

SECOND REGULAR SESSION

# SENATE BILL NO. 885

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time March 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

6117S.011

## AN ACT

To repeal section 319.318, RSMo, and to enact in lieu thereof one new section relating to prohibited acts involving the use of explosives.

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

Section A. Section 319.318, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 319.318, to read as follows:

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

3 2. Provisions of federal law and regulation regarding the manufacturing,  
4 transportation, distribution, and storage of explosives shall be enforced by the  
5 appropriate federal agency and shall not be subject to enforcement under sections  
6 319.300 to 319.345.

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

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

20 (1) The initial annual report shall only include that portion of the

21 preceding calendar year after the date the person became subject to the  
22 requirement to register under subsection 3 of this section;

23 (2) The report shall include:

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

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

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

32 (3) The person using explosives shall submit with the annual report a fee  
33 per ton, as established under this section, based on the amount of explosives used  
34 in Missouri. If the report of total pounds used results in a portion of a ton, the  
35 cumulative total of the fee shall be rounded to the nearest ton. The fee shall be  
36 five hundred dollars plus one dollar and fifteen cents per ton of explosives  
37 used. The fee per ton authorized under this subdivision may be adjusted by rule  
38 provided the fee shall not exceed two dollars per ton. The state blasting safety  
39 board shall review the fee schedule on a biennial basis and approve or disapprove  
40 adjustments in fees by rule.

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

47 (2) It shall be a violation of sections 319.300 to 319.345 to fail to register  
48 or report as required by subsection 3 of this section or knowingly report false  
49 information in the reports required under subsections 3 and 4 of this section. The  
50 state fire marshal may issue a notice of violation under section 319.333 for failure  
51 to register or report or for knowingly reporting false information in the reports  
52 required by subsections 3 and 4 of this section. The notice of violation shall be  
53 subject to the same procedures and rights of appeal as established in sections  
54 319.324, 319.327, and 319.333.

55 (3) Any person who fails to register or report or who knowingly reports  
56 false information in the reports required under subsections 3 and 4 of this section

57 shall be subject to a civil penalty not exceeding two thousand dollars for the first  
58 offense or a penalty not exceeding five thousand dollars for a second or  
59 subsequent offense. Fees for use of explosives not reported shall also be paid.

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

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

64 (2) Fail to calculate the scaled distance, conduct monitoring of vibration  
65 and noise levels, and conduct record keeping as required by sections 319.300 to  
66 319.345;

67 (3) Fail to carry a minimum of one million dollars in commercial general  
68 liability insurance; **or**

69 (4) **Negligently cast flyrock onto an area that is not owned,**  
70 **leased, or otherwise under the direct contractual responsibility of the**  
71 **person using explosives.**

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

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

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