

FIRST REGULAR SESSION

HOUSE BILL NO. 197

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BRANDOM (Sponsor), JONES (89), WALLACE,
SATER AND RUESTMAN (Co-sponsors).

0102L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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

Section A. Section 319.306, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 319.306, to read as follows: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 applicant, to include the name, address, and phone number of the regulatory authority that issued the license or certification;

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.

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

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

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

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

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

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

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

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

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

34 (6) Not be a fugitive from justice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 13. A license may be granted upon the application of an individual employed as a blaster
121 on or before December 31, 2000, and who has accumulated one thousand hours of training or
122 education pertaining to blasting and experience working for a specific person using explosives
123 within two years immediately prior to applying for a license. The application shall include a

124 statement of hours of experience in the form of an affidavit signed by the person using explosives
125 who has employed or contracted with the blaster for the preceding two years. Such applicant
126 also shall meet the requirement of subdivisions (1), (2), (3), (4), (5), (6), (7), (10), and (11) of
127 subsection 4 of this section. Any individual granted a license under this subsection shall be
128 limited to blasting performed for the person using explosives submitting the affidavit required
129 by this subsection. Such licensee shall meet the requirements for continuing training required
130 by subsection 7 of this section.

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

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

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

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

157 15. (1) The division of fire safety shall approve a standard examination or examinations
158 for the purpose of qualifying an individual to obtain a blaster's license. Each individual taking
159 the examination shall pay a fee to the division of fire safety, or the division's agent, that is

160 established by rule. Testing fees shall be no greater than what is required to administer the
161 testing provisions of this section and shall not exceed fifty dollars per test.

162 (2) Except as provided in subsection 11 of this section, no individual shall be allowed
163 to take an examination for purposes of obtaining a blaster's license unless that individual has
164 completed a training course approved by the division of fire safety. The individual must have
165 completed an approved course of instruction as provided in subdivision (1) of subsection 14 of
166 this section no longer than two years prior to taking the examination. The examination may be
167 administered by any person approved to provide a course of instruction, as provided in
168 subdivision (1) of subsection 14 of this section, at the site of instruction, provided that any such
169 examination may, at the discretion of the state fire marshal, be conducted under the supervision
170 of the division of fire safety. The division of fire safety may also administer such examinations
171 at other times and locations.

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

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

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

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

189 16. No individual shall load or fire explosives or direct, order, or otherwise cause any
190 individual to load or fire explosives in this state unless that individual has a valid blaster's license
191 or is under the direct supervision and responsibility of an individual having a valid blaster's
192 license. For purposes of this section, "direct supervision" means the supervisor is physically
193 present on the same job site as the individual who is loading or firing explosives. An individual
194 without a blaster's license who is loading or firing explosives while under the direct supervision

195 and responsibility of someone having a blaster's license shall not be in violation of sections
196 319.300 to 319.345.

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

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

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

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

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

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

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

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

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

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

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

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

231 (11) Individuals assisting or training under the direct supervision of a licensed blaster;
232 (12) Individuals handling explosives while engaged in the process of explosives
233 manufacturing;
234 (13) Employees, agents, or contractors of rural electric cooperatives organized or
235 operating under chapter 394, RSMo; [and]
236 (14) Individuals discharging historic firearms and cannon or reproductions of historic
237 firearms and cannon; **and**
238 **(15) Individuals using explosive materials along with a well screen cleaning device**
239 **for the purpose of unblocking clogged screens of agricultural irrigation wells.**
240 19. The division of fire safety shall promulgate rules under this section to become
241 effective no later than July 1, 2008. Any individual loading or firing explosives after the
242 effective date of such rule shall obtain a license within one hundred eighty days of the effective
243 date of such rule. Any experience or training prior to the effective date of such rule that meets
244 the standards established by the rule shall be deemed to comply with this section.

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