

(Vetoed by the Governor)

This bill changes the laws regarding employment.

WITHHOLDING FORM REQUIREMENTS (Section 285.300, RSMo)

For purposes of federal W-4 withholding form completion requirements and reporting to the State Directory of New Hires and the National Directory of New Hires, the bill defines "newly hired employee" as an employee who has not previously been employed by the employer or was previously employed by the employer but has been separated from the prior employment for at least 60 consecutive days.

UNEMPLOYMENT BENEFITS (Sections 288.030 - 288.050)

The definition of "misconduct," as it relates to employee disqualification from unemployment benefits, is revised to misconduct reasonably related to the job environment and the job performance regardless of whether the misconduct occurs at the workplace or during work hours. Currently, it includes an act of wanton or willful disregard of the employer's interest or a disregard of standards of behavior that the employer has the right to expect. The bill changes it to conduct or a failure to act demonstrating knowing disregard of the employer's interest or a knowing violation of the standards that the employer expects. Currently, it includes negligence in a degree or recurrence as to manifest culpability, wrongful intent, or evil design or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer. The bill changes that to conduct or a failure to act demonstrating carelessness or negligence in such degree or recurrence as to manifest culpability, wrongful intent, or a knowing disregard of the employer's interests or the employee's duties and obligations to the employer. Currently, misconduct includes a deliberate violation of the employer's rules. The bill specifies that a violation of an employer's rule is misconduct unless the employee can demonstrate that he or she did not know and could not reasonably know of the rules requirement or the rule is not lawful.

Misconduct also includes a violation of an employer's no-call, no-show policy; chronic absenteeism or tardiness in violation of a known employer policy; one or more unapproved absences following a written reprimand or warning; or a knowing violation of a state standard or regulation by an employee that would cause a licensed or certified employer to be sanctioned or have its license or certification suspended or revoked.

The bill repeals the provision exempting a person who resides in a county with an unemployment rate of 10% or more and in which the county seat is more than 40 miles from the nearest office of the Division of Employment Security within the Department of Labor and Industrial Relations from reporting in person at least once every four weeks in order to be eligible for continued unemployment benefits.

Any claimant for unemployment benefits may satisfy the reporting requirements in order to be eligible for continued benefits by reporting by Internet communication or any other means deemed acceptable by the division.

Currently, an employee is disqualified from benefits if he or she voluntarily leaves work without good cause attributable to the work or the employer. The bill specifies that "good cause" includes only a cause that would compel a reasonable employee to cease working or would require separation from work due to illness or disability.

The provision specifying that absenteeism or tardiness may constitute a rebuttable presumption of misconduct as it relates to employee disqualification for waiting week credit or benefits if the discharge was the result of a violation of a known attendance policy of the employer is repealed.

#### CHARGES TO EMPLOYER ACCOUNTS (Section 288.100)

The bill changes the laws regarding charges to employer accounts. The bill:

(1) Prohibits an employer's account from being relieved of charges relating to a payment that was erroneously made from the Unemployment Compensation Fund if the Division of Employment Security determines that the erroneous payment was made because the employer or his or her agent was at fault for failing to respond timely or adequately to a written request from the division for information relating to a claim for unemployment benefits and the employer or the agent has established a pattern of failing to respond timely or adequately to requests;

(2) Defines "erroneous payment" as a payment that, but for the failure by the employer or the agent of the employer to respond timely and adequately to a written request from the division for information with respect to the claim for unemployment benefits, would not have been made; and

(3) Defines "pattern of failing" as repeated documented failure on

the part of the employer or agent of the employer to respond taking into consideration the number of instances of failure in relation to the total volume of requests. An employer or an agent failing to respond must not be determined to have engaged in a pattern of failure if the number of failures during the prior year is fewer than two or less than 2% of all the requests, whichever is greater;

The provisions regarding noncharge determinations apply to erroneous payments established on or after October 1, 2013, and are subject to appeal or protest in the same manner as other determinations of the division regarding the charging of employer accounts.

#### REPAYMENT OF FRAUDULENTLY OBTAINED BENEFITS (Section 288.380)

Currently, individual or employer payments toward the penalty amount in repayment of fraudulently obtained or denied unemployment benefits must be credited to the Special Employment Security Fund. Effective October 1, 2013, 15% of the total amount of the unemployment compensation benefits fraudulently obtained must immediately be deposited into the Unemployment Compensation Fund and the remaining penalty amount credited to the Special Employment Security Fund.