

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2041
94TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industrial Relations, May 1, 2008, with recommendation that the Senate Committee Substitute do pass.

4500S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo, and to enact in lieu thereof eight new sections relating to employment, with penalty provisions, an effective date for certain sections, and an emergency clause for a certain section.

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

Section A. Sections 178.585, 288.040, 288.042, 288.070, 288.250, and
2 290.505, RSMo, are repealed and eight new sections enacted in lieu thereof, to be
3 known as sections 178.585, 285.035, 288.040, 288.042, 288.070, 288.250, 290.505,
4 and 290.523, to read as follows:

178.585. 1. Under rules and regulations of the state board of education,
2 the commissioner of education, in cooperation with the director of the division of
3 [employment security] **workforce development** of the department of [labor and
4 industrial relations] **economic development**, shall establish procedures to
5 provide grants to public high schools, vocational-technical schools, Linn State
6 Technical College, and community colleges solely for the purpose of new
7 programs, curriculum enhancement, equipment and facilities so as to upgrade
8 vocational and technical education in the state.

9 2. Each vocational-technical school, community college, Linn State
10 Technical College, and school district of any public high school receiving a grant
11 authorized by this section shall have an advisory committee composed of local
12 business persons, labor leaders, parents, senior citizens, community leaders and
13 teachers to establish a plan to ensure that students who graduate from the

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

14 vocational-technical school, community college, Linn State Technical College, or
15 public high school proceed to a four-year college or high wage job with
16 workplace-skill development opportunities.

17 3. [Beginning July 1, 1994,] The director of the [division of employment
18 security of the] department of [labor and industrial relations] **economic**
19 **development** shall provide annually to the commissioner of education a listing
20 of demand occupations in the state including substate projections. The listing
21 shall include those occupations for which, in the judgment of the director of the
22 [division of employment security] **department of economic development**,
23 there is a critical shortage to meet present or future employment needs necessary
24 to the economic growth and competitiveness of the state.

25 4. In any fiscal year, at least seventy-five percent of all moneys for the
26 grant awards authorized by this section shall be to public high schools,
27 vocational-technical schools, Linn State Technical College, or community colleges
28 for new programs, curriculum enhancement or equipment necessary to address
29 demand occupations identified pursuant to subsection 3 of this section.

285.035. 1. No employer shall require an employee to have
2 personal identification microchip technology implanted into the
3 employee for any reason.

4 2. For purposes of this section, "personal identification
5 microchip technology" means a subcutaneous or surgically implanted
6 microchip technology device or product that contains or is designed to
7 contain a unique identification number and personal information that
8 can be non-invasively retrieved or transmitted with an external
9 scanning device.

10 3. Any employer who violates this section is guilty of a class A
11 misdemeanor.

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

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

7 (2) The claimant is able to work and is available for work. No person
8 shall be deemed available for work unless such person has been and is actively
9 and earnestly seeking work. Upon the filing of an initial or renewed claim, and

10 prior to the filing of each weekly claim thereafter, the deputy shall notify each
11 claimant of the number of work search contacts required to constitute an active
12 search for work. No person shall be considered not available for work, pursuant
13 to this subdivision, solely because he or she is a substitute teacher or is on jury
14 duty. A claimant shall not be determined to be ineligible pursuant to this
15 subdivision because of not actively and earnestly seeking work if:

16 (a) The claimant is participating in training approved pursuant to Section
17 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

18 (b) The claimant is temporarily unemployed through no fault of his or her
19 own and has a definite recall date within eight weeks of his or her first day of
20 unemployment; however, upon application of the employer responsible for the
21 claimant's unemployment, such eight-week period may be extended not to exceed
22 a total of sixteen weeks at the discretion of the director;

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

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

28 (b) The claimant is temporarily unemployed through no fault of his or her
29 own and has a definite recall date within eight weeks of his or her first day of
30 unemployment; or

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

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

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

44 (4) Prior to the first week of a period of total or partial unemployment for
45 which the claimant claims benefits he or she has been totally or partially

46 unemployed for a waiting period of one week. No more than one waiting week
47 will be required in any benefit year. During calendar year 2008 and each
48 calendar year thereafter, the one-week waiting period shall become compensable
49 once his or her remaining balance on the claim is equal to or less than the
50 compensable amount for the waiting period. No week shall be counted as a week
51 of total or partial unemployment for the purposes of this subsection unless it
52 occurs within the benefit year which includes the week with respect to which the
53 claimant claims benefits;

54 (5) The claimant has made a claim for benefits **within fourteen days**
55 **from the last day of the week being claimed. The fourteen-day period**
56 **may, for good cause, be extended to twenty-eight days;**

57 (6) The claimant has reported to an employment office to
58 **participate in a reemployment assessment and reemployment services**
59 **as directed by the deputy or designated staff of an employment office,**
60 **unless the deputy determines that good cause exists for the claimant's**
61 **failure to participate in such reemployment assessment and**
62 **reemployment services. For purposes of this section, "reemployment**
63 **services" may include, but not be limited to, the following:**

64 (a) Providing an orientation to employment office services;

65 (b) Providing job search assistance; and

66 (c) Providing labor market statistics or analysis;

67 **Ineligibility under this subdivision shall begin on the first day of the**
68 **week which the claimant was scheduled to report for the reemployment**
69 **assessment or reemployment services and shall end on the last day of**
70 **the week preceding the week during which the claimant does report in**
71 **person to the employment office for such reemployment assessment or**
72 **reemployment services;**

73 [(6)] (7) The claimant is participating in reemployment services, such as
74 job search assistance services, as directed by the deputy if the claimant has been
75 determined to be likely to exhaust regular benefits and to need reemployment
76 services pursuant to a profiling system established by the division, unless the
77 deputy determines that:

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

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

81 2. A claimant shall be ineligible for waiting week credit or benefits for any

82 week for which the deputy finds he or she is or has been suspended by his or her
83 most recent employer for misconduct connected with his or her
84 work. Suspensions of four weeks or more shall be treated as discharges.

85 3. (1) Benefits based on "service in employment", defined in subsections
86 7 and 8 of section 288.034, shall be payable in the same amount, on the same
87 terms and subject to the same conditions as compensation payable on the basis
88 of other service subject to this law; except that:

89 (a) With respect to service performed in an instructional, research, or
90 principal administrative capacity for an educational institution, benefits shall not
91 be paid based on such services for any week of unemployment commencing during
92 the period between two successive academic years or terms, or during a similar
93 period between two regular but not successive terms, or during a period of paid
94 sabbatical leave provided for in the individual's contract, to any individual if such
95 individual performs such services in the first of such academic years (or terms)
96 and if there is a contract or a reasonable assurance that such individual will
97 perform services in any such capacity for any educational institution in the
98 second of such academic years or terms;

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

107 (c) With respect to services described in paragraphs (a) and (b) of this
108 subdivision, benefits shall not be paid on the basis of such services to any
109 individual for any week which commences during an established and customary
110 vacation period or holiday recess if such individual performed such services in the
111 period immediately before such vacation period or holiday recess, and there is
112 reasonable assurance that such individual will perform such services immediately
113 following such vacation period or holiday recess;

114 (d) With respect to services described in paragraphs (a) and (b) of this
115 subdivision, benefits payable on the basis of services in any such capacity shall
116 be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any
117 individual who performed such services at an educational institution while in the

118 employ of an educational service agency, and for this purpose the term
119 "educational service agency" means a governmental agency or governmental
120 entity which is established and operated exclusively for the purpose of providing
121 such services to one or more educational institutions.

122 (2) If compensation is denied for any week pursuant to paragraph (b) or
123 (d) of subdivision (1) of this subsection to any individual performing services at
124 an educational institution in any capacity (other than instructional, research or
125 principal administrative capacity), and such individual was not offered an
126 opportunity to perform such services for the second of such academic years or
127 terms, such individual shall be entitled to a retroactive payment of the
128 compensation for each week for which the individual filed a timely claim for
129 compensation and for which compensation was denied solely by reason of
130 paragraph (b) or (d) of subdivision (1) of this subsection.

131 4. (1) A claimant shall be ineligible for waiting week credit, benefits or
132 shared work benefits for any week for which he or she is receiving or has received
133 remuneration exceeding his or her weekly benefit amount or shared work benefit
134 amount in the form of:

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

137 (b) A governmental or other pension, retirement or retired pay, annuity,
138 or other similar periodic payment which is based on the previous work of such
139 claimant to the extent that such payment is provided from funds provided by a
140 base period or chargeable employer pursuant to a plan maintained or contributed
141 to by such employer; but, except for such payments made pursuant to the Social
142 Security Act or the Railroad Retirement Act of 1974 (or the corresponding
143 provisions of prior law), the provisions of this paragraph shall not apply if the
144 services performed for such employer by the claimant after the beginning of the
145 base period (or remuneration for such services) do not affect eligibility for or
146 increase the amount of such pension, retirement or retired pay, annuity or similar
147 payment.

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

153 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this

154 subsection, if a claimant has contributed in any way to the Social Security Act or
155 the Railroad Retirement Act of 1974, or the corresponding provisions of prior law,
156 no part of the payments received pursuant to such federal law shall be deductible
157 from the amount of benefits received pursuant to this chapter.

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

164 6. (1) A claimant shall be ineligible for waiting week credit or benefits for
165 any week for which the deputy finds that such claimant's total or partial
166 unemployment is due to a stoppage of work which exists because of a labor
167 dispute in the factory, establishment or other premises in which such claimant
168 is or was last employed. In the event the claimant secures other employment
169 from which he or she is separated during the existence of the labor dispute, the
170 claimant must have obtained bona fide employment as a permanent employee for
171 at least the major part of each of two weeks in such subsequent employment to
172 terminate his or her ineligibility. If, in any case, separate branches of work
173 which are commonly conducted as separate businesses at separate premises are
174 conducted in separate departments of the same premises, each such department
175 shall for the purposes of this subsection be deemed to be a separate factory,
176 establishment or other premises. This subsection shall not apply if it is shown
177 to the satisfaction of the deputy that:

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

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

184 (2) "Stoppage of work" as used in this subsection means a substantial
185 diminution of the activities, production or services at the establishment, plant,
186 factory or premises of the employing unit. This definition shall not apply to a
187 strike where the employees in the bargaining unit who initiated the strike are
188 participating in the strike. Such employees shall not be eligible for waiting week
189 credit or benefits during the period when the strike is in effect, regardless of

190 diminution, unless the employer has been found guilty of an unfair labor practice
191 by the National Labor Relations Board or a federal court of law for an act or
192 actions preceding or during the strike.

193 7. On or after January 1, 1978, benefits shall not be paid to any
194 individual on the basis of any services, substantially all of which consist of
195 participating in sports or athletic events or training or preparing to so
196 participate, for any week which commences during the period between two
197 successive sport seasons (or similar periods) if such individual performed such
198 services in the first of such seasons (or similar periods) and there is a reasonable
199 assurance that such individual will perform such services in the later of such
200 seasons (or similar periods).

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

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

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

215 9. The directors of the division of employment security and the division
216 of workforce development shall submit to the governor, the speaker of the house
217 of representatives, and the president pro tem of the senate no later than October
218 15, 2006, a report outlining their recommendations for how to improve work
219 search verification and claimant reemployment activities. The recommendations
220 shall include, but not limited to how to best utilize "greathires.org", and how to
221 reduce the average duration of unemployment insurance claims. Each calendar
222 year thereafter, the directors shall submit a report containing their
223 recommendations on these issues by December thirty-first of each year.

288.042. 1. For purposes of this section, a "war on terror veteran" is a
2 Missouri resident who serves or has served in the military and to whom the

3 following criteria apply:

4 (1) The person is or was a member of the [Missouri] national guard or a
5 member of a United States armed forces reserves unit who was officially
6 domiciled in the state of Missouri immediately prior to deployment;

7 (2) The person was deployed as part of his or her military unit at any time
8 after September 11, 2001, and such deployment caused the person to be unable
9 to continue working for his or her employer;

10 (3) The person was employed either part time or full time before
11 deployment; and

12 (4) A Missouri court or United States district court located in Missouri
13 has found that the person was discharged from or laid off from his or her
14 nonmilitary employment during deployment or within thirty days after the
15 completion of his or her deployment.

16 2. Notwithstanding any provisions of sections 288.010 to 288.500, any war
17 on terror veteran shall be entitled to receive veterans' unemployment
18 compensation benefits under this section. A war on terror veteran shall be
19 entitled to a weekly benefit amount of eight percent of the wages paid to the war
20 on terror veteran during that calendar quarter during which the war on terror
21 veteran earned the highest amount within the five completed calendar quarters
22 during which the war on terror veteran received wages immediately before
23 deployment. The maximum amount of a weekly benefit amount shall be one
24 thousand one hundred fifty-three dollars and sixty-four cents.

25 3. A war on terror veteran shall be entitled to a weekly benefit amount
26 for twenty-six weeks. [The division may collect erroneously paid benefits in the
27 manner provided in sections 288.160 and 288.170.] **The division of
28 employment security shall pursue recovery of overpaid unemployment
29 compensation benefits against any person receiving such overpaid
30 benefits through billing, setoffs against state tax refunds, setoffs
31 against federal tax refunds to the extent permitted by federal law,
32 intercepts of lottery winnings under section 313.321, RSMo, and
33 collection efforts as provided for in sections 288.160, 288.170, and
34 288.175.**

35 4. Any employer who is found in any Missouri court or United States
36 district court located in Missouri to have terminated, demoted, or taken an
37 adverse employment action against a war on terror veteran due to his or her
38 absence while deployed shall be subject to an administrative penalty in the

39 amount of thirty-five thousand dollars. The director of the division of
40 employment security shall take judicial notice of judgments in suits brought
41 under the Uniformed Service Employment and Reemployment Rights Act (38
42 U.S.C. 4301). Such judgments may be considered to have a res judicata effect on
43 the director's determination. The administrative penalty shall be collectible in
44 the manner provided in sections 288.160 and 288.170.

45 5. A war on terror veteran shall be considered to have been discharged
46 from his or her employment if he or she is not offered the same wages, benefits,
47 and similar work schedule upon his or her return after deployment.

48 6. There is hereby created in the state treasury the "War on Terror
49 Unemployment Compensation Fund", which shall consist of money collected under
50 this section and such other state funds appropriated by the general
51 assembly. The state treasurer shall be custodian of the fund and shall approve
52 disbursements from the fund in accordance with sections 30.170 and 30.180,
53 RSMo. Upon appropriation, money in the fund shall be used solely for the
54 administration, including payment of benefits and refunds, of this
55 section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary,
56 any moneys remaining in the fund at the end of the biennium shall not revert to
57 the credit of the general revenue fund. The state treasurer shall invest moneys
58 in the fund in the same manner as other funds are invested. Any interest and
59 money earned on such investments shall be credited to the fund.

60 7. The division of employment security may promulgate rules to enforce
61 this section. Any rule or portion of a rule, as that term is defined in section
62 536.010, RSMo, that is created under the authority delegated in this section shall
63 become effective only if it complies with and is subject to all of the provisions of
64 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
65 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
66 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
67 date, or to disapprove and annul a rule are subsequently held unconstitutional,
68 then the grant of rulemaking authority and any rule proposed or adopted after
69 August 28, 2006, shall be invalid and void.

288.070. 1. All claims shall be made in accordance with such regulations
2 as the division may prescribe; except that such regulations shall not require the
3 filing of a claim for benefits by the claimant in person for a week of
4 unemployment occurring immediately prior to the claimant's reemployment, but
5 claims in such cases may be made by mail, or otherwise if authorized by

6 regulation. Notice of each initial claim filed by an insured worker which
7 establishes the beginning of such worker's benefit year shall be promptly mailed
8 by the division to each base period employer of such individual, **except notice**
9 **of an initial claim shall not be mailed to any contributing base period**
10 **employer which paid such individual gross wages in the amount of four**
11 **hundred dollars or less during such individual's base period**, and to the
12 last employing unit whose name is furnished by the individual when such
13 individual files such claim. In similar manner, a notice of each renewed claim
14 filed by an insured worker during a benefit year after a period in such year
15 during which the insured worker was employed shall be given to the last
16 employing unit whose name is furnished by the individual when the individual
17 files such renewed claim or to any other base period or subsequent employer of
18 the worker who has requested such a notice. Any such base period employer or
19 any employing unit, which employed the claimant since the beginning of the base
20 period, who within ten calendar days after the mailing of notice of the initial
21 claim or a renewed claim to the employer or employing unit's last known address
22 files a written protest against the allowance of benefits, and any employing unit
23 from whom the claimant was separated during a week [of continued claim]
24 **claimed** other than a week in which an initial or renewed claim is effective, shall
25 be deemed an interested party to any determination allowing benefits during the
26 benefit year until such time as the issue or issues raised by the protest are
27 resolved by a determination or decision which has become final.

28 **2. If the last employer or any base period employer files a**
29 **written protest against the allowance of benefits based upon the**
30 **claimant's refusal to accept suitable work when offered the claimant,**
31 **either through the division or directly by such last or base period**
32 **employer, and such protest is filed within ten calendar days of the**
33 **claimant's refusal of work, such employer shall be deemed an interested**
34 **party to any determination concerning the claimant's refusal of work**
35 **until such time as the issue or issues raised by the protest are resolved**
36 **by a determination or decision which has become final.**

37 **3. Any base period employer or any employing unit, which**
38 **employed the claimant since the beginning of the base period, who files**
39 **a written protest against the allowance of benefits based upon the**
40 **claimant not being able to work or available for work shall be deemed**
41 **an interested party to any determination concerning claimant's ability**

42 **to work or availability for work until such time as the issue or issues**
43 **raised by the protest are resolved by a determination or decision which**
44 **has become final.**

45 [2.] 4. A deputy shall promptly examine each initial claim and make a
46 determination of the claimant's status as an insured worker. Each such
47 determination shall be based on a written statement showing the amount of
48 wages for insured work paid to the claimant by each employer during the
49 claimant's base period and shall include a finding as to whether such wages meet
50 the requirements for the claimant to be an insured worker, and, if so, the first
51 day of the claimant's benefit year, the claimant's weekly benefit amount, and the
52 maximum total amount of benefits which may be payable to the claimant for
53 weeks of unemployment in the claimant's benefit year. The deputy shall in
54 respect to all claims for benefits thereafter filed by such individual in the
55 claimant's benefit year make a written determination as to whether and in what
56 amount the claimant is entitled to benefits for the week or weeks with respect to
57 which the determination is made. Whenever claims involve complex questions of
58 law or fact, the deputy, with the approval of the director, may refer such claims
59 to the appeals tribunal, without making a determination, for a fair hearing and
60 decision as provided in section 288.190.

61 [3.] 5. The deputy shall, in writing, promptly notify the claimant of such
62 deputy's determination on an initial claim, including the reason therefor, and a
63 copy of the written statement as provided in subsection [2] 4 of this section. The
64 deputy shall promptly notify the claimant and all other interested parties of such
65 deputy's determination on any claim for benefits and shall give the reason
66 therefor; except that, where a determination on a later claim for benefits in a
67 benefit year is the same as the determination on a preceding claim, no additional
68 notice shall be given. A determination shall be final, when unappealed, in respect
69 to any claim to which it applies except that an appeal from a determination on
70 a claim for benefits shall be considered as an appeal from all later claims to
71 which the same determination applies. The deputy may, however, not later than
72 one year following the end of a benefit year, for good cause, reconsider any
73 determination on any claim and shall promptly notify the claimant and other
74 interested parties of such deputy's redetermination and the reasons
75 therefor. Whenever the deputy shall have notified any interested employer of the
76 denial of benefits to a claimant for any week or weeks and shall thereafter allow
77 benefits to such claimant for a subsequent week or weeks, the deputy shall notify

78 such interested employer of the beginning date of the allowance of benefits for
79 such subsequent period.

80 [4.] 6. Unless the claimant or any interested party within thirty calendar
81 days after notice of such determination is either delivered in person or mailed to
82 the last known address of such claimant or interested party files an appeal from
83 such determination, it shall be final. If, pursuant to a determination or
84 redetermination, benefits are payable in any amount or in respect to any week as
85 to which there is no dispute, such amount of benefits shall be promptly paid
86 regardless of any appeal.

87 [5.] 7. Benefits shall be paid promptly in accordance with a
88 determination or redetermination pursuant to this section, or the decision of an
89 appeals tribunal, the labor and industrial relations commission of Missouri or a
90 reviewing court upon the issuance of such determination, redetermination or
91 decision (regardless of the pendency of the period to apply for reconsideration, file
92 an appeal, or petition for judicial review as provided in this section, or section
93 288.190, 288.200, or 288.210, as the case may be, or the pendency of any such
94 application, appeal, or petition) unless and until such determination,
95 redetermination or decision has been modified or reversed by a subsequent
96 redetermination or decision, in which event benefits shall be paid or denied for
97 weeks of unemployment thereafter in accordance with such modified or reversed
98 redetermination or decision.

99 [6.] 8. Benefits paid during the pendency of the period to apply for
100 reconsideration, file an appeal, or petition for judicial review or during the
101 pendency of any such application, appeal, or petition shall be considered as
102 having been due and payable regardless of any redetermination or decision unless
103 the modifying or reversing redetermination or decision establishes that the
104 claimant willfully failed to disclose or falsified any fact which would have
105 disqualified the claimant or rendered the claimant ineligible for such benefits as
106 contemplated in subsection 9 of section 288.380.

107 [7.] 9. Benefits paid during the pendency of the period to apply for
108 reconsideration, file an appeal, or petition for judicial review or during the
109 pendency of any such application, appeal, or petition which would not have been
110 payable under a redetermination or decision which becomes final shall not be
111 chargeable to any employer. Beginning with benefits paid on and after January
112 1, 1998, the provisions of this subsection shall not apply to employers who have
113 elected to make payments in lieu of contributions pursuant to subsection 3 of

114 section 288.090.

115 [8.] **10.** The ten-day period mentioned in [subsection] **subsections 1**
116 **and 2** of this section and the thirty-day period mentioned in subsection [4] **6** of
117 this section may, for good cause, be extended.

118 **11. Any notice of claim or notice of determination required to be**
119 **mailed by the division to an employer or claimant under this section**
120 **may be transmitted electronically by the division to any employer or**
121 **claimant requesting such method of delivery. The date the division**
122 **transmits such notice of claim or notice of determination shall be**
123 **deemed the date of mailing for purposes of filing a protest to the notice**
124 **or claim or filing an appeal concerning a notice of determination.**

288.250. **1.** Information obtained from any employing unit or individual
2 pursuant to the administration of this law, shall be held confidential and shall
3 not be published, **further disclosed**, or be open to public inspection [(other than
4 to public employees in the performance of their public duties, including, but not
5 limited to, the division of child support enforcement, other child support agencies
6 of the federal government or other states as provided for under chapter 454,
7 RSMo, or federal statutes)] in any manner revealing the individual's or employing
8 unit's identity, but any claimant or employing unit or their authorized
9 representative shall be supplied with information from the division's records to
10 the extent necessary for the proper preparation and presentation of any claim for
11 unemployment compensation benefits or protest of employer liability. Further,
12 upon receipt of a written request from a claimant or his or her authorized
13 representative, the division shall supply information previously submitted to the
14 division by the claimant, the claimant's wage history and the claimant's benefit
15 payment history. In addition, upon receipt of a written request from an
16 authorized representative of an employing unit, the division shall supply
17 information previously submitted to the division by the employing unit, and
18 information concerning the payment of benefits from the employer's account and
19 the unemployment compensation fund, including amounts paid to specific
20 claimants. **A state or federal official or agency may receive disclosures**
21 **to the extent required by federal law. In the division's discretion, any**
22 **other party may receive disclosures to the extent authorized by state**
23 **and federal law.** Any information obtained by the division in the
24 administration of this law shall be privileged and no individual or type of
25 organization shall be held liable for slander or libel on account of any such

26 information.

27 **2. Any person who intentionally discloses or otherwise fails to**
28 **protect confidential information in violation of this section shall be**
29 **guilty of a class A misdemeanor. For a second or subsequent violation,**
30 **the person shall be guilty of a class D felony.**

290.505. 1. No employer shall employ any of his employees for a
2 workweek longer than forty hours unless such employee receives compensation
3 for his employment in excess of the hours above specified at a rate not less than
4 one and one-half times the regular rate at which he is employed.

5 2. Employees of an amusement or recreation business that meets the
6 criteria set out in 29 U.S.C. 213(a) (3) must be paid one and one-half times their
7 regular compensation for any hours worked in excess of fifty-two hours in any
8 one-week period.

9 3. With the exception of employees described in subsection (2), the
10 overtime requirements of subsection (1) shall not apply to employees who are
11 exempt from federal minimum wage or overtime requirements [pursuant to 29
12 U.S.C. §§ 213(a)-(b)] **including, but not limited to, the exemptions or hour**
13 **calculation formulas specified in 29 U.S.C. Sections 207 and 213, and**
14 **any regulations promulgated thereunder.**

15 4. **Except as may be otherwise provided under sections 290.500**
16 **to 290.530, this section shall be interpreted in accordance with the Fair**
17 **Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended, and the**
18 **Portal to Portal Act, 29 U.S.C. Section 251, et seq., as amended, and any**
19 **regulations promulgated thereunder.**

290.523. The department may, in accordance with chapter 536,
2 RSMo, promulgate such rules and regulations as are necessary for the
3 enforcement and administration of sections 290.500 to 290.530. Any rule
4 or portion of a rule, as that term is defined in section 536.010, RSMo,
5 that is created under the authority delegated in this section shall
6 become effective only if it complies with and is subject to all of the
7 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
8 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
9 of the powers vested with the general assembly pursuant to chapter
10 536, RSMo, to review, to delay the effective date, or to disapprove and
11 annul a rule are subsequently held unconstitutional, then the grant of
12 rulemaking authority and any rule proposed or adopted after August

13 **28, 2008, shall be invalid and void.**

Section B. Sections 178.585, 288.040, 288.042, 288.070, and 288.250 of
2 this act shall become effective October 1, 2008.

Section C. Because of the need to preserve federal standards relating to
2 overtime payments to employees, section 290.505 of section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare,
4 peace and safety, and is hereby declared to be an emergency act within the
5 meaning of the constitution, and section 290.505 of section A of this act shall be
6 in full force and effect upon its passage and approval.

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