

SENATE BILL NO. 703

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

2846S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 290.600, RSMo, and to enact in lieu thereof one new section relating to exemptions from the earned paid sick time law.

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

Section A. Section 290.600, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 290.600, to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Department", department of labor and industrial relations;

(2) "Director", director of the department of labor and industrial relations;

(3) "Domestic violence", as such term is defined in section 455.010;

(4) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502;

(5) "Employee", any individual employed in this state by an employer, but does not include:

(a) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit

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

19 organization where the employer-employee relationship does
20 not, in fact, exist or where the services rendered to the
21 organization are on a voluntary basis;

22 (b) Any individual standing in loco parentis to foster
23 children in their care;

24 (c) Any individual employed for less than four months
25 in any year in a resident or day camp for children or youth,
26 or any individual employed by an educational conference
27 center operated by an educational, charitable or not-for-
28 profit organization;

29 (d) Any individual engaged in the activities of an
30 educational organization where employment by the
31 organization is in lieu of the requirement that the
32 individual pay the cost of tuition, housing or other
33 educational fees of the organization or where earnings of
34 the individual employed by the organization are credited
35 toward the payment of the cost of tuition, housing or other
36 educational fees of the organization;

37 (e) Any individual employed on or about a private
38 residence on an occasional basis for six hours or less on
39 each occasion;

40 (f) Any individual employed on a casual basis to
41 provide baby-sitting services;

42 (g) Any individual employed by an employer subject to
43 the provisions of Part A of Subtitle IV of Title 49, United
44 States Code, 49 U.S.C. §§ 10101 et seq.;

45 (h) Any individual employed on a casual or
46 intermittent basis as a golf caddy, newsboy, or in a similar
47 occupation;

48 (i) Any individual who is employed in any government
49 position defined in 29 U.S.C. §§ 203(e) (2) (C) (i)-(ii);

50 (j) Any individual employed by a retail or service
51 business whose annual gross volume sales made or business
52 done is less than five hundred thousand dollars;

53 (k) Any individual who is an offender, as defined in
54 section 217.010, who is incarcerated in any correctional
55 facility operated by the department of corrections,
56 including offenders who provide labor or services on the
57 grounds of such correctional facility pursuant to section
58 217.550; [or,]

59 (l) Any individual described by the provisions of
60 section 29 U.S.C. 213(a)(8); or

61 **(m) Any individual who is an employee of an employer**
62 **engaged in the operation of a vessel that is documented by**
63 **the United States under 46 U.S.C. Section 12105;**

64 (6) "Employer", any person acting directly or
65 indirectly in the interest of an employer in relation to an
66 employee; provided, however, that for the purposes of
67 sections 290.600 through 290.642 "employer" does not include
68 the United States government, the state, or a political
69 subdivision of the state, including a department, agency,
70 officer, bureau, division, board, commission, or
71 instrumentality of the state, or a city, county, town,
72 village, school district, public higher education
73 institution, or other political subdivision of the state;

74 (7) "Family member", any of the following individuals:

75 (a) Regardless of age, a biological, adopted or foster
76 child, stepchild or legal ward, a child of a domestic
77 partner, a child to whom the employee stands in loco
78 parentis, or an individual to whom the employee stood in
79 loco parentis when the individual was a minor;

80 (b) A biological, foster, stepparent or adoptive
81 parent or legal guardian of an employee or an employee's

82 spouse or domestic partner or an individual who stood in
83 loco parentis when the employee or employee's spouse or
84 domestic partner was a minor child;

85 (c) An individual to whom the employee is legally
86 married under the laws of any state, or a domestic partner
87 who is registered as such under the laws of any state or
88 political subdivision, or an individual with whom the
89 employee is in a continuing social relationship of a
90 romantic or intimate nature;

91 (d) A grandparent, grandchild, or sibling (whether of
92 a biological, foster, adoptive or step relationship) of the
93 employee or the employee's spouse or domestic partner; or

94 (e) A person for whom the employee is responsible for
95 providing or arranging health or safety-related care,
96 including but not limited to helping that individual obtain
97 diagnostic, preventative, routine, or therapeutic health
98 treatment or ensuring the person is safe following domestic
99 violence, sexual assault, or stalking;

100 (8) "Health care professional", any individual
101 licensed under federal or any state law to provide medical
102 or emergency services, including but not limited to doctors,
103 nurses, certified nurse midwives, mental health
104 professionals, and emergency room personnel;

105 (9) "Person", any individual, partnership,
106 association, corporation, business, business trust, legal
107 representative, or any organized group of persons;

108 (10) "Retaliatory personnel action", denial of any
109 right guaranteed under sections 290.600 through 290.642, or
110 any threat, discharge, suspension, demotion, reduction of
111 hours, or any other adverse action against an employee for
112 the exercise of any right guaranteed herein. "Retaliatory
113 personnel action" shall also include interference with or

114 punishment for in any manner participating in or assisting
115 an investigation, proceeding, or hearing under sections
116 290.600 through 290.642;

117 (11) "Same hourly rate", means the following:

118 (a) For employees paid on the basis of a single hourly
119 rate, the same hourly rate shall be the employee's regular
120 hourly rate;

121 (b) For employees who are paid multiple hourly rates
122 of pay from the same employer, the same hourly rate shall be
123 either:

124 a. The wages the employee would have been paid for the
125 hours absent during use of earned paid sick time if the
126 employee had worked; or,

127 b. The weighted average of all hourly rates of pay
128 during the previous pay period.

129 Whatever method the employer uses, the employer must use a
130 consistent method for each employee throughout a year;

131 (c) For employees who are paid a salary, the same
132 hourly rate shall be determined by dividing the wages the
133 employee earns in the previous pay period by the total
134 number of hours worked during the previous pay period. For
135 determining total number of hours worked during the previous
136 pay period, employees who are exempt from overtime
137 requirements under 29 U.S.C. § 213(a)(1), the Fair Labor
138 Standards Act, shall be assumed to work forty hours in each
139 work week unless their normal work week is less than forty
140 hours, in which case earned paid sick time shall accrue and
141 the same hourly rate shall be calculated based on the
142 employee's normal work week. Regardless of the basis used,
143 the same hourly rate shall not be less than the effective
144 minimum wage specified in section 290.502;

145 (d) For employees paid on a piece rate or a fee-for-
146 service basis, the same hourly rate shall be a reasonable
147 calculation of the wages or fees the employee would have
148 received for the piece work, service, or part thereof, if
149 the employee had worked. Regardless of the basis used, the
150 same hourly rate shall not be less than the effective
151 minimum wage specified in section 290.502;

152 (e) For employees who are paid on a commission basis
153 (whether base wage plus commission or commission only), the
154 same hourly rate shall be the greater of the base wage or
155 the effective minimum wage specified in section 290.502;

156 (f) For employees who receive and retain compensation
157 in the form of gratuities in addition to wages, the same
158 hourly rate shall be the greater of the employee's regular
159 hourly rate or one hundred percent of the effective minimum
160 wage specified in section 290.502 without deduction of any
161 tips as a credit;

162 (12) "Sexual assault", as such term is defined in
163 section 455.010;

164 (13) "Stalking", as such term is defined in section
165 455.010;

166 (14) "Year", a regular and consecutive twelve-month
167 period as determined by the employer; except that for the
168 purposes of section 290.615 and section 290.627, "year"
169 shall mean a calendar year.

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