

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2041
94TH GENERAL ASSEMBLY

4500S.04T

2008

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 ten 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Section A. Sections 178.585, 288.040, 288.042, 288.070, 288.250, and 290.505, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 178.585, 285.035, 288.040, 288.042, 288.070, 288.131, 288.250, 288.312, 290.505, and 290.523, to read as follows:

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

2. Each vocational-technical school, community college, Linn State Technical College, and school district of any public high school receiving a grant authorized by this section shall have an advisory committee composed of local business persons, labor leaders, parents, senior citizens, community leaders and teachers to establish a plan to

ensure that students who graduate from the vocational-technical school, community college, Linn State Technical College, or public high school proceed to a four-year college or high wage job with workplace-skill development opportunities.

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

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

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

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

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

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

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

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

ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

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

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

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

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

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

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

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

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

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be

counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

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

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

- (a) **Providing an orientation to employment office services;**
- (b) **Providing job search assistance; and**
- (c) **Providing labor market statistics or analysis;**

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

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

- (a) The individual has completed such reemployment services; or
- (b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

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

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

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

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

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

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services

for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

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

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

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

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

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

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

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

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

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

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

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

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

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

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

9. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant reemployment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their 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 Missouri resident who serves or has served in the military and to whom the following criteria apply:

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

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

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

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

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

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

4. Any employer who is found in any Missouri court or United States district court located in Missouri to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to his or her absence while deployed shall be subject to an administrative penalty in the amount of thirty-five thousand dollars. The director of the division of employment security shall take judicial notice of judgments in suits brought under the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301). Such judgments may be considered to have a res judicata effect on the director's determination. The administrative penalty shall be collectible in the manner provided in sections 288.160 and 288.170.

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

6. There is hereby created in the state treasury the "War on Terror Unemployment Compensation Fund", which shall consist of money collected under this section and such other state funds appropriated by the general assembly. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration, including payment of benefits and refunds, of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys

remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

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

288.070. 1. All claims shall be made in accordance with such regulations as the division may prescribe; except that such regulations shall not require the filing of a claim for benefits by the claimant in person for a week of unemployment occurring immediately prior to the claimant's reemployment, but claims in such cases may be made by mail, or otherwise if authorized by regulation. Notice of each initial claim filed by an insured worker which establishes the beginning of such worker's benefit year shall be promptly mailed by the division to each base period employer of such individual, **except notice of an initial claim shall not be mailed to any contributing base period employer which paid such individual gross wages in the amount of four hundred dollars or less during such individual's base period**, and to the last employing unit whose name is furnished by the individual when such individual files such claim. In similar manner, a notice of each renewed claim filed by an insured worker during a benefit year after a period in such year during which the insured worker was employed shall be given to the last employing unit whose name is furnished by the individual when the individual files such renewed claim or to any other base period or subsequent employer of the worker who has requested such a notice. Any such base period employer or any employing unit, which employed the claimant since the beginning of the base period, who within ten calendar days after the mailing of notice of the initial claim or a renewed claim to the employer or employing unit's last known address files a written protest against the allowance of benefits, and any employing unit from whom the claimant was separated during a week [of continued claim] **claimed** other than a week in which an initial or renewed claim is effective, shall be deemed an interested party to any

determination allowing benefits during the benefit year until such time as the issue or issues raised by the protest are resolved by a determination or decision which has become final.

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

3. Any base period employer or any employing unit, which employed the claimant since the beginning of the base period, who files a written protest against the allowance of benefits based upon the claimant not being able to work or available for work shall be deemed an interested party to any determination concerning claimant's ability to work or availability for work until such time as the issue or issues raised by the protest are resolved by a determination or decision which has become final.

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

[3.] **5.** The deputy shall, in writing, promptly notify the claimant of such deputy's determination on an initial claim, including the reason therefor, and a copy of the written statement as provided in subsection [2] **4** of this section. The deputy shall promptly notify

the claimant and all other interested parties of such deputy's determination on any claim for benefits and shall give the reason therefor; except that, where a determination on a later claim for benefits in a benefit year is the same as the determination on a preceding claim, no additional notice shall be given. A determination shall be final, when unappealed, in respect to any claim to which it applies except that an appeal from a determination on a claim for benefits shall be considered as an appeal from all later claims to which the same determination applies. The deputy may, however, not later than one year following the end of a benefit year, for good cause, reconsider any determination on any claim and shall promptly notify the claimant and other interested parties of such deputy's redetermination and the reasons therefor. Whenever the deputy shall have notified any interested employer of the denial of benefits to a claimant for any week or weeks and shall thereafter allow benefits to such claimant for a subsequent week or weeks, the deputy shall notify such interested employer of the beginning date of the allowance of benefits for such subsequent period.

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

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

[6.] **8.** Benefits paid during the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review or during the pendency of any such application, appeal, or petition shall be considered as having been due and payable regardless of any redetermination or decision unless the modifying or reversing

redetermination or decision establishes that the claimant willfully failed to disclose or falsified any fact which would have disqualified the claimant or rendered the claimant ineligible for such benefits as contemplated in subsection 9 of section 288.380.

[7.] **9.** Benefits paid during the pendency of the period to apply for reconsideration, file an appeal, or petition for judicial review or during the pendency of any such application, appeal, or petition which would not have been payable under a redetermination or decision which becomes final shall not be chargeable to any employer. Beginning with benefits paid on and after January 1, 1998, the provisions of this subsection shall not apply to employers who have elected to make payments in lieu of contributions pursuant to subsection 3 of section 288.090. [8.] **10.** The ten-day period mentioned in [subsection] **subsections 1 and 2** of this section and the thirty-day period mentioned in subsection [4] **6** of this section may, for good cause, be extended.

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

288.131. For calendar years 2009, 2010, and 2011, each employer that is liable for contributions under this chapter, except employers with a contribution rate equal to zero, shall pay an annual unemployment automation surcharge in an amount equal to five one-hundredths of one percent of such employer's total taxable wages for the twelve-month period ending the preceding June thirteenth. However, the division may reduce the foregoing percentage to ensure that the total amount of surcharge due from all employers under this subsection shall not exceed thirteen million dollars annually. Each employer liable to pay such surcharge shall be notified of the amount due under this subsection by March thirty-first of each year and such amount shall be considered delinquent thirty days thereafter. Delinquent unemployment automation surcharge amounts may be collected in the manner provided under sections 288.160 and 288.170. All moneys collected under this subsection shall be deposited in the unemployment automation fund established in section 288.312.

2. For calendar years 2009, 2010, and 2011, the otherwise applicable unemployment contribution rate of each employer liable for contributions under

this chapter shall be reduced by five one-hundredths of one percent, except such contribution rate shall not be less than zero.

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

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

288.312. 1. There is hereby created in the state treasury the "Unemployment Automation Fund", with shall consist of money collected under subsection 1 of section 288.131, and such other state funds appropriated by the general assembly. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the purpose of providing automated systems, and the payment of associated costs, to improve the

administration of the state's unemployment insurance program. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, all moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

2. The unemployment automation fund shall not be used in whole or in part for any purpose or in any manner that would permit its substitution for, or a corresponding reduction in, federal funds that would be available in its absence to finance expenditures for the administration of this chapter, or cause the appropriate agency of the United States government to withhold any part of an administrative grant which would otherwise be made.

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

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

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

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

290.523. The department may, in accordance with chapter 536, RSMo, promulgate such rules and regulations as are necessary for the enforcement and administration of sections 290.500 to 290.530. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the

powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

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

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

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