

SECOND REGULAR SESSION

HOUSE BILL NO. 2329

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DOUGHERTY (Sponsor) AND TALBOY (Co-sponsor).

Read 1st time March 3, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5340L.01I

AN ACT

To repeal section 319.342, RSMo, and to enact in lieu thereof one new section relating to Missouri blasting safety act, with a penalty provision.

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

Section A. Section 319.342, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 319.342, to read as follows:

319.342. 1. Any person using explosives that will conduct blasting within the jurisdiction of a municipality shall notify the appropriate representative of the municipality in writing or by telephone at least two business days in advance of blasting at that location. An appropriate representative shall be deemed to be the city's public works department, code enforcement official, or an official at the main office maintained by the municipality. In any area where blasting will be conducted, whether in a municipality or in an unincorporated area, the person using explosives also shall notify the appropriate fire protection official for the jurisdiction where blasting will occur, which may be a city fire department, fire protection district, or volunteer fire protection association. The notice required by this section shall state the name, address, and telephone number of the person using explosives, the name of the individual responsible for supervision of blasting, the date or approximate period over which blasting will be conducted, the location of blasting by street address, route, or other description, and the nature of the project or reason for blasting. If blasting will be conducted at an ongoing project, such as a long-term construction project, or at a permanent site, such as a surface mine, the person shall only be required to make one notice to the municipality or appropriate fire

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.

16 protection official in advance of the first use of explosives. Any such ongoing projects or
17 permanent sites in existence at the time of August 28, 2007, shall not be required to provide
18 notice as described in this subsection.

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

28 3. Any municipality or county may by ordinance or order:

29 (1) Require that a permit be obtained in addition to the notice required by subsection 1
30 of this section, with such application for permit being due no more than ten days prior to the first
31 use of explosives;

32 (2) Require that the application for the permit contain specific information about the type
33 of explosives to be used and their storage location at the site where used;

34 (3) Require the applicant to demonstrate an acceptable plan for signage or other means
35 of informing the public of blasting in proximity to public streets or highways and any request for
36 temporary closing of streets or routing of traffic;

37 (4) Specify the times of day blasting may be conducted, which shall not be less than eight
38 consecutive hours on any day of the week except the ordinance or order may prohibit blasting
39 on Sunday unless approved by the municipality or county upon application by the person using
40 explosives;

41 (5) Require that the applicant submit proof that the person using explosives is registered
42 with the division of fire safety and that blasting will be conducted by a licensed blaster;

43 (6) Require that the applicant submit proof of commercial general liability insurance in
44 an acceptable amount, which shall be no less than one million dollars and no more than five
45 million dollars;

46 (7) Require that the applicant make at least three documented attempts to contact the
47 owner of any uncontrolled structures within a scaled distance of thirty-five from the blast site in
48 order to conduct a preblast survey of such structures. A preblast survey is not required if the
49 owner of any such structure does not give permission for a survey to be conducted;

50 (8) Enact any other provision necessary to carry out the provisions of the ordinance or
51 order, including the conditions under which the permit may be suspended or revoked or
52 appropriate fines may be imposed for failure to obtain a permit or violations of the permit.

53 4. A permit for blasting under a municipal or county ordinance or order authorized by
54 subsection 3 of this section shall be granted by the municipality or county upon satisfying the
55 requirements of the ordinance or order and upon the applicant's payment of a reasonable fee to
56 cover the administration of the permit system.

57 5. Any authorized representative of a municipality, county or an appropriate fire
58 protection official may:

59 (1) Require any person using explosives to show proof that he or she is registered with
60 the division of fire safety and blasting is being conducted by an individual that is licensed under
61 the provisions of section 319.306;

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

64 (3) Examine records of blasting required to be maintained by sections 319.309 and
65 319.315. However, no municipality, county, or fire protection official shall require a person
66 using explosives or a blaster to surrender such records or a copy of such records to the
67 municipality or fire protection official except as necessary under an investigation of the blaster's
68 violation of a municipal or county permit;

69 (4) Report suspected violations of section 319.300 to 319.345 to the division of fire
70 safety.

71 6. Except for any ordinance or order of any county with a charter form of government
72 and with more than one million inhabitants, no provision of a municipal ordinance or county
73 ordinance or order in effect on August 28, 2007, or which may be adopted at a future date by a
74 city or county may preempt, amend, exceed, or conflict with the provisions of sections 319.300
75 to 319.342 nor any rule promulgated by the state fire marshal under section 319.327. Neither
76 shall any existing or future municipal ordinance or county ordinance or order preempt, amend,
77 exceed, or conflict with the provisions of any statute, regulation, or policy established by:

78 (1) The United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
79 Explosives;

80 (2) Chapter 40 of Title 18 of the United States Code, as amended;

81 (3) The United States Department of Transportation;

82 (4) The federal Mine Safety and Health Administration; or

83 (5) The federal Occupational Safety and Health Administration.

84 7. Subsections 1, 2, and 3 of this section shall not apply to any blasting required by a
85 construction contract with any agency of the state of Missouri, any federal agency, or any
86 political subdivision.

87 8. Nothing in this section shall preempt the rights and remedies afforded by the general
88 assembly or common law to persons damaged by blasting.

89 **9. Any ordinance or order under this section may be more, but shall not be less**
90 **stringent than the provisions of this section.**

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