

FIRST REGULAR SESSION

HOUSE BILL NO. 1414

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOLAN.

2977H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 290.600, RSMo, and to enact in lieu thereof one new section relating to exemptions from the earned paid sick time law.

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

Section A. Section 290.600, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 290.600, to read as follows:

290.600. As used in sections 290.600 through 290.642:

- 2 (1) "Department", department of labor and industrial relations;
- 3 (2) "Director", director of the department of labor and industrial relations;
- 4 (3) "Domestic violence", as such term is defined in section 455.010;
- 5 (4) "Earned paid sick time", time that is compensated at the same hourly rate and with
6 the same benefits, including health care benefits, as the employee normally earns during
7 hours worked and is provided by an employer to an employee for the purposes described in
8 section 290.606, but in no case shall this hourly amount be less than that provided under
9 section 290.502;
- 10 (5) "Employee", any individual employed in this state by an employer, but does not
11 include:
 - 12 (a) Any individual engaged in the activities of an educational, charitable, religious, or
13 nonprofit organization where the employer-employee relationship does not, in fact, exist or
14 where the services rendered to the organization are on a voluntary basis;
 - 15 (b) Any individual standing in loco parentis to foster children in their care;

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 (c) Any individual employed for less than four months in any year in a resident or day
17 camp for children or youth, or any individual employed by an educational conference center
18 operated by an educational, charitable or not-for-profit organization;

19 (d) Any individual engaged in the activities of an educational organization where
20 employment by the organization is in lieu of the requirement that the individual pay the cost
21 of tuition, housing or other educational fees of the organization or where earnings of the
22 individual employed by the organization are credited toward the payment of the cost of
23 tuition, housing or other educational fees of the organization;

24 (e) Any individual employed on or about a private residence on an occasional basis
25 for six hours or less on each occasion;

26 (f) Any individual employed on a casual basis to provide baby-sitting services;

27 (g) Any individual employed by an employer subject to the provisions of Part A of
28 Subtitle IV of Title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

29 (h) Any individual employed on a casual or intermittent basis as a golf caddy,
30 newsboy, or in a similar occupation;

31 (i) Any individual who is employed in any government position defined in 29 U.S.C.
32 §§ 203(e)(2)(C)(i)-(ii);

33 (j) Any individual employed by a retail or service business whose annual gross
34 volume sales made or business done is less than five hundred thousand dollars;

35 (k) Any individual who is an offender, as defined in section 217.010, who is
36 incarcerated in any correctional facility operated by the department of corrections, including
37 offenders who provide labor or services on the grounds of such correctional facility pursuant
38 to section 217.550; [~~or,~~]

39 (l) Any individual described by the provisions of section 29 U.S.C. 213(a)(8); **or**

40 **(m) Any individual who is an employee of an employer engaged in the operation**
41 **of a vessel that is documented by the United States under 46 U.S.C. Section 12105;**

42 (6) "Employer", any person acting directly or indirectly in the interest of an employer
43 in relation to an employee; provided, however, that for the purposes of sections 290.600
44 through 290.642 "employer" does not include the United States government, the state, or a
45 political subdivision of the state, including a department, agency, officer, bureau, division,
46 board, commission, or instrumentality of the state, or a city, county, town, village, school
47 district, public higher education institution, or other political subdivision of the state;

48 (7) "Family member", any of the following individuals:

49 (a) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a
50 child of a domestic partner, a child to whom the employee stands in loco parentis, or an
51 individual to whom the employee stood in loco parentis when the individual was a minor;

52 (b) A biological, foster, stepparent or adoptive parent or legal guardian of an
53 employee or an employee's spouse or domestic partner or an individual who stood in loco
54 parentis when the employee or employee's spouse or domestic partner was a minor child;

55 (c) An individual to whom the employee is legally married under the laws of any
56 state, or a domestic partner who is registered as such under the laws of any state or political
57 subdivision, or an individual with whom the employee is in a continuing social relationship of
58 a romantic or intimate nature;

59 (d) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or
60 step relationship) of the employee or the employee's spouse or domestic partner; or

61 (e) A person for whom the employee is responsible for providing or arranging health
62 or safety-related care, including but not limited to helping that individual obtain diagnostic,
63 preventative, routine, or therapeutic health treatment or ensuring the person is safe following
64 domestic violence, sexual assault, or stalking;

65 (8) "Health care professional", any individual licensed under federal or any state law
66 to provide medical or emergency services, including but not limited to doctors, nurses,
67 certified nurse midwives, mental health professionals, and emergency room personnel;

68 (9) "Person", any individual, partnership, association, corporation, business, business
69 trust, legal representative, or any organized group of persons;

70 (10) "Retaliatory personnel action", denial of any right guaranteed under sections
71 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours,
72 or any other adverse action against an employee for the exercise of any right guaranteed
73 herein. "Retaliatory personnel action" shall also include interference with or punishment for
74 in any manner participating in or assisting an investigation, proceeding, or hearing under
75 sections 290.600 through 290.642;

76 (11) "Same hourly rate", means the following:

77 (a) For employees paid on the basis of a single hourly rate, the same hourly rate shall
78 be the employee's regular hourly rate;

79 (b) For employees who are paid multiple hourly rates of pay from the same employer,
80 the same hourly rate shall be either:

81 a. The wages the employee would have been paid for the hours absent during use of
82 earned paid sick time if the employee had worked; or,

83 b. The weighted average of all hourly rates of pay during the previous pay period.

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85 Whatever method the employer uses, the employer must use a consistent method for each
86 employee throughout a year;

87 (c) For employees who are paid a salary, the same hourly rate shall be determined by
88 dividing the wages the employee earns in the previous pay period by the total number of

89 hours worked during the previous pay period. For determining total number of hours worked
90 during the previous pay period, employees who are exempt from overtime requirements under
91 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work forty hours in
92 each work week unless their normal work week is less than forty hours, in which case earned
93 paid sick time shall accrue and the same hourly rate shall be calculated based on the
94 employee's normal work week. Regardless of the basis used, the same hourly rate shall not be
95 less than the effective minimum wage specified in section 290.502;

96 (d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate
97 shall be a reasonable calculation of the wages or fees the employee would have received for
98 the piece work, service, or part thereof, if the employee had worked. Regardless of the basis
99 used, the same hourly rate shall not be less than the effective minimum wage specified in
100 section 290.502;

101 (e) For employees who are paid on a commission basis (whether base wage plus
102 commission or commission only), the same hourly rate shall be the greater of the base wage
103 or the effective minimum wage specified in section 290.502;

104 (f) For employees who receive and retain compensation in the form of gratuities in
105 addition to wages, the same hourly rate shall be the greater of the employee's regular hourly
106 rate or one hundred percent of the effective minimum wage specified in section 290.502
107 without deduction of any tips as a credit;

108 (12) "Sexual assault", as such term is defined in section 455.010;

109 (13) "Stalking", as such term is defined in section 455.010;

110 (14) "Year", a regular and consecutive twelve-month period as determined by the
111 employer; except that for the purposes of section 290.615 and section 290.627, "year" shall
112 mean a calendar year.

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