

FIRST REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 571

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ENGLER.

1310H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 319.318, RSMo, and to enact in lieu thereof three new sections relating to natural resources.

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

Section A. Section 319.318, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 319.318, 319.337, and 537.535, to read as follows:

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

2. Provisions of federal law and regulation regarding the manufacturing, transportation, distribution, and storage of explosives shall be enforced by the appropriate federal agency and shall not be subject to enforcement under sections 319.300 to 319.345.

3. Within sixty days after August 28, 2007, each person using explosives or intending to use explosives in Missouri shall register with the division of fire safety. Any person using explosives who is not required to register on the effective date, who subsequently uses explosives in Missouri shall register with the division of fire safety prior to first using explosives in Missouri. The initial registration shall state the name of the person, address, telephone number, facsimile number, email address, and name of the principal individual having responsibility for supervision of the use of explosives. A fee of two hundred dollars shall be submitted with the initial registration.

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.

14           4. Each person using explosives that is required to register under subsection 3 of this  
15 section shall by January thirty-first of each year after registering file an annual report with the  
16 division of fire safety for the preceding calendar year:

17           (1) The initial annual report shall only include that portion of the preceding calendar year  
18 after the date the person became subject to the requirement to register under subsection 3 of this  
19 section;

20           (2) The report shall include:

21           (a) Any change or addition to the information required in subsection 3 of this section;

22           (b) The name and address of the distributors from which explosives were purchased;

23           (c) The total number of pounds of explosives purchased for use in Missouri and the total  
24 number of pounds actually used in Missouri during the period covered by the report. Persons  
25 required to report annually shall maintain records sufficient to prove the accuracy of the  
26 information reported;

27           (3) The person using explosives shall submit with the annual report a fee per ton, as  
28 established under this section, based on the amount of explosives used in Missouri. If the report  
29 of total pounds used results in a portion of a ton, the cumulative total of the fee shall be rounded  
30 to the nearest ton. The fee shall be five hundred dollars plus one dollar and fifteen cents per ton  
31 of explosives used. The fee per ton authorized under this subdivision may be adjusted by rule  
32 provided the fee shall not exceed ~~two~~ **seven dollars and fifty cents** per ton. The state blasting  
33 safety board shall review the fee schedule on a biennial basis and approve or disapprove  
34 adjustments in fees by rule. **The fee established by rule shall be no greater than the cost of**  
35 **administering this section. The fee authorized in this section and adjusted by rule shall not**  
36 **apply to any person, company, or entity regulated by the department of natural resources**  
37 **under sections 444.800 through 444.980 and 10 CSR 40-3.160.**

38           5. (1) The division of fire safety may audit the records of any person using explosives  
39 required to report annually under subsection 4 of this section to determine the accuracy of the  
40 number of pounds of explosives reported. In connection with such audit, the division of fire  
41 safety may also require any distributor of explosives to provide a statement of sales during the  
42 year to persons required to report under subsection 4 of this section.

43           (2) It shall be a violation of sections 319.300 to 319.345 to fail to register or report as  
44 required by subsection 3 of this section or knowingly report false information in the reports  
45 required under subsections 3 and 4 of this section. The state fire marshal may issue a notice of  
46 violation under section 319.333 for failure to register or report or for knowingly reporting false  
47 information in the reports required by subsections 3 and 4 of this section. The notice of violation  
48 shall be subject to the same procedures and rights of appeal as established in sections 319.324,  
49 319.327, and 319.333.

50 (3) Any person who fails to register or report or who knowingly reports false information  
51 in the reports required under subsections 3 and 4 of this section shall be subject to a civil penalty  
52 not exceeding two thousand dollars for the first offense or a penalty not exceeding five thousand  
53 dollars for a second or subsequent offense. Fees for use of explosives not reported shall also be  
54 paid.

55 6. It shall be a violation of sections 319.300 to 319.345 for any person using explosives  
56 to:

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

59 (2) Fail to calculate the scaled distance, conduct monitoring of vibration and noise levels,  
60 and conduct record keeping as required by sections 319.300 to 319.345;

61 (3) Fail to carry a minimum of one million dollars in commercial general liability  
62 insurance.

63 7. The state fire marshal may issue a notice of violation for any violation of subsection  
64 6 of this section which shall be subject to the same procedures and rights of appeal as established  
65 in sections 319.324, 319.327, and 319.333.

66 8. A violation of subsection 6 of this section shall be subject to a civil penalty not  
67 exceeding two thousand dollars for the first offense or a penalty not exceeding five thousand  
68 dollars for a second or subsequent offense.

**319.337. Any person regulated under sections 319.300 to 319.345 shall not be liable  
2 for damages for public or private nuisance relating to noise within the limits of this chapter  
3 during ordinary business hours.**

**537.535. No action for a private nuisance shall be brought against a permittee in  
2 compliance with a related permit issued by the department of natural resources, the United  
3 States Environmental Protection Agency, or the United States Army Corps of Engineers,  
4 except that the provisions of this section shall not apply to any permittee in compliance  
5 with a hazardous waste permit issued pursuant to chapter 260 for hazardous waste that  
6 is either nuclear waste or radioactive waste, or a sanitary landfill permit issued pursuant  
7 to chapter 260.**

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