

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 228

100TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SATER.

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

Read 2nd time February 7, 2019, and referred to the Committee on Small Business and Industry.

Reported from the Committee March 14, 2019, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 28, 2019. Read 3rd time and placed upon its final passage; bill passed.

ADRIANE D. CROUSE, Secretary.

0982S.01P

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## 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.

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*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Section A. Section 288.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.160, to read as follows: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 required by this [law] **chapter** the division shall make an estimate based on any information in its possession or that may come into its possession of the amount of wages paid by such employer for the period in respect to which the employer failed to make the report, and upon the basis of such estimated amount compute and assess the contributions and interest payable by such employer, adding to such sum a penalty as set forth in subsection 2 of this section. Promptly thereafter, the division shall give to such employer written notice of such estimated contributions, interest and penalties as so assessed, the notice to be served [personally or] by [registered] **certified** mail, directed to the last known [principal place of business] **address** of such employer [in this state or in any state in the event the employer has none in this state].

2. If any employer neglects or refuses to file any required report by the last day of the month following the due date there shall be imposed a penalty, equal to the greater of one hundred dollars or ten percent of the contributions required to be shown on the report, for each month or fraction thereof during

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

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.

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.

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Bill

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