

SECOND REGULAR SESSION

HOUSE BILL NO. 1330

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SELBY.

Pre-filed December 27, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3196L.011

AN ACT

To amend chapter 320, RSMo, by adding thereto six new sections relating to the regulation and certification of explosive blasters, with penalty provisions.

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

Section A. Chapter 320, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 320.280, 320.282, 320.284, 320.286, 320.288, and 320.290, to read as
3 follows:

320.280. As used in sections 320.280 to 320.290, the following terms mean:

- 2 (1) "Approved", acceptable to the authority having jurisdiction;
- 3 (2) "Blasting operation", the use of explosives in the blasting of stone, rock, ore, or
4 any other natural formation, or in any construction or demolition work;
- 5 (3) "Blaster", a person qualified to be in charge of and responsible for the loading
6 and firing of an explosive or explosive material;
- 7 (4) "Explosive", any chemical compound, mixture, or device, the primary or
8 common purpose of which is to function by explosion, including but not limited to
9 dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses,
10 squibs, detonating cord, igniter cord, and igniters;
- 11 (5) "Explosive material", any explosive, blasting agent, emulsion explosive, water
12 gel, or detonator. Explosive materials determined to be within the coverage of sections
13 320.280 to 320.290 shall include all such materials listed in 18 U.S.C.A. Chapter 40, as
14 issued at least annually by the director of the Bureau of Alcohol, Tobacco, and Firearms
15 of the Department of the Treasury;
- 16 (6) "Fugitive from justice", any person who has fled from the jurisdiction of any
17 court of record to avoid prosecution for any crime or to avoid giving testimony in any

18 criminal proceeding. The term shall also include any person who has been convicted of any
19 crime and has fled to avoid case disposition;

20 (7) "Natural person", an individual;

21 (8) "Issuing authority", Missouri division of fire safety, office of the state fire
22 marshal;

23 (9) "Person", any individual, proprietorship, partnership, firm, corporation,
24 company, joint venture, association, college, university, municipality, county, political
25 subdivision or department, board, commission, institution, or agency of the state of
26 Missouri.

320.282. 1. The issuing authority shall promulgate rules necessary to administer
2 the provisions of sections 320.280 to 320.290.

3 2. No rule or portion of a rule promulgated pursuant to the authority of sections
4 320.280 to 320.290 shall become effective unless it has been promulgated pursuant to
5 chapter 536, RSMo.

320.284. 1. Any individual who has completed a training course and has met all
2 other qualifications required for certification approved by the issuing authority may apply
3 for certification as a blaster. The application shall be made on forms approved by the
4 Missouri division of fire safety, office of the state fire marshal, or the issuing authority.

5 2. A fee shall be paid at the time of application to the Missouri division of fire
6 safety, office of the state fire marshal. The amount of fee to be set by the Missouri division
7 of fire safety, office of the fire marshal, or the issuing authority.

8 3. The applicant for certification shall affirm that:

9 (1) The applicant is at least twenty-one years of age;

10 (2) The applicant has not willfully violated any provisions of sections 320.280 to
11 320.290;

12 (3) The applicant has not knowingly withheld information or has not made any
13 false or fictitious statement intended to or likely to deceive in connection with the
14 application;

15 (4) The applicant has familiarity and understanding of all published federal and
16 state laws relating to explosive materials;

17 (5) The applicant has not been convicted in any court of a felony;

18 (6) The applicant is not a fugitive from justice;

19 (7) The applicant is not an unlawful user of or addicted to marijuana or any
20 depressant or stimulant drug or narcotic drugs or alcohol;

21 (8) The applicant has completed a blaster's training course approved by the
22 Missouri division of fire safety, office of the fire marshal and submitted course

23 documentation in accordance with this section and has successfully passed the certification
24 examination pursuant to the provisions of section 320.288;

25 (9) The applicant has two years or two thousand hours of experience directly
26 relating to the use of explosives and shall provide training records and course
27 documentation and signed documentation from an employer, supervisor, or other
28 responsible party verifying the person's experience;

29 (10) The applicant or certificate holder has not been adjudicated as mentally
30 defective;

31 (11) The applicant or certificate holder does not advocate, or knowingly belong to,
32 any organization or group, that advocates overthrow of, or violent action against any
33 federal, state, or local government.

34 4. If the Missouri division of fire safety, office of the state fire marshal, or the
35 issuing authority finds that the requirements for certification have been satisfied, a
36 certificate shall be issued to the applicant.

37 5. Blaster certification shall expire three years from the date of successful
38 completion of the examination or from the date of recertification. To be recertified as a
39 blaster, the person shall be required to complete the following criteria in order to renew
40 certification:

41 (1) Provide documentation of eight hours of training as a student in explosive
42 related courses or seminars. All such courses or seminars shall be subject to approval by
43 the issuing authority;

44 (2) A letter from the applicant's supervisor listing the applicant's job description
45 and attesting to the fact that the duties of the applicant include blasting or explosive related
46 activities; and

47 (3) A fee shall be paid at the time of recertification in the amount, to be set by the
48 Missouri division of fire safety, office of the state fire marshal.

49 6. Certifications issued to blasters pursuant to the provisions of sections 320.280 to
50 320.290 shall be kept posted at the site of work or shall be carried on the person of the
51 certificate holder and be available for inspection by the Missouri division of fire safety,
52 office of the state fire marshal or designee.

53 7. Each certificate issued pursuant to the provisions of sections 320.280 to 320.290
54 shall specify the name of, and drivers license number or state identification card of, the
55 blaster, the certificate's effective and expiration date. Such certificate shall cover activities
56 for that person anywhere in the state and such person shall not be required to obtain
57 additional licenses or certificates from any county, city, or other political subdivision to
58 work as a blaster. This subsection shall not preclude a political subdivision, county, or city

59 from imposing by ordinance, requirements for notification of local authorities of intent to
60 blast a specific site, or local requirements for permits for blasting at the site.

61 8. Certificates authorizing a blaster to use explosives and explosive materials in this
62 state shall be issued only to natural persons. Such certificates shall not be assigned or
63 transferred to any other person.

64 9. A certificate issued pursuant to sections 320.280 to 320.290 may be suspended
65 or revoked for failure to comply with any provision of sections 320.280 to 320.290 or for
66 failure by the applicant or certificate holder to advise the issuing authority of any change
67 in a material fact, including address, supplied in the application.

68 10. In any case where the issuing authority denies, suspends, or revokes a
69 certificate, a written notice of the basis for the revocation, suspension, or denial shall be
70 provided to the applicant or certificate holder. Such notice shall specify the basis for
71 revocation, suspension, or denial of certification.

72 11. Upon notice of the revocation of certification, the person shall surrender the
73 revoked certificate and all copies thereof to the issuing authority immediately. No person
74 shall supervise a blast or blast unsupervised once a certificate has been revoked.

75 12. Upon the revocation, suspension, or denial of a certification, the decision may
76 be appealed in writing to the issuing authority within forty-five days of the revocation,
77 suspension, or denial requesting a hearing with the appeal board. The appeal board shall
78 be composed of the following members appointed by the issuing authority:

79 (1) State fire marshal or designee;

80 (2) Two certified blasters; and

81 (3) Two representatives from the blasting industry having no affiliation with the
82 individual.

83 13. In cases where a hearing is held, the issuing authority shall state the appeal
84 board's findings and conclusions in writing and shall transmit a copy to the applicant or
85 former certificate holder within twenty working days.

86 14. The attorney general shall, upon the request of the issuing authority, bring an
87 action for a restraining order, temporary or permanent injunction against any person
88 violating or threatening to violate any of the provisions of sections 320.280 to 320.290.

89 15. Any person whose certification has lapsed for a period of one year or longer,
90 or has been revoked, shall be required to reapply, attend certification training and
91 successfully pass an examination as a condition of reinstatement of certification.

92 16. Certification reciprocity may be granted to applicants from other states if the
93 applicant's certification or licensure course and test meet or exceed the provisions of
94 sections 320.280 to 320.290. A copy of the curriculum or test shall be submitted if

95 requested. A fee in the amount set by the issuing authority shall be paid to the issuing
96 authority. Individuals seeking reciprocity shall also comply with this section.

320.286. 1. Any person may apply to the issuing authority for approval of a
2 training course for blasters. The application shall include a description of the
3 qualifications of the instructors, a description of instructional materials to be used in the
4 course, and an outline of the content of subject matter to be taught, including the hours of
5 instruction.

6 2. The issuing authority shall review the application regarding the knowledge and
7 experience of proposed instructors in blasting, the total hours of training, and the
8 adequacy of proposed training in subject matter necessary for the safe handling and use
9 of explosives and explosive materials. The training shall be at least twenty hours in length.
10 The issuing authority shall consider the adequacy of training in protecting the blaster,
11 other employees, and the general public and the prevention or damage from blasting to
12 public or private property. In evaluating the adequacy of subject matter covered in the
13 course proposed by the applicant, the issuing authority shall determine whether the course
14 offers competent instruction in the transportation, storage, and use of explosives and
15 explosive materials and includes information about requirements imposed by the
16 regulations of the United States Department of Transportation, the Bureau of Alcohol,
17 Tobacco and Firearms, the Occupational Health and Safety Administration, the Office of
18 Surface Mining, the Mine Safety and Health Administration, and by the statutes of the
19 state of Missouri. If the issuing authority determines training proposed by the applicant
20 to be adequate in all areas, a letter of approval shall be issued to the applicant for the
21 training course.

22 3. The letter of course approval issued by the issuing authority shall be effective for
23 a period of two years. The letter of approval may be renewed upon application by the
24 person providing the training.

25 4. Any person offering training in blasting approved by the issuing authority shall
26 submit a list of individuals attending any training class to the issuing authority within ten
27 working days of the completion of the course.

28 5. If at any time the issuing authority determines that an approved training course
29 in blasting no longer meets the standards of subsection 2 of this section, the letter of
30 approval may be revoked with written notice to the applicant.

31 6. The issuing authority shall maintain a current list of persons who provide
32 training for blasters and shall make available such list by any reasonable means, including
33 but not limited to notices of the names and addresses of persons providing training to
34 professional and trade associations, labor organizations, vocational schools, and other

35 persons from whom potential students in the course may be expected to learn such
36 training.

320.288. 1. The issuing authority shall approve a standard examination for
2 purposes of qualifying individuals certified as blasters.

3 2. Except as otherwise provided in this section, no person shall be allowed to take
4 the standard examination for purposes of qualifying the individual as a certified blaster
5 unless the individual has completed a training course approved pursuant to section
6 320.286.

7 3. The standard examination may be administered by a person authorized by the
8 issuing authority at the site of an approved training course, or in the office of the issuing
9 authority under the supervision of personnel of the issuing authority.

10 4. Standards for passing or failing to pass the standard examination shall be set by
11 the issuing authority.

12 5. The person administering the examination shall provide a written statement
13 within thirty days to each individual taking the examination as to whether that person
14 passed or failed and shall record a copy of such statement with the issuing authority.

15 6. Any person failing to pass the examination may retake the examination without
16 having to retake the training. If the person fails the examination a second time, the person
17 shall be required to retake the training course. No limit shall be placed on how many times
18 a person can take the examination, however, after three unsuccessful attempts, the
19 application may be subject to review by the issuing authority.

20 7. Any person who has taken a training course within three years immediately
21 preceding the effective date of the application which is approved by the issuing authority
22 subsequent to the effective date of sections 320.280 to 320.290 may take the examination
23 required for certification as a blaster without completing an additional training course.

24 8. Persons having previously taken an approved course, and having successfully
25 passed an approved examination and successfully completed an approved refresher
26 training course, are eligible for certification upon completion of the application process as
27 provided in section 320.284.

320.290. 1. No person shall load or fire an explosive or explosive material, or direct,
2 order, or otherwise cause any person to load or fire an explosive or explosive material in
3 this state unless such use of explosives or explosive materials are under the direct
4 supervision and responsibility of a blaster certified pursuant to sections 320.280 to 320.290.
5 Persons working under the direct supervision of a certified blaster at the site of a blast
6 shall not be in violation of sections 320.280 to 320.290.

7 2. Persons found guilty of loading or firing an explosive or explosive material, or

8 directing, ordering, or otherwise causing any person to load or fire an explosive or
9 explosive material in this state without having a valid blaster's certification or under direct
10 supervision and responsibility of a blaster certified pursuant to sections 320.280 to 320.290,
11 shall be guilty of:

12 (1) A class C misdemeanor for the first offense;

13 (2) A class B misdemeanor for the second offense;

14 (3) A class A misdemeanor for the third offense.

15 3. The issuing authority may suspend, revoke, or deny certification to any applicant
16 when it is found that the applicant:

17 (1) Has knowingly made a material misrepresentation of any information required
18 for certification; or

19 (2) Has knowingly by any means of false pretense, deception, fraud,
20 misrepresentation, or cheating, obtained training or certification.

21 4. Subsections 1 and 2 of this section shall not be construed to apply to:

22 (1) The laboratories of schools, colleges, and similar institutions when confined to
23 the purpose of instruction or research, or the explosive materials in the forms prescribed
24 by the official United States Pharmacopoeia or the National Formulary and used in
25 medicines and medicinal agents;

26 (2) The training or emergency operations of a federal, state, or local government,
27 including all departments, agencies, and divisions thereof, provided they are acting in their
28 official capacity and in the proper performance of their duties or functions;

29 (3) Use of explosives or explosive materials by the military or naval services or
30 agencies of the United States;

31 (4) Pyrotechnics, commonly known as fireworks, including signaling devices such
32 as flares, fuses, and torpedoes;

33 (5) Small arms ammunition and components thereof, which are subject to the Gun
34 Control Act of 1968, 18 U.S.C.A. Chapter 44 and regulations promulgated thereunder;

35 (6) Any person while performing duties regulated by Title 30, Part 48, Subpart A,
36 and Title 30, Part 57, Code of Federal Regulations, as amended, or within an industrial
37 furnace; or

38 (7) The use of explosive materials by employees or agents of public utilities
39 operating under a certificate of convenience and necessity issued by the public service
40 commission and of rural electric cooperatives organized or operating pursuant to chapter
41 394, RSMo.