

FIRST REGULAR SESSION

# HOUSE BILL NO. 278

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDREWS.

0834H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 288.160, RSMo, and to enact in lieu thereof one new section relating to employment security.

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

Section A. Section 288.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.160, to read as follows:

288.160. 1. If any employer neglects or refuses to make a report as required by this law the division shall make an estimate based on any information in its possession or that may come into its possession of the amount of wages paid by such employer for the period in respect to which the employer failed to make the report, and upon the basis of such estimated amount compute and assess the contributions and interest payable by such employer, adding to such sum a penalty as set forth in subsection 2 of this section. Promptly thereafter, the division shall give to such employer written notice of such estimated contributions, interest and penalties as so assessed, the notice to be served ~~[personally or]~~ by ~~[registered]~~ **certified** mail, directed to the last known ~~[principal place of business]~~ **address** of such employer ~~[in this state or in any state in the event the employer has none in this state]~~.

2. If any employer neglects or refuses to file any required report by the last day of the month following the due date there shall be imposed a penalty, equal to the greater of one hundred dollars or ten percent of the contributions required to be shown on the report, for each month or fraction thereof during which such failure continues, provided, however, that the penalty shall not exceed the greater of two hundred dollars or twenty percent of the contributions in the aggregate.

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.

17           3. In any case in which any contributions, interest or penalties imposed by this law are  
18 not paid when due, it shall be the duty of the division, when the amount of contributions, interest  
19 or penalties is determined, either by the report of the employer or by such investigation as the  
20 division may make, to assess the contributions, interest and penalties so determined against such  
21 employer and to certify the amount of such contributions, interest and penalties and give such  
22 employer written notice, served ~~[personally or]~~ by ~~[registered]~~ **certified** mail, directed to the last  
23 known address of such employer ~~[in this state or in any state, in the event the employer has none~~  
24 ~~in this state]~~.

25           4. If fraud or evasion on the part of any employer is discovered by the division, the  
26 division shall determine the amount by which the state has been defrauded, shall add to the  
27 amount so determined a penalty equal to twenty-five percent thereof, and shall assess the same  
28 against the employer. The amount so assessed shall be immediately due and payable; provided,  
29 however, that the division shall promptly thereafter give to such employer written notice of such  
30 assessment.

31           5. Any employer against whom an assessment is made ~~[pursuant to]~~ **under** the  
32 provisions of subsections 1, 2, 3 and 4 of this section may petition for reassessment. The petition  
33 for such reassessment shall be filed with the division during the thirty-day period following the  
34 ~~[day of service or]~~ mailing of the notice of such assessment. In the absence of the filing of such  
35 a petition for reassessment the assessment shall become final upon the expiration of such a  
36 thirty-day period. Each such petition for reassessment shall set forth specifically and in detail  
37 the grounds upon which it is claimed the assessment is erroneous.

38           6. (1) In any case in which any contributions, interest or penalties imposed by law are  
39 not paid when due, the notice of the assessment of such contributions, interest and penalties shall  
40 be served upon or mailed to the employer within three years of the date upon which the payment  
41 of the contributions was due except that in any case of fraud or misrepresentation on the part of  
42 the employer, the notice of the assessment of the contributions, interest and penalties may be  
43 served ~~[upon or mailed]~~ by **mail** to the **last known address of such** employer at any time.

44           (2) The giving of the notice of the making of the assessment shall toll any statute of  
45 limitations on the collection of any contributions, interest and penalties assessed.

46           (3) In the event any employer is entitled to the advantage of the Soldiers' and Sailors'  
47 Civil Relief Act of 1940, or any amendment thereto, prior to the date any assessment becomes  
48 final, such employer shall be permitted to file a petition for reassessment at any time within  
49 ninety days following such employer's discharge from the armed services.

50           (4) The certificate of assessment which, ~~[pursuant to]~~ **under** the provisions of section  
51 288.170, may be filed with the clerk of the circuit court shall, upon such filing, thereafter be

52 treated in all respects as a final judgment of the circuit court against the employer and the general  
53 statute of limitations applying to other judgments of courts of record shall apply.

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