

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 278

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDREWS.

0834H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 288.100 and 288.160, RSMo, and to enact in lieu thereof two new sections relating to employment security.

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

Section A. Sections 288.100 and 288.160, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 288.100 and 288.160, to read as follows:

288.100. 1. (1) The division shall maintain a separate account for each employer which is paying contributions, and shall credit each employer's account with all contributions which each employer has paid. A separate account shall be maintained for each employer making payments in lieu of contributions to which shall be credited all such payments made. The account shall also show payments due as provided in section 288.090. The division may close and cancel such separate account after a period of four consecutive calendar years during which such employer has had no employment in this state subject to contributions. Nothing in this law shall be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund either on the employer's own behalf or on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular benefits and that portion of extended benefits not reimbursed by the federal government paid to an eligible individual shall be charged against the accounts of the individual's base period employers who are paying contributions subject to the provisions of subdivision (4) of subsection 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits paid to an individual based on wages paid by one or more employers in the base period of the

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 claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid
17 by a ratio obtained by dividing the base period wages from such employer by the total wages
18 appearing in the base period. Except as provided in this subdivision, the maximum amount of
19 extended benefits paid to an individual and charged against the account of any employer shall
20 not exceed one-half of the product obtained by multiplying the benefits paid by a ratio obtained
21 by dividing the base period wages from such employer by the total wages appearing in the base
22 period. The provisions of this subdivision notwithstanding, with respect to weeks of
23 unemployment beginning after December 31, 1978, the maximum amount of extended benefits
24 paid to an individual and charged against the account of an employer which is an employer
25 ~~[pursuant to]~~ **under** subdivision (3) of subsection 1 of section 288.032 and which is paying
26 contributions ~~[pursuant to]~~ **under** subsections 1 and 2 of section 288.090 shall not exceed the
27 calculated entitlement for the extended benefit claim based upon the wages appearing within the
28 base period of the extended benefit claim.

29 (2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any
30 unassigned surplus in the unemployment compensation fund which is five hundred thousand
31 dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all
32 employers for the preceding calendar year as shown on the division's records on such June
33 thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in
34 the same ratio that the balance in each such account bears to the total of the credit balances
35 subject to use for rate calculation purposes for the following year in all such accounts on the
36 same date. As used in this subdivision, the term "unassigned surplus" means the amount by
37 which the total cash balance in the unemployment compensation fund exceeds a sum equal to
38 the total of all employer credit account balances. The amount thus prorated to each separate
39 employer's account shall for tax rating purposes be considered the same as contributions paid by
40 the employer and credited to the employer's account for the period preceding the calculation date
41 except that no such amount can be credited against any contributions due or that may thereafter
42 become due from such employer.

43 (3) At the conclusion of each calendar quarter the division shall, within thirty days,
44 notify each employer by mail of the benefits paid to each claimant by week as determined by the
45 division which have been charged to such employer's account subsequent to the last notice.

46 (4) (a) No benefits based on wages paid for services performed prior to the date of any
47 act for which a claimant is disqualified ~~[pursuant to]~~ **under** section 288.050 shall be chargeable
48 to any employer directly involved in such disqualifying act.

49 (b) In the event the deputy has in due course determined ~~[pursuant to]~~ **under** paragraph
50 (a) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit his or her work with
51 an employer for the purpose of accepting a more remunerative job with another employer which

52 the claimant did accept and earn some wages therein, no benefits based on wages paid prior to
53 the date of the quit shall be chargeable to the employer the claimant quit.

54 (c) In the event the deputy has in due course determined ~~[pursuant to]~~ **under** paragraph
55 (b) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in
56 employment with an employer to return to the claimant's regular employer, then, only for the
57 purpose of charging base period employers, all of the wages paid by the employer who furnished
58 the temporary employment shall be combined with the wages actually paid by the regular
59 employer as if all such wages had been actually paid by the regular employer. Further, charges
60 for benefits based on wages paid for part-time work shall be removed from the account of the
61 employer furnishing such part-time work if that employer continued to employ the individual
62 claiming such benefits on a regular recurring basis each week of the claimant's claim to at least
63 the same extent that the employer had previously employed the claimant and so informs the
64 division within thirty days from the date of notice of benefit charges.

65 (d) No charge shall be made against an employer's account in respect to benefits paid an
66 individual if the gross amount of wages paid by such employer to such individual is four hundred
67 dollars or less during the individual's base period on which the individual's benefit payments are
68 based. Further, no charge shall be made against any employer's account in respect to benefits
69 paid any individual unless such individual was in employment with respect to such employer
70 longer than a probationary period of ~~[twenty-eight]~~ **ninety** days, if such probationary period of
71 employment has been reported to the division as required by regulation.

72 (e) In the event the deputy has in due course determined ~~[pursuant to]~~ **under** paragraph
73 (c) of subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no
74 benefits based on wages paid for work prior to the date of the quit shall be chargeable to the
75 employer the claimant quit.

76 (f) In the event the deputy has in due course determined under paragraph (e) of
77 subdivision (1) of subsection 1 of section 288.050 that a claimant is not disqualified, no benefits
78 based on wages paid for work prior to the date of the quit shall be chargeable to the employer
79 the claimant quit.

80 (g) Nothing in paragraph (b), (c), (d), (e), or (f) of this subdivision shall in any way affect
81 the benefit amount, duration of benefits or the wage credits of the claimant.

82 2. The division may prescribe regulations for the establishment, maintenance, and
83 dissolution of joint accounts by two or more employers, and shall, in accordance with such
84 regulations and upon application by two or more employers to establish such an account, or to
85 merge their several individual accounts in a joint account, maintain such joint account as if it
86 constituted a single employer's account.

87 3. The division may by regulation provide for the compilation and publication of such
88 data as may be necessary to show the amounts of benefits not charged to any individual
89 employer's account classified by reason no such charge was made and to show the types and
90 amounts of transactions affecting the unemployment compensation fund.

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

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

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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