

FIRST REGULAR SESSION

# HOUSE BILL NO. 587

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PORTER.

1536H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 285.500, 287.020, 288.034, and 295.020, RSMo, and to enact in lieu thereof five new sections relating to worker classification.

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

Section A. Sections 285.500, 287.020, 288.034, and 295.020, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 285.500, 287.020, 288.034, 290.005, and 295.020, to read as follows:

285.500. For the purposes of sections 285.500 to 285.515 the following terms mean:

(1) "Employee", any individual who performs services for an employer that would indicate an employer-employee relationship ~~[in satisfaction of the factors in IRS Rev. Rule 87-41, 1987-1 C.B. 296]~~. **The divisions, commissions, and boards within the department and as established in chapters 213, 287, 288, 290, and 295 shall defer to guidance issued by the Internal Revenue Service when determining whether a person or entity is an employee or independent contractor;**

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

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

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

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

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.

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Except as otherwise provided in section 287.200, any reference to any employee who has been injured shall, when the employee is dead, also include his or her dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner, as defined in section 301.010, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, or operating under a certificate issued by the Missouri department of transportation or by the United States Department of Transportation, or any of its subagencies. The word "employee" also shall not include any person performing services for board, lodging, aid, or sustenance received from any religious, charitable, or relief organization. **The division shall refer to section 285.500 in determining whether an individual or entity is an employee or independent contractor.**

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

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

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

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

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

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

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

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

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

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

58 6. The term "total disability" as used in this chapter shall mean inability to return to any  
59 employment and not merely mean inability to return to the employment in which the employee  
60 was engaged at the time of the accident.

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

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

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

72 10. In applying the provisions of this chapter, it is the intent of the legislature to reject  
73 and abrogate earlier case law interpretations on the meaning of or definition of "accident",  
74 "occupational disease", "arising out of", and "in the course of the employment" to include, but  
75 not be limited to, holdings in: Bennett v. Columbia Health Care and Rehabilitation, 80 S.W.3d  
76 524 (Mo.App. W.D. 2002); Kasl v. Bristol Care, Inc., 984 S.W.2d 852 (Mo.banc 1999); and  
77 Drewes v. TWA, 984 S.W.2d 512 (Mo.banc 1999) and all cases citing, interpreting, applying,  
78 or following those cases.

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

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

288.034. 1. "Employment" means service, including service in interstate commerce,  
2 performed for wages or under any contract of hire, written or oral, express or implied, and  
3 notwithstanding any other provisions of this section, service with respect to which a tax is  
4 required to be paid under any federal unemployment tax law imposing a tax against which credit  
5 may be taken for contributions required to be paid into a state unemployment fund or which, as  
6 a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act,  
7 is required to be covered under this law. **The division shall refer to section 285.500 in**  
8 **determining whether an individual or entity is an employer or independent contractor.**

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

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

12 (2) The service is not localized in any state but some of the service is performed in this  
13 state and the base of operations, or, if there is no base of operations, then the place from which  
14 such service is directed or controlled, is in this state; or the base of operations or place from  
15 which such service is directed or controlled is not in any state in which some part of the service  
16 is performed but the individual's residence is in this state.

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

19 (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection  
20 3 of section 288.080;

21 (2) If covered by an arrangement pursuant to section 288.340 between the division and  
22 the agency charged with the administration of any other state or federal unemployment insurance  
23 law, pursuant to which all services performed by an individual for an employing unit are deemed  
24 to be performed entirely within this state.

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

29 5. ~~[Service performed by an individual for remuneration shall be deemed to be~~  
30 ~~employment subject to this law unless it is shown to the satisfaction of the division that such~~  
31 ~~services were performed by an independent contractor. In determining the existence of the~~  
32 ~~independent contractor relationship, the common law of agency right to control shall be applied.~~  
33 ~~The common law of agency right to control test shall include but not be limited to: if the alleged~~  
34 ~~employer retains the right to control the manner and means by which the results are to be~~  
35 ~~accomplished, the individual who performs the service is an employee. If only the results are~~  
36 ~~controlled, the individual performing the service is an independent contractor.~~

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

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

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

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

52 ~~[7.]~~ 6. Service performed by an individual in the employ of this state or any political  
53 subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly  
54 owned by this state and one or more other states or political subdivisions, or any service

55 performed in the employ of any instrumentality of this state or of any political subdivision  
56 thereof, and one or more other states or political subdivisions, provided that such service is  
57 excluded from employment as defined in the Federal Unemployment Tax Act by Section  
58 3306(c)(7) of that act and is not excluded from employment pursuant to subsection ~~[9]~~ 8 of this  
59 section, shall be employment subject to this law.

60 ~~[8-]~~ 7. Service performed by an individual in the employ of a corporation or any  
61 community chest, fund, or foundation organized and operated exclusively for religious,  
62 charitable, scientific, testing for public safety, literary, or educational purposes, or for the  
63 prevention of cruelty to children or animals, no part of the net earnings of which inures to the  
64 benefit of any private shareholder or individual, or other organization described in Section  
65 501(c)(3) of the Internal Revenue Code which is exempt from income tax under Section 501(a)  
66 of that code if the organization had four or more individuals in employment for some portion of  
67 a day in each of twenty different weeks whether or not such weeks were consecutive within a  
68 calendar year regardless of whether they were employed at the same moment of time shall be  
69 employment subject to this law.

70 ~~[9-]~~ 8. For the purposes of subsections ~~[7]~~ 6 and ~~[8]~~ 7 of this section, the term  
71 "employment" does not apply to service performed:

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

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

79 (3) In the employ of a governmental entity referred to in subdivision (3) of subsection  
80 1 of section 288.032 if such service is performed by an individual in the exercise of duties:

81 (a) As an elected official;

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

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

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

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

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

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

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

100 (7) In the employ of a school, college, or university, if such service is performed (i) by  
101 a student who is enrolled and is regularly attending classes at such school, college, or university,  
102 or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse  
103 commences to perform such service, that (I) the employment of such spouse to perform such  
104 service is provided under a program to provide financial assistance to such student by such  
105 school, college, or university, and (II) such employment will not be covered by any program of  
106 unemployment insurance.

107 ~~[10.]~~ **9.** The term "employment" shall include the service of an individual who is a  
108 citizen of the United States, performed outside the United States (except in Canada), if:

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

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

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

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

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

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

121 (4) As used in this subsection and in subsection ~~[11.]~~ **10** of this section, the term "United  
122 States" includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

123 ~~[11.]~~ **10.** An "American employer", for the purposes of subsection ~~[10.]~~ **9** of this section,  
124 means a person who is:

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

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

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

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

130 ~~[12.]~~ 11. The term "employment" shall not include:

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

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

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

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

142 c. In connection with the production or harvesting of any commodity defined as an  
143 agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended  
144 (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in  
145 connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not  
146 owned or operated for profit, used exclusively for supplying and storing water for farming  
147 purposes;

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

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

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



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

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

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

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

180 b. If such individual is not in employment by such other person;

181 c. If any individual is furnished by a crew leader to perform service in agricultural labor  
182 for any other person and that individual is not in the employment of the crew leader:

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

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

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

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

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

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

196 (2) Domestic service in a private home except as provided in subsection ~~[13]~~ 12 of this  
197 section;

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

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

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

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

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

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

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

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

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

228 (10) Service covered by an arrangement between the division and the agency charged  
229 with the administration of any other state or federal unemployment insurance law pursuant to  
230 which all services performed by an individual for an employing unit during the period covered

231 by the employing unit's approved election are deemed to be performed entirely within the  
232 jurisdiction of such other state or federal agency;

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

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

240 (13) Domestic service performed in the employ of a local college club or of a local  
241 chapter of a college fraternity or sorority, except as provided in subsection ~~[43]~~ 12 of this section;

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

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

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

261 (17) Services performed as a direct seller who is engaged in the trade or business of the  
262 delivering or distribution of newspapers or shopping news, including any services directly related  
263 to such trade or business, or services performed as a direct seller who is engaged in the trade or  
264 business of selling, or soliciting the sale of, consumer products in the home or otherwise than in,  
265 or affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the  
266 remuneration, whether or not paid in cash, for the services performed rather than the number of

267 hours worked is directly related to sales performed pursuant to a written contract between such  
268 direct seller and the person for whom the services are performed, and such contract provides that  
269 the individual will not be treated as an employee with respect to such services for federal tax  
270 purposes;

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

274 ~~[13.]~~ **12.** The term "employment" shall include domestic service as defined in  
275 subdivisions (2) and (13) of subsection ~~[12]~~ **11** of this section performed after December 31,  
276 1977, if the employing unit for which such service is performed paid cash wages of one thousand  
277 dollars or more for such services in any calendar quarter after December 31, 1977.

278 ~~[14.]~~ **13.** The term "employment" shall include or exclude the entire service of an  
279 individual for an employing unit during a pay period in which such individual's services are not  
280 all excluded under the foregoing provisions, on the following basis: if the services performed  
281 during one-half or more of any pay period constitute employment as otherwise defined in this  
282 law, all the services performed during such period shall be deemed to be employment; but if the  
283 services performed during more than one-half of any such pay period do not constitute  
284 employment as otherwise defined in this law, then none of the services for such period shall be  
285 deemed to be employment. (As used in this subsection, the term "pay period" means a period  
286 of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily  
287 made to the individual by the employing unit employing such individual.) This subsection shall  
288 not be applicable with respect to service performed in a pay period where any such service is  
289 excluded pursuant to subdivision (8) of subsection ~~[12]~~ **11** of this section.

290 ~~[15.]~~ **14.** The term "employment" shall not include the services of a full-time student  
291 who performed such services in the employ of an organized summer camp for less than thirteen  
292 calendar weeks in such calendar year.

293 ~~[16.]~~ **15.** For the purpose of subsection ~~[15]~~ **14** of this section, an individual shall be  
294 treated as a full-time student for any period:

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

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

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

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

303           ~~[17.]~~ **16.** For the purpose of subsection ~~[15]~~ **14** of this section, an "organized summer  
304 camp" shall mean a summer camp which:

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

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

310           ~~[18.]~~ **17.** The term "employment" shall not mean service performed by a remodeling  
311 salesperson acting as an independent contractor; however, if the federal Internal Revenue Service  
312 determines that a contractual relationship between a direct provider and an individual acting as  
313 an independent contractor pursuant to the provisions of this subsection is in fact an  
314 employer-employee relationship for the purposes of federal law, then that relationship shall be  
315 considered as an employer-employee relationship for the purposes of this chapter.

**290.005. The division of labor standards shall refer to section 285.500 in  
2 determining whether an individual or entity is an employee or independent contractor.**

295.020. 1. The term "board" shall mean the state board of mediation.

2           2. The term "collective bargaining" shall be understood to embody the philosophy of  
3 bargaining by employees through representatives of their own choosing, and shall include the  
4 right of representatives of employees' units to be consulted and to bargain upon the exceptional  
5 as well as the routine wages, hours, rules, and working conditions.

6           3. The term "employee" shall refer to anyone in the service of another, actually engaged  
7 in or connected with the operation of any public utility throughout the state. **The board shall  
8 refer to section 285.500 in determining whether an individual or entity is an employee or  
9 independent contractor.**

10           4. The term "labor dispute" shall involve any controversy between employer and  
11 employees as to hours, wages, and working conditions. The fact that employees have amicable  
12 relations with their employers shall not preclude the existence of a dispute among them  
13 concerning their representative for collective bargaining purposes.

14           5. The term "person" means any individual, firm, copartnership, corporation, municipal  
15 corporation, company, association, or joint-stock association; and includes any trustee, receiver,  
16 assignee, or personal representative thereof.

17           6. The term "public utility" shall include any person engaged in the business of  
18 producing, distributing, selling or otherwise furnishing electric light or power, heat, gas, steam,  
19 water, sewer service, transportation excepting railroads, communication, or any one or more of  
20 them to the people of Missouri.

21           7. The term "representative" means any person or persons, labor union, organization, or  
22 corporation designated either by a utility or group of utilities or by its or their employees to act  
23 or do for them.

✓