

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 795

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS MAYER AND NODLER.

Read 1st time January 19, 2010, and ordered printed.

Read 2nd time January 25, 2010, and referred to the Committee on Agriculture, Food Production and Outdoor Resources.

Reported from the Committee February 18, 2010, with recommendation that the bill do pass.

Taken up for Perfection February 23, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

4396S.01P

AN ACT

To repeal sections 319.306 and 319.321, RSMo, and to enact in lieu thereof two new sections relating to blasting safety, with a penalty provision.

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

Section A. Sections 319.306 and 319.321, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 319.306 and 319.321, to read as follows:

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

- (1) The applicant's full name;
- (2) The applicant's home address;
- (3) The applicant's date of birth;
- (4) The applicant's sex;
- (5) The applicant's physical description;
- (6) The applicant's driver's license number;
- (7) The applicant's current place of employment;
- (8) A listing of any other blasting license or certification held by the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 applicant, to include the name, address, and phone number of the regulatory
17 authority that issued the license or certification;

18 (9) Any other information required to fulfill the obligations of sections
19 319.300 to 319.345.

20 2. Any individual who has met the qualifications set forth in subsection
21 4 of this section may apply for a blaster's license.

22 3. An applicant for a blaster's license shall submit an application fee and
23 two copies of the applicant's photograph with the application submitted to the
24 division of fire safety. The amount of such fee shall be established by rule
25 promulgated by the division of fire safety. The fee established by rule shall be
26 no greater than the cost of administering this section, but shall not exceed one
27 hundred dollars.

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

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

30 (2) Not have willfully violated any provisions of sections 319.300 to
31 319.345;

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

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

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

38 (6) Not be a fugitive from justice;

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

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

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

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

51 (11) Not advocate or knowingly belong to any organization or group that

52 advocates violent action against any federal, state, or local government, or against
53 any person.

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

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

59 7. A blaster's license shall expire three years from the date of issuance.
60 To qualify for a renewal of a blaster's license, an individual will be required to
61 provide documentation of completing eight hours of training in an
62 explosives-related course of instruction that is approved by the division of fire
63 safety, at least half of which shall have been completed within the year prior to
64 renewal. The remainder of such training for renewal of the license may be
65 acquired at any time during the three-year period that a license is
66 valid. Additional training beyond an accumulated eight hours during any
67 three-year period is not valid for more than one subsequent renewal of the
68 license.

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

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

84 10. (1) A blaster's license issued under the provisions of this section may
85 be suspended or revoked by the division of fire safety upon substantial proof that
86 the individual holding the license has:

87 (a) Knowingly failed to monitor the use of explosives as provided in

88 section 319.309;

89 (b) Negligently or habitually exceeded the limits established under section
90 319.312;

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

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

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

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

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

109 (3) The individual holding the license may appeal any suspension or
110 revocation to the state blasting safety board established under section 319.324
111 within forty-five days of the date written notice was received. The division of fire
112 safety shall immediately notify the chairman of the board that an appeal has
113 been received and a hearing before the board shall be held. The board shall
114 consider and make a decision on any appeal received by the division of fire safety
115 within thirty days of the date the appeal is received by the division of fire
116 safety. The board shall make a decision on the appeal by majority vote of the
117 board and shall immediately notify the licensee of its decision in writing. The
118 written statement of the board's decision shall be prepared by the division of fire
119 safety or its designee and shall be approved by the chairman of the board. The
120 approved statement of the board's decision shall be sent by certified mail to the
121 last known address of the holder of the license.

122 11. Any individual whose license has been expired for a period of three
123 years or less shall be required to successfully pass the examination as provided

124 in subdivisions (1) to (5) of subsection 15 of this section and attend the eight
125 hours of training required for renewal of a license as minimum qualifications for
126 submitting an application for reinstatement of the license. Any individual whose
127 license has been expired for a period of more than three years shall meet the
128 qualifications set forth in subsection 4 of this section, including completing
129 twenty hours of training and passing the examination, prior to applying for a
130 blaster's license.

131 12. A license may be granted to applicants who within the last three years
132 have held a valid license or certification from any other source if all of the
133 qualifications for obtaining the license or certification meet or exceed the
134 provisions of this section. It is the duty of the division of fire safety to investigate
135 the qualifications required for obtaining a license or certification from any other
136 source. Licenses or certification held prior to the effective date of the rule
137 required by subsection 19 of this section shall be deemed to meet requirements
138 for this subsection, provided that they meet requirements of the rule.

139 13. A license may be granted upon the application of an individual
140 employed as a blaster on or before December 31, 2000, [and] who has
141 accumulated one thousand hours of training or education pertaining to blasting
142 and experience working for a specific person using explosives within two years
143 immediately prior to applying for a license. The application shall include a
144 statement of hours of experience in the form of an affidavit signed by the person
145 using explosives who has employed or contracted with the blaster for the
146 preceding two years. Such applicant also shall meet the requirement of
147 subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of subsection 4 of this
148 section. Any individual granted a license under this subsection shall be limited
149 to blasting performed for the person using explosives submitting the affidavit
150 required by this subsection. Such licensee shall meet the requirements for
151 continuing training required by subsection 7 of this section.

152 14. (1) The division of fire safety or its authorized agent shall offer
153 annually at least two courses of instruction that fulfill the training requirement
154 [of qualifying] **to qualify** for a blaster's license and two courses that fulfill the
155 training requirement for renewal of a blaster's license. In addition, any person
156 may apply to the division of fire safety for approval of a course of instruction that
157 meets the training requirement of obtaining a blaster's license or renewal of a
158 blaster's license. The application shall include a description of the qualifications
159 of the instructor, a description of instructional materials to be used in the course,

160 and an outline of the subject matter to be taught, including minimum hours of
161 instruction on each topic. The division of fire safety shall review the application
162 regarding the knowledge and experience of proposed instructors, the total hours
163 of training and the adequacy of proposed training in subject matter with regard
164 to the provisions of sections 319.300 to 319.345. If the division of fire safety
165 determines that training proposed by the applicant is adequate, a letter of
166 approval shall be issued to the applicant. The letter of approval shall be effective
167 for a period of three years. If at any time the division of fire safety determines
168 that an approved training course no longer meets the standards of this section,
169 the letter of approval may be revoked with written notice. The division of fire
170 safety or any person providing a course of instruction may charge an appropriate
171 fee to recover the cost of conducting such instruction.

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

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

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

184 15. (1) The division of fire safety shall approve a standard examination
185 or examinations for the purpose of qualifying an individual to obtain a blaster's
186 license. Each individual taking the examination shall pay a fee to the division
187 of fire safety, or the division's agent, that is established by rule. Testing fees
188 shall be no greater than what is required to administer the testing provisions of
189 this section and shall not exceed fifty dollars per test.

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

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

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

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

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

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

221 16. No individual shall load or fire explosives or direct, order, or otherwise
222 cause any individual to load or fire explosives in this state unless that individual
223 has a valid blaster's license or is under the direct supervision and responsibility
224 of an individual having a valid blaster's license. For purposes of this section,
225 "direct supervision" means the supervisor is physically present on the same job
226 site as the individual who is loading or firing explosives. An individual without
227 a blaster's license who is loading or firing explosives while under the direct
228 supervision and responsibility of someone having a blaster's license shall not be
229 in violation of sections 319.300 to 319.345.

230 17. **[Persons]** A **person** found guilty of loading or firing explosives, or
231 directing, ordering, or otherwise causing any individual to load or fire explosives

232 in this state without having a valid blaster's license, or that loads and fires
233 explosives without being under the direct supervision and responsibility of an
234 individual holding a blaster's license as provided in sections 319.300 to 319.345,
235 [shall be] is guilty of a class B misdemeanor for the first offense or a class A
236 misdemeanor for a second or subsequent offense. Any individual convicted of a
237 class A misdemeanor under the provisions of sections 319.300 to 319.345 shall be
238 permanently prohibited from obtaining a blaster's license in this state.

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

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

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

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

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

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

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

257 (7) Any individual performing duties in underground mines regulated by
258 30 CFR Part 48, Subpart A, 30 CFR Part 57, or performing duties in coal mining
259 regulated by 30 CFR Part 75, and 30 CFR Part 77 of the Code of Federal
260 Regulations, as amended, or using explosives within an industrial furnace;

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

265 (9) Individuals using agricultural fertilizers when used for agricultural
266 or horticultural purposes;

267 (10) Individuals handling explosives while in the act of transporting them

268 from one location to another;

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

271 (12) Individuals handling explosives while engaged in the process of
272 explosives manufacturing;

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

275 (14) Individuals discharging historic firearms and cannon or reproductions
276 of historic firearms and cannon; **and**

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

281 19. The division of fire safety shall promulgate rules under this section
282 to become effective no later than July 1, 2008. Any individual loading or firing
283 explosives after the effective date of such rule shall obtain a license within one
284 hundred eighty days of the effective date of such rule. Any experience or training
285 prior to the effective date of such rule that meets the standards established by
286 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
2 to:

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

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

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

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

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

16 (6) The use of small arms ammunition and components thereof which are
17 subject to the Gun Control Act of 1968, 18 U.S.C. Section 44, and regulations

18 promulgated thereunder. Any small arms ammunition and components thereof
19 exempted by the Gun Control Act of 1968 and regulations promulgated
20 thereunder are also exempted from the provisions of sections 319.300 to 319.345;

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

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

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

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

28 (11) Individuals discharging historic firearms and cannon or reproductions
29 of historic firearms and cannon; **and**

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

Bill ✓

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