

SECOND REGULAR SESSION

HOUSE BILL NO. 2568

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LANT.

6548H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 288.032, RSMo, and to enact in lieu thereof one new section relating to taxicab drivers.

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

Section A. Section 288.032, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.032, to read as follows:

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

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

30 (10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a
31 condition for approval of this law for full tax credit against the tax imposed by the Federal
32 Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

33 2. (1) Notwithstanding any other provisions of this law, any employer, individual,
34 organization, partnership, corporation, other legal entity or employing unit that meets the
35 definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be
36 liable for contributions on wages paid by the lessor employing unit to individuals performing
37 services for client lessees of the lessor employing unit. Unless the lessor employing unit has
38 timely complied with the provisions of subdivision (3) of this subsection, any employer,
39 individual, organization, partnership, corporation, other legal entity or employing unit which is
40 leasing individuals from any lessor employing unit shall be jointly and severally liable for any
41 unpaid contributions, interest and penalties due pursuant to this law from any lessor employing
42 unit attributable to wages for services performed for the client lessee entity by individuals leased
43 to the client lessee entity, and the lessor employing unit shall keep separate records and submit
44 separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent
45 contributions, interest and penalties shall be collected in accordance with the provisions of this
46 chapter.

47 (2) Notwithstanding the provisions of subdivision (1) of this subsection, any
48 governmental entity or nonprofit organization that meets the definition of "lessor employing
49 unit", as defined in subdivision (5) of this subsection, and has elected to become liable for
50 payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the
51 division payments in lieu of contributions, interest, penalties and surcharges in accordance with
52 section 288.090 on benefits paid to individuals performing services for the client lessees of the

53 lessor employing unit. If the lessor employing unit has not timely complied with the provisions
54 of subdivision (3) of this subsection, any client lessees with services attributable to and
55 performed for the client lessees shall be jointly and severally liable for any unpaid payments in
56 lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor
57 employing unit shall keep separate records and submit separate quarterly contribution and wage
58 reports for each of its client lessees. Delinquent payments in lieu of contributions, interest,
59 penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090.
60 The election to be liable for payments in lieu of contributions made by a governmental entity or
61 nonprofit organization meeting the definition of "lessor employing unit" may be terminated by
62 the division in accordance with subsection 3 of section 288.090.

63 (3) In order to relieve a client lessees from joint and several liability and the separate
64 reporting requirements imposed pursuant to this subsection, any lessor employing unit may post
65 and maintain a surety bond issued by a corporate surety authorized to do business in Missouri
66 in an amount equivalent to the contributions or payments in lieu of contributions for which the
67 lessor employing unit was liable in the last calendar year in which he or she accrued
68 contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever
69 amount is the greater, to ensure prompt payment of contributions or payments in lieu of
70 contributions, interest, penalties and surcharges for which the lessor employing unit may be, or
71 becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may
72 deposit in a depository designated by the director, securities with marketable value equivalent
73 to the amount required for a surety bond. The securities so deposited shall include authorization
74 to the director to sell any securities in an amount sufficient to pay any contributions or payments
75 in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails
76 to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision,
77 any lessor employing unit may provide the director with an irrevocable letter of credit, as defined
78 in section 409.5-103, issued by any state or federally chartered financial institution, in an amount
79 equivalent to the amount required for a surety bond as described in this subdivision. In lieu of
80 a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may obtain a
81 certificate of deposit issued by any state or federally chartered financial institution, in an amount
82 equivalent to the amount required for a surety bond as described in this subdivision. The
83 certificate of deposit shall be pledged to the director until release by the director. As used in this
84 subdivision, the term "certificate of deposit" means a certificate representing any deposit of funds
85 in a state or federally chartered financial institution for a specified period of time which earns
86 interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified
87 time without forfeiture of some or all of the earned interest.

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

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

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

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

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

114 **5. For purposes of this chapter, a company that leases a taxicab to a person or that**
115 **provides dispatching or similar rider referral services for a person shall not be determined**
116 **to be the employer of such person if such person drives a taxicab under a license issued to**
117 **him or her by a municipality or other governmental entity that has promulgated**
118 **regulations concerning the manner and means by which the driver's results are**
119 **accomplished.**

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