

FIRST REGULAR SESSION

HOUSE BILL NO. 475

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES YATES, HUNTER, SCHNEIDER, GOODMAN, BEARDEN, JETTON, BYRD, SMITH (118) (Co-sponsors), LUETKEMEYER, STEVENSON, DEMPSEY, MOORE, PRATT, COOPER (120), CRAWFORD, BROWN, BAKER, SUTHERLAND, BEAN, AVERY, DUSENBERG AND NIEVES.

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STEPHEN S. DAVIS, Chief Clerk

1145L.011

AN ACT

To repeal sections 285.300, 288.040, 288.050, 288.060, and 288.110, RSMo, and to enact in lieu thereof six new sections relating to employees, with a penalty provision.

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

Section A. Sections 285.300, 288.040, 288.050, 288.060, and 288.110, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 285.300, 288.040,
3 288.050, 288.060, 288.110, and 288.385, to read as follows:

285.300. 1. Every employer doing business in the state shall require each newly hired
2 employee to fill out a federal W-4 withholding form. A copy of each withholding form or an
3 equivalent form containing data required by section 285.304 which may be provided in an
4 electronic or magnetic format, shall be sent to the department of revenue by the employer within
5 twenty days after the date the employer hires the employee or in the case of an employer
6 transmitting a report magnetically or electronically, by two monthly transmissions, if necessary,
7 not less than twelve days nor more than sixteen days apart. For purposes of this section, the date
8 the employer hires the employee shall be the earlier of the date the employee signs the W-4 form
9 or its equivalent, or the first date the employee reports to work, or performs labor or services.
10 Such forms shall be forwarded by the department of revenue to the division of child support
11 enforcement on a weekly basis and the information shall be entered into the database, to be

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.

12 known as the "State Directory of New Hires". The information reported shall be provided to the
13 National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or
14 contractors of the division as required or allowed by federal statutes or regulations. **The division**
15 **of employment security shall cross-check Missouri unemployment compensation recipients**
16 **and the federally established new hire database on a monthly basis.**

17 2. Any employer that has employees who are employed in two or more states and
18 transmits reports magnetically or electronically may comply with subsection 1 of this section by:

19 (1) Designating one of the states in which the employer has employees as the designated
20 state that such employer shall transmit the reports; and

21 (2) Notifying the secretary of Health and Human Services of such designation.

288.040. 1. A claimant who is unemployed and has been determined to be an insured
2 worker shall be eligible for benefits for any week only if the deputy finds that:

3 (1) The claimant has registered for work at and thereafter has continued to report at an
4 employment office in accordance with such regulations as the division may prescribe;

5 (2) The claimant is able to work and is available for work. No person shall be deemed
6 available for work unless such person has been and is actively and earnestly seeking work. Upon
7 the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter,
8 the deputy shall notify each claimant of the number of work search contacts required to constitute
9 an active search for work. No person shall be considered not available for work, pursuant to this
10 subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall
11 not be determined to be ineligible pursuant to this subdivision because of not actively and
12 earnestly seeking work if:

13 (a) The claimant is participating in training approved pursuant to Section 236 of the
14 Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended); or

15 (b) The claimant is temporarily unemployed through no fault of his or her own and has
16 a definite recall date within eight weeks of his or her first day of unemployment; however, upon
17 application of the employer responsible for the claimant's unemployment, such eight-week period
18 may be extended at the discretion of the director; **or**

19 **(c) The claimant is participating in a state approved drug or alcohol treatment**
20 **program;**

21 (3) The claimant has reported in person to an office of the division as directed by the
22 deputy, but at least once every four weeks, except that a claimant shall be exempted from the
23 reporting requirement of this subdivision if:

24 (a) The claimant is claiming benefits in accordance with division regulations dealing
25 with partial or temporary total unemployment; or

26 (b) The claimant is temporarily unemployed through no fault of his or her own and has

27 a definite recall date within eight weeks of his or her first day of unemployment; or

28 (c) The claimant resides in a county with an unemployment rate, as published by the
29 division, of ten percent or more and in which the county seat is more than forty miles from the
30 nearest division office;

31 (d) The director of the division of employment security has determined that the claimant
32 belongs to a group or class of workers whose opportunities for reemployment will not be
33 enhanced by reporting in person, or is prevented from reporting due to emergency conditions that
34 limit access by the general public to an office that serves the area where the claimant resides, but
35 only during the time such circumstances exist.

36

37 Ineligibility pursuant to this subdivision shall begin on the first day of the week which the
38 claimant was scheduled to claim and shall end on the last day of the week preceding the week
39 during which the claimant does report in person to the division's office;

40 (4) Prior to the first week of a period of total or partial unemployment for which the
41 claimant claims benefits he **or she** has been totally or partially unemployed for a waiting period
42 of one week. No more than one waiting week will be required in any benefit year. [The
43 one-week waiting period shall become compensable after unemployment during which benefits
44 are payable for nine consecutive weeks.] No week shall be counted as a week of total or partial
45 unemployment for the purposes of this subsection unless it occurs within the benefit year which
46 includes the week with respect to which the claimant claims benefits;

47 (5) The claimant has made a claim for benefits;

48 (6) The claimant is participating in reemployment services, such as job search assistance
49 services, as directed by the deputy if the claimant has been determined to be likely to exhaust
50 regular benefits and to need reemployment services pursuant to a profiling system established
51 by the division, unless the deputy determines that:

52 (a) The individual has completed such reemployment services; or

53 (b) There is justifiable cause for the claimant's failure to participate in such
54 reemployment services.

55 2. A claimant shall be ineligible for waiting week credit or benefits for any week for
56 which the deputy finds he or she is or has been suspended by his or her most recent employer for
57 misconduct connected with his or her work. **For purposes of this chapter:**

58 **(1) The term "misconduct" shall mean an act of wanton or willful disregard of the**
59 **employer's interest, a deliberate violation of the employer's rules, a disregard of standards**
60 **of behavior which the employer has the right to expect of his or her employee, or**
61 **negligence in such degree or recurrence as to manifest culpability, wrongful intent or evil**
62 **design, or show an intentional and substantial disregard of the employer's interest, or of**

63 the employee's duties and obligations to the employer;

64 (2) Suspensions of four weeks or more shall be treated as a discharge; and

65 (3) A professionally administered and documented positive chemical test result for
66 a controlled substance, as defined pursuant to section 195.010, RSMo, or for blood alcohol
67 content of eight-hundredths of one percent or more by weight of alcohol in the claimant's
68 blood, shall be deemed misconduct connected with work. The employer must have notified
69 the employee of the employer's controlled substance and alcohol workplace policy by
70 conspicuously posting the policy in the workplace, by including the policy in an employee
71 handbook, or by statement of such policy in a collective bargaining agreement governing
72 employment of the employee. The policy shall state that a positive test result shall be
73 deemed misconduct and may result in suspension or termination of employment. Use of
74 a controlled substance, as defined in section 195.010, RSMo, pursuant to and in conformity
75 with the lawful order of a health care practitioner shall not be deemed to be misconduct
76 connected with work for the purposes of this section.

77 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of
78 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
79 conditions as compensation payable on the basis of other service subject to this law; except that:

80 (a) With respect to service performed in an instructional, research, or principal
81 administrative capacity for an educational institution, benefits shall not be paid based on such
82 services for any week of unemployment commencing during the period between two successive
83 academic years or terms, or during a similar period between two regular but not successive terms,
84 or during a period of paid sabbatical leave provided for in the individual's contract, to any
85 individual if such individual performs such services in the first of such academic years (or terms)
86 and if there is a contract or a reasonable assurance that such individual will perform services in
87 any such capacity for any educational institution in the second of such academic years or terms;

88 (b) With respect to services performed in any capacity (other than instructional, research,
89 or principal administrative capacity) for an educational institution, benefits shall not be paid on
90 the basis of such services to any individual for any week which commences during a period
91 between two successive academic years or terms if such individual performs such services in the
92 first of such academic years or terms and there is a contract or a reasonable assurance that such
93 individual will perform such services in the second of such academic years or terms;

94 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,
95 benefits shall not be paid on the basis of such services to any individual for any week which
96 commences during an established and customary vacation period or holiday recess if such
97 individual performed such services in the period immediately before such vacation period or
98 holiday recess, and there is reasonable assurance that such individual will perform such services

99 immediately following such vacation period or holiday recess;

100 (d) With respect to services described in paragraphs (a) and (b) of this subdivision,
101 benefits payable on the basis of services in any such capacity shall be denied as specified in
102 paragraphs (a), (b), and (c) of this subdivision, to any individual who performed such services
103 at an educational institution while in the employ of an educational service agency, and for this
104 purpose the term "educational service agency" means a governmental agency or governmental
105 entity which is established and operated exclusively for the purpose of providing such services
106 to one or more educational institutions.

107 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of
108 subdivision (1) of this subsection, to any individual performing services at an educational
109 institution in any capacity (other than instructional, research or principal administrative capacity),
110 and such individual was not offered an opportunity to perform such services for the second of
111 such academic years or terms, such individual shall be entitled to a retroactive payment of the
112 compensation for each week for which the individual filed a timely claim for compensation and
113 for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1)
114 of this subsection.

115 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
116 benefits for any week for which he or she is receiving or has received remuneration exceeding
117 his or her weekly benefit amount or shared work benefit amount in the form of:

118 (a) Compensation for temporary partial disability pursuant to the workers' compensation
119 law of any state or pursuant to a similar law of the United States;

120 (b) A governmental or other pension, retirement or retired pay, annuity, or other similar
121 periodic payment which is based on the previous work of such claimant to the extent that such
122 payment is provided from funds provided by a base period or chargeable employer pursuant to
123 a plan maintained or contributed to by such employer; but, except for such payments made
124 pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding
125 provisions of prior law), the provisions of this paragraph shall not apply if the services performed
126 for such employer by the claimant after the beginning of the base period (or remuneration for
127 such services) do not affect eligibility for or increase the amount of such pension, retirement or
128 retired pay, annuity or similar payment.

129 (2) If the remuneration referred to in this subsection is less than the benefits which would
130 otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible,
131 benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one
132 dollar, such amount shall be lowered to the next multiple of one dollar.

133 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a
134 claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act

135 of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant
136 to such federal law shall be deductible from the amount of benefits received pursuant to this
137 chapter.

138 5. A claimant shall be ineligible for waiting week credit or benefits for any week for
139 which or a part of which he or she has received or is seeking unemployment benefits pursuant
140 to an unemployment insurance law of another state or the United States; provided, that if it be
141 finally determined that the claimant is not entitled to such unemployment benefits, such
142 ineligibility shall not apply.

143 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
144 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
145 of work which exists because of a labor dispute in the factory, establishment or other premises
146 in which such claimant is or was last employed. In the event the claimant secures other
147 employment from which he or she is separated during the existence of the labor dispute, the
148 claimant must have obtained bona fide employment as a permanent employee for at least the
149 major part of each of two weeks in such subsequent employment to terminate his or her
150 ineligibility. If, in any case, separate branches of work which are commonly conducted as
151 separate businesses at separate premises are conducted in separate departments of the same
152 premises, each such department shall for the purposes of this subsection be deemed to be a
153 separate factory, establishment or other premises. This subsection shall not apply if it is shown
154 to the satisfaction of the deputy that:

155 (a) The claimant is not participating in or financing or directly interested in the labor
156 dispute which caused the stoppage of work; and

157 (b) The claimant does not belong to a grade or class of workers of which, immediately
158 preceding the commencement of the stoppage, there were members employed at the premises
159 at which the stoppage occurs, any of whom are participating in or financing or directly interested
160 in the dispute.

161 (2) "Stoppage of work" as used in this subsection means a substantial diminution of the
162 activities, production or services at the establishment, plant, factory or premises of the employing
163 unit. This definition shall not apply to a strike where the employees in the bargaining unit who
164 initiated the strike are participating in the strike. Such employees shall not be eligible for waiting
165 week credit or benefits during the period when the strike is in effect, regardless of diminution,
166 unless the employer has been found guilty of an unfair labor practice by the National Labor
167 Relations Board or a federal court of law for an act or actions preceding or during the strike.

168 7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis
169 of any services, substantially all of which consist of participating in sports or athletic events or
170 training or preparing to so participate, for any week which commences during the period between

171 two successive sport seasons (or similar periods) if such individual performed such services in
172 the first of such seasons (or similar periods) and there is a reasonable assurance that such
173 individual will perform such services in the later of such seasons (or similar periods).

174 8. Benefits shall not be payable on the basis of services performed by an alien, unless
175 such alien is an individual who was lawfully admitted for permanent residence at the time such
176 services were performed, was lawfully present for purposes of performing such services, or was
177 permanently residing in the United States under color of law at the time such services were
178 performed (including an alien who was lawfully present in the United States as a result of the
179 application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

180 (1) Any data or information required of individuals applying for benefits to determine
181 whether benefits are not payable to them because of their alien status shall be uniformly required
182 from all applicants for benefits.

183 (2) In the case of an individual whose application for benefits would otherwise be
184 approved, no determination that benefits to such individual are not payable because of such
185 individual's alien status shall be made except upon a preponderance of the evidence.

288.050. 1. Notwithstanding the other provisions of this law, a claimant shall be
2 disqualified for waiting week credit or benefits until after the claimant has earned wages for
3 work insured pursuant to the unemployment compensation laws of any state equal to ten times
4 the claimant's weekly benefit amount if the deputy finds:

5 (1) That the claimant has left work voluntarily without good cause attributable to such
6 work or to the claimant's employer; except that the claimant shall not be disqualified:

7 (a) If the deputy finds the claimant quit such work for the purpose of accepting a more
8 remunerative job which the claimant did accept and earn some wages therein;

9 (b) If the claimant quit temporary work to return to such claimant's regular employer; or

10 (c) If the deputy finds the individual quit work, which would have been determined not
11 suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within
12 twenty-eight calendar days of the first day worked; or

13 (d) As to initial claims filed after December 31, 1988, if the claimant presents evidence
14 supported by competent medical proof that she was forced to leave her work because of
15 pregnancy, notified her employer of such necessity as soon as practical under the circumstances,
16 and returned to that employer and offered her services to that employer as soon as she was
17 physically able to return to work, as certified by a licensed and practicing physician, but in no
18 event later than ninety days after the termination of the pregnancy. An employee shall have been
19 employed for at least one year with the same employer before she may be provided benefits
20 pursuant to the provisions of this paragraph;

21 (2) That the claimant has retired pursuant to the terms of a labor agreement between the

22 claimant's employer and a union duly elected by the employees as their official representative
23 or in accordance with an established policy of the claimant's employer; or

24 (3) That the claimant failed without good cause either to apply for available suitable
25 work when so directed by the deputy, or to accept suitable work when offered the claimant, either
26 through the division or directly by an employer by whom the individual was formerly employed,
27 or to return to the individual's customary self-employment, if any, when so directed by the
28 deputy.

29 (a) In determining whether or not any work is suitable for an individual, the division
30 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
31 subdivision, the degree of risk involved to the individual's health, safety and morals, the
32 individual's physical fitness and prior training, the individual's experience and prior earnings, the
33 individual's length of unemployment, the individual's prospects for securing work in the
34 individual's customary occupation, the distance of available work from the individual's residence
35 and the individual's prospect of obtaining local work; except that, if an individual has moved
36 from the locality in which the individual actually resided when such individual was last
37 employed to a place where there is less probability of the individual's employment at such
38 individual's usual type of work and which is more distant from or otherwise less accessible to
39 the community in which the individual was last employed, work offered by the individual's most
40 recent employer if similar to that which such individual performed in such individual's last
41 employment and at wages, hours, and working conditions which are substantially similar to those
42 prevailing for similar work in such community, or any work which the individual is capable of
43 performing at the wages prevailing for such work in the locality to which the individual has
44 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
45 for the individual;

46 (b) Notwithstanding any other provisions of this law, no work shall be deemed suitable
47 and benefits shall not be denied pursuant to this law to any otherwise eligible individual for
48 refusing to accept new work under any of the following conditions:

49 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

50 b. If the wages, hours, or other conditions of the work offered are substantially less
51 favorable to the individual than those prevailing for similar work in the locality;

52 c. If as a condition of being employed the individual would be required to join a
53 company union or to resign from or refrain from joining any bona fide labor organization.

54 2. **(1)** Notwithstanding the other provisions of this law, if a deputy finds that a claimant
55 has been discharged for misconduct connected with the claimant's work, such claimant[,
56 depending upon the seriousness of the misconduct as determined by the deputy according to the
57 circumstances in each case,] shall be disqualified for waiting week credit or benefits [for not less

58 than four nor more than sixteen weeks for which the claimant claims benefits and is otherwise
59 eligible]. In addition to the disqualification for benefits pursuant to this provision the division
60 may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage
61 credits, which were established through the individual's employment by the employer who
62 discharged such individual, according to the seriousness of the misconduct. A disqualification
63 provided for pursuant to this subsection shall not apply to any week which occurs after the
64 claimant has earned wages for work insured pursuant to the unemployment compensation laws
65 of any state in an amount equal to eight times the claimant's weekly benefit amount.

66 **(2) For the purposes of this section,**

67 **(a) The "misconduct" shall mean an act of wanton or willful disregard of the**
68 **employer's interest, a deliberate violation of the employer's rules, a disregard of standards**
69 **of behavior which the employer has the right to expect of his or her employee, or**
70 **negligence in such degree or recurrence as to manifest culpability, wrongful intent or evil**
71 **design or show an intentional and substantial disregard of the employer's interest or of the**
72 **employee's duties and obligations to the employer; and**

73 **(b) A professionally administered and documented positive chemical test result for**
74 **a controlled substance, as defined pursuant to section 195.010, RSMo, or for blood alcohol**
75 **content of eight-hundredths of one percent or more by weight of alcohol in the claimant's**
76 **blood, shall be deemed misconduct connected with work. The employer must have notified**
77 **the employee of the employer's controlled substance and alcohol workplace policy by**
78 **conspicuously posting the policy in the workplace, by including the policy in an employee**
79 **handbook, or by statement of such policy in a collective bargaining agreement governing**
80 **employment of the employee. The policy shall state that a positive test result shall be**
81 **deemed misconduct and may result in suspension or termination of employment. Use of**
82 **a controlled substance, as defined in section 195.010, RSMo, pursuant to and in conformity**
83 **with the lawful order of a health care practitioner shall not be deemed to be misconduct**
84 **connected with work for the purposes of this section.**

85 3. A pattern of absenteeism or tardiness may constitute misconduct regardless of whether
86 the last incident alone which results in the discharge constitutes misconduct.

87 4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be
88 determined to be disqualified for benefits because the claimant is in training approved pursuant
89 to section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or
90 because the claimant left work which was not "suitable employment" to enter such training. For
91 the purposes of this subsection "suitable employment" means, with respect to a worker, work of
92 a substantially equal or higher skill level than the worker's past adversely affected employment,
93 and wages for such work at not less than eighty percent of the worker's average weekly wage as

94 determined for the purposes of the Trade Act of 1974.

288.060. 1. All benefits shall be paid through employment offices in accordance with
2 such regulations as the division may prescribe.

3 2. Each eligible insured worker who is totally unemployed in any week shall be paid for
4 such week a sum equal to his weekly benefit amount.

5 3. Each eligible insured worker who is partially unemployed in any week shall be paid
6 for such week a partial benefit. Such partial benefit shall be an amount equal to the difference
7 between his weekly benefit amount and that part of his wages for such week in excess of twenty
8 dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be
9 reduced to the nearest lower full dollar amount. [Termination pay, severance pay or] pay
10 received by an eligible insured worker who is a member of the organized militia for training or
11 duty authorized by section 502(a)(1) of Title 32, United States Code[, or who is an elected
12 official] shall not be considered wages for the purpose of this subsection.

13 4. The division shall compute the wage credits for each individual by crediting him with
14 the wages paid to him for insured work during each quarter of his base period or twenty-six times
15 his weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in
16 the form of termination pay or severance pay and such payment appears in a base period
17 established by the filing of an initial claim, the claimant may, at his option, choose to have such
18 payment included in the calendar quarter in which it was paid or choose to have it prorated
19 equally among the quarters comprising the base period of the claim. The maximum total amount
20 of benefits payable to any insured worker during any benefit year shall not exceed twenty-six
21 times his weekly benefit amount, or thirty-three and one-third percent of his wage credits,
22 whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits
23 for any benefit year, only if such benefit year begins subsequent to the date on which the
24 employing unit by whom such wages were paid has become an employer. The wage credits of
25 an individual earned during the period commencing with the end of a prior base period and
26 ending on the date on which he filed an allowed initial claim shall not be available for benefit
27 purposes in a subsequent benefit year unless, in addition thereto, such individual has
28 subsequently earned either wages for insured work in an amount equal to at least five times his
29 current weekly benefit amount or wages in an amount equal to at least ten times his current
30 weekly benefit amount.

31 5. In the event that benefits are due a deceased person and no petition has been filed for
32 the probate of the will or for the administration of the estate of such person within thirty days
33 after his death, the division may by regulation provide for the payment of such benefits to such
34 person or persons as the division finds entitled thereto and every such payment shall be a valid
35 payment to the same extent as if made to the legal representatives of the deceased.

36 6. The division is authorized to cancel any benefit warrant remaining outstanding and
37 unpaid one year after the date of its issuance and there shall be no liability for the payment of any
38 such benefit warrant thereafter.

39 7. The division may establish an electronic funds transfer system to transfer directly to
40 claimants' accounts in financial institutions benefits payable to them pursuant to this chapter.
41 To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct
42 deposit application form authorizing the division to deposit benefit payments into a designated
43 checking or savings account. Any electronic funds transfer system created pursuant to this
44 subsection shall be administered in accordance with regulations prescribed by the division.

45 8. The division may issue a benefit warrant covering more than one week of benefits.

288.110. Any individual, type of organization or employing unit which has acquired
2 substantially all of the business of an employer, excepting in any such case any assets retained
3 by such employer incident to the liquidation of his obligations, and in respect to which the
4 division finds that immediately after such change such business of the predecessor employer is
5 continued without interruption solely by the successor, shall stand in the position of such
6 predecessor employer in all respects, including the predecessor's separate account, actual
7 contribution and benefit experience, annual payrolls, and liability for current or delinquent
8 contributions, interest and penalties. If two or more individuals, organizations, or employing
9 units acquired at approximately the same time substantially all of the business of an employer
10 (excepting in any such case any assets retained by such employer incident to the liquidation of
11 his obligations) and in respect to which the division finds that immediately after such change all
12 portions of such business of the predecessor are continued without interruption solely by such
13 successors, each such individual, organization, or employing unit shall stand in the position of
14 such predecessor with respect to the proportionate share of the predecessor's separate account,
15 actual contribution and benefit experience and annual payroll as determined by the portion of the
16 predecessor's taxable payroll applicable to the portion of the business acquired, and each such
17 individual, organization or employing unit shall be liable for current or delinquent contributions,
18 interest and penalties of the predecessor in the same relative proportion. Further, any successor
19 under this section which was not an employer at the time the acquisition occurred, shall pay
20 contributions for the balance of the current rate year at the same contribution rate as the
21 contribution rate of the predecessor whether such rate is more or less than two and seven-tenths
22 percent, provided there was only one predecessor or there were only predecessors with identical
23 rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date
24 of acquisition applicable to the successor for the remainder of the rate year, which rate shall be
25 based on the combined experience of all predecessor employers. In the event that any successor
26 was, prior to an acquisition, an employer, and there is a difference in the contribution rate

27 established for such calendar year applicable to any acquired or acquiring employer, the division
28 shall make a recalculation [as of the date of acquisition] of the contribution rate applicable to any
29 successor employer based upon the combined experience of all predecessor and successor
30 employers[, which] **as of the date of the acquisition, unless the date of the acquisition is**
31 **other than the first day of the calendar quarter. If the date of any such acquisition is other**
32 **than the first day of the calendar quarter, the division shall make the recalculation of the**
33 **rate on the first day of the next calendar quarter after the acquisition. When the date of**
34 **the acquisition is other than the first day of a calendar quarter, the successor employer**
35 **shall use its rate for the calendar quarter in which the acquisition was made. The revised**
36 contribution rate shall apply to employment after the [date of any such acquisition] **rate**
37 **recalculation.** For this purpose a calculation date different from July first may be established.
38 When the division has determined that a successor or successors stand in the position of a
39 predecessor employer, the predecessor's liability shall be terminated as of the date of the
40 acquisition.

288.385. 1. Except as otherwise specifically provided by law, it shall be unlawful
2 **for the director of the division of employment security, any officer, employee, agent or**
3 **deputy or former director, officer, employee, agent or deputy of the division of employment**
4 **security, any person engaged or retained by the division of employment security on an**
5 **independent contract basis, any person to whom authorized or unauthorized disclosure is**
6 **made by the division of employment security, or any person who lawfully or unlawfully**
7 **inspects any report or return filed with the division of employment security or to whom a**
8 **copy, an abstract or a portion of any report or return is furnished by the division of**
9 **employment security to make known in any manner, to permit the inspection or use of or**
10 **to divulge to anyone any information relative to any such report or return, any information**
11 **obtained by an investigation conducted by the department in the discharge of official duty,**
12 **or any information received by the director in cooperation with the United States or other**
13 **states in the enforcement of the employment laws of this state. Such confidential**
14 **information is limited to information received by the division in connection with the**
15 **administration of the employment security laws of this state.**

16 **2. Nothing in this section shall be construed to prohibit the disclosure of**
17 **information, returns, reports, or facts shown thereby, as described in subsection 1 of this**
18 **section, by any officer, clerk or other employee of the division of employment security**
19 **charged with the custody of such information:**

20 **(a) To an employee or the employee's duly authorized representative under**
21 **regulations which the director of the division of employment security may prescribe;**

22 **(b) In any action or proceeding, civil, criminal or mixed, brought to enforce the**

23 **employment security laws of this state;**

24 **3. Any person violating any provision of subsection 1 or 2 of this section shall, upon**

25 **conviction, be guilty of a class D felony.**