; and

46 (11) Not advocate or knowingly belong to any organization or group that advocates
47 violent action against any federal, state, or local government, or against any person.

48 5. Any individual holding a blaster's license under the provisions of this section shall
49 promptly notify the division of fire safety if he or she has had any change of material fact relating
50 to any qualification for holding a blaster's license.

51 6. If the division of fire safety finds that the requirements for a blaster's license have been
52 satisfied, a license shall be issued to the applicant.

53 7. A blaster's license shall expire three years from the date of issuance. To qualify for
54 a renewal of a blaster's license, an individual will be required to provide documentation of
55 completing eight hours of training in an explosives-related course of instruction that is approved
56 by the division of fire safety, at least half of which shall have been completed within the year
57 prior to renewal. The remainder of such training for renewal of the license may be acquired at
58 any time during the three-year period that a license is valid. Additional training beyond an

59 accumulated eight hours during any three-year period is not valid for more than one subsequent
60 renewal of the license.

61 8. Each license issued under the provisions of this section shall provide documentation
62 to the license holder in the form of a letter or letter-sized certificate and a card that is
63 approximately two inches by three inches in size. Each shall specify a unique license number,
64 the name of the individual, his or her driver's license number, the individual's photograph, the
65 blaster's license's effective date and its expiration date, and any other record-keeping information
66 needed by the division of fire safety. In addition, the card form of the license shall contain a
67 photographic image of the license holder.

68 9. Each individual required to have a blaster's license shall keep at least one form of
69 license documentation on his or her person or at the site of blasting and shall provide
70 documentation that he or she has a currently valid license to a representative of the division of
71 fire safety upon a written or verbal request. No enforcement action shall be taken against any
72 individual that cannot comply with such a request so long as the division of fire safety's records
73 provide documentation that the individual has a valid blaster's license.

74 10. (1) A blaster's license issued under the provisions of this section may be suspended
75 or revoked by the division of fire safety upon substantial proof that the individual holding the
76 license has:

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

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

79 (c) Knowingly or habitually failed to create a record of blasts as required by section
80 319.315;

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

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

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

88 (2) The division of fire safety shall provide any notice of suspension or revocation, as
89 provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last known
90 address of the holder of the license. The notice may also be verbal, but this does not eliminate
91 the requirement for written notice. Upon receipt of a verbal or written notice of suspension or
92 revocation from the division of fire safety, the individual holding the license shall immediately
93 surrender all copies of the license to a representative of the division of fire safety and shall
94 immediately cease all blasting activity.

95 (3) The individual holding the license may appeal any suspension or revocation to the
96 state blasting safety board established under section 319.324 within forty-five days of the date
97 written notice was received. The division of fire safety shall immediately notify the chairman
98 of the board that an appeal has been received and a hearing before the board shall be held. The
99 board shall consider and make a decision on any appeal received by the division of fire safety
100 within thirty days of the date the appeal is received by the division of fire safety. The board shall
101 make a decision on the appeal by majority vote of the board and shall immediately notify the
102 licensee of its decision in writing. The written statement of the board's decision shall be prepared
103 by the division of fire safety or its designee and shall be approved by the chairman of the board.
104 The approved statement of the board's decision shall be sent by certified mail to the last known
105 address of the holder of the license.

106 11. Any individual whose license has been expired for a period of three years or less
107 shall be required to successfully pass the examination as provided in subdivisions (1) to (5) of
108 subsection 15 of this section and attend the eight hours of training required for renewal of a
109 license as minimum qualifications for submitting an application for reinstatement of the license.
110 Any individual whose license has been expired for a period of more than three years shall meet
111 the qualifications set forth in subsection 4 of this section, including completing twenty hours of
112 training and passing the examination, prior to applying for a blaster's license.

113 12. A license may be granted to applicants who within the last three years have held a
114 valid license or certification from any other source if all of the qualifications for obtaining the
115 license or certification meet or exceed the provisions of this section. It is the duty of the division
116 of fire safety to investigate the qualifications required for obtaining a license or certification from
117 any other source. Licenses or certification held prior to the effective date of the rule required by
118 subsection 19 of this section shall be deemed to meet requirements for this subsection, provided
119 that they meet requirements of the rule.

120 13. A license may be granted upon the application of an individual employed as a blaster
121 on or before December 31, 2000, [and] who has accumulated one thousand hours of training or
122 education pertaining to blasting and experience working for a specific person using explosives
123 within two years immediately prior to applying for a license. The application shall include a
124 statement of hours of experience in the form of an affidavit signed by the person using explosives
125 who has employed or contracted with the blaster for the preceding two years. Such applicant
126 also shall meet the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of
127 subsection 4 of this section. Any individual granted a license under this subsection shall be
128 limited to blasting performed for the person using explosives submitting the affidavit required
129 by this subsection. Such licensee shall meet the requirements for continuing training required
130 by subsection 7 of this section.

131 14. (1) The division of fire safety or its authorized agent shall offer annually at least two
132 courses of instruction that fulfill the training requirement [of qualifying] **to qualify** for a blaster's
133 license and two courses that fulfill the training requirement for renewal of a blaster's license. In
134 addition, any person may apply to the division of fire safety for approval of a course of
135 instruction that meets the training requirement of obtaining a blaster's license or renewal of a
136 blaster's license. The application shall include a description of the qualifications of the
137 instructor, a description of instructional materials to be used in the course, and an outline of the
138 subject matter to be taught, including minimum hours of instruction on each topic. The division
139 of fire safety shall review the application regarding the knowledge and experience of proposed
140 instructors, the total hours of training and the adequacy of proposed training in subject matter
141 with regard to the provisions of sections 319.300 to 319.345. If the division of fire safety
142 determines that training proposed by the applicant is adequate, a letter of approval shall be issued
143 to the applicant. The letter of approval shall be effective for a period of three years. If at any
144 time the division of fire safety determines that an approved training course no longer meets the
145 standards of this section, the letter of approval may be revoked with written notice. The division
146 of fire safety or any person providing a course of instruction may charge an appropriate fee to
147 recover the cost of conducting such instruction.

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

151 (3) Any person providing training in a course of instruction approved by the division of
152 fire safety shall submit a list of individuals that attended any such course to the division of fire
153 safety within ten business days after completion of the course.

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

157 15. (1) The division of fire safety shall approve a standard examination or examinations
158 for the purpose of qualifying an individual to obtain a blaster's license. Each individual taking
159 the examination shall pay a fee to the division of fire safety, or the division's agent, that is
160 established by rule. Testing fees shall be no greater than what is required to administer the
161 testing provisions of this section and shall not exceed fifty dollars per test.

162 (2) Except as provided in subsection 11 of this section, no individual shall be allowed
163 to take an examination for purposes of obtaining a blaster's license unless that individual has
164 completed a training course approved by the division of fire safety. The individual must have
165 completed an approved course of instruction as provided in subdivision (1) of subsection 14 of
166 this section no longer than two years prior to taking the examination. The examination may be

167 administered by any person approved to provide a course of instruction, as provided in
168 subdivision (1) of subsection 14 of this section, at the site of instruction, provided that any such
169 examination may, at the discretion of the state fire marshal, be conducted under the supervision
170 of the division of fire safety. The division of fire safety may also administer such examinations
171 at other times and locations.

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

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

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

183 (6) Individuals having previously taken an approved blaster's training course, and **having**
184 passed an approved examination, and having taken an approved blaster's renewal training course,
185 or that have obtained a blaster's license as provided in subsections 12 and 13 of this section are
186 eligible for renewal of a blaster's license after meeting the requirements of subsection 7 of this
187 section. The fee for renewal of a license shall be the same as the fee specified in subsection 3
188 of this section.

189 16. No individual shall load or fire explosives or direct, order, or otherwise cause any
190 individual to load or fire explosives in this state unless that individual has a valid blaster's license
191 or is under the direct supervision and responsibility of an individual having a valid blaster's
192 license. For purposes of this section, "direct supervision" means the supervisor is physically
193 present on the same job site as the individual who is loading or firing explosives. An individual
194 without a blaster's license who is loading or firing explosives while under the direct supervision
195 and responsibility of someone having a blaster's license shall not be in violation of sections
196 319.300 to 319.345.

197 17. [Persons] **A person** found guilty of loading or firing explosives, or directing,
198 ordering, or otherwise causing any individual to load or fire explosives in this state without
199 having a valid blaster's license, or that loads and fires explosives without being under the direct
200 supervision and responsibility of an individual holding a blaster's license as provided in sections
201 319.300 to 319.345, [shall be] **is** guilty of a class B misdemeanor for the first offense or a class
202 A misdemeanor for a second or subsequent offense. Any individual convicted of a class A

203 misdemeanor under the provisions of sections 319.300 to 319.345 shall be permanently
204 prohibited from obtaining a blaster's license in this state.

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

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

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

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

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

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

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

220 (7) Any individual performing duties in underground mines regulated by 30 CFR Part
221 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining regulated by 30 CFR Part
222 75, and 30 CFR Part 77 of the Code of Federal Regulations, as amended, or using explosives
223 within an industrial furnace;

224 (8) Any individual having a valid blaster's license or certificate issued under the
225 provisions of any requirement of the U.S. government in which the requirements for obtaining
226 the license or certificate meet or exceed the requirements of sections 319.300 to 319.345;

227 (9) Individuals using agricultural fertilizers when used for agricultural or horticultural
228 purposes;

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

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

232 (12) Individuals handling explosives while engaged in the process of explosives
233 manufacturing;

234 (13) Employees, agents, or contractors of rural electric cooperatives organized or
235 operating under chapter 394, RSMo; [and]

236 (14) Individuals discharging historic firearms and cannon or reproductions of historic
237 firearms and cannon; **and**

238 **(15) Individuals using explosive materials along with a well screen cleaning device**
239 **for the purpose of unblocking clogged screens of agricultural irrigation wells located**
240 **within the southeast Missouri regional water district as created in section 256.643.**

241 19. The division of fire safety shall promulgate rules under this section to become
242 effective no later than July 1, 2008. Any individual loading or firing explosives after the
243 effective date of such rule shall obtain a license within one hundred eighty days of the effective
244 date of such rule. Any experience or training prior to the effective date of such rule that meets
245 the standards established by the rule shall be deemed to comply with this section.

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

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

4 (2) The use of explosive materials in the forms prescribed by the official U.S.
5 Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;

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

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

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

12 (6) The use of small arms ammunition and components thereof which are subject to the
13 Gun Control Act of 1968, 18 U.S.C. Section 44, and regulations promulgated thereunder. Any
14 small arms ammunition and components thereof exempted by the Gun Control Act of 1968 and
15 regulations promulgated thereunder are also exempted from the provisions of sections 319.300
16 to 319.345;

17 (7) Any person performing duties using explosives within an industrial furnace;

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

19 (9) The use of explosives for lawful demolition of structures;

20 (10) The use of explosives by employees, agents, or contractors of rural electric
21 cooperatives organized or operating under chapter 394, RSMo; [and]

22 (11) Individuals discharging historic firearms and cannon or reproductions of historic
23 firearms and cannon; **and**

24 **(12) Any person using explosive materials along with a well screen cleaning device**
25 **for the purpose of unblocking clogged screens of agricultural irrigation wells located**
26 **within the southeast Missouri regional water district as created in section 256.643.**

537.296. 1. Damages allowable for a private nuisance shall be as follows:

2 (1) If the nuisance is a permanent nuisance, compensatory damages shall be
3 measured by the reduction in the fair market value of the claimant's property caused by
4 the nuisance, but not to exceed the fair market value of the property;

5 (2) If the nuisance is a temporary nuisance, compensatory damages shall be
6 measured by the diminution in the fair rental value of the property which resulted from
7 the nuisance;

8 (3) No damages shall be awarded for annoyance, discomfort, sickness, emotional
9 distress, or similar claims for a private nuisance.

10 2. In the event a claim for injury or damages to a person is asserted in the same
11 proceeding as a claim for damage to the claimant's property caused by a private nuisance,
12 liability for such personal injury or damage shall be determined on the basis of applicable
13 principles of tort law independent of whether the defendant's use of property is found to
14 constitute a nuisance.

15 3. In any action for private nuisance where the amount in controversy exceeds one
16 million dollars, if any party requests the court or jury to visit the property alleged to be
17 affected by the nuisance, the court or jury shall visit the property.

 537.850. 1. Sections 537.850 to 537.862 shall be known and may be cited as the
2 "Agritourism Promotion Act".

3 2. As used in sections 537.850 to 537.862, the following terms shall mean:

4 (1) "Agritourism activity", any activity which allows members of the general public
5 for recreational, entertainment, or educational purposes to view or enjoy rural activities,
6 including but not limited to farming activities, ranching activities, or historic, cultural, or
7 natural attractions. An activity may be an agritourism activity whether or not the
8 participant pays to participate in the activity. An activity is not an agritourism activity if
9 the participant is paid to participate in the activity;

10 (2) "Department", the state department of agriculture;

11 (3) "Director", the director of the department of agriculture;

12 (4) "Inherent risks of a registered agritourism activity", those dangers or
13 conditions which are an integral part of such agritourism activity, including but not limited
14 to certain hazards such as surface and subsurface conditions; natural conditions of land,
15 vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers
16 of structures or equipment ordinarily used in farming or ranching operations. Inherent
17 risks of a registered agritourism activity also includes the potential of a participant to act
18 in a negligent manner that may contribute to injury to the participant or others, such as
19 failing to follow instructions given by the registered agritourism operator or failing to
20 exercise reasonable caution while engaging in the registered agritourism activity;

21 (5) "Participant", any person who engages in a registered agritourism activity;

22 (6) "Registered agritourism activity", any agritourism activity registered with the
23 director of the department of agriculture under section 537.853, and any rules
24 promulgated thereunder;

25 (7) "Registered agritourism location", a specific parcel of land which is registered
26 with the director of the department of agriculture under section 537.853, and any rules
27 promulgated thereunder, and where a registered agritourism operator engages in
28 registered agritourism activities;

29 (8) "Registered agritourism operator", any person who is engaged in the business
30 of providing one or more agritourism activities and is registered with the director of the
31 department of agriculture under section 537.853, and any rules promulgated thereunder.

537.853. 1. Any person who is engaged in the business of providing one or more
2 agritourism activities may register with the director of the department of agriculture. The
3 registration shall contain all of the following:

4 (1) Information describing the agritourism activity which the person conducts or
5 intends to conduct;

6 (2) Information describing the location where the person conducts or intends to
7 conduct such agritourism activity.

8 2. The department shall maintain a list of all registered agritourism operators, the
9 registered agritourism activities conducted by each operator, and the registered
10 agritourism location where the operator conducts such activities. Such list shall be made
11 available to the public. The department shall promote and publicize registered agritourism
12 operators, activities, and locations to advance the purpose of sections 537.850 to 537.862
13 by promoting and encouraging tourism.

14 3. Registration under this section shall be for a period of two years.

15 4. A registration fee not to exceed one hundred dollars may be imposed on an
16 applicant to cover the actual administrative costs associated with such registration under
17 this section.

537.856. 1. At every registered agritourism location, the registered agritourism
2 operator shall post and maintain signage which contains the warning notice specified in
3 subsection 3 of this section. The requirements of this section shall be deemed satisfied if
4 such signage is placed in a clearly visible location at or near the registered agritourism
5 location. The warning notice shall appear on the sign in black letters, with each letter to
6 be at least one inch in height.

7 **2. Every written contract entered into by a registered agritourism operator for the**
8 **providing of a registered agritourism activity shall contain in clearly readable print the**
9 **warning notice and language specified in subsection 3 of this section.**

10 **3. The required signage under this section shall contain the following warning**
11 **notice:**

12 **"WARNING: Under Missouri law, there is no liability for an injury or death of a**
13 **participant in a registered agritourism activity conducted at this registered agritourism**
14 **location if such injury or death results from the inherent risks of such agritourism activity.**
15 **Inherent risks of agritourism activities include, but are not limited to, the potential of you**
16 **as a participant to act in a negligent manner that may contribute to your injury or death**
17 **and the potential of another participant to act in a negligent manner that may contribute**
18 **to your injury or death. You are assuming the risk of participating in this registered**
19 **agritourism activity."**

20 **4. Upon request, the registered agritourism operator shall provide to any**
21 **participant a written description of the registered agritourism activity, as set forth in the**
22 **registration under section 537.853 for which sections 537.850 to 537.862 limits the**
23 **registered agritourism operator's liability at the registered agritourism location.**

537.859. 1. Any participant is assuming the inherent risks of a registered
2 **agritourism activity when such participant engages in such agritourism activity. Except**
3 **as provided in subsection 2 of this section, a registered agritourism operator is not liable**
4 **for injury to or death of a participant resulting from the inherent risks of agritourism**
5 **activities so long as the warning contained in section 537.856 is posted as required and,**
6 **except as provided in subsection 2 of this section, no participant or participant's**
7 **representative shall maintain an action against or recover from a registered agritourism**
8 **operator for injury, loss, damage, or death of the participant resulting exclusively from any**
9 **of the inherent risks of agritourism activities.**

10 **2. Nothing in sections 537.850 to 537.862 shall prevent or limit the liability of a**
11 **registered agritourism operator if the registered agritourism operator:**

12 **(1) Injures the participant by willful or wanton conduct; or**

13 **(2) Has actual knowledge of a dangerous condition in the land, facilities, or**
14 **equipment used in the registered agritourism activity or the dangerous propensity of a**
15 **particular animal used in such activity and does not make such dangerous condition known**
16 **to a participant and such dangerous condition causes the participant to sustain injuries.**

17 **3. In any action for damages for personal injury, death, or property damage arising**
18 **from the operation of a registered tourism activity in which an owner or operator is named**
19 **as a defendant, it shall be an affirmative defense to that liability that:**

- 20 (1) The injured person assumed the risk;
- 21 (2) The injured person deliberately disregarded conspicuously posted signs, verbal
- 22 instructions, or other warnings regarding safety measures during the activity; or
- 23 (3) Any equipment, animals, or appliance used by the injured person during the
- 24 activity were used in a manner or for a purpose other than that for which a reasonable
- 25 person should have known they were intended.

537.862. 1. There is hereby created in the state treasury the "Agritourism Fee Fund", which shall consist of any moneys appropriated to the fund and registration fees collected under section 537.853. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the administration of sections 537.850 to 537.862.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

[537.296. In any action for private nuisance where the amount in controversy exceeds one million dollars, if any party requests the court or jury to visit the property alleged to be affected by the nuisance, the court or jury shall visit the property.]

Section B. Because immediate action is necessary to ensure compliance with the Missouri administrative hearing commission decision, the repeal and reenactment of section 274.180 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 274.180 of section A of this act shall be in full force and effect upon its passage and approval.

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