

FIRST REGULAR SESSION

SENATE BILL NO. 404

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEHOE.

Read 1st time February 5, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2000S.011

AN ACT

To repeal sections 288.036 and 288.060, RSMo, and to enact in lieu thereof two new sections relating to the definition of wages under the employment security law.

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

Section A. Sections 288.036 and 288.060, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 288.036 and 288.060, to
3 read as follows:

288.036. 1. "Wages" means all remuneration, payable or paid, for
2 personal services including commissions and bonuses and, except as provided in
3 subdivision (7) of this section, the cash value of all remuneration paid in any
4 medium other than cash. Gratuities, including tips received from persons other
5 than the employing unit, shall be considered wages only if required to be reported
6 as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306,
7 and shall be, for the purposes of this chapter, treated as having been paid by the
8 employing unit. Severance pay shall be considered as wages to the extent
9 required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section
10 3306(b). Vacation pay, **termination pay**, **severance pay** and holiday pay shall
11 be considered as wages for the week with respect to which it is payable. The term
12 "wages" shall not include:

13 (1) The amount of any payment made (including any amount paid by an
14 employing unit for insurance or annuities, or into a fund, to provide for any such
15 payment) to, or on behalf of, an individual under a plan or system established by
16 an employing unit which makes provision generally for individuals performing
17 services for it or for a class or classes of such individuals, on account of:

18 (a) Sickness or accident disability, but in case of payments made to an

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 employee or any of the employee's dependents this paragraph shall exclude from
20 the term wages only payments which are received pursuant to a workers'
21 compensation law; or

22 (b) Medical and hospitalization expenses in connection with sickness or
23 accident disability; or

24 (c) Death;

25 (2) The amount of any payment on account of sickness or accident
26 disability, or medical or hospitalization expenses in connection with sickness or
27 accident disability, made by an employing unit to, or on behalf of, an individual
28 performing services for it after the expiration of six calendar months following the
29 last calendar month in which the individual performed services for such
30 employing unit;

31 (3) The amount of any payment made by an employing unit to, or on
32 behalf of, an individual performing services for it or his or her beneficiary:

33 (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from
34 tax pursuant to 26 U.S.C. 501(a) at the time of such payment unless such
35 payment is made to an employee of the trust as remuneration for services
36 rendered as such an employee and not as a beneficiary of the trust; or

37 (b) Under or to an annuity plan which, at the time of such payments,
38 meets the requirements of Section 404(a)(2) of the Federal Internal Revenue Code
39 (26 U.S.C.A. Sec. 404);

40 (4) The amount of any payment made by an employing unit (without
41 deduction from the remuneration of the individual in employment) of the tax
42 imposed pursuant to Section 3101 of the Federal Internal Revenue Code (26
43 U.S.C.A. Sec. 3101) upon an individual with respect to remuneration paid to an
44 employee for domestic service in a private home or for agricultural labor;

45 (5) Remuneration paid in any medium other than cash to an individual
46 for services not in the course of the employing unit's trade or business;

47 (6) Remuneration paid in the form of meals provided to an individual in
48 the service of an employing unit where such remuneration is furnished on the
49 employer's premises and at the employer's convenience, except that remuneration
50 in the form of meals that is considered wages and required to be reported as
51 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306 shall
52 be reported as wages as required thereunder;

53 (7) For the purpose of determining wages paid for agricultural labor as
54 defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and

55 for domestic service as defined in subsection 13 of section 288.034, only cash
56 wages paid shall be considered;

57 (8) Beginning on October 1, 1996, any payment to, or on behalf of, an
58 employee or the employee's beneficiary under a cafeteria plan, if such payment
59 would not be treated as wages pursuant to the Federal Unemployment Tax Act.

60 2. The increases or decreases to the state taxable wage base for the
61 remainder of calendar year 2004 shall be eight thousand dollars, and the state
62 taxable wage base in calendar year 2005, and each calendar year thereafter, shall
63 be determined by the provisions within this subsection. On January 1, 2005, the
64 state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven
65 thousand dollars. The taxable wage base for calendar year 2008 shall be twelve
66 thousand dollars. The state taxable wage base for each calendar year thereafter
67 shall be determined by the average balance of the unemployment compensation
68 trust fund of the four preceding calendar quarters (September thirtieth, June
69 thirtieth, March thirty-first, and December thirty-first of the preceding calendar
70 year), less any outstanding federal Title XII advances received pursuant to
71 section 288.330, less the principal, interest, and administrative expenses related
72 to any credit instrument issued under section 288.030, and less the principal,
73 interest, and administrative expenses related to any financial agreements under
74 subdivision (17) of subsection 2 of section 288.330. When the average balance of
75 the unemployment compensation trust fund of the four preceding quarters
76 (September thirtieth, June thirtieth, March thirty-first, and December thirty-first
77 of the preceding calendar year), as so determined is:

78 (1) Less than, or equal to, three hundred fifty million dollars, then the
79 wage base shall increase by one thousand dollars; or

80 (2) Six hundred fifty million or more, then the state taxable wage base for
81 the subsequent calendar year shall be decreased by five hundred dollars. In no
82 event, however, shall the state taxable wage base increase beyond twelve
83 thousand five hundred dollars, or decrease to less than seven thousand
84 dollars. For calendar year 2009, the tax wage base shall be twelve thousand five
85 hundred dollars. For calendar year 2010 and each calendar year thereafter, in
86 no event shall the state taxable wage base increase beyond thirteen thousand
87 dollars, or decrease to less than seven thousand dollars. For any calendar year,
88 the state taxable wage base shall not be reduced to less than that part of the
89 remuneration which is subject to a tax under a federal law imposing a tax against
90 which credit may be taken for contributions required to be paid into a state

91 unemployment compensation trust fund. Nothing in this section shall be
92 construed to prevent the wage base from increasing or decreasing by increments
93 of five hundred dollars.

288.060. 1. All benefits shall be paid through employment offices in
2 accordance with such regulations as the division may prescribe.

3 2. Each eligible insured worker who is totally unemployed in any week
4 shall be paid for such week a sum equal to his or her weekly benefit amount.

5 3. Each eligible insured worker who is partially unemployed in any week
6 shall be paid for such week a partial benefit. Such partial benefit shall be an
7 amount equal to the difference between his or her weekly benefit amount and
8 that part of his or her wages for such week in excess of twenty dollars, and, if
9 such partial benefit amount is not a multiple of one dollar, such amount shall be
10 reduced to the nearest lower full dollar amount. For calendar year 2007 and each
11 year thereafter, such partial benefit shall be an amount equal to the difference
12 between his or her weekly benefit amount and that part of his or her wages for
13 such week in excess of twenty dollars or twenty percent of his or her weekly
14 benefit amount, whichever is greater, and, if such partial benefit amount is not
15 a multiple of one dollar, such amount shall be reduced to the nearest lower full
16 dollar amount. [Termination pay, severance pay or] Pay received by an eligible
17 insured worker who is a member of the organized militia for training or duty
18 authorized by Section 502(a)(1) of Title 32, United States Code, shall not be
19 considered wages for the purpose of this subsection.

20 4. The division shall compute the wage credits for each individual by
21 crediting him or her with the wages paid to him or her for insured work during
22 each quarter of his or her base period or twenty-six times his or her weekly
23 benefit amount, whichever is the lesser. In addition, if a claimant receives wages
24 in the form of termination pay or severance pay and such payment appears in a
25 base period established by the filing of an initial claim, the claimant may, at his
26 or her option, choose to have such payment included in the calendar quarter in
27 which it was paid or choose to have it prorated equally among the quarters
28 comprising the base period of the claim. The maximum total amount of benefits
29 payable to any insured worker during any benefit year shall not exceed twenty
30 times his or her weekly benefit amount, or thirty-three and one-third percent of
31 his or her wage credits, whichever is the lesser. For the purpose of this section,
32 wages shall be counted as wage credits for any benefit year, only if such benefit
33 year begins subsequent to the date on which the employing unit by whom such

34 wages were paid has become an employer. The wage credits of an individual
35 earned during the period commencing with the end of a prior base period and
36 ending on the date on which he or she filed an allowed initial claim shall not be
37 available for benefit purposes in a subsequent benefit year unless, in addition
38 thereto, such individual has subsequently earned either wages for insured work
39 in an amount equal to at least five times his or her current weekly benefit
40 amount or wages in an amount equal to at least ten times his or her current
41 weekly benefit amount.

42 5. In the event that benefits are due a deceased person and no petition
43 has been filed for the probate of the will or for the administration of the estate
44 of such person within thirty days after his or her death, the division may by
45 regulation provide for the payment of such benefits to such person or persons as
46 the division finds entitled thereto and every such payment shall be a valid
47 payment to the same extent as if made to the legal representatives of the
48 deceased.

49 6. The division is authorized to cancel any benefit warrant remaining
50 outstanding and unpaid one year after the date of its issuance and there shall be
51 no liability for the payment of any such benefit warrant thereafter.

52 7. The division may establish an electronic funds transfer system to
53 transfer directly to claimants' accounts in financial institutions benefits payable
54 to them pursuant to this chapter. To receive benefits by electronic funds transfer,
55 a claimant shall satisfactorily complete a direct deposit application form
56 authorizing the division to deposit benefit payments into a designated checking
57 or savings account. Any electronic funds transfer system created pursuant to this
58 subsection shall be administered in accordance with regulations prescribed by the
59 division.

60 8. The division may issue a benefit warrant covering more than one week
61 of benefits.

62 9. Prior to January 1, 2005, the division shall institute procedures
63 including, but not limited to, name, date of birth, and Social Security verification
64 matches for remote claims filing via the use of telephone or the internet in
65 accordance with such regulations as the division shall prescribe. At a minimum,
66 the division shall verify the Social Security number and date of birth when an
67 individual claimant initially files for unemployment insurance benefits. If
68 verification information does not match what is on file in division databases to
69 what the individual is stating, the division shall require the claimant to submit

70 a division-approved form requesting an affidavit of eligibility prior to the payment
71 of additional future benefits. The division of employment security shall
72 cross-check unemployment compensation applicants and recipients with Social
73 Security Administration data maintained by the federal government at least
74 weekly. The division of employment security shall cross-check at least monthly
75 unemployment compensation applicants and recipients with department of
76 revenue drivers license databases.

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