

SECOND REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 795

95TH GENERAL ASSEMBLY

---

---

INTRODUCED BY SENATORS MAYER AND NODLER.

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

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

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

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

TERRY L. SPIELER, Secretary.

4396S.01P

---

---

## AN ACT

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

---

---

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

Section A. Sections 319.306 and 319.321, RSMo, are repealed and two new  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

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

- 8 (1) The applicant's full name;
- 9 (2) The applicant's home address;
- 10 (3) The applicant's date of birth;
- 11 (4) The applicant's sex;
- 12 (5) The applicant's physical description;
- 13 (6) The applicant's driver's 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

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

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

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

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

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

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

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

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

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

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

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

38 (6) Not be a fugitive from justice;

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

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

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

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

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

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

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

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

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

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

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

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

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

88 section 319.309;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

268 from one location to another;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Bill ✓

Copy