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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center

600 W. Main

Jefferson City, MO 65101

(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

EDITORS

CURTIS W. TREAT

SALLY L. REID

ASSOCIATE EDITOR

SARAH JORGENSEN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

ADMINISTRATIVE ASSISTANT

AMBER J. LYNN

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IN THIS ISSUE:

EMERGENCY RULES

Elected Officials
 Attorney General 651

EXECUTIVE ORDERS 655

PROPOSED RULES

Department of Economic Development
 Public Service Commission 659

Department of Higher Education
 Commissioner of Higher Education 660

Department of Natural Resources
 Safe Drinking Water Commission 667

Department of Social Services
 MO HealthNet Division 723

Elected Officials
 Attorney General 724

ORDERS OF RULEMAKING

Department of Elementary and Secondary Education
 Division of Administrative and Financial Services 727

Department of Revenue
 Director of Revenue 727
 State Tax Commission 727

Department of Social Services
 Family Support Division 727

Department of Health and Senior Services
 Division of Community and Public Health 727

Department of Insurance, Financial Institutions and Professional Registration

Insurer Conduct 728
 Insurance Solvency and Company Regulation 733

IN ADDITIONS

Department of Health and Senior Services
 Missouri Health Facilities Review Committee 736

DISSOLUTIONS 737

SOURCE GUIDES

RULE CHANGES SINCE UPDATE 740
EMERGENCY RULES IN EFFECT 746
EXECUTIVE ORDERS 748
REGISTER INDEX 750

| Register Filing Deadlines | Register Publication Date | Code Publication Date | Code Effective Date |
|---|---|--|--|
| January 2, 2009 January 16, 2009 | February 3, 2009 February 17, 2009 | February 28, 2009 February 28, 2009 | March 30, 2009 March 30, 2009 |
| February 3, 2009 February 17, 2009 | March 2, 2009 March 16, 2009 | March 31, 2009 March 31, 2009 | April 30, 2009 April 30, 2009 |
| March 2, 2009 March 16, 2009 | April 1, 2009 April 15, 2009 | April 30, 2009 April 30, 2009 | May 30, 2009 May 30, 2009 |
| April 1, 2009 April 15, 2009 | May 1, 2009 May 15, 2009 | May 31, 2009 May 31, 2009 | June 30, 2009 June 30, 2009 |
| May 1, 2009 May 15, 2009 | June 1, 2009 June 15, 2009 | June 30, 2009 June 30, 2009 | July 30, 2009 July 30, 2009 |
| June 1, 2009 June 15, 2009 | July 1, 2009 July 15, 2009 | July 31, 2009 July 31, 2009 | August 30, 2009 August 30, 2009 |
| July 1, 2009 July 15, 2009 | August 3, 2009 August 17, 2009 | August 31, 2009 August 31, 2009 | September 30, 2009 September 30, 2009 |
| August 3, 2009 August 17, 2009 | September 1, 2009 September 15, 2009 | September 30, 2009 September 30, 2009 | October 30, 2009 October 30, 2009 |
| September 1, 2009 September 15, 2009 | October 1, 2009 October 15, 2009 | October 31, 2009 October 31, 2009 | November 30, 2009 November 30, 2009 |
| October 1, 2009 October 15, 2009 | November 2, 2009 November 16, 2009 | November 30, 2009 November 30, 2009 | December 30, 2009 December 30, 2009 |

Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

| Title | Code of State Regulations | Division | Chapter | Rule |
|------------|---------------------------|------------------|------------------------|-------------------------|
| 1 | CSR | 10- | 1. | 010 |
| Department | | Agency, Division | General area regulated | Specific area regulated |

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

EMERGENCY RULE

15 CSR 60-15.010 Definitions

PURPOSE: This rule defines terms used in section 285.525, RSMo Supp. 2008.

EMERGENCY STATEMENT: The 94th General Assembly amended the provisions of Chapter 285 through the passage of House Bill No. 1549. Sections 285.525 through 285.550, RSMo, are new sections relating to the employment of unauthorized aliens within the state of Missouri. These sections were effective January 1, 2009, and require the attorney general to promulgate rules to implement their provisions. This emergency rule is necessary to protect a compelling governmental interest in that without regulations implementing the provisions of these newly effective sections, there may be business entities or state residents with obligations under the law without a mechanism in place for compliance with those obligations. The provisions in this rule will provide business entities and state residents with access to forms and procedures necessary to assist in compliance with the obligations of the statute. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the

Missouri and United States Constitutions. The Office of the Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed March 2, 2009, effective March 12, 2009, and expires September 7, 2009.

(1) The terms used in Title 15, Division 60, Chapter 15 of the *Code of State Regulations* bear the same meaning in the rules pertaining to unauthorized alien workers as they do in section 285.525, RSMo Supp. 2008, as amended from time-to-time.

(2) The following definitions further clarify terms used in section 285.525, RSMo Supp. 2008, and Title 15, Division 60, Chapter 15 of the *Code of State Regulations*:

(A) “Business Entity”—in addition to the definition as used in section 285.525(1), RSMo Supp. 2008, business entities include limited liability corporations (LLCs);

(B) “Identity Information”—includes a copy of a passport or two (2) of the following: birth certificate, driver license, or Social Security card; OR an E-verify case verification number and/or dated verification report received from the federal government; and

(C) “State administered or subsidized tax credit, tax abatement, or loan” includes credits provided under section 99.845.4-.12, RSMo 2000.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expires Sept. 7, 2009. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

EMERGENCY RULE

15 CSR 60-15.020 Form of Affidavit

PURPOSE: This rule prescribes the form of affidavit to be submitted by business entities or employers who fall under the provisions of section 285.530, RSMo Supp. 2008.

EMERGENCY STATEMENT: The 94th General Assembly amended the provisions of Chapter 285 through the passage of House Bill No. 1549. Sections 285.525 through 285.550, RSMo, are new sections relating to the employment of unauthorized aliens within the state of Missouri. These sections were effective January 1, 2009, and require the attorney general to promulgate rules to implement their provisions. This emergency rule is necessary to protect a compelling governmental interest in that without regulations implementing the provisions of these newly effective sections, there may be business entities or state residents with obligations under the law without a mechanism in place for compliance with those obligations. The provisions in this rule will provide business entities and state residents with access to forms and procedures necessary to assist in compliance with the obligations of the statute. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Office of the Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed March 2, 2009, effective March 12, 2009, and expires September 7, 2009.

(1) As a condition for the award of any contract or grant in excess of five thousand dollars (\$5,000) by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall submit an affidavit containing the following:

(A) A statement that the business entity has enrolled in, and is currently participating in, E-verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA);

(B) A statement that the business entity does not knowingly employ any person who is an unauthorized alien in conjunction with the contracted services; and

(C) A notarized signature of the registered agent, legal representative of the business entity, or a corporate officer, including, but not limited to, the human resources director of the business entity or their equivalent.

(2) Within ninety (90) days of the effective date of this regulation, any business entity having a contract or grant in excess of five thousand dollars (\$5,000) from the state, a political subdivision, municipality, or county shall submit an affidavit to the state or appropriate political subdivision, municipality, or county in the form set forth above in section (1).

(3) Within ninety (90) days of the effective date of this regulation, any business entity receiving a state administered or subsidized tax credit, tax abatement, or loan from the state shall submit an affidavit to the state in the form set forth above in section (1).

(4) Employers shall retain a copy of the dated verification report received from the federal government.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expires Sept. 7, 2009. A proposed rule covering this same material is published in this issue of the Missouri Register.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

EMERGENCY RULE

15 CSR 60-15.030 Complaints

PURPOSE: This rule prescribes procedures for filing complaints that a business entity or employer has knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work in Missouri in violation of section 285.530, RSMo Supp. 2008.

EMERGENCY STATEMENT: The 94th General Assembly amended the provisions of Chapter 285 through the passage of House Bill No. 1549. Sections 285.525 through 285.550, RSMo, are new sections relating to the employment of unauthorized aliens within the state of Missouri. These sections were effective January 1, 2009, and require the attorney general to promulgate rules to implement their provisions. This emergency rule is necessary to protect a compelling governmental interest in that without regulations implementing the provisions of these newly effective sections, there may be business entities or state residents with obligations under the law without a mechanism in place for compliance with those obligations. The provisions in this rule will provide business entities and state residents with access to forms and procedures necessary to assist in compliance

with the obligations of the statute. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Office of the Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed March 2, 2009, effective March 12, 2009, and expires September 7, 2009.

(1) State officials, business entities, or any state resident may file a complaint with the Missouri Attorney General's Office that a business entity or employer has knowingly employed, hired for employment, or continued to employ an unauthorized alien to perform work in Missouri in violation of section 285.530, RSMo Supp. 2008.

(2) Persons wishing to file a complaint may request a complaint form from the Missouri Attorney General's Office, PO Box 899, Jefferson City, MO 65102 or may download and print off the form from the Missouri Attorney General's website at www.ago.mo.gov.

(3) A complaint form must be completed in its entirety, and the person submitting a complaint must—

(A) Provide information about the business entity or employer alleged to be violating the statute;

(B) Provide their contact information;

(C) Verify that they are either: a Missouri resident, a state official or a registered agent, corporate officer, or legal representative of the business entity;

(D) A detailed description of the violation;

(E) A declaration under the penalty of perjury that the complaint is true and correct to the best of their knowledge and belief; and

(F) A notarized signature.

(4) Complaints cannot allege a violation solely or primarily on the basis of national origin, ethnicity, or race.

(5) Completed complaint forms should be returned to the Missouri Attorney General's Office, PO Box 899, Jefferson City, MO 65102.

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expires Sept. 7, 2009. A proposed rule covering this same material is published in this issue of the Missouri Register.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

EMERGENCY RULE

15 CSR 60-15.040 Investigation of Complaints

PURPOSE: This rule describes the process related to investigating valid complaints authorized by section 285.535, RSMo Supp. 2008.

EMERGENCY STATEMENT: The 94th General Assembly amended the provisions of Chapter 285 through the passage of House Bill No. 1549. Sections 285.525 through 285.550, RSMo, are new sections relating to the employment of unauthorized aliens within the state of Missouri. These sections were effective January 1, 2009, and require the attorney general to promulgate rules to implement their provisions. This emergency rule is necessary to protect a compelling governmental interest in that without regulations implementing the provisions of these newly effective sections, there may be business entities or state residents with obligations under the law without a mechanism

in place for compliance with those obligations. The provisions in this rule will provide business entities and state residents with access to forms and procedures necessary to assist in compliance with the obligations of the statute. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Office of the Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed March 2, 2009, effective March 12, 2009, and expires September 7, 2009.

(1) Upon the receipt of a valid complaint, the Missouri Attorney General's Office shall, within fifteen (15) days, send a request by certified mail to the business entity requesting identity information regarding person(s) alleged to be unauthorized alien(s).

(2) Identity information to be provided includes copies of the following:

- (A) A passport; or
- (B) Two (2) of the following: birth certificate, driver license, and Social Security card; or
- (C) E-verify case verification number and/or dated verification report received from the federal government.

(3) The business entity shall provide the identity information within fifteen (15) days of the receipt of the request. If the business entity fails to do so, the Attorney General shall direct the applicable state agency, political subdivision, and municipal or county governing body to suspend any licenses or permits of the business entity unless the business entity submits as evidence, through its legal representative as noted in section (4) below, one (1) of the following within the fifteen (15)-day period:

- (A) The business entity has terminated the individual, or is attempting to terminate the individual and is being challenged in court; or
- (B) The business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee's authorization.

(4) If a business entity fails to comply with the provisions of section 285.535.5(a), RSMo, he may ask the court to direct any applicable state agency, political subdivision, and municipal or county governing body to suspend any business permits or license of the business entity until the entity complies with section (6).

(5) If a business entity fails to comply with the provisions of section 285.535.5(b), RSMo, the attorney general may ask the court to direct any applicable state agency, political subdivision, and municipal or county governing body to suspend for fourteen (14) days any business permits or license of the business entity. The licenses or permits may be reinstated for entities who comply with section (6) at the end of the fourteen (14)-day period.

(6) Upon the first violation of subsection 1 of section 285.530, RSMo, by any business entity awarded a contract or grant by the state, a political subdivision, municipality, or county or any business entity receiving a state-administered tax credit, tax abatement, or loan or loan guarantee from the state shall be deemed in breach of contract and the state, political subdivision, municipality, or county may terminate the contract. Upon such termination the state, political subdivision, municipality, or county may withhold up to twenty-five percent (25%) of the total amount due to the business entity.

(7) Upon receipt of notice of such termination of a contract or grant or a violation of subsection 1 of section 285.530, RSMo, by the recipient of a state-administered tax credit, tax abatement, or loan or

loan guarantee from the state, the attorney general shall suspend or debar the business entity from doing business with any state, political subdivision, municipality, or county for a period of three (3) years.

(8) The attorney general shall maintain on his website a list of all business entities suspended or debarred under this section.

(9) A person authorized to act of behalf of an employer shall submit a sworn affidavit to the Missouri Attorney General, PO Box 899, Jefferson City, MO 65102, stating the violation has ended and provide—

(A) Evidence of the specific measures taken to end the violation, which shall, at a minimum, include a notarized affidavit describing the events surrounding the termination of employment from the human resources director or other officer of the business entity whose duties include terminating the employment of employees, etc.;

(B) The name, address, and all identifying information available to the business entity concerning the unauthorized alien(s) related to the complaint; and

(C) Evidence that the business entity has enrolled in, and is currently participating in, E-verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA).

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expires Sept. 7, 2009. A proposed rule covering this same material is published in this issue of the Missouri Register.

**Title 15—ELECTED OFFICIALS
Division 60—Attorney General
Chapter 15—Unauthorized Alien Workers**

EMERGENCY RULE

15 CSR 60-15.050 Notification by Federal Government that Individual is Not Authorized to Work

PURPOSE: This rule describes the process to be utilized when the federal government notifies the Missouri Attorney General's Office that an individual is not authorized to work and the duties required of the employer by section 285.535, RSMo Supp. 2008.

EMERGENCY STATEMENT: The 94th General Assembly amended the provisions of Chapter 285 through the passage of House Bill No. 1549. Sections 285.525 through 285.550, RSMo, are new sections relating to the employment of unauthorized aliens within the state of Missouri. These sections were effective January 1, 2009, and require the attorney general to promulgate rules to implement their provisions. This emergency rule is necessary to protect a compelling governmental interest in that without regulations implementing the provisions of these newly effective sections, there may be business entities or state residents with obligations under the law without a mechanism in place for compliance with those obligations. The provisions in this rule will provide business entities and state residents with access to forms and procedures necessary to assist in compliance with the obligations of the statute. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Office of the Attorney General believes this emergency rule is fair to all interested persons and parties under the circumstances. The emergency rule was filed March 2, 2009, effective March 12, 2009, and expires September 7, 2009.

(1) Upon notification from the federal government to the Missouri Attorney General's Office that an individual is not authorized to work, and the employer participates in a federal work authorization program, the Missouri Attorney General's Office shall notify the employer to comply with section 285.535.6, RSMo Supp. 2008.

(2) The employer shall, through its legal representative as noted in section (3) below, submit evidence of one (1) of the following within thirty (30) days:

(A) The business entity has terminated the employment of the individual or is attempting to terminate the employment of the individual and is being challenged in court; or

(B) The business entity, after acquiring additional information from the employee, has requested a secondary or additional verification by the federal government of the employee's authorization.

(3) The legal representative of the business entity shall submit a sworn affidavit to the Missouri Attorney General, PO Box 899, Jefferson City, MO 65102, stating the violation has ended and provide—

(A) Evidence of the specific measures taken to end the violation, which shall, at a minimum, include a notarized affidavit describing the events surrounding the termination of employment from the human resources director or other officer of the business entity whose duties include terminating the employment of employees, etc.;

(B) The name, address, and all identifying information available to the business entity concerning the unauthorized alien(s) related to the complaint; and

(C) Evidence that the business entity has enrolled in, and is currently participating in, E-verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA).

AUTHORITY: section 285.540, RSMo Supp. 2008. Emergency rule filed March 2, 2009, effective March 12, 2009, expires Sept. 7, 2009. A proposed rule covering this same material is published in this issue of the Missouri Register.