

FIRST REGULAR SESSION

SENATE BILL NO. 228

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SATER.

Pre-filed January 8, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0982S.01I

AN ACT

To repeal section 288.160, RSMo, and to enact in lieu thereof one new section relating to methods of service of notice under employment security laws.

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

Section A. Section 288.160, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 288.160, to read as follows:

288.160. 1. If any employer neglects or refuses to make a report as
2 required by this [law] **chapter** the division shall make an estimate based on any
3 information in its possession or that may come into its possession of the amount
4 of wages paid by such employer for the period in respect to which the employer
5 failed to make the report, and upon the basis of such estimated amount compute
6 and assess the contributions and interest payable by such employer, adding to
7 such sum a penalty as set forth in subsection 2 of this section. Promptly
8 thereafter, the division shall give to such employer written notice of such
9 estimated contributions, interest and penalties as so assessed, the notice to be
10 served [personally or] by [registered] **certified** mail, directed to the last known
11 [principal place of business] **address** of such employer [in this state or in any
12 state in the event the employer has none in this state].

13 2. If any employer neglects or refuses to file any required report by the
14 last day of the month following the due date there shall be imposed a penalty,
15 equal to the greater of one hundred dollars or ten percent of the contributions
16 required to be shown on the report, for each month or fraction thereof during
17 which such failure continues, provided, however, that the penalty shall not exceed
18 the greater of two hundred dollars or twenty percent of the contributions in the
19 aggregate.

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

20 3. In any case in which any contributions, interest or penalties imposed
21 by this [law] **chapter** are not paid when due, it shall be the duty of the division,
22 when the amount of contributions, interest or penalties is determined, either by
23 the report of the employer or by such investigation as the division may make, to
24 assess the contributions, interest and penalties so determined against such
25 employer and to certify the amount of such contributions, interest and penalties
26 and give such employer written notice, served [personally or] by [registered]
27 **certified** mail, directed to the last known address of such employer [in this state
28 or in any state, in the event the employer has none in this state].

29 4. If fraud or evasion on the part of any employer is discovered by the
30 division, the division shall determine the amount by which the state has been
31 defrauded, shall add to the amount so determined a penalty equal to twenty-five
32 percent thereof, and shall assess the same against the employer. The amount so
33 assessed shall be immediately due and payable; provided, however, that the
34 division shall promptly thereafter give to such employer written notice of such
35 assessment.

36 5. Any employer against whom an assessment is made pursuant to the
37 provisions of subsections 1, 2, 3 and 4 of this section may petition for
38 reassessment. The petition for such reassessment shall be filed with the division
39 during the thirty-day period following the [day of service or] mailing of the notice
40 of such assessment. In the absence of the filing of such a petition for
41 reassessment the assessment shall become final upon the expiration of such a
42 thirty-day period. Each such petition for reassessment shall set forth specifically
43 and in detail the grounds upon which it is claimed the assessment is erroneous.

44 6. (1) In any case in which any contributions, interest or penalties
45 imposed by [law] **this chapter** are not paid when due, the notice of the
46 assessment of such contributions, interest and penalties shall be served upon or
47 mailed to the employer within three years of the date upon which the payment
48 of the contributions was due except that in any case of fraud or misrepresentation
49 on the part of the employer, the notice of the assessment of the contributions,
50 interest and penalties may be served [upon or mailed] **by mail** to the **last**
51 **known address of such** employer at any time.

52 (2) The giving of the notice of the making of the assessment shall toll any
53 statute of limitations on the collection of any contributions, interest and penalties
54 assessed.

55 (3) In the event any employer is entitled to the advantage of the Soldiers'

56 and Sailors' Civil Relief Act of 1940, or any amendment thereto, prior to the date
57 any assessment becomes final, such employer shall be permitted to file a petition
58 for reassessment at any time within ninety days following such employer's
59 discharge from the armed services.

60 (4) The certificate of assessment which, pursuant to the provisions of
61 section 288.170, may be filed with the clerk of the circuit court shall, upon such
62 filing, thereafter be treated in all respects as a final judgment of the circuit court
63 against the employer and the general statute of limitations applying to other
64 judgments of courts of record shall apply.

Unofficial ✓

Bill

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