

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1854

AN ACT

To repeal sections 209.150, 209.152, 209.200, 209.202, 288.034, 301.143, and 304.028, RSMo, and to enact in lieu thereof eight new sections relating to services provided to individuals with disabilities, with penalty provisions, an expiration date for a certain section and an emergency clause for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 209.150, 209.152, 209.200, 209.202,
2 288.034, 301.143, and 304.028, RSMo, are repealed and eight new
3 sections enacted in lieu thereof, to be known as sections
4 161.870, 209.150, 209.152, 209.200, 209.202, 288.034, 301.143,
5 and 304.028, to read as follows:

6 161.870. 1. By September 1, 2012, the department of
7 elementary and secondary education shall establish a work group
8 to assess the available resources needed for effective work
9 experiences for students and young adults with disabilities. The
10 work group shall review all interagency coordination of services
11 that match young adults who have disabilities with employers who
12 need employees to ensure that these services are adequately

1 meeting the following needs of students and young adults with
2 disabilities who seek employment and need assistance with job
3 placement:

4 (1) Recruitment;

5 (2) Assessment;

6 (3) Counseling;

7 (4) Pre-employment skills training;

8 (5) Vocational training;

9 (6) Student wages for try-out employment;

10 (7) Placement in unsubsidized employment; and

11 (8) Other assistance with transition to a quality adult
12 life.

13 2. The goal of the work group shall be to evaluate the
14 current efforts and available resources and to promote the
15 involvement of key stakeholders including students, families,
16 educators, employers and other agencies in planning and
17 implementing an array of services that will culminate in
18 successful student transition to employment, lifelong learning,
19 and quality of life. The work group shall focus on secondary
20 students and young adults with disabilities.

21 3. The work group shall:

22 (1) Assess the strengths and need for improvement in
23 services for transition services, instruction, and experiences
24 that reinforce core curriculum concepts and skills leading to
25 gainful employment for students and young adults with
26 disabilities;

27 (2) Determine if any additional state partnerships provided
28 through nonfinancial interagency agreements between the

1 department of health and senior services, the department of
2 economic development, the department of mental health, or the
3 department of social services, or in the private sector, are
4 needed to enhance the employment potential of students and young
5 adults with disabilities;

6 (3) Focus its efforts in developing careers for students and
7 young adults with disabilities, in order to prevent economic and
8 social dependency on state and community agencies and resources;
9 and

10 (4) Report its findings to the director.

11 4. The department of elementary and secondary education
12 shall make recommendations based on the findings of the work
13 group and report them to the general assembly prior to January 1,
14 2013.

15 5. The work group shall be administered and its members
16 chosen by the commissioner of education. Work group members
17 shall include existing personnel and human resources available to
18 the department of elementary and secondary education including
19 but not limited to representatives from state agencies, local
20 advocacy groups and community members with valuable input
21 regarding the needs of disabled students and individuals, or
22 members of the general assembly.

23 6. The department of elementary and secondary education may
24 promulgate all necessary rules and regulations for the
25 administration of this section. Any rule or portion of a rule,
26 as that term is defined in section 536.010, that is created under
27 the authority delegated in this section shall become effective
28 only if it complies with and is subject to all of the provisions

1 of chapter 536 and, if applicable, section 536.028. This section
2 and chapter 536 are nonseverable and if any of the powers vested
3 with the general assembly pursuant to chapter 536 to review, to
4 delay the effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional, then the grant of rulemaking
6 authority and any rule proposed or adopted after August 28, 2012,
7 shall be invalid and void.

8 209.150. 1. Every person with a visual, aural or
9 [physical] other disability, as defined in section 213.010, shall
10 have the same rights afforded to a person with no such disability
11 to the full and free use of the streets, highways, sidewalks,
12 walkways, public buildings, public facilities, and other public
13 places.

14 2. Every person with a visual, aural or [physical] other
15 disability, as defined in section 213.010, is entitled to full
16 and equal accommodations, advantages, facilities, and privileges
17 of all common carriers, airplanes, motor vehicles, railroad
18 trains, motor buses, taxis, streetcars, boats or any other public
19 conveyances or modes of transportation, hotels, lodging places,
20 places of public accommodation, amusement or resort, and other
21 places to which the general public is invited, subject only to
22 the conditions and limitations established by law and applicable
23 alike to all persons.

24 3. Every person with a visual, aural or [physical] other
25 disability, as defined in section 213.010, shall have the right
26 to be accompanied by a guide dog, hearing dog, or service dog,
27 which is especially trained for the purpose, in any of the places
28 listed in subsection 2 of this section without being required to

1 pay an extra charge for the guide dog, hearing dog or service
2 dog; provided that such person shall be liable for any damage
3 done to the premises or facilities by such dog.

4 4. As used in sections 209.150 to 209.190, the term
5 "service dog" means any dog specifically trained to assist a
6 person with a physical or mental disability by performing
7 necessary [physical] tasks or doing work which the person cannot
8 perform. Such tasks shall include, but not be limited to,
9 pulling a wheelchair, retrieving items, [and] carrying supplies,
10 and search and rescue of an individual with a disability.

11 209.152. Any trainer, from a recognized training center, of
12 a guide dog, hearing assistance dog or service dog, or any member
13 of a service dog team, as defined in section 209.200, shall have
14 the right to be accompanied by such dog in or upon any of the
15 premises listed in section 209.150 while engaged in the training
16 of the dog without being required to pay an extra charge for such
17 dog. Such trainer or service dog team member shall be liable for
18 any damage done to the premise of facilities by such dog.

19 209.200. As used in sections 209.200 to 209.204, the
20 following terms shall mean:

21 (1) "Disability", as defined in section 213.010;

22 (2) "Service dog", a dog that is being or has been
23 specially trained to do work or perform tasks which benefit a
24 particular person with a disability. Service dog includes but is
25 not limited to:

26 (a) "Guide dog", a dog that is being or has been specially
27 trained to assist a particular blind or visually impaired person;

28 (b) "Hearing dog", a dog that is being or has been

1 specially trained to assist a particular deaf or hearing-impaired
2 person;

3 (c) "Medical alert or [respond] response dog", a dog that
4 is being or has been trained to alert a person with a disability
5 that a particular medical event is about to occur or to respond
6 to a medical event that has occurred;

7 (d) "Mobility dog", a dog that is being or has been
8 specially trained to assist a person with a disability caused by
9 physical impairments;

10 (e) "Professional therapy dog", a dog which is selected,
11 trained, and tested to provide specific physical therapeutic
12 functions, under the direction and control of a qualified handler
13 who works with the dog as a team as a part of the handler's
14 occupation or profession. Such dogs, with their handlers,
15 perform such functions in institutional settings, community-based
16 group settings, or when providing services to specific persons
17 who have disabilities. Professional therapy dogs do not include
18 dogs, certified or not, which are used by volunteers in
19 visitation therapy;

20 (f) "Search and rescue dog", a dog that is being or has
21 been trained to search for or prevent a person with a mental
22 disability, including but not limited to verbal and nonverbal
23 autism, from becoming lost;

24 (3) "Service team dog", a team consisting of a trained
25 service dog, a disabled person or child, and a person who is an
26 adult and who has been trained to handle the service dog.

27 209.202. 1. Any person who [knowingly, intentionally, or
28 recklessly causes substantial physical injury to or the death of

1 a service dog], with reckless disregard, injures or kills or
2 permits a dog that he or she owns or is in the immediate control
3 of to injure or kill a service animal is guilty of a class A
4 misdemeanor. [The provisions of this subsection shall not apply
5 to the destruction of a service dog for humane purposes.]

6 2. Any person who [knowingly or intentionally fails to
7 exercise sufficient control over an animal such person owns,
8 keeps, harbors, or exercises control over to prevent the animal
9 from causing the substantial physical injury to or death of a
10 service dog, or the subsequent inability to function as a service
11 dog as a result of the animal's attacking, chasing, or harassing
12 the service dog], with reckless disregard, interferes with or
13 permits a dog that he or she owns or is in the immediate control
14 of to interfere with the use of a service animal by obstructing,
15 intimidating, or otherwise jeopardizing the safety of the service
16 animal or its user is guilty of a class B misdemeanor. Any
17 second or subsequent violation of this section is guilty of a
18 class A misdemeanor.

19 3. Any person who [harasses or chases a dog known to such
20 person to be a service dog is guilty of a class B misdemeanor.

21 4. Any person who owns, keeps, harbors, or exercises
22 control over an animal and who knowingly or intentionally fails
23 to exercise sufficient control over the animal to prevent such
24 animal from chasing or harassing a service dog while such dog is
25 carrying out the dog's function as a service dog, to the extent
26 that the animal temporarily interferes with the service dog's
27 ability to carry out the dog's function is guilty of a class B
28 misdemeanor] intentionally injures or kills or permits a dog that

1 he or she owns or is in the immediate control of to injure or
2 kill a service animal is guilty of a class D felony.

3 5. [An owner of a service dog or a person with a disability
4 who uses a service dog may file a cause of action to recover
5 civil damages against any person who:

6 (1) Violates the provisions of subsection 1 or 2 of this
7 section; or

8 (2) Steals a service dog resulting in the loss of the
9 services of the service dog.

10 6. Any civil damages awarded under subsection 5 of this
11 section shall be based on the following:

12 (1) The replacement value of an equally trained service
13 dog, without any differentiation for the age or experience of the
14 service dog;

15 (2) The cost and expenses incurred by the owner of a
16 service dog or the person with a disability who used the service
17 dog, including:

18 (a) The cost of temporary replacement services, whether
19 provided by another service dog or by a person;

20 (b) The reasonable costs incurred in efforts to recover a
21 stolen service dog; and

22 (c) Court costs and attorney's fees incurred in bringing a
23 civil action under subsection 5 of this section.

24 7. An owner of a service dog or a person with a disability
25 who uses a service dog may file a cause of action to recover
26 civil damages against a person who:

27 (1) Violates the provisions of subsections 1 to 4 of this
28 section resulting in injury from which the service dog recovers

1 to an extent that the dog is able to function as a service dog
2 for the person with a disability; or

3 (2) Steals a service dog and the service dog is recovered
4 resulting in the service dog being able to function as a service
5 dog for the person with a disability.

6 8. Any civil damages awarded under subsection 7 of this
7 section shall be based on the following:

8 (1) Veterinary medical expenses;

9 (2) Retraining expenses;

10 (3) The cost of temporary replacement services, whether
11 provided by another service dog or by a person;

12 (4) Reasonable costs incurred in the recovery of the
13 service dog; and

14 (5) Court costs and attorney's fees incurred in bringing
15 the civil action under subsection 7 of this section.] (1) In
16 addition to any other penalty, a person who is convicted of a
17 violation of this section shall make full restitution for all
18 damages that arise out of or are related to the offense,
19 including but not limited to incidental and consequential damages
20 incurred by the service animal's user.

21 (2) Restitution includes, but is not limited to:

22 (a) The value of the animal;

23 (b) Replacement and training or retraining expenses for the
24 service animal and the user;

25 (c) Veterinary and other medical and boarding expenses for
26 the service animal;

27 (d) Medical expenses for the user; and

28 (e) Lost wages or income incurred by the user during any

1 period that the user is without the services of the service
2 animal.

3 [9.] 6. The provisions of this section shall not apply:

4 (1) If a person with a disability, an owner, or a person
5 having custody or supervision of a service dog commits criminal
6 or civil trespass; or

7 (2) To the destruction of a service dog for humane
8 purposes.

9 [10.] 7. Nothing in this section shall be construed to
10 preclude any other remedies available at law.

11 288.034. 1. "Employment" means service, including service
12 in interstate commerce, performed for wages or under any contract
13 of hire, written or oral, express or implied, and notwithstanding
14 any other provisions of this section, service with respect to
15 which a tax is required to be paid under any federal unemployment
16 tax law imposing a tax against which credit may be taken for
17 contributions required to be paid into a state unemployment fund
18 or which, as a condition for full tax credit against the tax
19 imposed by the Federal Unemployment Tax Act, is required to be
20 covered under this law.

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

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

25 (2) The service is not localized in any state but some of
26 the service is performed in this state and the base of
27 operations, or, if there is no base of operations, then the place
28 from which such service is directed or controlled, is in this

1 state; or the base of operations or place from which such service
2 is directed or controlled is not in any state in which some part
3 of the service is performed but the individual's residence is in
4 this state.

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

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

9 (2) If covered by an arrangement pursuant to section
10 288.340 between the division and the agency charged with the
11 administration of any other state or federal unemployment
12 insurance law, pursuant to which all services performed by an
13 individual for an employing unit are deemed to be performed
14 entirely within this state.

15 4. Service shall be deemed to be localized within a state
16 if the service is performed entirely within such state; or the
17 service is performed both within and without such state, but the
18 service performed without such state is incidental to the
19 individual's service within the state; for example, is temporary
20 or transitory in nature or consists of isolated transactions.

21 5. Service performed by an individual for remuneration
22 shall be deemed to be employment subject to this law unless it is
23 shown to the satisfaction of the division that such services were
24 performed by an independent contractor. In determining the
25 existence of the independent contractor relationship, the common
26 law of agency right to control shall be applied. The common law
27 of agency right to control test shall include but not be limited
28 to: if the alleged employer retains the right to control the

1 manner and means by which the results are to be accomplished, the
2 individual who performs the service is an employee. If only the
3 results are controlled, the individual performing the service is
4 an independent contractor.

5 6. The term "employment" shall include service performed
6 for wages as an agent-driver or commission-driver engaged in
7 distributing meat products, vegetable products, fruit products,
8 bakery products, beverages (other than milk), or laundry or
9 dry-cleaning services, for his or her principal; or as a
10 traveling or city salesman, other than as an agent-driver or
11 commission-driver, engaged upon a full-time basis in the
12 solicitation on behalf of, and the transmission to, his or her
13 principal (except for sideline sales activities on behalf of some
14 other person) of orders from wholesalers, retailers, contractors,
15 or operators of hotels, restaurants, or other similar
16 establishments for merchandise for resale or supplies for use in
17 their business operations, provided:

18 (1) The contract of service contemplates that substantially
19 all of the services are to be performed personally by such
20 individual; and

21 (2) The individual does not have a substantial investment
22 in facilities used in connection with the performance of the
23 services (other than in facilities for transportation); and

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

27 7. Service performed by an individual in the employ of this
28 state or any political subdivision thereof or any instrumentality

1 of any one or more of the foregoing which is wholly owned by this
2 state and one or more other states or political subdivisions, or
3 any service performed in the employ of any instrumentality of
4 this state or of any political subdivision thereof, and one or
5 more other states or political subdivisions, provided that such
6 service is excluded from employment as defined in the Federal
7 Unemployment Tax Act by Section 3306(c)(7) of that act and is not
8 excluded from employment pursuant to subsection 9 of this
9 section, shall be employment subject to this law.

10 8. Service performed by an individual in the employ of a
11 corporation or any community chest, fund, or foundation organized
12 and operated exclusively for religious, charitable, scientific,
13 testing for public safety, literary, or educational purposes, or
14 for the prevention of cruelty to children or animals, no part of
15 the net earnings of which inures to the benefit of any private
16 shareholder or individual, or other organization described in
17 Section 501(c)(3) of the Internal Revenue Code which is exempt
18 from income tax under Section 501(a) of that code if the
19 organization had four or more individuals in employment for some
20 portion of a day in each of twenty different weeks whether or not
21 such weeks were consecutive within a calendar year regardless of
22 whether they were employed at the same moment of time shall be
23 employment subject to this law.

24 9. For the purposes of subsections 7 and 8 of this section,
25 the term "employment" does not apply to service performed:

26 (1) In the employ of a church or convention or association
27 of churches, or an organization which is operated primarily for
28 religious purposes and which is operated, supervised, controlled,

1 or principally supported by a church or convention or association
2 of churches; or

3 (2) By a duly ordained, commissioned, or licensed minister
4 of a church in the exercise of such minister's ministry or by a
5 member of a religious order in the exercise of duties required by
6 such order; or

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

10 (a) As an elected official;

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

13 (c) As a member of the state national guard or air national
14 guard;

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

17 (e) In a position which, under or pursuant to the laws of
18 this state, is designated as (i) a major nontenured policy-making
19 or advisory position, or (ii) a policy-making or advisory
20 position the performance of the duties of which ordinarily does
21 not require more than eight hours per week; or

22 (4) In a facility conducted for the purpose of carrying out
23 a program of rehabilitation for individuals whose earning
24 capacity is impaired by age or physical or mental deficiency or
25 injury or providing remunerative work for individuals who because
26 of their impaired physical or mental capacity cannot be readily
27 absorbed in the competitive labor market, by an individual
28 receiving such rehabilitation or remunerative work; or

1 (5) As part of an unemployment work-relief or work-training
2 program assisted or financed in whole or in part by any federal
3 agency or an agency of a state or political subdivision thereof,
4 by an individual receiving such work relief or work training; or

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

6 (7) In the employ of a school, college, or university, if
7 such service is performed (i) by a student who is enrolled and is
8 regularly attending classes at such school, college, or
9 university, or (ii) by the spouse of such a student, if such
10 spouse is advised, at the time such spouse commences to perform
11 such service, that (I) the employment of such spouse to perform
12 such service is provided under a program to provide financial
13 assistance to such student by such school, college, or
14 university, and (II) such employment will not be covered by any
15 program of unemployment insurance.

16 10. The term "employment" shall include the service of an
17 individual who is a citizen of the United States, performed
18 outside the United States (except in Canada), if:

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

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

23 (a) The employer is an individual who is a resident of this
24 state; or

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

27 (c) The employer is a partnership or a trust and the number
28 of the partners or trustees who are residents of this state is

1 greater than the number who are residents of any one other state;
2 or

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

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

11 11. An "American employer", for the purposes of subsection
12 10 of this section, means a person who is:

13 (1) An individual who is a resident of the United States;
14 or

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

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

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

21 12. The term "employment" shall not include:

22 (1) Service performed by an individual in agricultural
23 labor;

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

26 a. On a farm, in the employ of any person, in connection
27 with cultivating the soil, or in connection with raising or
28 harvesting any agricultural or horticultural commodity, including

1 the raising, shearing, feeding, caring for, training, and
2 management of livestock, bees, poultry, and furbearing animals
3 and wildlife;

4 b. In the employ of the owner or tenant or other operator
5 of a farm, in connection with the operation, management,
6 conservation, improvement, or maintenance of such farm and its
7 tools and equipment, or in salvaging timber or clearing land of
8 brush and other debris left by a hurricane, if the major part of
9 such service is performed on a farm;

10 c. In connection with the production or harvesting of any
11 commodity defined as an agricultural commodity in Section 15(g)
12 of the Federal Agricultural Marketing Act, as amended (46 Stat.
13 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the
14 ginning of cotton, or in connection with the operation or
15 maintenance of ditches, canals, reservoirs, or waterways, not
16 owned or operated for profit, used exclusively for supplying and
17 storing water for farming purposes;

18 d. (i) In the employ of the operator of a farm in
19 handling, planting, drying, packing, packaging, processing,
20 freezing, grading, storing, or delivering to storage or to market
21 or to a carrier for transportation to market, in its
22 unmanufactured state, any agricultural or horticultural
23 commodity; but only if such operator produced more than one-half
24 of the commodity with respect to which such service is performed;

25 (ii) In the employ of a group of operators of farms (or a
26 cooperative organization of which such operators are members) in
27 the performance of services described in item (i) of this
28 subparagraph, but only if such operators produced more than

1 one-half of the commodity with respect to which such service is
2 performed;

3 (iii) The provisions of items (i) and (ii) of this
4 subparagraph shall not be deemed to be applicable with respect to
5 service performed in connection with commercial canning or
6 commercial freezing or in connection with any agricultural or
7 horticultural commodity after its delivery to a terminal market
8 for distribution for consumption; or

9 e. On a farm operated for profit if such service is not in
10 the course of the employer's trade or business. As used in this
11 paragraph, the term "farm" includes stock, dairy, poultry, fruit,
12 furbearing animals, and truck farms, plantations, ranches,
13 nurseries, ranges, greenhouses or other similar structures, used
14 primarily for the raising of agricultural or horticultural
15 commodities, and orchards;

16 (b) The term "employment" shall include service performed
17 after December 31, 1977, by an individual in agricultural labor
18 as defined in paragraph (a) of this subdivision when such service
19 is performed for a person who, during any calendar quarter, paid
20 remuneration in cash of twenty thousand dollars or more to
21 individuals employed in agricultural labor or for some portion of
22 a day in a calendar year in each of twenty different calendar
23 weeks, whether or not such weeks were consecutive, employed in
24 agricultural labor ten or more individuals, regardless of whether
25 they were employed at the same moment of time;

26 (c) For the purposes of this subsection any individual who
27 is a member of a crew furnished by a crew leader to perform
28 service in agricultural labor for any other person shall be

1 considered as employed by such crew leader:

2 a. If such crew leader holds a valid certificate of
3 registration under the Farm Labor Contractor Registration Act of
4 1963; or substantially all the members of such crew operate or
5 maintain tractors, mechanized harvesting or crop-dusting
6 equipment, or any other mechanized equipment, which is provided
7 by such crew leader; and

8 b. If such individual is not in employment by such other
9 person;

10 c. If any individual is furnished by a crew leader to
11 perform service in agricultural labor for any other person and
12 that individual is not in the employment of the crew leader:

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

15 (ii) Such other person shall be treated as having paid cash
16 remuneration to such individual in an amount equal to the amount
17 of cash remuneration paid to such individual by the crew leader
18 (either on his or her own behalf or on behalf of such other
19 person) for the service in agricultural labor performed for such
20 other person;

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

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

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

28 (iii) Has not entered into a written agreement with such

1 other person under which such individual is designated as in
2 employment by such other person;

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

5 (3) Service performed by an individual under the age of
6 eighteen years in the delivery or distribution of newspapers or
7 shopping news but shall not include delivery or distribution to
8 any point for subsequent delivery or distribution;

9 (4) Service performed by an individual in, and at the time
10 of, the sale of newspapers or magazines to ultimate consumers
11 under an arrangement under which the newspapers or magazines are
12 to be sold by him or her at a fixed price, his or her
13 compensation being based on the retention of the excess of such
14 price over the amount at which the newspapers or magazines are
15 charged to him or her, whether or not he or she is guaranteed a
16 minimum amount of compensation for such service, or is entitled
17 to be credited with the unsold newspapers or magazines turned
18 back;

19 (5) Service performed by an individual in the employ of his
20 or her son, daughter, or spouse, and service performed by a child
21 under the age of twenty-one in the employ of his or her father or
22 mother;

23 (6) Except as otherwise provided in this law, service
24 performed in the employ of a corporation, community chest, fund
25 or foundation, organized and operated exclusively for religious,
26 charitable, scientific, literary, or educational purposes, or for
27 the prevention of cruelty to children or animals, no part of the
28 net earnings of which inures to the benefit of any private

1 shareholder or individual;

2 (7) Services with respect to which unemployment insurance
3 is payable under an unemployment insurance system established by
4 an act of Congress;

5 (8) Service performed in the employ of a foreign
6 government;

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

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

12 (b) If the division finds that the foreign government, with
13 respect to whose instrumentality exemption is claimed, grants an
14 equivalent exemption with respect to similar service performed in
15 the foreign country by employees of the United States government
16 and of instrumentalities thereof. The certification of the
17 United States Secretary of State to the United States Secretary
18 of Treasury shall constitute prima facie evidence of such
19 equivalent exemption;

20 (10) Service covered by an arrangement between the division
21 and the agency charged with the administration of any other state
22 or federal unemployment insurance law pursuant to which all
23 services performed by an individual for an employing unit during
24 the period covered by the employing unit's approved election are
25 deemed to be performed entirely within the jurisdiction of such
26 other state or federal agency;

27 (11) Service performed in any calendar quarter in the
28 employ of a school, college or university not otherwise excluded,

1 if such service is performed by a student who is enrolled and
2 regularly attending classes at such school, college, or
3 university, and the remuneration for such service does not exceed
4 fifty dollars (exclusive of board, room, and tuition);

5 (12) Service performed by an individual for a person as a
6 licensed insurance agent, a licensed insurance broker, or an
7 insurance solicitor, if all such service performed by such
8 individual for such person is performed for remuneration solely
9 by way of commissions;

10 (13) Domestic service performed in the employ of a local
11 college club or of a local chapter of a college fraternity or
12 sorority, except as provided in subsection 13 of this section;

13 (14) Services performed after March 31, 1982, in programs
14 authorized and funded by the Comprehensive Employment and
15 Training Act by participants of such programs, except those
16 programs with respect to which unemployment insurance coverage is
17 required by the Comprehensive Employment and Training Act or
18 regulations issued pursuant thereto;

19 (15) Service performed by an individual who is enrolled at
20 a nonprofit or public educational institution which normally
21 maintains a regular faculty and curriculum and normally has a
22 regularly organized body of students in attendance at the place
23 where its educational activities are carried on, as a student in
24 a full-time program, taken for credit at such institution, which
25 combines academic instruction with work experience, if such
26 service is an integral part of such program, and such institution
27 has so certified to the employer; except, that this subdivision
28 shall not apply to service performed in a program established for

1 or on behalf of an employer or group of employers;

2 (16) Services performed by a licensed real estate
3 salesperson or licensed real estate broker if substantially all
4 of the remuneration, whether or not paid in cash, for the
5 services performed, rather than to the number of hours worked, is
6 directly related to sales or other output, including the
7 performance of services, performed pursuant to a written contract
8 between such individual and the person for whom the services are
9 performed and such contract provides that the individual will not
10 be treated as an employee with respect to such services for
11 federal tax purposes;

12 (17) Services performed as a direct seller who is engaged
13 in the trade or business of the delivering or distribution of
14 newspapers or shopping news, including any services directly
15 related to such trade or business, or services performed as a
16 direct seller who is engaged in the trade or business of selling,
17 or soliciting the sale of, consumer products in the home or
18 otherwise than in, or affiliated with, a permanent, fixed retail
19 establishment, if eighty percent or more of the remuneration,
20 whether or not paid in cash, for the services performed rather
21 than the number of hours worked is directly related to sales
22 performed pursuant to a written contract between such direct
23 seller and the person for whom the services are performed, and
24 such contract provides that the individual will not be treated as
25 an employee with respect to such services for federal tax
26 purposes;

27 (18) Services performed as a volunteer research subject who
28 is paid on a per-study basis for scientific, medical or

1 drug-related testing for any organization other than one
2 described in Section 501(c)(3) of the Internal Revenue Code or
3 any governmental entity.

4 13. The term "employment" shall include domestic service as
5 defined in subdivisions (2) and (13) of subsection 12 of this
6 section performed after December 31, 1977, if the employing unit
7 for which such service is performed paid cash wages of one
8 thousand dollars or more for such services in any calendar
9 quarter after December 31, 1977.

10 14. The term "employment" shall include or exclude the
11 entire service of an individual for an employing unit during a
12 pay period in which such individual's services are not all
13 excluded under the foregoing provisions, on the following basis:
14 if the services performed during one-half or more of any pay
15 period constitute employment as otherwise defined in this law,
16 all the services performed during such period shall be deemed to
17 be employment; but if the services performed during more than
18 one-half of any such pay period do not constitute employment as
19 otherwise defined in this law, then none of the services for such
20 period shall be deemed to be employment. (As used in this
21 subsection, the term "pay period" means a period of not more than
22 thirty-one consecutive days for which a payment of remuneration
23 is ordinarily made to the individual by the employing unit
24 employing such individual.) This subsection shall not be
25 applicable with respect to service performed in a pay period
26 where any such service is excluded pursuant to subdivision (8) of
27 subsection 12 of this section.

28 15. The term "employment" shall not include the services of

1 a full-time student who performed such services in the employ of
2 an organized summer camp for less than thirteen calendar weeks in
3 such calendar year.

4 16. For the purpose of subsection 15 of this section, an
5 individual shall be treated as a full-time student for any
6 period:

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

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

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

13 (b) There is a reasonable assurance that the individual
14 will be so enrolled for the immediately succeeding academic year
15 or term after the period described in paragraph (a) of this
16 subdivision.

17 17. For the purpose of subsection 15 of this section, an
18 "organized summer camp" shall mean a summer camp which:

19 (1) Did not operate for more than seven months in the
20 calendar year and did not operate for more than seven months in
21 the preceding calendar year; or

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

26 18. The term "employment" shall not mean service performed
27 by a remodeling salesperson acting as an independent contractor;
28 however, if the federal Internal Revenue Service determines that

1 a contractual relationship between a direct provider and an
2 individual acting as an independent contractor pursuant to the
3 provisions of this subsection is in fact an employer-employee
4 relationship for the purposes of federal law, then that
5 relationship shall be considered as an employer-employee
6 relationship for the purposes of this chapter.

7 19. The term "employment" shall not mean in-home or
8 community-based services performed by a provider contracted to
9 provide such services for the clients of a county board for
10 developmental disability services organized and existing under
11 sections 205.968 to 205.973, provided however, that the vendor
12 shall perform the payroll and fringe benefits accounting
13 functions for the consumer.

14 301.143. 1. As used in this section, the term "vehicle"
15 shall have the same meaning given it in section 301.010, and the
16 term "physically disabled" shall have the same meaning given it
17 in section 301.142.

18 2. Political subdivisions of the state may by ordinance or
19 resolution designate parking spaces for the exclusive use of
20 vehicles which display a distinguishing license plate or [card]
21 placard issued pursuant to section 301.071 or 301.142. Owners of
22 private property used for public parking shall also designate
23 parking spaces for the exclusive use of vehicles which display a
24 distinguishing license plate or [card] placard issued pursuant to
25 section 301.071 or 301.142. Whenever a political subdivision or
26 owner of private property so designates a parking space, the
27 space shall be indicated by a sign upon which shall be inscribed
28 the international symbol of accessibility and may also include

1 any appropriate wording such as "Accessible Parking" to indicate
2 that the space is reserved for the exclusive use of vehicles
3 which display a distinguishing license plate or [card] placard.
4 The sign described in this subsection shall also state, or an
5 additional sign shall be posted below or adjacent to the sign
6 stating, the following: "\$50 to \$300 fine.". [Beginning August
7 28, 2011, When any political subdivision or owner of private
8 property restripes a parking lot or constructs a new parking lot,
9 one in every four accessible spaces, but not less than one, shall
10 be served by an access aisle a minimum of ninety-six inches wide
11 and shall be designated "lift van accessible only" with signs
12 that meet the requirements of the federal Americans with
13 Disabilities Act, as amended, and any rules or regulations
14 established pursuant thereto.] When any political subdivision or
15 owner of private property restripes a parking lot or constructs a
16 new parking lot with twenty-five or more parking spaces, the
17 parking lot and accessible signs shall meet the minimum
18 requirements of the federal Americans with Disabilities Act, as
19 amended, and any rules or regulations established pursuant
20 thereto, for the number of required accessible parking spaces,
21 which shall not be less than one, and shall be served by an
22 access aisle a minimum of ninety-six inches wide and shall be
23 designated "van accessible". If any accessible space is one
24 hundred thirty-two inches wide or wider, then the adjacent access
25 aisle shall be a minimum of sixty inches wide. If any accessible
26 space is less than one hundred thirty-two inches wide, then the
27 adjacent access aisle shall be a minimum of ninety-six inches
28 wide.

1 3. Any political subdivision, by ordinance or resolution,
2 and any person or corporation in lawful possession of a public
3 off-street parking facility or any other owner of private
4 property may designate reserved parking spaces for the exclusive
5 use of vehicles which display a distinguishing license plate or
6 **[card]** placard issued pursuant to section 301.071 or 301.142 as
7 close as possible to the nearest accessible entrance. Such
8 designation shall be made by posting immediately adjacent to, and
9 visible from, each space, a sign upon which is inscribed the
10 international symbol of accessibility, and may also include any
11 appropriate wording to indicate that the space is reserved for
12 the exclusive use of vehicles which display a distinguishing
13 license plate or **[card]** placard.

14 4. The local police or sheriff's department may cause the
15 removal of any vehicle not displaying a distinguishing license
16 plate or **[card]** placard on which is inscribed the international
17 symbol of accessibility and the word "disabled" issued pursuant
18 to section 301.142 or a "disabled veteran" license plate issued
19 pursuant to section 301.071 or a distinguishing license plate or
20 **[card]** placard issued by any other state from a space designated
21 for physically disabled persons if there is posted immediately
22 adjacent to, and readily visible from, such space a sign on which
23 is inscribed the international symbol of accessibility and may
24 include any appropriate wording to indicate that the space is
25 reserved for the exclusive use of vehicles which display a
26 distinguishing license plate or **[card]** placard. Any person who
27 parks in a space reserved for physically disabled persons and is
28 not displaying distinguishing license plates or a **[card]** placard

1 is guilty of an infraction and upon conviction thereof shall be
2 punished by a fine of not less than fifty dollars nor more than
3 three hundred dollars. Any vehicle which has been removed and
4 which is not properly claimed within thirty days thereafter shall
5 be considered to be an abandoned vehicle.

6 5. Spaces designated for use by vehicles displaying the
7 distinguishing "disabled" license plate issued pursuant to
8 section 301.142 or 301.071 shall meet the requirements of the
9 federal Americans with Disabilities Act, as amended, and any
10 rules or regulations established pursuant thereto.

11 Notwithstanding the other provisions of this section, on-street
12 parking spaces designated by political subdivisions in
13 residential areas for the exclusive use of vehicles displaying a
14 distinguishing license plate or [card] placard issued pursuant to
15 section 301.071 or 301.142 shall meet the requirements of the
16 federal Americans with Disabilities Act pursuant to this
17 subsection and any such space shall have clearly and visibly
18 painted upon it the international symbol of accessibility [and
19 any curb adjacent to the space shall be clearly and visibly
20 painted blue].

21 6. Any person who, without authorization, uses a
22 distinguishing license plate or [card] placard issued pursuant to
23 section 301.071 or 301.142 to park in a parking space reserved
24 under authority of this section shall be guilty of a class B
25 misdemeanor.

26 7. Law enforcement officials may enter upon private
27 property open to public use to enforce the provisions of this
28 section and section 301.142, including private property

1 designated by the owner of such property for the exclusive use of
2 vehicles which display a distinguishing license plate or [card]
3 placard issued pursuant to section 301.071 or 301.142.

4 8. Nonconforming signs or spaces otherwise required
5 pursuant to this section which are in use prior to August 28,
6 2011, shall not be in violation of this section during the useful
7 life of such signs or spaces. Under no circumstances shall the
8 useful life of the nonconforming signs or spaces be extended by
9 means other than those means used to maintain any sign or space
10 on the owner's property which is not used for vehicles displaying
11 a disabled license plate.

12 9. Beginning August 28, 2011, all new signs erected under
13 this section shall not contain the words "Handicap Parking" or
14 "Handicapped Parking".

15 304.028. 1. (1) There is hereby created in the state
16 treasury for use by the department of health and senior services
17 a fund to be known as the "Brain Injury Fund". All judgments
18 collected pursuant to this section, federal grants, private
19 donations and any other moneys designated for the brain injury
20 fund shall be deposited in the fund. Moneys deposited in the
21 fund shall, upon appropriation by the general assembly to the
22 department of health and senior services, be received and
23 expended by the department for the purpose of transition [and],
24 integration, and provision of [medical] community-based consumer
25 services in comprehensive brain injury day rehabilitation
26 therapy, vocational, home and community support, social and
27 educational [services or] activities for purposes of outreach and
28 supports to enable individuals with [traumatic] brain injury and

1 their families to live in the community.

2 (2) The department of health and senior services, in
3 cooperation with the department of social services, shall seek
4 waivers from the federal Department of Health and Human Services
5 to allow moneys from the brain injury fund to be used under the
6 MO HealthNet program to provide services under this section.
7 Upon the granting of such waiver, fifty percent of all moneys in
8 the fund shall be designated as MO HealthNet federal match moneys
9 under the waiver. The waivers under this subdivision shall be
10 designed so that parity is established in funding for each of the
11 eligible MO HealthNet service areas to create a balance for
12 access to all brain injury services.

13 (3) A committee shall be created to develop service
14 descriptions, regulations, and parity of funding for eligible MO
15 HealthNet service areas, as needed. The ten-member volunteer
16 committee shall be organized by the department and shall be
17 comprised of two representatives from each of the following:
18 Missouri Association of Rehabilitation Facilities, the Brain
19 Injury Association, the Brain Injury Advisory Council, the
20 department of social services, and the department of health and
21 senior services. The committee composition shall include at
22 least one individual with a brain injury. Once services are
23 established under this section, the committee shall, at a
24 minimum, meet annually to review services using the most current
25 department of health and senior services brain injury needs
26 assessment. The review process shall require the ten-member
27 volunteer committee to be responsible for addressing any
28 modifications needed in the program services. Such review

1 process shall ensure services are meeting the needs of brain
2 injury consumers.

3 (4) Notwithstanding the provisions of section 33.080 to the
4 contrary, any unexpended balance in the brain injury fund at the
5 end of any biennium shall not be transferred to the general
6 revenue fund.

7 2. In all criminal cases including violations of any county
8 ordinance or any violation of criminal or traffic laws of this
9 state, including an infraction, there shall be assessed as costs
10 a surcharge in the amount of two dollars. No such surcharge
11 shall be collected in any proceeding involving a violation of an
12 ordinance or state law when the proceeding or defendant has been
13 dismissed by the court or when costs are to be paid by the state,
14 county or municipality.

15 3. Such surcharge shall be collected and distributed by the
16 clerk of the court as provided in sections 488.010 to 488.020.
17 The surcharge collected pursuant to this section shall be paid to
18 the state treasury to the credit of the brain injury fund
19 established in this section.

20 Section B. The provisions of section 161.870 of this act
21 shall terminate on January 1, 2013.

22 Section C. Because immediate action is necessary to ensure
23 compliance with the federal Americans With Disabilities Act, the
24 repeal and reenactment of section 301.143 of this act is deemed
25 necessary for the immediate preservation of the public health,
26 welfare, peace, and safety, and is hereby declared to be an
27 emergency act within the meaning of the constitution, and the
28 repeal and reenactment of section 301.143 of this act shall be in

1 full force and effect upon its passage and approval.

2