

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Bill No. 931, Page 1, Section 285.075, Line 7, by inserting after all of said section  
2 and line the following:

3  
4 "285.500. For the purposes of sections 285.500 to ~~[285.515]~~ 285.517 the following terms  
5 mean:

6 (1) "Employee", any individual who performs services for an employer that would indicate  
7 an employer-employee relationship ~~[in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1~~  
8 ~~C.B.296.]~~ unless such individual is presumed to be an independent contractor under section  
9 285.517;

10 (2) "Employer", any individual, organization, partnership, political subdivision, corporation,  
11 or other legal entity which has or had in the entity's employ five or more individuals performing  
12 public works as defined in section 290.210;

13 (3) "Knowingly", a person acts knowingly or with knowledge:

14 (a) With respect to the person's conduct or to attendant circumstances when the person is  
15 aware of the nature of the person's conduct or that those circumstances exist; or

16 (b) With respect to a result of the person's conduct when the person is aware that the  
17 person's conduct is practically certain to cause that result.

18 285.517. 1. For purposes of this section, any person is conclusively presumed to be an  
19 independent contractor who performs work for any employer and satisfies all of the following  
20 criteria:

21 (1) The person has signed a written contract with the employer that states the employer's  
22 intent to retain the services of the person as an independent contractor and the person is required by  
23 the contract to hold any state or local business license and to maintain any occupational license  
24 necessary to perform such services;

25 (2) (a) The person has filed, intends to file, or is contractually required to file, in regard to  
26 the fees earned from work, an income tax return with the Internal Revenue Service for a business or  
27 for earnings from self-employment; or

28 (b) The person provides his or her services through a business entity, including but not  
29 limited to, a partnership, limited liability company or corporation, or through a sole proprietorship;

30 (3) The person has the right to control the manner and means by which the work is to be  
31 accomplished, even though he or she may not have control over the final result of the work,  
32 provided that the employer may provide orientation, information, guidance, or suggestions about the  
33 employer's products, business, services, customers and operating systems, and training otherwise  
34 provided by law; and

35 (4) The person satisfies three or more of the following:

36 (a) The person controls the amount of time personally spent providing services, provided

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1 that an agreement may be made with the employer relating to the final completion or final delivery  
2 time or schedule, range of hours, or the time entertainment is to be presented if the work contracted  
3 for is entertainment;

4 (b) The person has control over where the services are performed, except in the case of  
5 services that can be performed only at certain locations;

6 (c) The person is not required to work exclusively with one employer, unless:

7 a. A law, regulation, or ordinance prohibits the person from providing services to more than  
8 one employer; or

9 b. A license or permit that the person is required to maintain in order to perform the work  
10 limits the person to working for only one employer at a time and requires identification of the  
11 employer;

12 (d) The person is free to exercise independent initiative in soliciting others to purchase his  
13 or her services;

14 (e) The person is free to hire employees or to contract with assistants, helpers, or substitutes  
15 to perform all or some of the work;

16 (f) The person cannot be required to perform additional services without a new or modified  
17 contract;

18 (g) The person obtains a license or other permission from the employer to utilize any  
19 workspace of the employer in order to perform the work for which the person was engaged;

20 (h) The employer has been subject to an employment audit by the Internal Revenue Service  
21 and the Internal Revenue Service has not reclassified the person to be an employee or has not  
22 reclassified the category of workers to be employees; or

23 (i) The person is responsible for maintaining and bearing the costs of any required business  
24 licenses, insurance, certifications, or permits required to perform services.

25 2. A person who is not conclusively presumed to be an independent contractor for failure to  
26 satisfy three or more of the criteria set forth in subdivision (4) of subsection 1 of this section shall  
27 not be presumed to be an employee.

28 3. No employer shall be required to classify a person who is considered an independent  
29 contractor under subsection 1 of this section as an employee, provided that the employer may  
30 choose to hire and classify such person as an employee at any time.

31 4. This section shall not apply to:

32 (1) Service consisting of prearranged passenger transport provided by transportation  
33 network drivers through a digital network offered by a transportation network company, as defined  
34 in sections 387.400 to 387.440. The independent contractor status of transportation network drivers  
35 shall be governed exclusively by section 387.414;

36 (2) Entities described in section 501(c)(3) of the Internal Revenue Code of 1986, as  
37 amended;

38 (3) State or local government entities; or

39 (4) Federally recognized Indian tribes.

40 5. This section shall not overrule any exemptions from the definition of employee or  
41 employment found in other sections of state law.

42 6. No political subdivision of the state shall enact, establish, mandate, or otherwise  
43 implement any law, ordinance, or regulation in conflict with the provisions of this section.

44 287.020. 1. The word "employee" as used in this chapter shall be construed to mean every  
45 person in the service of any employer, as defined in this chapter, under any contract of hire, express  
46 or implied, oral or written, or under any appointment or election, including executive officers of  
47 corporations. Except as otherwise provided in section 287.200, any reference to any employee who  
48 has been injured shall, when the employee is dead, also include his or her dependents, and other  
49 persons to whom compensation may be payable. The word "employee" shall also include all minors

1 who work for an employer, whether or not such minors are employed in violation of law, and all  
2 such minors are hereby made of full age for all purposes under, in connection with, or arising out of  
3 this chapter. The word "employee" shall not include an individual who is the owner, as defined in  
4 section 301.010, and operator of a motor vehicle which is leased or contracted with a driver to a for-  
5 hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, or  
6 operating under a certificate issued by the Missouri department of transportation or by the United  
7 States Department of Transportation, or any of its subagencies. The word "employee" also shall not  
8 include any person performing services for board, lodging, aid, or sustenance received from any  
9 religious, charitable, or relief organization. The division shall refer to section 285.517 to determine  
10 whether a person is an independent contractor.

11 2. The word "accident" as used in this chapter shall mean an unexpected traumatic event or  
12 unusual strain identifiable by time and place of occurrence and producing at the time objective  
13 symptoms of an injury caused by a specific event during a single work shift. An injury is not  
14 compensable because work was a triggering or precipitating factor.

15 3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out  
16 of and in the course of employment. An injury by accident is compensable only if the accident was  
17 the prevailing factor in causing both the resulting medical condition and disability. "The prevailing  
18 factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting  
19 medical condition and disability.

20 (2) An injury shall be deemed to arise out of and in the course of the employment only if:

21 (a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is  
22 the prevailing factor in causing the injury; and

23 (b) It does not come from a hazard or risk unrelated to the employment to which workers  
24 would have been equally exposed outside of and unrelated to the employment in normal  
25 nonemployment life.

26 (3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

27 (4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or  
28 myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in  
29 causing the resulting medical condition.

30 (5) The terms "injury" and "personal injuries" shall mean violence to the physical structure  
31 of the body and to the personal property which is used to make up the physical structure of the body,  
32 such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are  
33 placed in or on the body to replace the physical structure and such disease or infection as naturally  
34 results therefrom. These terms shall in no case except as specifically provided in this chapter be  
35 construed to include occupational disease in any form, nor shall they be construed to include any  
36 contagious or infectious disease contracted during the course of the employment, nor shall they  
37 include death due to natural causes occurring while the worker is at work.

38 4. "Death" when mentioned as a basis for the right to compensation means only death  
39 resulting from such violence and its resultant effects occurring within three hundred weeks after the  
40 accident; except that in cases of occupational disease, the limitation of three hundred weeks shall  
41 not be applicable.

42 5. Injuries sustained in company-owned or subsidized automobiles in accidents that occur  
43 while traveling from the employee's home to the employer's principal place of business or from the  
44 employer's principal place of business to the employee's home are not compensable. The extension  
45 of premises doctrine is abrogated to the extent it extends liability for accidents that occur on  
46 property not owned or controlled by the employer even if the accident occurs on customary,  
47 approved, permitted, usual or accepted routes used by the employee to get to and from their place of  
48 employment.

49 6. The term "total disability" as used in this chapter shall mean inability to return to any

1 employment and not merely mean inability to return to the employment in which the employee was  
2 engaged at the time of the accident.

3 7. As used in this chapter and all acts amendatory thereof, the term "commission" shall  
4 hereafter be construed as meaning and referring exclusively to the labor and industrial relations  
5 commission of Missouri, and the term "director" shall hereafter be construed as meaning the director  
6 of the department of commerce and insurance of the state of Missouri or such agency of government  
7 as shall exercise the powers and duties now conferred and imposed upon the department of  
8 commerce and insurance of the state of Missouri.

9 8. The term "division" as used in this chapter means the division of workers' compensation  
10 of the department of labor and industrial relations of the state of Missouri.

11 9. For the purposes of this chapter, the term "minor" means a person who has not attained  
12 the age of eighteen years; except that, for the purpose of computing the compensation provided for  
13 in this chapter, the provisions of section 287.250 shall control.

14 10. In applying the provisions of this chapter, it is the intent of the legislature to reject and  
15 abrogate earlier case law interpretations on the meaning of or definition of "accident", "occupational  
16 disease", "arising out of", and "in the course of the employment" to include, but not be limited to,  
17 holdings in: *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D.  
18 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d  
19 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or following those cases.

20 11. For the purposes of this chapter, "occupational diseases due to toxic exposure" shall only  
21 include the following: mesothelioma, asbestosis, berylliosis, coal worker's pneumoconiosis,  
22 bronchiolitis obliterans, silicosis, silicotuberculosis, manganism, acute myelogenous leukemia, and  
23 myelodysplastic syndrome.

24 12. For the purposes of this chapter, "maximum medical improvement" shall mean the point  
25 at which the injured employee's medical condition has stabilized and can no longer reasonably  
26 improve with additional medical care, as determined within a reasonable degree of medical  
27 certainty.

28 288.034. 1. "Employment" means service, including service in interstate commerce,  
29 performed for wages or under any contract of hire, written or oral, express or implied, and  
30 notwithstanding any other provisions of this section, service with respect to which a tax is required  
31 to be paid under any federal unemployment tax law imposing a tax against which credit may be  
32 taken for contributions required to be paid into a state unemployment fund or which, as a condition  
33 for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required to be  
34 covered under this law.

35 2. The term "employment" shall include an individual's entire service, performed within or  
36 both within and without this state if:

37 (1) The service is localized in this state; or

38 (2) The service is not localized in any state but some of the service is performed in this state  
39 and the base of operations, or, if there is no base of operations, then the place from which such  
40 service is directed or controlled, is in this state; or the base of operations or place from which such  
41 service is directed or controlled is not in any state in which some part of the service is performed but  
42 the individual's residence is in this state.

43 3. Service performed by an individual for wages shall be deemed to be employment subject  
44 to this law:

45 (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection 3  
46 of section 288.080;

47 (2) If covered by an arrangement pursuant to section 288.340 between the division and the  
48 agency charged with the administration of any other state or federal unemployment insurance law,  
49 pursuant to which all services performed by an individual for an employing unit are deemed to be

1 performed entirely within this state.

2 4. Service shall be deemed to be localized within a state if the service is performed entirely  
3 within such state; or the service is performed both within and without such state, but the service  
4 performed without such state is incidental to the individual's service within the state; for example, is  
5 temporary or transitory in nature or consists of isolated transactions.

6 5. Service performed by an individual for remuneration shall be deemed to be employment  
7 subject to this law unless it is shown to the satisfaction of the division that such services were  
8 performed by an independent contractor. In determining the existence of the independent contractor  
9 relationship, the ~~[common law of agency right to control shall be applied. The common law of~~  
10 ~~agency right to control test shall include but not be limited to: if the alleged employer retains the~~  
11 ~~right to control the manner and means by which the results are to be accomplished, the individual~~  
12 ~~who performs the service is an employee. If only the results are controlled, the individual~~  
13 ~~performing the service is an independent contractor]~~ division shall refer to section 285.517 to  
14 determine whether a person is an independent contractor.

15 6. The term "employment" shall include service performed for wages as an agent-driver or  
16 commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery  
17 products, beverages (other than milk), or laundry or dry-cleaning services, for his or her principal; or  
18 as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a  
19 full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except  
20 for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers,  
21 contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for  
22 resale or supplies for use in their business operations, provided:

23 (1) The contract of service contemplates that substantially all of the services are to be  
24 performed personally by such individual; and

25 (2) The individual does not have a substantial investment in facilities used in connection  
26 with the performance of the services (other than in facilities for transportation); and

27 (3) The services are not in the nature of a single transaction that is not part of a continuing  
28 relationship with the person for whom the services are performed.

29 7. Service performed by an individual in the employ of this state or any political subdivision  
30 thereof or any instrumentality of any one or more of the foregoing which is wholly owned by this  
31 state and one or more other states or political subdivisions, or any service performed in the employ  
32 of any instrumentality of this state or of any political subdivision thereof, and one or more other  
33 states or political subdivisions, provided that such service is excluded from employment as defined  
34 in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from  
35 employment pursuant to subsection 9 of this section, shall be employment subject to this law.

36 8. Service performed by an individual in the employ of a corporation or any community  
37 chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific,  
38 testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children  
39 or animals, no part of the net earnings of which inures to the benefit of any private shareholder or  
40 individual, or other organization described in Section 501(c)(3) of the Internal Revenue Code which  
41 is exempt from income tax under Section 501(a) of that code if the organization had four or more  
42 individuals in employment for some portion of a day in each of twenty different weeks whether or  
43 not such weeks were consecutive within a calendar year regardless of whether they were employed  
44 at the same moment of time shall be employment subject to this law.

45 9. For the purposes of subsections 7 and 8 of this section, the term "employment" does not  
46 apply to service performed:

47 (1) In the employ of a church or convention or association of churches, or an organization  
48 which is operated primarily for religious purposes and which is operated, supervised, controlled, or  
49 principally supported by a church or convention or association of churches; or

1 (2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of  
2 such minister's ministry or by a member of a religious order in the exercise of duties required by  
3 such order; or

4 (3) In the employ of a governmental entity referred to in subdivision (3) of subsection 1 of  
5 section 288.032 if such service is performed by an individual in the exercise of duties:

6 (a) As an elected official;

7 (b) As a member of a legislative body, or a member of the judiciary, of a state or political  
8 subdivision;

9 (c) As a member of the state National Guard or Air National Guard;

10 (d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake,  
11 flood or similar emergency;

12 (e) In a position which, under or pursuant to the laws of this state, is designated as (i) a  
13 major nontenured policy-making or advisory position, or (ii) a policy-making or advisory position  
14 the performance of the duties of which ordinarily does not require more than eight hours per week;  
15 or

16 (4) In a facility conducted for the purpose of carrying out a program of rehabilitation for  
17 individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or  
18 providing remunerative work for individuals who because of their impaired physical or mental  
19 capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such  
20 rehabilitation or remunerative work; or

21 (5) As part of an unemployment work-relief or work-training program assisted or financed  
22 in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by  
23 an individual receiving such work relief or work training; or

24 (6) By an inmate of a custodial or penal institution; or

25 (7) In the employ of a school, college, or university, if such service is performed (i) by a  
26 student who is enrolled and is regularly attending classes at such school, college, or university, or  
27 (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to  
28 perform such service, that (I) the employment of such spouse to perform such service is provided  
29 under a program to provide financial assistance to such student by such school, college, or  
30 university, and (II) such employment will not be covered by any program of unemployment  
31 insurance.

32 10. The term "employment" shall include the service of an individual who is a citizen of the  
33 United States, performed outside the United States (except in Canada), if:

34 (1) The employer's principal place of business in the United States is located in this state; or

35 (2) The employer has no place of business in the United States, but:

36 (a) The employer is an individual who is a resident of this state; or

37 (b) The employer is a corporation which is organized under the laws of this state; or

38 (c) The employer is a partnership or a trust and the number of the partners or trustees who  
39 are residents of this state is greater than the number who are residents of any one other state; or

40 (3) None of the criteria of subdivisions (1) and (2) of this subsection is met but the employer  
41 has elected coverage in this state or, the employer having failed to elect coverage in any state, the  
42 individual has filed a claim for benefits, based on such service, under the law of this state;

43 (4) As used in this subsection and in subsection 11 of this section, the term "United States"  
44 includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

45 11. An "American employer", for the purposes of subsection 10 of this section, means a  
46 person who is:

47 (1) An individual who is a resident of the United States; or

48 (2) A partnership, if two-thirds or more of the partners are residents of the United States; or

49 (3) A trust, if all of the trustees are residents of the United States; or

1 (4) A corporation organized under the laws of the United States or of any state.

2 12. The term "employment" shall not include:

3 (1) Service performed by an individual in agricultural labor;

4 (a) For the purposes of this subdivision, the term "agricultural labor" means remunerated  
5 service performed:

6 a. On a farm, in the employ of any person, in connection with cultivating the soil, or in  
7 connection with raising or harvesting any agricultural or horticultural commodity, including the  
8 raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and  
9 furbearing animals and wildlife;

10 b. In the employ of the owner or tenant or other operator of a farm, in connection with the  
11 operation, management, conservation, improvement, or maintenance of such farm and its tools and  
12 equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if  
13 the major part of such service is performed on a farm;

14 c. In connection with the production or harvesting of any commodity defined as an  
15 agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended (46  
16 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in connection  
17 with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or  
18 operated for profit, used exclusively for supplying and storing water for farming purposes;

19 d. (i) In the employ of the operator of a farm in handling, planting, drying, packing,  
20 packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier  
21 for transportation to market, in its unmanufactured state, any agricultural or horticultural  
22 commodity; but only if such operator produced more than one-half of the commodity with respect to  
23 which such service is performed;

24 (ii) In the employ of a group of operators of farms (or a cooperative organization of which  
25 such operators are members) in the performance of services described in item (i) of this  
26 subparagraph, but only if such operators produced more than one-half of the commodity with  
27 respect to which such service is performed;

28 (iii) The provisions of items (i) and (ii) of this subparagraph shall not be deemed to be  
29 applicable with respect to service performed in connection with commercial canning or commercial  
30 freezing or in connection with any agricultural or horticultural commodity after its delivery to a  
31 terminal market for distribution for consumption; or

32 e. On a farm operated for profit if such service is not in the course of the employer's trade or  
33 business. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit, furbearing  
34 animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar  
35 structures, used primarily for the raising of agricultural or horticultural commodities, and orchards;

36 (b) The term "employment" shall include service performed after December 31, 1977, by an  
37 individual in agricultural labor as defined in paragraph (a) of this subdivision when such service is  
38 performed for a person who, during any calendar quarter, paid remuneration in cash of twenty  
39 thousand dollars or more to individuals employed in agricultural labor or for some portion of a day  
40 in a calendar year in each of twenty different calendar weeks, whether or not such weeks were  
41 consecutive, employed in agricultural labor ten or more individuals, regardless of whether they were  
42 employed at the same moment of time;

43 (c) For the purposes of this subsection any individual who is a member of a crew furnished  
44 by a crew leader to perform service in agricultural labor for any other person shall be considered as  
45 employed by such crew leader:

46 a. If such crew leader holds a valid certificate of registration under the Farm Labor  
47 Contractor Registration Act of 1963; or substantially all the members of such crew operate or  
48 maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized  
49 equipment, which is provided by such crew leader; and

1           b. If such individual is not in employment by such other person;  
2           c. If any individual is furnished by a crew leader to perform service in agricultural labor for  
3 any other person and that individual is not in the employment of the crew leader:

4           (i) Such other person and not the crew leader shall be treated as the employer of such  
5 individual; and

6           (ii) Such other person shall be treated as having paid cash remuneration to such individual  
7 in an amount equal to the amount of cash remuneration paid to such individual by the crew leader  
8 (either on his or her own behalf or on behalf of such other person) for the service in agricultural  
9 labor performed for such other person;

10          d. For the purposes of this subsection, the term "crew leader" means an individual who:

11           (i) Furnishes individuals to perform service in agricultural labor for any other person;

12           (ii) Pays (either on his or her own behalf or on behalf of such other person) the individuals  
13 so furnished by him or her for the service in agricultural labor performed by them; and

14           (iii) Has not entered into a written agreement with such other person under which such  
15 individual is designated as in employment by such other person;

16           (2) Domestic service in a private home except as provided in subsection 13 of this section;

17           (3) Service performed by an individual under the age of eighteen years in the delivery or  
18 distribution of newspapers or shopping news but shall not include delivery or distribution to any  
19 point for subsequent delivery or distribution;

20           (4) Service performed by an individual in, and at the time of, the sale of newspapers or  
21 magazines to ultimate consumers under an arrangement under which the newspapers or magazines  
22 are to be sold by him or her at a fixed price, his or her compensation being based on the retention of  
23 the excess of such price over the amount at which the newspapers or magazines are charged to him  
24 or her, whether or not he or she is guaranteed a minimum amount of compensation for such service,  
25 or is entitled to be credited with the unsold newspapers or magazines turned back;

26           (5) Service performed by an individual in the employ of his or her son, daughter, or spouse,  
27 and service performed by a child under the age of twenty-one in the employ of his or her father or  
28 mother;

29           (6) Except as otherwise provided in this law, service performed in the employ of a  
30 corporation, community chest, fund or foundation, organized and operated exclusively for religious,  
31 charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or  
32 animals, no part of the net earnings of which inures to the benefit of any private shareholder or  
33 individual;

34           (7) Services with respect to which unemployment insurance is payable under an  
35 unemployment insurance system established by an act of Congress;

36           (8) Service performed in the employ of a foreign government;

37           (9) Service performed in the employ of an instrumentality wholly owned by a foreign  
38 government:

39           (a) If the service is of a character similar to that performed in foreign countries by  
40 employees of the United States government or of an instrumentality thereof; and

41           (b) If the division finds that the foreign government, with respect to whose instrumentality  
42 exemption is claimed, grants an equivalent exemption with respect to similar service performed in  
43 the foreign country by employees of the United States government and of instrumentalities thereof.  
44 The certification of the United States Secretary of State to the United States Secretary of Treasury  
45 shall constitute prima facie evidence of such equivalent exemption;

46           (10) Service covered by an arrangement between the division and the agency charged with  
47 the administration of any other state or federal unemployment insurance law pursuant to which all  
48 services performed by an individual for an employing unit during the period covered by the  
49 employing unit's approved election are deemed to be performed entirely within the jurisdiction of



1 such other state or federal agency;

2 (11) Service performed in any calendar quarter in the employ of a school, college or  
3 university not otherwise excluded, if such service is performed by a student who is enrolled and  
4 regularly attending classes at such school, college, or university, and the remuneration for such  
5 service does not exceed fifty dollars (exclusive of board, room, and tuition);

6 (12) Service performed by an individual for a person as a licensed insurance agent, a  
7 licensed insurance broker, or an insurance solicitor, if all such service performed by such individual  
8 for such person is performed for remuneration solely by way of commissions;

9 (13) Domestic service performed in the employ of a local college club or of a local chapter  
10 of a college fraternity or sorority, except as provided in subsection 13 of this section;

11 (14) Services performed after March 31, 1982, in programs authorized and funded by the  
12 Comprehensive Employment and Training Act by participants of such programs, except those  
13 programs with respect to which unemployment insurance coverage is required by the  
14 Comprehensive Employment and Training Act or regulations issued pursuant thereto;

15 (15) Service performed by an individual who is enrolled at a nonprofit or public educational  
16 institution which normally maintains a regular faculty and curriculum and normally has a regularly  
17 organized body of students in attendance at the place where its educational activities are carried on,  
18 as a student in a full-time program, taken for credit at such institution, which combines academic  
19 instruction with work experience, if such service is an integral part of such program, and such  
20 institution has so certified to the employer; except, that this subdivision shall not apply to service  
21 performed in a program established for or on behalf of an employer or group of employers;

22 (16) Services performed by a licensed real estate salesperson or licensed real estate broker if  
23 substantially all of the remuneration, whether or not paid in cash, for the services performed, rather  
24 than to the number of hours worked, is directly related to sales or other output, including the  
25 performance of services, performed pursuant to a written contract between such individual and the  
26 person for whom the services are performed and such contract provides that the individual will not  
27 be treated as an employee with respect to such services for federal tax purposes;

28 (17) Services performed as a direct seller who is engaged in the trade or business of the  
29 delivering or distribution of newspapers or shopping news, including any services directly related to  
30 such trade or business, or services performed as a direct seller who is engaged in the trade or  
31 business of selling, or soliciting the sale of, consumer products in the home or otherwise than in, or  
32 affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the  
33 remuneration, whether or not paid in cash, for the services performed rather than the number of  
34 hours worked is directly related to sales performed pursuant to a written contract between such  
35 direct seller and the person for whom the services are performed, and such contract provides that the  
36 individual will not be treated as an employee with respect to such services for federal tax purposes;

37 (18) Services performed as a volunteer research subject who is paid on a per-study basis for  
38 scientific, medical or drug-related testing for any organization other than one described in Section  
39 501(c)(3) of the Internal Revenue Code or any governmental entity.

40 13. The term "employment" shall include domestic service as defined in subdivisions (2)  
41 and (13) of subsection 12 of this section performed after December 31, 1977, if the employing unit  
42 for which such service is performed paid cash wages of one thousand dollars or more for such  
43 services in any calendar quarter after December 31, 1977.

44 14. The term "employment" shall include or exclude the entire service of an individual for  
45 an employing unit during a pay period in which such individual's services are not all excluded under  
46 the foregoing provisions, on the following basis: if the services performed during one-half or more  
47 of any pay period constitute employment as otherwise defined in this law, all the services performed  
48 during such period shall be deemed to be employment; but if the services performed during more  
49 than one-half of any such pay period do not constitute employment as otherwise defined in this law,

1 then none of the services for such period shall be deemed to be employment. (As used in this  
 2 subsection, the term "pay period" means a period of not more than thirty-one consecutive days for  
 3 which a payment of remuneration is ordinarily made to the individual by the employing unit  
 4 employing such individual.) This subsection shall not be applicable with respect to service  
 5 performed in a pay period where any such service is excluded pursuant to subdivision (8) of  
 6 subsection 12 of this section.

7 15. The term "employment" shall not include the services of a full-time student who  
 8 performed such services in the employ of an organized summer camp for less than thirteen calendar  
 9 weeks in such calendar year.

10 16. For the purpose of subsection 15 of this section, an individual shall be treated as a full-  
 11 time student for any period:

12 (1) During which the individual is enrolled as a full-time student at an educational  
 13 institution; or

14 (2) Which is between academic years or terms if:

15 (a) The individual was enrolled as a full-time student at an educational institution for the  
 16 immediately preceding academic year or term; and

17 (b) There is a reasonable assurance that the individual will be so enrolled for the  
 18 immediately succeeding academic year or term after the period described in paragraph (a) of this  
 19 subdivision.

20 17. For the purpose of subsection 15 of this section, an "organized summer camp" shall  
 21 mean a summer camp which:

22 (1) Did not operate for more than seven months in the calendar year and did not operate for  
 23 more than seven months in the preceding calendar year; or

24 (2) Had average gross receipts for any six months in the preceding calendar year which were  
 25 not more than thirty-three and one-third percent of its average gross receipts for the other six months  
 26 in the preceding calendar year.

27 18. The term "employment" shall not mean service performed by a remodeling salesperson  
 28 acting as an independent contractor; however, if the federal Internal Revenue Service determines  
 29 that a contractual relationship between a direct provider and an individual acting as an independent  
 30 contractor pursuant to the provisions of this subsection is in fact an employer-employee relationship  
 31 for the purposes of federal law, then that relationship shall be considered as an employer-employee  
 32 relationship for the purposes of this chapter.

33 387.400. As used in sections 387.400 to 387.440, the following terms mean:

34 (1) "Delivery network company" or "DNC", a business entity that maintains an online-  
 35 enabled application or platform used to facilitate on-demand delivery services within Missouri.  
 36 Delivery services are on-demand when a DNC driver is given the option to accept or decline each  
 37 delivery request and the DNC may not terminate the contract of the app-based driver for not  
 38 accepting a specific delivery service request;

39 (2) "Delivery network company driver (DNC) driver", a person who provides delivery  
 40 services through a DNC's online-enabled application or platform;

41 (3) "Delivery services", the fulfillment of a delivery request. A delivery request includes  
 42 retrieving from any location any item or items and the delivery of the item or items to a location  
 43 selected by a customer located within fifty miles from where the item or items were retrieved from.  
 44 Delivery services may be performed using a passenger vehicle, bicycle, scooter, public  
 45 transportation, or similar means of transportation. Delivery services may also be performed on foot.  
 46 Delivery services may include the selection, collection, or purchase of items by a DNC driver, as  
 47 well as other tasks incidental to a delivery. Delivery services include the selection, collection, or  
 48 purchase of items by a DNC driver when those tasks are done in connection with a delivery the  
 49 DNC driver has agreed to deliver. Delivery services shall not include any services requiring the use

1 of a vehicle weighing in excess of six thousand pounds;

2 [~~1~~] (4) "Department", the Missouri department of revenue;

3 [~~2~~] (5) "Digital network", any online-enabled technology application, website, or system  
4 offered or utilized by a transportation network company or delivery network company that enables  
5 the prearrangement of rides with transportation network company drivers or that enables delivery  
6 services with delivery network company drivers;

7 [~~3~~] (6) "Prearranged ride", the provision of transportation by a TNC driver to a rider,  
8 beginning when a TNC driver accepts a ride requested by a rider through a digital network  
9 controlled by a transportation network company, continuing while the TNC driver transports a  
10 requesting rider, and ending when the last requesting rider departs from the TNC vehicle. A  
11 prearranged ride shall not include:

12 (a) Transportation provided using a taxi, limousine, or other for-hire vehicle under chapter  
13 390; or

14 (b) A shared-expense carpool or vanpool arrangement or service;

15 [~~4~~] (7) "Transportation network company" or "TNC", a corporation, partnership, sole  
16 proprietorship, or other entity that is licensed pursuant to sections 387.400 to 387.440 and operating  
17 in the state of Missouri, that uses a digital network to connect TNC riders to TNC drivers who  
18 provide prearranged rides. A TNC shall not be deemed to own, control, direct, operate, or manage  
19 the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by  
20 written contract;

21 [~~5~~] (8) "Transportation network company (TNC) driver" or "driver", an individual who:

22 (a) Receives connections to potential riders from a transportation network company in  
23 exchange for payment of a fee to the transportation network company; and

24 (b) Uses a TNC vehicle to offer or provide a prearranged ride to riders upon connection  
25 through a digital network controlled by a transportation network company in return for  
26 compensation;

27 [~~6~~] (9) "Transportation network company (TNC) rider" or "rider", an individual or persons  
28 who use a TNC's digital network to connect with a TNC driver who provides prearranged rides to  
29 the rider in the TNC driver's TNC vehicle between points chosen by the rider;

30 [~~7~~] (10) "Transportation network company (TNC) vehicle" or "TNC vehicle", a vehicle  
31 that is used by a transportation network company driver and is:

32 (a) Owned, leased, or otherwise authorized for use by the TNC driver; and

33 (b) Not a taxicab, limousine, or for-hire vehicle under chapter 390.

34 387.414. Except as provided in section 387.433, all TNC and DNC drivers shall be  
35 independent contractors and not employees of the TNC or DNC if all of the following conditions are  
36 met:

37 (1) The TNC or DNC does not prescribe specific hours during which a TNC or DNC driver  
38 must be logged into the TNC's or DNC's digital network;

39 (2) The TNC or DNC imposes no restrictions on the TNC or DNC driver's ability to utilize  
40 digital networks from other TNCs or DNCs;

41 (3) The TNC or DNC does not restrict a TNC or DNC driver from engaging in any other  
42 occupation or business; and

43 (4) The TNC or DNC and TNC or DNC driver agree in writing that the driver is an  
44 independent contractor with respect to the TNC or DNC."; and

45  
46  
47 Further amend said bill by amending the title, enacting clause, and intersectional references  
48 accordingly.