

# SENATE BILL NO. 549

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOSKINS.

1423S.01I

ADRIANE D. CROUSE, Secretary

## 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 the classification of employees.

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

Section A. Sections 285.500, 287.020, 288.034, and  
2 295.020, RSMo, are repealed and five new sections enacted in  
3 lieu thereof, to be known as sections 285.500, 287.020, 288.034,  
4 290.005, and 295.020, to read as follows:

285.500. For the purposes of sections 285.500 to  
2 285.515 the following terms mean:

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

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

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

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

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

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

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

26 **division shall defer to the guidance issued by the Internal**  
27 **Revenue Service when determining whether a person or entity**  
28 **is an employee or an independent contractor.**

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

36         3. (1) In this chapter the term "injury" is hereby  
37 defined to be an injury which has arisen out of and in the  
38 course of employment. An injury by accident is compensable  
39 only if the accident was the prevailing factor in causing  
40 both the resulting medical condition and disability. "The  
41 prevailing factor" is defined to be the primary factor, in  
42 relation to any other factor, causing both the resulting  
43 medical condition and disability.

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

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

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

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

55         (4) A cardiovascular, pulmonary, respiratory, or other  
56 disease, or cerebrovascular accident or myocardial  
57 infarction suffered by a worker is an injury only if the

58 accident is the prevailing factor in causing the resulting  
59 medical condition.

60 (5) The terms "injury" and "personal injuries" shall  
61 mean violence to the physical structure of the body and to  
62 the personal property which is used to make up the physical  
63 structure of the body, such as artificial dentures,  
64 artificial limbs, glass eyes, eyeglasses, and other  
65 prostheses which are placed in or on the body to replace the  
66 physical structure and such disease or infection as  
67 naturally results therefrom. These terms shall in no case  
68 except as specifically provided in this chapter be construed  
69 to include occupational disease in any form, nor shall they  
70 be construed to include any contagious or infectious disease  
71 contracted during the course of the employment, nor shall  
72 they include death due to natural causes occurring while the  
73 worker is at work.

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

80 5. Injuries sustained in company-owned or subsidized  
81 automobiles in accidents that occur while traveling from the  
82 employee's home to the employer's principal place of  
83 business or from the employer's principal place of business  
84 to the employee's home are not compensable. The extension  
85 of premises doctrine is abrogated to the extent it extends  
86 liability for accidents that occur on property not owned or  
87 controlled by the employer even if the accident occurs on  
88 customary, approved, permitted, usual or accepted routes

89 used by the employee to get to and from their place of  
90 employment.

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

95 7. As used in this chapter and all acts amendatory  
96 thereof, the term "commission" shall hereafter be construed  
97 as meaning and referring exclusively to the labor and  
98 industrial relations commission of Missouri, and the term  
99 "director" shall hereafter be construed as meaning the  
100 director of the department of commerce and insurance of the  
101 state of Missouri or such agency of government as shall  
102 exercise the powers and duties now conferred and imposed  
103 upon the department of commerce and insurance of the state  
104 of Missouri.

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

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

113 10. In applying the provisions of this chapter, it is  
114 the intent of the legislature to reject and abrogate earlier  
115 case law interpretations on the meaning of or definition of  
116 "accident", "occupational disease", "arising out of", and  
117 "in the course of the employment" to include, but not be  
118 limited to, holdings in: *Bennett v. Columbia Health Care*  
119 *and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl*  
120 *v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and

121 *Drewes v. TWA*, 984 S.W.2d 512 (Mo.banc 1999) and all cases  
122 citing, interpreting, applying, or following those cases.

123 11. For the purposes of this chapter, "occupational  
124 diseases due to toxic exposure" shall only include the  
125 following: mesothelioma, asbestosis, berylliosis, coal  
126 worker's pneumoconiosis, brochiolitis obliterans, silicosis,  
127 silicotuberculosis, manganism, acute myelogenous leukemia,  
128 and myelodysplastic syndrome.

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

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

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

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

19           (2) The service is not localized in any state but some  
20 of the service is performed in this state and the base of  
21 operations, or, if there is no base of operations, then the  
22 place from which such service is directed or controlled, is  
23 in this state; or the base of operations or place from which  
24 such service is directed or controlled is not in any state  
25 in which some part of the service is performed but the  
26 individual's residence is in this state.

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

29           (1) If covered by an election filed and approved  
30 pursuant to subdivision (2) of subsection 3 of section  
31 288.080;

32           (2) If covered by an arrangement pursuant to section  
33 288.340 between the division and the agency charged with the  
34 administration of any other state or federal unemployment  
35 insurance law, pursuant to which all services performed by  
36 an individual for an employing unit are deemed to be  
37 performed entirely within this state.

38           4. Service shall be deemed to be localized within a  
39 state if the service is performed entirely within such  
40 state; or the service is performed both within and without  
41 such state, but the service performed without such state is  
42 incidental to the individual's service within the state; for  
43 example, is temporary or transitory in nature or consists of  
44 isolated transactions.

45           5. [Service performed by an individual for  
46 remuneration shall be deemed to be employment subject to  
47 this law unless it is shown to the satisfaction of the  
48 division that such services were performed by an independent  
49 contractor. In determining the existence of the independent  
50 contractor relationship, the common law of agency right to

51 control shall be applied. The common law of agency right to  
52 control test shall include but not be limited to: if the  
53 alleged employer retains the right to control the manner and  
54 means by which the results are to be accomplished, the  
55 individual who performs the service is an employee. If only  
56 the results are controlled, the individual performing the  
57 service is an independent contractor.

58 6.] The term "employment" shall include service  
59 performed for wages as an agent-driver or commission-driver  
60 engaged in distributing meat products, vegetable products,  
61 fruit products, bakery products, beverages (other than  
62 milk), or laundry or dry-cleaning services, for his or her  
63 principal; or as a traveling or city salesman, other than as  
64 an agent-driver or commission-driver, engaged upon a full-  
65 time basis in the solicitation on behalf of, and the  
66 transmission to, his or her principal (except for sideline  
67 sales activities on behalf of some other person) of orders  
68 from wholesalers, retailers, contractors, or operators of  
69 hotels, restaurants, or other similar establishments for  
70 merchandise for resale or supplies for use in their business  
71 operations, provided:

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

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

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

82           [7.] 6. Service performed by an individual in the  
83 employ of this state or any political subdivision thereof or  
84 any instrumentality of any one or more of the foregoing  
85 which is wholly owned by this state and one or more other  
86 states or political subdivisions, or any service performed  
87 in the employ of any instrumentality of this state or of any  
88 political subdivision thereof, and one or more other states  
89 or political subdivisions, provided that such service is  
90 excluded from employment as defined in the Federal  
91 Unemployment Tax Act by Section 3306(c)(7) of that act and  
92 is not excluded from employment pursuant to subsection 9 of  
93 this section, shall be employment subject to this law.

94           [8.] 7. Service performed by an individual in the  
95 employ of a corporation or any community chest, fund, or  
96 foundation organized and operated exclusively for religious,  
97 charitable, scientific, testing for public safety, literary,  
98 or educational purposes, or for the prevention of cruelty to  
99 children or animals, no part of the net earnings of which  
100 inures to the benefit of any private shareholder or  
101 individual, or other organization described in Section  
102 501(c)(3) of the Internal Revenue Code which is exempt from  
103 income tax under Section 501(a) of that code if the  
104 organization had four or more individuals in employment for  
105 some portion of a day in each of twenty different weeks  
106 whether or not such weeks were consecutive within a calendar  
107 year regardless of whether they were employed at the same  
108 moment of time shall be employment subject to this law.

109           [9.] 8. For the purposes of subsections [7] 6 and [8]  
110 7 of this section, the term "employment" does not apply to  
111 service performed:

112           (1) In the employ of a church or convention or  
113 association of churches, or an organization which is

114 operated primarily for religious purposes and which is  
115 operated, supervised, controlled, or principally supported  
116 by a church or convention or association of churches; or

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

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

125 (a) As an elected official;

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

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

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

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

139 (4) In a facility conducted for the purpose of  
140 carrying out a program of rehabilitation for individuals  
141 whose earning capacity is impaired by age or physical or  
142 mental deficiency or injury or providing remunerative work  
143 for individuals who because of their impaired physical or  
144 mental capacity cannot be readily absorbed in the

145 competitive labor market, by an individual receiving such  
146 rehabilitation or remunerative work; or

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

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

154 (7) In the employ of a school, college, or university,  
155 if such service is performed (i) by a student who is  
156 enrolled and is regularly attending classes at such school,  
157 college, or university, or (ii) by the spouse of such a  
158 student, if such spouse is advised, at the time such spouse  
159 commences to perform such service, that (I) the employment  
160 of such spouse to perform such service is provided under a  
161 program to provide financial assistance to such student by  
162 such school, college, or university, and (II) such  
163 employment will not be covered by any program of  
164 unemployment insurance.

165 [10.] 9. The term "employment" shall include the  
166 service of an individual who is a citizen of the United  
167 States, performed outside the United States (except in  
168 Canada), if:

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

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

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

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

177 (c) The employer is a partnership or a trust and the  
178 number of the partners or trustees who are residents of this  
179 state is greater than the number who are residents of any  
180 one other state; or

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

187 (4) As used in this subsection and in subsection 11 of  
188 this section, the term "United States" includes the states,  
189 the District of Columbia and the Commonwealth of Puerto Rico.

190 [11.] 10. An "American employer", for the purposes of  
191 subsection 10 of this section, means a person who is:

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

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

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

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

200 [12.] 11. The term "employment" shall not include:

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

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

205 a. On a farm, in the employ of any person, in  
206 connection with cultivating the soil, or in connection with  
207 raising or harvesting any agricultural or horticultural  
208 commodity, including the raising, shearing, feeding, caring

209 for, training, and management of livestock, bees, poultry,  
210 and furbearing animals and wildlife;

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

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

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

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

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

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

254 (b) The term "employment" shall include service  
255 performed after December 31, 1977, by an individual in  
256 agricultural labor as defined in paragraph (a) of this  
257 subdivision when such service is performed for a person who,  
258 during any calendar quarter, paid remuneration in cash of  
259 twenty thousand dollars or more to individuals employed in  
260 agricultural labor or for some portion of a day in a  
261 calendar year in each of twenty different calendar weeks,  
262 whether or not such weeks were consecutive, employed in  
263 agricultural labor ten or more individuals, regardless of  
264 whether they were employed at the same moment of time;

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

269 a. If such crew leader holds a valid certificate of  
270 registration under the Farm Labor Contractor Registration  
271 Act of 1963; or substantially all the members of such crew  
272 operate or maintain tractors, mechanized harvesting or crop-

273 dusting equipment, or any other mechanized equipment, which  
274 is provided by such crew leader; and

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

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

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

283           (ii) Such other person shall be treated as having paid  
284 cash remuneration to such individual in an amount equal to  
285 the amount of cash remuneration paid to such individual by  
286 the crew leader (either on his or her own behalf or on  
287 behalf of such other person) for the service in agricultural  
288 labor performed for such other person;

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

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

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

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

300       (2) Domestic service in a private home except as  
301 provided in subsection 13 of this section;

302       (3) Service performed by an individual under the age  
303 of eighteen years in the delivery or distribution of  
304 newspapers or shopping news but shall not include delivery

305 or distribution to any point for subsequent delivery or  
306 distribution;

307 (4) Service performed by an individual in, and at the  
308 time of, the sale of newspapers or magazines to ultimate  
309 consumers under an arrangement under which the newspapers or  
310 magazines are to be sold by him or her at a fixed price, his  
311 or her compensation being based on the retention of the  
312 excess of such price over the amount at which the newspapers  
313 or magazines are charged to him or her, whether or not he or  
314 she is guaranteed a minimum amount of compensation for such  
315 service, or is entitled to be credited with the unsold  
316 newspapers or magazines turned back;

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

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

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

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

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

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

338 (b) If the division finds that the foreign government,  
339 with respect to whose instrumentality exemption is claimed,  
340 grants an equivalent exemption with respect to similar  
341 service performed in the foreign country by employees of the  
342 United States government and of instrumentalities thereof.  
343 The certification of the United States Secretary of State to  
344 the United States Secretary of Treasury shall constitute  
345 prima facie evidence of such equivalent exemption;

346 (10) Service covered by an arrangement between the  
347 division and the agency charged with the administration of  
348 any other state or federal unemployment insurance law  
349 pursuant to which all services performed by an individual  
350 for an employing unit during the period covered by the  
351 employing unit's approved election are deemed to be  
352 performed entirely within the jurisdiction of such other  
353 state or federal agency;

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

361 (12) Service performed by an individual for a person  
362 as a licensed insurance agent, a licensed insurance broker,  
363 or an insurance solicitor, if all such service performed by  
364 such individual for such person is performed for  
365 remuneration solely by way of commissions;

366           (13) Domestic service performed in the employ of a  
367 local college club or of a local chapter of a college  
368 fraternity or sorority, except as provided in subsection 13  
369 of this section;

370           (14) Services performed after March 31, 1982, in  
371 programs authorized and funded by the Comprehensive  
372 Employment and Training Act by participants of such  
373 programs, except those programs with respect to which  
374 unemployment insurance coverage is required by the  
375 Comprehensive Employment and Training Act or regulations  
376 issued pursuant thereto;

377           (15) Service performed by an individual who is  
378 enrolled at a nonprofit or public educational institution  
379 which normally maintains a regular faculty and curriculum  
380 and normally has a regularly organized body of students in  
381 attendance at the place where its educational activities are  
382 carried on, as a student in a full-time program, taken for  
383 credit at such institution, which combines academic  
384 instruction with work experience, if such service is an  
385 integral part of such program, and such institution has so  
386 certified to the employer; except, that this subdivision  
387 shall not apply to service performed in a program  
388 established for or on behalf of an employer or group of  
389 employers;

390           (16) Services performed by a licensed real estate  
391 salesperson or licensed real estate broker if substantially  
392 all of the remuneration, whether or not paid in cash, for  
393 the services performed, rather than to the number of hours  
394 worked, is directly related to sales or other output,  
395 including the performance of services, performed pursuant to  
396 a written contract between such individual and the person  
397 for whom the services are performed and such contract

398 provides that the individual will not be treated as an  
399 employee with respect to such services for federal tax  
400 purposes;

401 (17) Services performed as a direct seller who is  
402 engaged in the trade or business of the delivering or  
403 distribution of newspapers or shopping news, including any  
404 services directly related to such trade or business, or  
405 services performed as a direct seller who is engaged in the  
406 trade or business of selling, or soliciting the sale of,  
407 consumer products in the home or otherwise than in, or  
408 affiliated with, a permanent, fixed retail establishment, if  
409 eighty percent or more of the remuneration, whether or not  
410 paid in cash, for the services performed rather than the  
411 number of hours worked is directly related to sales  
412 performed pursuant to a written contract between such direct  
413 seller and the person for whom the services are performed,  
414 and such contract provides that the individual will not be  
415 treated as an employee with respect to such services for  
416 federal tax purposes;

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

422 [13.] 12. The term "employment" shall include domestic  
423 service as defined in subdivisions (2) and (13) of  
424 subsection [12] 11 of this section performed after December  
425 31, 1977, if the employing unit for which such service is  
426 performed paid cash wages of one thousand dollars or more  
427 for such services in any calendar quarter after December 31,  
428 1977.

429           [14.] **13.** The term "employment" shall include or  
430 exclude the entire service of an individual for an employing  
431 unit during a pay period in which such individual's services  
432 are not all excluded under the foregoing provisions, on the  
433 following basis: if the services performed during one-half  
434 or more of any pay period constitute employment as otherwise  
435 defined in this law, all the services performed during such  
436 period shall be deemed to be employment; but if the services  
437 performed during more than one-half of any such pay period  
438 do not constitute employment as otherwise defined in this  
439 law, then none of the services for such period shall be  
440 deemed to be employment. (As used in this subsection, the  
441 term "pay period" means a period of not more than thirty-one  
442 consecutive days for which a payment of remuneration is  
443 ordinarily made to the individual by the employing unit  
444 employing such individual.) This subsection shall not be  
445 applicable with respect to service performed in a pay period  
446 where any such service is excluded pursuant to subdivision  
447 (8) of subsection [12] **11** of this section.

448           [15.] **14.** The term "employment" shall not include the  
449 services of a full-time student who performed such services  
450 in the employ of an organized summer camp for less than  
451 thirteen calendar weeks in such calendar year.

452           [16.] **15.** For the purpose of subsection [15] **14** of  
453 this section, an individual shall be treated as a full-time  
454 student for any period:

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

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

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

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

465 [17.] 16. For the purpose of subsection [15] 14 of  
466 this section, an "organized summer camp" shall mean a summer  
467 camp which:

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

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

475 [18.] 17. The term "employment" shall not mean service  
476 performed by a remodeling salesperson acting as an  
477 independent contractor; however, if the federal Internal  
478 Revenue Service determines that a contractual relationship  
479 between a direct provider and an individual acting as an  
480 independent contractor pursuant to the provisions of this  
481 subsection is in fact an employer-employee relationship for  
482 the purposes of federal law, then that relationship shall be  
483 considered as an employer-employee relationship for the  
484 purposes of this chapter.

**290.005. The division of labor standards shall defer  
2 to the guidance issued by the Internal Revenue Service when  
3 determining whether an individual or entity is an employee  
4 or independent contractor.**

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

3 2. The term "collective bargaining" shall be  
4 understood to embody the philosophy of bargaining by

5 employees through representatives of their own choosing, and  
6 shall include the right of representatives of employees'  
7 units to be consulted and to bargain upon the exceptional as  
8 well as the routine wages, hours, rules, and working  
9 conditions.

10 3. The term "employee" shall refer to anyone in the  
11 service of another, actually engaged in or connected with  
12 the operation of any public utility throughout the state.  
13 **The board shall defer to the guidance issued by the Internal**  
14 **Revenue Service when determining whether an individual or**  
15 **entity is an employee or independent contractor.**

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

22 5. The term "person" means any individual, firm,  
23 copartnership, corporation, municipal corporation, company,  
24 association, or joint-stock association; and includes any  
25 trustee, receiver, assignee, or personal representative  
26 thereof.

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

33 7. The term "representative" means any person or  
34 persons, labor union, organization, or corporation

35 designated either by a utility or group of utilities or by  
36 its or their employees to act or do for them.

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