SECOND REGULAR SESSION

SENATE BILL NO. 693

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

4082S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 67.308, 167.181, 210.003, 288.030, and 288.040, RSMo, and to enact in lieu thereof seven new sections relating to COVID-19 vaccine requirements.

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

Section A. Sections 67.308, 167.181, 210.003, 288.030, and 288.040, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.308, 167.181, 174.336, 191.234, 210.003, 288.030, and 288.040, to read as follows:

67.308. No [county, city, town or village] public or private entity in this state receiving public funds or any other public accommodation shall require documentation of an individual having received a vaccination against COVID-19 in order for the individual to access transportation systems [or], facilities, services, or any other public accommodations. As used in this section, public accommodation shall have the same meaning as "places of public accommodation" in section 213.010.

167.181. 1. The department of health and senior services, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools.

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
Such rules and regulations may modify the immunizations that
are required of children in this subsection. The
immunizations required and the manner and frequency of their
administration shall conform to recognized standards of
medical practice. The department of health and senior
services shall supervise and secure the enforcement of the
required immunization program.

2. It is unlawful for any student to attend school
unless he has been immunized as required under the rules and
regulations of the department of health and senior services,
and can provide satisfactory evidence of such immunization;
except that if he produces satisfactory evidence of having
begun the process of immunization, he may continue to attend
school as long as the immunization process is being
accomplished in the prescribed manner. It is unlawful for
any parent or guardian to refuse or neglect to have his
child immunized as required by this section, unless the
child is properly exempted.

3. This section shall not apply to any child if one
parent or guardian objects in writing to his school
administrator against the immunization of the child, because
of religious beliefs or medical contraindications. In cases
where any such objection is for reasons of medical
contraindications, a statement from a duly licensed
physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public,
private, parochial or parish school, shall cause to be
prepared a record showing the immunization status of every
child enrolled in or attending a school under his
jurisdiction. The name of any parent or guardian who
neglects or refuses to permit a nonexempted child to be
immunized against diseases as required by the rules and
regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health and senior services.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health and senior services subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health and senior services from general revenue or from federal funds if available.

7. No student shall be required, as a condition of school attendance or participation in school-sponsored extracurricular activities, to be immunized against COVID-19. No school shall require students to undergo COVID-19 diagnostic testing as an alternative to receiving a COVID-19 vaccination.

8. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it
has been promulgated pursuant to the provisions of chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

174.336. No public institution of higher education in this state shall require any student, whether residing on campus or not, to have received a COVID-19 vaccine in order to access educational and other services, including, but not limited to, in-class attendance, school-sponsored extracurricular activities, and access to school buildings and facilities. No public institution of higher education in this state shall require any student to undergo COVID-19 diagnostic testing as an alternative to receiving a COVID-19 vaccination.

191.234. 1. For the purposes of this section, "employer" shall mean any person or entity employing any person for hire within the state of Missouri, including a public employer.

2. It shall be unlawful for an employer to require an employee to receive COVID-19 vaccination as a condition of employment without permitting the employee to be exempted from such vaccination requirements because of the employee's religious or philosophical beliefs, medical condition,
including pregnancy or future pregnancies, or previous exposure to and recovery from COVID-19.

3. The employer may require the employee seeking the exemption to provide such request in writing. No employer shall require the employee to explain, prove, defend, or otherwise substantiate his or her religious or philosophical beliefs or medical conditions relating to requesting the vaccination exemption.

4. The department of health and senior services shall develop a form and make such form available to employers and employees to utilize in requesting a vaccination exemption.

5. No employer shall require an employee who has requested or received a vaccination exemption to undergo COVID-19 diagnostic testing in place of a vaccination.

6. In the case of a public employer, any record of vaccinations, exemptions, testing, or other related employee information containing identifying information of the employee shall be considered a closed record under chapter 610.

7. No employer shall refuse employment, discharge, discipline, retaliate against, fail to promote, or otherwise discriminate against an employee or prospective employee who requests a vaccination exemption under this section. A prospective, current, or former employee may bring a civil action against an employer for a violation of this section. A prevailing plaintiff shall be entitled to any one or more of the following:

   (1) Back pay or reinstatement, with three times the back pay plus fringe benefits or prospective wages and benefits;

   (2) Damages, including punitive and actual damages;

   (3) Injunctive and any other court-approved relief; and
(4) **Reasonable attorney's fees and costs.**

210.003. 1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP), but not including COVID-19. The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his or her age may enroll, if:

   (1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule;

   (2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

      (a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

      (b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator; or

   (3) The child is homeless or in the custody of the children's division and cannot provide satisfactory evidence
of the required immunizations. Satisfactory evidence shall be presented within thirty days of enrollment and shall confirm either that the child has completed all immunizations appropriate for his or her age or has begun the process of immunization. If the child has begun the process of immunization, he or she may continue to attend as long as the process is being accomplished according to the schedule recommended by the department of health and senior services.

Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable, Environmental and Occupational Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his or her jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the
department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, "satisfactory evidence of immunization" means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

7. All public, private, and parochial day care centers, preschools, and nursery schools shall notify the parent or guardian of each child at the time of initial enrollment in or attendance at the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Beginning December 1, 2015, all public, private, and parochial day care centers, preschools, and nursery schools shall notify the parent or guardian of each child currently enrolled in or attending the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Any public, private, or parochial day care center, preschool, or nursery school shall notify the parent or guardian of a child enrolled in or attending the facility, upon request, of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed.
288.030. 1. As used in this chapter, unless the context clearly requires otherwise, the following terms mean:

(1) "Appeals tribunal", a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

(2) "Base period", the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(3) "Benefit year", the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;

(4) "Benefits", the money payments payable to an insured worker, as provided in this chapter, with respect to such insured worker's unemployment;

(5) "Calendar quarter", the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;

(6) "Claimant", an individual who has filed an initial claim for determination of such individual's status as an insured worker, a notice of unemployment, a certification for waiting week credit, or a claim for benefits;

(7) "Commission", the labor and industrial relations commission of Missouri;
(8) "Common paymaster", two or more related corporations in which one of the corporations has been designated to disburse remuneration to concurrently employed individuals of any of the related corporations;

(9) "Contributions", the money payments to the unemployment compensation fund required by this chapter, exclusive of interest and penalties;

(10) "Decision", a ruling made by an appeals tribunal or the commission after a hearing;

(11) "Deputy", a representative of the division designated to make investigations and administrative determinations on claims or matters of employer liability or to perform related work;

(12) "Determination", any administrative ruling made by the division without a hearing;

(13) "Director", the administrative head of the division of employment security;

(14) "Division", the division of employment security which administers this chapter;

(15) "Employing unit", any individual, organization, partnership, corporation, common paymaster, or other legal entity, including the legal representatives thereof, which has or, subsequent to June 17, 1937, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual engaged to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this chapter, whether
such individual was engaged or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work;

(16) "Employment office", a free public employment office operated by this or any other state as a part of a state controlled system of public employment offices including any location designated by the state as being a part of the one-stop career system;

(17) "Equipment", a motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire;

(18) "Fund", the unemployment compensation fund established by this chapter;

(19) "Governmental entity", the state, any political subdivision thereof, any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions and any instrumentality of this state or any political subdivision thereof and one or more other states or political subdivisions;

(20) "Initial claim", an application, in a form prescribed by the division, made by an individual for the determination of the individual's status as an insured worker;

(21) "Insured work", employment in the service of an employer;

(22) (a) As to initial claims filed after December 31, 1990, "insured worker", a worker who has been paid wages for insured work in the amount of one thousand dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to
at least one and one-half times the insured wages in that
calendar quarter of the base period in which the worker's
insured wages were the highest, or in the alternative, a
worker who has been paid wages in at least two calendar
quarters of such worker's base period and whose total base
period wages are at least one and one-half times the maximum
taxable wage base, taxable to any one employer, in
accordance with subsection 2 of section 288.036. For the
purposes of this definition, "wages" shall be considered as
wage credits with respect to any benefit year, only if such
benefit year begins subsequent to the date on which the
employing unit by which such wages were paid has become an
employer;

(b) As to initial claims filed after December 31,
2004, wages for insured work in the amount of one thousand
two hundred dollars or more, after December 31, 2005, one
thousand three hundred dollars or more, after December 31,
2006, one thousand four hundred dollars or more, after
December 31, 2007, one thousand five hundred dollars or more
in at least one calendar quarter of such worker's base
period and total wages in the worker's base period equal to
at least one and one-half times the insured wages in that
calendar quarter of the base period in which the worker's
insured wages were the highest, or in the alternative, a
worker who has been paid wages in at least two calendar
quarters of such worker's base period and whose total base
period wages are at least one and one-half times the maximum
taxable wage base, taxable to any one employer, in
accordance with subsection 2 of section 288.036;

23) "Misconduct", only as the term is used in this
chapter, conduct or failure to act in a manner that is
connected with work, regardless of whether such conduct or
failure to act occurs at the workplace or during work hours, which shall include:

(a) Conduct or a failure to act demonstrating knowing disregard of the employer's interest or a knowing violation of the standards which the employer expects of his or her employee;

(b) Conduct or a failure to act demonstrating carelessness or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or a knowing disregard of the employer's interest or of the employee's duties and obligations to the employer;

(c) A violation of an employer's no-call, no-show policy; chronic absenteeism or tardiness in violation of a known policy of the employer; or two or more unapproved absences following a written reprimand or warning relating to an unapproved absence unless such absences are protected by law;

(d) A knowing violation of a state standard or regulation by an employee of an employer licensed or certified by the state, which would cause the employer to be sanctioned or have its license or certification suspended or revoked; or

(e) A violation of an employer's rule, unless the employee can demonstrate that:

   a. He or she did not know, and could not reasonably know, of the rule's requirements;

   b. The rule is not lawful; or

   c. The rule is not fairly or consistently enforced;

Misconduct shall not include failure to receive a vaccination against COVID-19 if doing so would violate the
employee's religious or philosophical beliefs or if a
vaccine is medically contraindicated for the employee;

(24) "Referee", a representative of the division
designated to serve on an appeals tribunal;

(25) "State" includes, in addition to the states of
the United States of America, the District of Columbia,
Puerto Rico, the Virgin Islands, and the Dominion of Canada;

(26) "Temporary employee", an employee assigned to
work for the clients of a temporary help firm;

(27) "Temporary help firm", a firm that hires its own
employees and assigns them to clients to support or
supplement the clients' workforce in work situations such as
employee absences, temporary skill shortages, seasonal
workloads, and special assignments and projects;

(28) (a) An individual shall be deemed "totally
unemployed" in any week during which the individual performs
no services and with respect to which no wages are payable
to such individual;

(b) a. An individual shall be deemed "partially
unemployed" in any week of less than full-time work if the
wages payable to such individual for such week do not equal
or exceed the individual's weekly benefit amount plus twenty
dollars;

b. Effective for calendar year 2007 and each year
thereafter, an individual shall be deemed "partially
unemployed" in any week of less than full-time work if the
wages payable to such individual for such week do not equal
or exceed the individual's weekly benefit amount plus twenty
dollars or twenty percent of his or her weekly benefit
amount, whichever is greater;

(c) An individual's "week of unemployment" shall begin
the first day of the calendar week in which the individual
registers at an employment office except that, if for good
cause the individual's registration is delayed, the week of
unemployment shall begin the first day of the calendar week
in which the individual would have otherwise registered.
The requirement of registration may by regulation be
postponed or eliminated in respect to claims for partial
unemployment or may by regulation be postponed in case of a
mass layoff due to a temporary cessation of work;
(29) "Waiting week", the first week of unemployment
for which a claim is allowed in a benefit year or if no
waiting week has occurred in a benefit year in effect on the
effective date of a shared work plan, the first week of
participation in a shared work unemployment compensation
program pursuant to section 288.500.
2. The Missouri average annual wage shall be computed
as of June thirtieth of each year, and shall be applicable
to the following calendar year. The Missouri average annual
wage shall be calculated by dividing the total wages
reported as paid for insured work in the preceding calendar
year by the average of mid-month employment reported by
employers for the same calendar year. The Missouri average
weekly wage shall be computed by dividing the Missouri
average annual wage as computed in this subsection by fifty-
two.

288.040. 1. A claimant who is unemployed and has been
determined to be an insured worker shall be eligible for
benefits for any week only if the deputy finds that:
(1) The claimant has registered for work at and
thereafter has continued to report at an employment office
in accordance with such regulations as the division may
prescribe;
(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. Unless the deputy directs otherwise, a claimant shall make a minimum of three work search contacts during any week for which he or she claims benefits. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended not to exceed a total of sixteen weeks at the discretion of the director;

(3) The claimant has reported to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or
(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist.

Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;
(5) The claimant has made a claim for benefits within fourteen days from the last day of the week being claimed. The fourteen-day period may, for good cause, be extended to twenty-eight days;

(6) The claimant has reported to an employment office to participate in a reemployment assessment and reemployment services as directed by the deputy or designated staff of an employment office, unless the deputy determines that good cause exists for the claimant's failure to participate in such reemployment assessment and reemployment services. For purposes of this section, "reemployment services" may include, but not be limited to, the following:

(a) Providing an orientation to employment office services;
(b) Providing job search assistance; and
(c) Providing labor market statistics or analysis;

Ineligibility under this subdivision shall begin on the first day of the week which the claimant was scheduled to report for the reemployment assessment or reemployment services and shall end on the last day of the week preceding the week during which the claimant does report in person to the employment office for such reemployment assessment or reemployment services;

(7) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:
(a) The individual has completed such reemployment services; or
(b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant who is unemployed due to being discharged from employment for failure to receive a vaccination against COVID-19 shall not be ineligible for benefits if the claimant failed to receive such vaccination because doing so would violate the claimant's religious or philosophical beliefs or if the vaccine is medically contraindicated for the claimant.

3. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

[3.] 4. (1) Benefits based on "service in employment", described in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services
in the first of such academic years (or terms) and if there
is a contract or a reasonable assurance that such individual
will perform services in any such capacity for any
educational institution in the second of such academic years
or terms;

(b) With respect to services performed in any capacity
(other than instructional, research, or principal
administrative capacity) for an educational institution,
benefits shall not be paid on the basis of such services to
any individual for any week which commences during a period
between two successive academic years or terms if such
individual performs such services in the first of such
academic years or terms and there is a contract or a
reasonable assurance that such individual will perform such
services in the second of such academic years or terms;

(c) With respect to services described in paragraphs
(a) and (b) of this subdivision, benefits shall not be paid
on the basis of such services to any individual for any week
which commences during an established and customary vacation
period or holiday recess if such individual performed such
services in the period immediately before such vacation
period or holiday recess, and there is reasonable assurance
that such individual will perform such services immediately
following such vacation period or holiday recess;

(d) With respect to services described in paragraphs
(a) and (b) of this subdivision, benefits payable on the
basis of services in any such capacity shall be denied as
specified in paragraphs (a), (b), and (c) of this
subdivision to any individual who performed such services at
an educational institution while in the employ of an
educational service agency, and for this purpose the term
"educational service agency" means a governmental agency or
governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

[4.] 5. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph
shall not apply if the services performed for such employer
by the claimant after the beginning of the base period (or
remuneration for such services) do not affect eligibility
for or increase the amount of such pension, retirement or
retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection
is less than the benefits which would otherwise be due, the
claimant shall be entitled to receive for such week, if
otherwise eligible, benefits reduced by the amount of such
remuneration, and, if such benefit is not a multiple of one
dollar, such amount shall be lowered to the next multiple of
one dollar.

(3) Notwithstanding the provisions of subdivisions (1)
and (2) of this subsection, if a claimant has contributed in
any way to the Social Security Act or the Railroad
Retirement Act of 1974, or the corresponding provisions of
prior law, no part of the payments received pursuant to such
federal law shall be deductible from the amount of benefits
received pursuant to this chapter.

[5.] 6. A claimant shall be ineligible for waiting
week credit or benefits for any week for which or a part of
which he or she has received or is seeking unemployment
benefits pursuant to an unemployment insurance law of
another state or the United States; provided, that if it be
finally determined that the claimant is not entitled to such
unemployment benefits, such ineligibility shall not apply.

[6.] 7. (1) A claimant shall be ineligible for
waiting week credit or benefits for any week for which the
deputy finds that such claimant's total or partial
unemployment is due to a stoppage of work which exists
because of a labor dispute in the factory, establishment or
other premises in which such claimant is or was last
employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor
Relations Board or a federal court of law for an act or actions preceding or during the strike.

[7.] 8. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

[8.] 9. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.
10. A claimant shall be ineligible for waiting week credit or benefits for any week such claimant has an outstanding penalty which was assessed based upon an overpayment of benefits, as provided for in subsection 9 of section 288.380.

11. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant reemployment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their recommendations on these issues by December thirty-first of each year.

12. For purposes of this section, a claimant may satisfy reporting requirements provided under this section by reporting by internet communication or any other means deemed acceptable by the division of employment security.