

SECOND REGULAR SESSION

HOUSE BILL NO. 1553

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COOPER (120) (Sponsor), COOPER (155), WILSON (119),
WETER, LOEHNER, WHORTON, GUEST, HENKE AND ROBB (Co-sponsors).

Read 1st time January 26, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4358L.01I

AN ACT

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

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

Section A. Chapter 319, RSMo, is amended by adding thereto fifteen new sections, to
2 be known as sections 319.300, 319.303, 319.306, 319.309, 319.312, 319.315, 319.318, 319.321,
3 319.324, 319.327, 319.330, 319.333, 319.336, 319.338, and 319.339, to read as follows:

2 **319.300. Sections 319.300 to 319.339 shall be known as the "Missouri Blasting**
3 **Safety Act". The purpose of sections 319.300 to 319.339 shall be to foster the safe use of**
4 **explosives in mining and construction by establishing and enforcing consistent statewide**
5 **industry standards for licensing of blasters and persons using explosives. The provisions**
6 **of sections 319.300 to 319.339 or any rules or regulations promulgated thereunder shall not**
7 **be construed to amend, supersede, or conflict with any requirement of federal law or**
regulation governing the manufacturing, transporting, or storage of explosives.

2 **319.303. As used in sections 319.300 to 319.339, the following terms shall mean:**

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

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

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

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.

- 7 (4) "Blasting", the use of explosives in mining or construction;
- 8 (5) "Blast site", the area where explosives are handled during loading of a bore
9 hole, including fifty feet in all directions from the perimeter formed by loaded holes. A
10 minimum of thirty feet may replace the fifty feet requirement if the perimeter of loaded
11 holes is marked and separated from nonblast site areas by a barrier. The fifty feet or
12 thirty feet distance requirements, as applicable, shall apply in all directions along the full
13 depth of the bore hole. In underground mines, at least fifteen feet of a solid rib, pillar, or
14 broken rock can be substituted for the fifty foot distance;
- 15 (6) "Board", the state blasting safety board created in section 319.324;
- 16 (7) "Burden", the distance from an explosive charge to the nearest free or open face
17 at the time of detonation;
- 18 (8) "Business day", any day of the week except Saturday, Sunday, or a federal or
19 state holiday;
- 20 (9) "Deck", charge of explosives separated from other charges by stemming;
- 21 (10) "Delay period", the time delay provided by blasting caps which permits firing
22 of bore holes in sequence;
- 23 (11) "Detonation", the action of converting the chemicals in an explosive charge to
24 gases at a high pressure by means of a self-propagating shock wave passing through the
25 charge;
- 26 (12) "Detonator", any device containing initiating or primary explosive that is used
27 for initiating detonation of another explosive material. A detonator may not contain more
28 than ten grams of total explosives by weight, excluding ignition or delay charges. The term
29 includes, but is not limited to, electric blasting caps of instantaneous and delay types,
30 blasting caps for use with safety fuse, detonating cord delay connectors, and non-electric
31 instantaneous and delay blasting caps which use detonating cord, shock tube, or any other
32 replacement for electric leg wires;
- 33 (13) "Explosives", any chemical compound, mixture, or device, the primary or
34 common purpose of which is to function by explosion, including, but not limited to,
35 dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses,
36 squibs, detonating cord, igniter cord, and igniters; includes explosive materials such as any
37 blasting agent, emulsion explosive, water gel, or detonator. Explosive materials determined
38 to be within the coverage of sections 319.300 to 319.339 shall include all such materials
39 listed in 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution, and Storage of
40 Explosive Materials, as issued at least annually by the Department of Justice, Bureau of
41 Alcohol, Tobacco, Firearms and Explosives;

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

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

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

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

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

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

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

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

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

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

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

69 (25) "Stemming", inert material that is placed above explosives that have been
70 placed in a blast hole in preparation for detonation or vertically between columnar decks
71 of explosives that have been placed in a hole in preparation for detonation;

72 (26) "Uncontrolled structure", any dwelling, public building, school, church,
73 commercial building, institutional building, underground pipeline, or water well that is not
74 owned or leased by the person using explosives, or otherwise under the direct contractual
75 responsibility of the person using explosives.

 319.306. 1. Any individual who uses explosives in Missouri shall obtain a blaster's
2 license, except those exempted in sections 319.300 to 319.339. A company, business or

3 other person defined as a "person using explosives" shall not be required to hold a
4 blaster's license, but all blasting on behalf of such company, business, or other person as
5 governed by sections 319.300 to 319.339 shall be performed only by licensed blasters.
6 Applications for a blaster's license or renewal of a blaster's license shall be on a form
7 designated by the Missouri division of fire safety, but may obtain only the following:

- 8 (1) The applicant's full name;
- 9 (2) The applicant's date of birth;
- 10 (3) The applicant's sex;
- 11 (4) The applicant's physical description;
- 12 (5) The applicant's social security number;
- 13 (6) The applicant's drivers license number;
- 14 (7) The applicant's current place of employment;
- 15 (8) A listing of any other blasting license or certification held by the applicant, to
16 include the name, address, and phone number of the regulatory authority that issued the
17 license or certification;
- 18 (9) Any other information required to fulfill the obligations of sections 319.300 to
19 319.339.

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

22 3. An applicant for a blaster's license shall submit an application fee with the
23 application submitted to the division of fire safety. The amount of such fee shall be
24 established by rule promulgated by the division of fire safety under rulemaking authority
25 established in section 319.327. The fee established by rule shall be no greater than the cost
26 of administering this section, but shall not exceed one hundred dollars.

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

- 28 (1) Is at least twenty-one years of age;
- 29 (2) Has not willfully violated any provisions of sections 319.300 to 319.339;
- 30 (3) Has not knowingly withheld information or has not made any false or fictitious
31 statement intended or likely to deceive in connection with the application;
- 32 (4) Has familiarity and understanding of relevant federal and state laws relating
33 to explosives materials;
- 34 (5) Has not been convicted in any court of, or plead guilty to, a felony;
- 35 (6) Is not a fugitive from justice;
- 36 (7) Is not an unlawful user of or addicted to marijuana, or any depressant or
37 stimulant drug, or narcotic drugs, or addicted to alcohol;

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

42 **(9) Has two years or two thousand hours of experience directly relating to the use**
43 **of explosives and shall provide signed documentation from an employer, supervisor, or**
44 **other responsible party verifying the applicant's experience;**

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

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

49

50 **Any individual holding a blaster's license under the provisions of this section shall**
51 **promptly notify the division of fire safety if he or she has had any change of material fact**
52 **relating to these qualifications of holding a blaster's license.**

53 **5. If the division of fire safety finds that the requirements for a blaster's license**
54 **have been satisfied, such a license shall be issued to the applicant.**

55 **6. A blaster's license shall expire three years from the date of issuance. To qualify**
56 **for a renewal of a blaster's license, an individual will be required to provide documentation**
57 **of completing eight hours of training in an explosives-related course of instruction that is**
58 **approved by the division of fire safety. Such training for renewal of the license shall be**
59 **acquired at any time during the three-year period that a license is valid. Additional**
60 **training beyond an accumulated eight hours during any three-year period is not valid for**
61 **more than one subsequent renewal of the license.**

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

68 **8. Each individual required to have a blaster's license shall provide documentation**
69 **that he or she has a currently valid license to a representative of the division of fire safety**
70 **within two business days of a written or verbal request. No enforcement action shall be**
71 **taken against any individual that cannot comply with such as request so long as the**
72 **division of fire safety's records provide documentation that the individual has a valid**
73 **blaster's license.**

74 **9. (1) A blaster's license issued under the provisions of this section may be**
75 **suspended or revoked, or in lieu thereof, a civil penalty assessed, upon substantial proof**
76 **that the individual holding the 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**
82 **blaster's 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**
84 **to his or her qualification of holding a blaster's license; or**

85 **(f) Knowingly made a material misrepresentation of any information by any means**
86 **of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of**
87 **obtaining 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**
89 **or fine, as provided in subdivision (1) of this subsection, in writing, sent by certified mail**
90 **to the last known address of the holder of the license. The notice may also be verbal, but**
91 **this does not eliminate the requirement for written notice. Upon receipt of a verbal or**
92 **written notice of suspension or revocation or fine from the division of fire safety, the person**
93 **holding the license shall immediately surrender all copies of the license to a representative**
94 **of the division of fire safety and shall immediately cease all blasting activity, or if a fine is**
95 **assessed, payment shall be received by the division of fire safety within five business days**
96 **of notification.**

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

109 **10. Any person whose license has been expired for a period of three years or less**
110 **shall be required to successfully pass the examination as provided in subdivisions (1) to (5)**
111 **of subsection 13 of this section and attend the eight hours of training required for renewal**
112 **of a license as minimum qualifications for submitting an application for re-instatement of**
113 **the license. Any person whose license has been expired for a period of more than three**
114 **years shall meet the qualifications set forth in subsection 4 of this section, including**
115 **completing twenty hours of training and passing the examination, prior to applying for a**
116 **blaster's license.**

117 **11. License reciprocity may be granted to applicants that within the last three years**
118 **have held a valid license or certification from any other source if all of the qualifications**
119 **for obtaining the license or certification meets or exceeds the provisions of this section. It**
120 **is the duty of the division of fire safety to investigate the qualifications required for**
121 **obtaining a license or certification that is listed on a completed application on which the**
122 **applicant is attempting to obtain a license issued by the division of fire safety.**

123 **12. (1) The division of fire safety or its authorized agent shall offer at least two**
124 **courses of instruction annually that fulfills the training requirement of qualifying for a**
125 **blaster's license and renewal of a blaster's license. In addition, any person may apply to**
126 **the division of fire safety for approval of a course of instruction that meets the training**
127 **requirement of obtaining a blaster's license or renewal of a blaster's license. The**
128 **application shall include a description of the qualifications of the instructor, a description**
129 **of instructional materials to be used in the course, and an outline of the subject matter to**
130 **be taught, including minimum hours of instruction on each topic. The division of fire**
131 **safety shall review the application regarding the knowledge and experience of proposed**
132 **instructors, the total hours of training and the adequacy of proposed training in subject**
133 **matter with regard to the provisions of sections 319.300 to 319.339. If the division of fire**
134 **safety determines that training proposed by the applicant is adequate, a letter of approval**
135 **shall be issued to the applicant. The letter of approval shall be effective for a period of**
136 **three years. If at any time the division of fire safety determines that an approved training**
137 **course no longer meets the standards of this section, the letter of approval may be revoked**
138 **with written notice.**

139 **(2) To be approved by the division of fire safety, a blaster's training course shall**
140 **contain at least twenty hours of instruction to prepare attendees for obtaining a blaster's**
141 **license the first time, or eight hours of instruction to prepare attendees for obtaining a**
142 **license renewal. The topics to be included in the training course and the time devoted to**
143 **each topic shall be established by regulation.**

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

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

151 13. (1) The division of fire safety shall approve a standard examination or
152 examinations for the purpose of qualifying an individual to obtain a blaster's license. Each
153 individual taking the examination shall pay a fee to the division of fire safety, or the
154 division's agent, that is established by regulation. Testing fees shall not exceed fifty dollars
155 per test, and shall be no greater than what is required to administer the testing provisions
156 of this section.

157 (2) Except as provided in subsection 10 of this section, no individual shall be
158 allowed to take an examination for purposes of obtaining a blaster's license unless that
159 individual has completed a training course approved by the division of fire safety. The
160 individual must have completed an approved course of instruction as provided in
161 subdivision (1) of subsection 12 of this section no longer than three years prior to taking
162 the examination. The examination may be administered by any person approved to
163 provide a course of instruction, as provided in subdivision (1) of subsection 12 of this
164 section, at the site of instruction, or by the division of fire safety under the supervision of
165 the state fire marshal or his or her designee.

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

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

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

177 (6) Individuals having previously taken an approved course, and passed an
178 approved examination, and having taken an approved refresher training course, or that
179 have obtained a blaster's license as provided in subsection 11 of this section are eligible for

180 renewal of a blaster's license after meeting the requirements of subsection 6 of this section.
181 The fee for renewal of a license shall be the same as the fee specified in subsection 3 of this
182 section.

183 **14. No individual shall load or fire explosives or direct, order, or otherwise cause**
184 **any individual to load or fire explosives in this state unless that individual has a valid**
185 **blaster's license or is under the direct supervision and responsibility of an individual**
186 **having a valid blaster's license. An individual without a blaster's license that is loading or**
187 **firing explosives while under the direct supervision and responsibility of someone having**
188 **a blaster's license shall not be in violation of sections 319.300 to 319.339.**

189 **15. Persons found guilty of loading or firing explosives, or directing, ordering, or**
190 **otherwise causing any individual to load or fire explosives in this state without having a**
191 **valid blaster's license, or that loads and fires explosives without being under the direct**
192 **supervision and responsibility of an individual holding a blaster's license as provided in**
193 **sections 319.300 to 319.339, shall be guilty of a class B misdemeanor for the first offense**
194 **or a class A misdemeanor for the second offense. Any individual convicted of a class A**
195 **misdemeanor under the provisions of sections 319.300 to 319.339 shall be permanently**
196 **prohibited from obtaining a blaster's license in this state.**

197 **16. The requirement for obtaining a blaster's license shall not apply to:**

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

200 **(2) Individuals using explosives materials in the forms prescribed by the official**
201 **U.S. Pharmacopoeia or the National Formulary and used in medicines and medicinal**
202 **agents;**

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

207 **(4) Individuals using explosives that are members of the armed forces or any**
208 **military unit of Missouri or the United States;**

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

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

214 (7) Any individual performing duties regulated by 30 CFR Part 48, Subpart A and
215 30 CFR Part 57 of the Code of Federal Regulations, as amended, or using explosives within
216 an industrial furnace;

217 (8) Any individual having a valid blaster's license or certificate issued under the
218 provisions of any requirement of the U.S. government in which the requirements for
219 obtaining the license or certificate meet or exceed the requirements of sections 319.300 to
220 319.339;

221 (9) Individuals using agricultural fertilizers when used for agricultural or
222 horticultural purposes;

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

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

227 (12) Individuals handling explosives while engaged in the process of explosives
228 manufacturing;

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

231 17. The provisions of this section shall become effective one hundred eighty days
232 after the effective date of the promulgated rules and regulations.

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

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

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

9 (2) Noncommercial storage sheds;

10 (3) Temporary structures;

11 (4) Any mobile recreational vehicle, trailer, or camper;

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

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

15 3. In any instance when the scaled distance value is fifty-five or less, any person
16 using explosives, except as provided in 319.321, shall use at least one seismograph to record
17 the ground vibration and acoustic levels that occur from the use of such explosives or

18 explosive materials. When measuring ground vibration and acoustic levels, the
19 seismograph shall be placed in the proximity of the nearest uncontrolled structure or, at
20 the option of the person using explosives, closer to the blast site. If more than one
21 uncontrolled structure is the same approximate distance from the blast site, then the
22 person using explosives may select one representative structure for placement of the
23 seismograph.

24 **4. If blasting is conducted in the same proximity on a regular, routine, and ongoing**
25 **basis and consecutive blast sites are adjacent to each other, then seismograph recordings**
26 **are only required for every third blast, provided the scaled distance of the blasts in which**
27 **seismographs are not used is equal to or greater than the blasts in which a seismograph**
28 **was most recently used. If seismograph recordings are taken every third blast, the person**
29 **using explosives must still meet the requirements of subsections 2 and 3 of section 319.315**
30 **for each blast.**

31 **5. Any person voluntarily using a calibrated seismograph for all blasting is exempt**
32 **from the requirements of this section.**

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

5 **(2) In lieu of the ground vibration limit established in subdivision (1) of this**
6 **subsection, the person using explosives may submit a written request to the division of fire**
7 **safety to use an alternate compliance method. Such written request must be supported by**
8 **sufficient technical information, which may include but not limited to, documented**
9 **approval of such method by other federal, state, or local political subdivisions which**
10 **regulates the use of explosives. Upon submittal by the person using explosives of a request**
11 **to use an alternate compliance method, the state blasting safety board shall issue a written**
12 **determination as to whether the technical information submitted provides sufficient**
13 **justification for the alternate method to be used as a method of demonstrating compliance**
14 **with the provisions of this section.**

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

319.315. 1. Seismograph recordings of the ground vibration and acoustic levels
2 **created by the use of explosives, when required by section 319.309, shall be retained for at**
3 **least three years. Such recordings shall be made available to the division of fire safety**

4 **within twenty-four hours of a request by any representative of the division of fire safety.**

5 **Each seismograph recording and the accompanying records shall include the:**

6 **(1) Maximum ground vibration and acoustics levels recorded;**

7 **(2) Specific location of the seismograph equipment, its distance from the detonation**
8 **of the explosives, the date of the recording, and the time of the recording;**

9 **(3) Name of the individual responsible for operation of the seismograph equipment**
10 **and performing an analysis of each recording;**

11 **(4) Type of seismograph instrument, its sensitivity and calibration signal or**
12 **certification date of the last calibration.**

13 **2. When seismograph recordings of the use of explosives are required by section**
14 **319.309, a record of each such use of explosives shall be made and retained for at least**
15 **three years. The record shall be completed by the end of the work day following the day**
16 **in which the explosives were detonated. Such records shall be made available to the**
17 **division of fire safety, upon request, within twenty-four hours of the request. Each record**
18 **shall include the:**

19 **(1) Name of the person using the explosives;**

20 **(2) Location, date, and time of the detonation;**

21 **(3) Name of the licensed blaster responsible for use of the explosives;**

22 **(4) Type of material blasted;**

23 **(5) Number of bore holes, burden, and spacing;**

24 **(6) Diameter and depth of bore holes;**

25 **(7) Type of explosives used;**

26 **(8) Weight of explosives used per bore hole and total weight of explosives used;**

27 **(9) Maximum weight of explosives detonated with any eight millisecond period;**

28 **(10) Maximum number of bore holes or decks detonated within any eight**
29 **millisecond period;**

30 **(11) Initiation system, including number of circuits and the timer interval, if a**
31 **sequential timer is used;**

32 **(12) Type and length of stemming;**

33 **(13) Type of detonator and delay periods used, in milliseconds;**

34 **(14) Sketch of delay pattern, including decking;**

35 **(15) Distance and scaled distance, if required under the provisions of 319.309, to**
36 **the nearest controlled structure;**

37 **(16) Location of the nearest controlled structure, using the best available**
38 **information.**

39 **3. It shall be the duty of each licensed blaster and each person using explosives to**
40 **assure that the requirements of this section are met. Any person using explosives as**
41 **defined in section 319.303 shall provide properly calibrated seismographic equipment at**
42 **the closest practical proximity to the nearest uncontrolled structure, or at the option of the**
43 **person using explosives the seismograph equipment may be located nearer to the blast site**
44 **on an approximate line between the nearest uncontrolled structure and the blast site.**
45 **Licensed blasters shall create the required record in subsection 2 of this section and**
46 **provide such record to the person using explosives, who shall be responsible for**
47 **maintaining records required in this section.**

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

3 **2. Provisions of federal law and regulation regarding the manufacturing,**
4 **transportation, distribution, and storage of explosives shall be enforced by the appropriate**
5 **federal agency and shall not be the subject of state enforcement.**

6 **3. Within sixty days after the effective date of sections 319.300 to 319.339, each**
7 **person using explosives or intending to use explosives in Missouri shall register with the**
8 **state fire marshal. Any person not required to register on the effective date, who**
9 **subsequently uses explosives in Missouri, shall register with the state fire marshal within**
10 **thirty days after first using explosives in Missouri. The initial registration shall state the**
11 **name of the person, address, telephone number, facsimile number, e-mail address, and**
12 **name of the principal individual having responsibility for supervision of the use of**
13 **explosives. A fee of one hundred dollars shall be submitted with the initial registration.**

14 **4. Each person using explosives that is required to register under subsection 3 of**
15 **this section shall by January 31 of each year after registering, file an annual report with**
16 **the state fire marshal for the preceding calendar year.**

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

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

22 **(3) The report shall include:**

23 **(a) The name and address of the explosives distributors from which explosives were**
24 **purchased;**

25 **(b) The total number of pounds of explosives purchased during the period required**
26 **to be covered by the report. For persons who purchase explosives for use in multiple**
27 **states, the report need only state the total number of pounds which were delivered for use**

28 in Missouri. Persons required to annually report shall maintain records sufficient to prove
29 the accuracy of the information reported.

30 (4) The person shall submit with the annual report a fee per ton, as established
31 under this section, based on the amount of explosives reported. If the report of total
32 pounds purchased results in a portion of a ton, the cumulative total of the fee shall be
33 rounded to the nearest ton. The minimum total fee submitted by any person required to
34 annually report shall be two hundred fifty dollars. In addition to the minimum fee, any
35 person using fifty-one to two hundred fifty tones of explosives during any year shall pay
36 a fee of two dollars and fifty cents per ton on this portion of the total tons used. In
37 addition, any person using two hundred and fifty-one tons or more of explosives during
38 any year shall pay a fee of one dollar on this portion of the total tons used. The maximum
39 total fee submitted by any person required to annually report shall be five thousand
40 dollars.

41 5. (1) The state fire marshal may audit the records of any person required to
42 annually report under subsection 4 of this section to determine the accuracy of the number
43 of pounds of explosives reported. In connection with such audit, the state fire marshal may
44 also require any distributor of explosives to provide a statement of sales during the year
45 to persons required to report under subsection 4 of this section.

46 (2) It shall be a violation of sections 319.300 to 319.319 to knowingly report false
47 information in the reports required under subsections 3 and 4 of this section. The state fire
48 marshal may issue a notice of violation for reporting false information. The notice of
49 violation shall be subject to the same procedures and rights of appeal as established in
50 sections 319.324, 319.327, and 319.333. Upon conviction for knowingly filing a false report,
51 the person shall be subject to a penalty as a class B misdemeanor. Conviction upon a
52 second or subsequent offense shall be subject to penalty as a class A misdemeanor.

53 6. It shall also be a violation of sections 319.300 to 319.339 for any person using
54 explosives to:

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

57 (2) Fail to calculate the scaled distance, conduct monitoring of vibration and noise
58 levels, and conduct record keeping as required by sections 319.300 to 319.339.

59 7. Upon a conviction or guilty plea to violation of subsection 5 of this section, the
60 person shall be subject to a penalty as a class B misdemeanor upon the first offense, and
61 upon a second or subsequent offense, the person shall be subject to a penalty as a class A
62 misdemeanor as provided in subsection 1 of section 560.021, RSMo.

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

- 2 (1) Universities, colleges, or trade schools when confined to the purpose of
3 instruction 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
11 devices such as flares, fuses, and torpedoes;
- 12 (6) The use of small arms ammunition and components thereof which are subject
13 to the Gun Control Act of 1968, Title 18, Chapter 44, U.S.C., and regulations promulgated
14 thereunder. Any small arms ammunition and components thereof exempted by the Gun
15 Control Act of 1968 and regulations promulgated thereunder are also exempted from the
16 provisions of sections 319.300 to 319.339;
- 17 (7) Any person performing duties regulated by 30 CFR Part 48, Subpart A and 30
18 CFR Part 57 of the Code of Federal Regulations, as amended, or using explosives within
19 an industrial furnace;
- 20 (8) The use of agricultural fertilizers when used for agricultural or horticultural
21 purposes;
- 22 (9) The use of explosives for demolition of structures;
- 23 (10) The use of explosives by employees, agents, or contractors of rural electric
24 cooperatives organized or operating under chapter 394, RSMo.
- 319.324. 1. A state blasting safety board is hereby created and assigned to the
2 division of fire safety under the state fire marshal. There shall be seven members of this
3 board, as appointed by the governor, to be comprised of:
- 4 (1) One representative of a person using explosives that is engaged in underground
5 mining;
- 6 (2) One representative of a person using explosives that is engaged in surface
7 mining;
- 8 (3) One representative of a person using explosives that is engaged in construction;
- 9 (4) One representative of a person that is in the business of providing contract blast
10 monitoring services;
- 11 (5) Two representatives of persons that manufacture or distribute explosives; and
12 (6) The state fire marshal or his or her designee.

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

19 **3. Members of the board shall serve without compensation but may be reimbursed**
20 **by the division of fire safety for reasonable and necessary expenses. Meetings of the board**
21 **shall be held in facilities arranged for by the division of fire safety. Hearings under the**
22 **duties of the board may be held at a location in Missouri agreed upon by the state fire**
23 **marshal and the chairman of the board. Upon agreement by the appellant, the state fire**
24 **marshal, and the chairman of the state blasting safety board, hearings may be conducted**
25 **by conference call.**

26 **4. The board shall annually by January 31 elect a chairman from one of the persons**
27 **other than the state fire marshal or his or her designee. The chairman shall be elected by**
28 **majority vote of the board and shall preside over all meetings and hearings and perform**
29 **any specific duties set out in sections 319.300 to 319.339.**

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

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

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

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

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

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

42 **(4) Approve or disapprove the state fire marshal's referral of a violation of sections**
43 **319.300 to 319.339 to the appropriate prosecuting attorney or the attorney general for**
44 **enforcement action;**

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

47 **(6) Advise or assist the division of fire safety in any other matter regarding**
48 **administration or enforcement, within the scope and requirements of section 319.300 to**
49 **319.339.**

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

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

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

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

14 **(a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and**
15 **Explosives;**

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

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

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

31 **(6) Receive and provide information and assistance, in cooperation with local**
32 **governments, federal agencies, and agencies of other states, in administration and**

33 enforcement of sections 319.300 to 319.339 and similar laws, regulations, and requirements
34 in other jurisdictions.

319.330. There is hereby created in the state treasury for use by the division of fire
2 safety in administration and enforcement of sections 319.300 to 319.339, a fund to be
3 known as the "Missouri Explosives Safety Act Administration Fund". All fees collected
4 under sections 319.300 to 319.339, appropriations of the general assembly, federal grants,
5 private donations, and any other moneys designated for duties established under sections
6 319.300 to 319.339 shall be deposited in the fund. Moneys deposited in the fund shall be
7 expended under the direction of the state fire marshal for administration and enforcement
8 of sections 319.300 to 319.339. Such funds shall not be expended for salaries or
9 administrative expenses relating to any other duty of the division of fire safety.
10 Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended
11 balance in the Missouri explosives safety act administration fund at the end of any
12 biennium shall not be transferred to the general revenue fund. All interest earned from
13 moneys in the fund shall be credited to such fund. The state fire marshal shall submit a
14 report to the state blasting safety board and the public each year that describes the revenue
15 created by fees established under the provisions of sections 319.300 to 319.339 and how the
16 revenue was expended to enforce the provisions of sections 319.300 to 319.339, including
17 the number of employees used and activities performed.

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

18 of the board, the person may be referred for enforcement action as provided in section
19 319.327.

20 **319.336.** Any person aggrieved by any official action of the state blasting safety
21 board affecting their licensed status, including revocation, suspension, failure to renew, or
22 refusal to grant a license may seek a determination thereon by the administrative hearing
23 commission under the provisions of section 621.045, RSMo.

24 **319.338. 1.** Any person using explosives within Missouri shall notify the division
25 of fire safety in writing or by telephone at least two business days in advance of first using
26 explosives at a site where blasting has not previously been conducted at that location. If
27 blasting will be conducted at an ongoing project, such as a long term construction project,
28 or at a permanent site, such as an underground or surface mine, the person shall only be
29 required to make one notice to the division of fire safety in advance of the first use of
30 explosives. Any such ongoing projects or permanent sites in existence at the time of the
31 effective date of sections 319.300 to 319.339 shall not be required to provide notice as
32 described in this section.

33 **2.** The notice required by this section shall state the name, address, and telephone
34 number of the person using explosives, the name of the individual responsible for
35 supervision of blasting, the date or approximate period over which blasting will be
36 conducted, the location of blasting by street address, route, or other description, and the
37 nature of the project or reason for blasting.

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

40 **319.339. 1.** Any person using explosives which will conduct blasting within the
41 jurisdiction of a municipality shall notify the appropriate representative of the
42 municipality in writing or by telephone at least two business days in advance of blasting
43 at that location. An appropriate representative shall be deemed to be the city's fire
44 department or public works department, or an official at the city hall or office maintained
45 by the city. The notice required by this section shall state the name, address, and telephone
46 number of the person using explosives, the name of the individual responsible for
47 supervision of blasting, the date or approximate period over which blasting will be
48 conducted, the location of blasting by street address, route, or other description, and the
49 nature of the project or reason for blasting. If blasting will be conducted at an ongoing
50 project, such as a long term construction project, or at a permanent site, such as an
51 underground or surface mine, the person shall only be required to make one notice to the
52 local government in advance of the first use of explosives. Any such ongoing projects or

14 permanent sites in existence at the time of the effective date of sections 319.300 to 319.339
15 shall not be required to provide notice as described in this subsection.

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

24 **3. Any municipality or authorized representative of a municipality may:**

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

27 **(2) Request and shall be allowed access to the site of blasting by the person using**
28 **explosives and shall be allowed to observe blasting from a safe location as designated by**
29 **the blaster;**

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

34 **(4) Examine records of blasting required to be maintained by sections 319.309 and**
35 **319.315. However, no municipality shall require a person using explosives or a blaster to**
36 **surrender such records or a copy of such records to the municipality;**

37 **(5) Report suspected violations of sections 319.300 to 319.339 to the state fire**
38 **marshal.**

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

42 **5. The state of Missouri hereby preempts existing regulation, licensing, and**
43 **inspection of persons using explosives, blasters, and blasting by local governments or other**
44 **political subdivisions, except as authorized in this section. It shall be unlawful for any local**
45 **government or other political subdivision to impose any future ordinance, order, permit**
46 **or regulation upon persons using explosives or blasters which duplicates, exceeds or**
47 **conflicts with the requirements of sections 319.300 to 319.339.**

✓