

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Bill No. 702, Page 1, In the Title, Line 3, by deleting the words "unemployment  
2 compensation benefits" and inserting in lieu thereof the words "employment security"; and

3  
4 Further amend said bill and page, Section A, Line 3, by inserting after all of said section and line  
5 the following:

6  
7 "288.032. 1. After December 31, 1977, "employer" means:

8 (1) Any employing unit which in any calendar quarter in either the current or preceding  
9 calendar year paid for service in employment wages of one thousand five hundred dollars or more  
10 except that for the purposes of this definition, wages paid for "agricultural labor" as defined in  
11 paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic services" as  
12 defined in subdivisions (2) and (13) of subsection 12 of section 288.034 shall not be considered;

13 (2) Any employing unit which for some portion of a day in each of twenty different  
14 calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding  
15 calendar year, had in employment at least one individual (irrespective of whether the same  
16 individual was in employment in each such day); except that for the purposes of this definition,  
17 services performed in "agricultural labor" as defined in paragraph (a) of subdivision (1) of  
18 subsection 12 of section 288.034 and in "domestic services" as defined in subdivisions (2) and (13)  
19 of subsection 12 of section 288.034 shall not be considered;

20 (3) Any governmental entity for which service in employment as defined in subsection 7 of  
21 section 288.034 is performed;

22 (4) Any employing unit for which service in employment as defined in subsection 8 of  
23 section 288.034 is performed during the current or preceding calendar year;

24 (5) Any employing unit for which service in employment as defined in paragraph (b) of  
25 subdivision (1) of subsection 12 of section 288.034 is performed during the current or preceding  
26 calendar year;

27 (6) Any employing unit for which service in employment as defined in subsection 13 of  
28 section 288.034 is performed during the current or preceding calendar year;

29 (7) Any individual, type of organization or employing unit which has been determined to be  
30 a successor pursuant to section 288.110;

31 (8) Any individual, type of organization or employing unit which has elected to become  
32 subject to this law pursuant to subdivision (1) of subsection 3 of section 288.080;

33 (9) Any individual, type of organization or employing unit which, having become an  
34 employer, has not pursuant to section 288.080 ceased to be an employer;

35 (10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a  
36 condition for approval of this law for full tax credit against the tax imposed by the Federal

Standing Action Taken \_\_\_\_\_ Date \_\_\_\_\_

Select Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

2 2. (1) Notwithstanding any other provisions of this law, any employer, individual,  
3 organization, partnership, corporation, other legal entity or employing unit that meets the definition  
4 of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be liable for  
5 contributions on wages paid by the lessor employing unit to individuals performing services for  
6 client lessees of the lessor employing unit. Unless the lessor employing unit has timely complied  
7 with the provisions of subdivision (3) of this subsection, any employer, individual, organization,  
8 partnership, corporation, other legal entity or employing unit which is leasing individuals from any  
9 lessor employing unit shall be jointly and severally liable for any unpaid contributions, interest and  
10 penalties due pursuant to this law from any lessor employing unit attributable to wages for services  
11 performed for the client lessee entity by individuals leased to the client lessee entity, and the lessor  
12 employing unit shall keep separate records and submit separate quarterly contribution and wage  
13 reports for each of its client lessee entities. Delinquent contributions, interest and penalties shall be  
14 collected in accordance with the provisions of this chapter.

15 (2) Notwithstanding the provisions of subdivision (1) of this subsection, any governmental  
16 entity or nonprofit organization that meets the definition of "lessor employing unit", as defined in  
17 subdivision (5) of this subsection, and has elected to become liable for payments in lieu of  
18 contributions as provided in subsection 3 of section 288.090, shall pay the division payments in lieu  
19 of contributions, interest, penalties and surcharges in accordance with section 288.090 on benefits  
20 paid to individuals performing services for the client lessees of the lessor employing unit. If the  
21 lessor employing unit has not timely complied with the provisions of subdivision (3) of this  
22 subsection, any client lessees with services attributable to and performed for the client lessees shall  
23 be jointly and severally liable for any unpaid payments in lieu of contributions, interest, penalties  
24 and surcharges due pursuant to this law. The lessor employing unit shall keep separate records and  
25 submit separate quarterly contribution and wage reports for each of its client lessees. Delinquent  
26 payments in lieu of contributions, interest, penalties and surcharges shall be collected in accordance  
27 with subsection 3 of section 288.090. The election to be liable for payments in lieu of contributions  
28 made by a governmental entity or nonprofit organization meeting the definition of "lessor  
29 employing unit" may be terminated by the division in accordance with subsection 3 of section  
30 288.090.

31 (3) In order to relieve a client lessees from joint and several liability and the separate  
32 reporting requirements imposed pursuant to this subsection, any lessor employing unit may post and  
33 maintain a surety bond issued by a corporate surety authorized to do business in Missouri in an  
34 amount equivalent to the contributions or payments in lieu of contributions for which the lessor  
35 employing unit was liable in the last calendar year in which he or she accrued contributions or  
36 payments in lieu of contributions, or one hundred thousand dollars, whichever amount is the greater,  
37 to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties  
38 and surcharges for which the lessor employing unit may be, or becomes, liable pursuant to this law.  
39 In lieu of a surety bond, the lessor employing unit may deposit in a depository designated by the  
40 director, securities with marketable value equivalent to the amount required for a surety bond. The  
41 securities so deposited shall include authorization to the director to sell any securities in an amount  
42 sufficient to pay any contributions or payments in lieu of contributions, interest, penalties and  
43 surcharges which the lessor employing unit fails to promptly pay when due. In lieu of a surety bond  
44 or securities as described in this subdivision, any lessor employing unit may provide the director  
45 with an irrevocable letter of credit, as defined in section 409.5-103, issued by any state or federally  
46 chartered financial institution, in an amount equivalent to the amount required for a surety bond as  
47 described in this subdivision. In lieu of a surety bond, securities or an irrevocable letter of credit, a  
48 lessor employing unit may obtain a certificate of deposit issued by any state or federally chartered

1 financial institution, in an amount equivalent to the amount required for a surety bond as described  
2 in this subdivision. The certificate of deposit shall be pledged to the director until release by the  
3 director. As used in this subdivision, the term "certificate of deposit" means a certificate  
4 representing any deposit of funds in a state or federally chartered financial institution for a specified  
5 period of time which earns interest at a fixed or variable rate, where such funds cannot be  
6 withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

7 (4) Any lessor employing unit which is currently engaged in the business of leasing  
8 individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection by  
9 September 28, 1992. Lessor employing units not currently engaged in the business of leasing  
10 individuals to client lessees shall comply with subdivision (3) of this subsection before entering into  
11 a written lease agreement with client lessees.

12 (5) As used in this subsection, the term "lessor employing unit" means an independently  
13 established business entity, governmental entity as defined in subsection 1 of section 288.030 or  
14 nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a written  
15 lease agreement between the lessor employing unit and the client lessees, engages in the business of  
16 providing individuals to any other employer, individual, organization, partnership, corporation,  
17 other legal entity or employing unit referred to in this subsection as a client lessee.

18 (6) The provisions of this subsection shall not be applicable to private employment agencies  
19 who provide their employees to employers on a temporary help basis provided the private  
20 employment agencies are liable as employers for the payment of contributions on wages paid to  
21 temporary workers so employed.

22 3. After September 30, 1986, notwithstanding any provision of section 288.034, for the  
23 purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri division  
24 of motor carrier and railroad safety or whose operations are confined to a commercial zone be  
25 determined to be the employer of a lessor as defined in 49 CFR Section 376.2(f), or of a driver  
26 receiving remuneration from a lessor as defined in 49 CFR Section 376.2(f), provided, however, the  
27 term "for-hire motor carrier" shall in no event include an organization described in Section  
28 501(c)(3) of the Internal Revenue Code or any governmental entity.

29 4. The owner or operator of a beauty salon or similar establishment shall not be determined  
30 to be the employer of a person who utilizes the facilities of the owner or operator but who receives  
31 neither salary, wages or other compensation from the owner or operator and who pays the owner or  
32 operator rent or other payments for the use of the facilities.

33 5. For purposes of this chapter, a taxicab driver shall not be considered to be an employee of  
34 the company that leases the taxicab to the driver or that provides dispatching or similar rider referral  
35 services unless the driver is shown to be an employee of that company by application of the Internal  
36 Revenue Service twenty-factor right-to-control test."; and

37  
38 Further amend said bill by amending the title, enacting clause, and intersectional references  
39 accordingly.