

SECOND REGULAR SESSION

SENATE BILL NO. 1069

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

Read 1st time February 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5487S.011

AN ACT

To repeal sections 8.051, 178.910, 178.920, 178.931, 178.940, 205.970, 205.972, 205.973, 290.500, and 337.505, RSMo, and to enact in lieu thereof ten new sections relating to persons with disabilities.

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

Section A. Sections 8.051, 178.910, 178.920, 178.931, 178.940, 205.970, 205.972, 205.973, 290.500, and 337.505, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 8.051, 178.910, 178.920, 178.931, 178.940, 205.970, 205.972, 205.973, 290.500, and 337.505, to read as follows:

8.051. 1. The commissioner of administration shall establish a gift shop in the museum of the state capitol.

2. The commissioner shall contract with the licensing agent, as defined in section 8.700 to operate the capitol gift shop, as provided in section 8.705; provided, however, that the gift shop shall be staffed by persons who are legally blind or otherwise **[handicapped] disabled**.

3. At least fifty percent of the items on sale in the gift shop will be items made, on consignment, by the sheltered workshops operating within the state. "Sheltered workshops" as used in this section shall be defined as in section 178.900.

178.910. 1. A sheltered workshop shall provide a controlled work environment and a program designed toward enabling the **[handicapped] person with disabilities** enrolled to progress toward normal living and to develop, as far as possible, his **or her** capacity, performance and relationship with other persons.

2. A sheltered workshop shall, so far as possible, provide work experience

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

7 sufficiently diverse to accommodate the needs of each of the [handicapped]
8 persons **with disabilities** enrolled.

9 3. A sheltered workshop shall coordinate and integrate its services with
10 all community agencies for the benefit of its employees, and whenever practicable
11 make use of the services available from these agencies.

178.920. 1. Any group of persons desiring to establish a sheltered
2 workshop which will be eligible for state aid shall request a certificate of approval
3 from the department. The request shall be in writing on forms provided by the
4 department, and shall contain such information as the department may
5 reasonably require.

6 2. Within sixty days after receipt of the request, the department shall
7 hold a hearing to determine suitability of the proposed sheltered workshop to
8 provide appropriate supervised employment and rehabilitation for [handicapped]
9 persons **with disabilities**.

10 3. If, after hearing, the department determines that the proposed
11 sheltered workshop will be a proper agent of the state for the purpose of
12 employment and rehabilitation of [handicapped] persons **with disabilities**, it
13 shall notify the persons requesting the certificate that they will be issued a
14 certificate of approval upon filing with the department the applicant's certificate
15 of incorporation as a not-for-profit corporation and a copy of its charter and
16 bylaws. No provision of the charter or bylaws shall conflict with the rules and
17 regulations of the department.

18 4. The department may refuse to issue a certificate of authority if it finds
19 that a proposed sheltered workshop will not be a proper agency of the state for
20 the purpose of employment and rehabilitation of [handicapped] persons **with**
21 **disabilities** and it may, after notice and hearing, revoke the certificate of
22 authority of any sheltered workshop which is no longer qualified because the need
23 for the workshop no longer exists or for violation of any rule or regulation of the
24 department.

178.931. 1. Beginning July 1, 2018, and thereafter, the department of
2 elementary and secondary education shall pay monthly, out of the funds
3 appropriated to it for that purpose, to each sheltered workshop a sum equal to the
4 amount calculated under subsection 2 of this section but at least the amount
5 necessary to ensure that at least twenty-one dollars is paid for each six-hour or
6 longer day worked by [a handicapped] **an** employee **with disabilities** for each
7 standard workweek of up to and including thirty-eight hours worked. For each

8 [handicapped worker] **employee with disabilities** employed by a sheltered
9 workshop for less than a thirty-eight-hour week or a six-hour day, the workshop
10 shall receive a percentage of the corresponding amount normally paid based on
11 the percentage of time worked by the [handicapped] employee **with disabilities**.

12 2. In order to calculate the monthly amount due to each sheltered
13 workshop, the department shall:

14 (1) Determine the quotient obtained by dividing the appropriation for the
15 fiscal year by twelve; and

16 (2) Divide the amount calculated under subdivision (1) of this subsection
17 among the sheltered workshops in proportion to each sheltered workshop's
18 number of hours submitted to the department for the preceding calendar month.

19 3. The department shall accept, as prima facie proof of payment due to a
20 sheltered workshop, information as designated by the department, either in paper
21 or electronic format. A statement signed by the president, secretary, and
22 manager of the sheltered workshop, setting forth the dates worked and the
23 number of hours worked each day by each [handicapped] person **with**
24 **disabilities** employed by that sheltered workshop during the preceding calendar
25 month, together with any other information required by the rules or regulations
26 of the department, shall be maintained at the workshop location.

178.940. The department shall be the official agency of this state for the
2 acceptance and disbursement of funds of the United States government made
3 available to the states for rehabilitation or employment related services to
4 [handicapped] **disabled** persons as defined in section 178.900.

205.970. 1. When approved by the voters pursuant to section 205.971, the
2 governing body of the county or city not within a county shall appoint a board of
3 directors consisting of a total of nine members, two of whom shall be related by
4 blood or marriage within the third degree to a [handicapped] person **with**
5 **disabilities**, as defined in section 205.968, and four of whom shall be public
6 members. At least seven of the board members shall be residents of the county
7 or city not within a county where the facility is located. After September 28,
8 1979, all board members shall be appointed to serve for a term of three years,
9 except that of the first board appointed after September 28, 1979, three members
10 shall be appointed for one-year terms, three members for two-year terms and
11 three members for three-year terms. Board members may be reappointed. The
12 directors shall not receive compensation for their services, but may be reimbursed
13 for their actual and necessary expenses.

14 2. The administrative control and management of the facility shall rest
15 solely with the board, and the board shall employ all necessary personnel, fix
16 their compensation, and provide suitable quarters and equipment for the
17 operation of the facility from funds made available for this purpose.

18 3. Notwithstanding any provision of law to the contrary, and irrespective
19 of whether or not a county sheltered workshop or residence facility has been
20 established, the board may contract to provide services relating in whole or in
21 part to the services which the board may provide to [handicapped] persons **with**
22 **disabilities**, as defined in this law and for such purpose may expend the tax
23 funds or other funds.

24 4. The board shall elect a chairman, vice chairman, treasurer, and such
25 other officers as it deems necessary for its membership. Before taking office, the
26 treasurer shall furnish a surety bond, in an amount to be determined and in a
27 form to be approved by the board, for the faithful performance of his **or her**
28 duties and faithful accounting of all moneys that may come into his **or her**
29 hands. The treasurer shall enter into the surety bond with a surety company
30 authorized to do business in Missouri, and the cost of such bond shall be paid by
31 the board of directors.

32 5. The board shall set rules for admission to the facility, and shall do all
33 other things necessary to carry out the purposes of sections 205.968 to 205.972.

34 6. The board may contract with any not-for-profit corporation including
35 any corporation which is incorporated for the purpose of implementing the
36 provisions of sections 178.900 to 178.970 for any common services, or for the
37 common use of any property of either group.

38 7. The board may accept any gift of property or money for the use and
39 benefit of the facility, and the board is authorized to sell or exchange any such
40 property which it believes would be to the benefit of the facility so long as the
41 proceeds are used exclusively for facility purposes. The board shall have
42 exclusive control of all gifts, property or money it may accept; of all interest or
43 other proceeds which may accrue from the investment of such gifts or money or
44 from the sale of such property; of all tax revenues collected by the county on
45 behalf of the facilities or services; and of all other funds granted, appropriated,
46 or loaned to it by the federal government, the state, or its political subdivisions
47 so long as these resources are used solely to benefit the facility or related services
48 except those paid for transportation purposes under the provisions of section
49 94.645.

50 8. Any board member may, following notice and an opportunity to be
51 heard, be removed from office by a majority vote of the other members of the
52 board for any of the following grounds:

53 (1) Failure to attend five consecutive meetings, without good cause;

54 (2) Conduct prejudicial to the good order and efficient operation of the
55 facility or services; or

56 (3) Neglect of duty. The chairman of the board shall preside at such
57 removal hearing, unless he or she is the person sought to be removed. In which
58 case the hearing shall be presided over by another member elected by the
59 majority vote of the other board members. All interested parties may present
60 testimony and arguments at such hearing, and the witnesses shall be sworn by
61 oath or affirmation before testifying. Any interested party may, at his or her own
62 expense, record the proceedings.

63 9. Vacancies in the board occasioned by removals, resignations or
64 otherwise shall be reported by the board chairman to the mayor's office of a city
65 not within a county or the county commission or county executive officer and shall
66 be filled in like manner as original appointments; except that, if the vacancy
67 occurs during an unexpired term, the appointment shall be for only the unexpired
68 portion of that term.

69 10. Individual board members shall not be eligible for employment by the
70 board within twelve months of termination of service as a member of the board.

71 11. No person shall be employed by the board who is related within the
72 third degree by blood or by marriage to any member of the board.

205.972. 1. The tax may not be levied to exceed forty cents per each one
2 hundred dollars assessed valuation therefor except for a county of the first
3 classification having a charter form of government containing in whole or part a
4 city with a population of more than three hundred fifty thousand inhabitants, or
5 a county of the first classification having a charter form of government with a
6 population of at least nine hundred thousand inhabitants voting thereon shall not
7 levy a tax to exceed twenty cents per each one hundred dollars assessed valuation
8 therefor.

9 2. The question shall be submitted in substantially the following form:

10 OFFICIAL BALLOT

11 Shall _____ (name of county or city not within a county) establish,
12 improve, (and) (or) maintain a sheltered workshop (and) (or)
13 residence facility (and) (or) related services for developmentally

14 disabled and [handicapped] **other disabled** persons, and for
 15 which the county or city shall levy a tax of _____ (insert exact
 16 amount to be voted upon) cents per each one hundred dollars
 17 assessed valuation therefor?

18 YES NO

205.973. No employer of a [handicapped or developmentally disabled]
 2 person **with a developmental or other disability** employed in a sheltered
 3 workshop shall be liable for any head tax imposed by any city in this state.

290.500. As used in sections 290.500 to 290.530, the following words and
 2 phrases mean:

3 (1) "Agriculture", farming and all its branches including, but not limited
 4 to, the cultivation and tillage of the soil, dairying, the production, cultivation,
 5 growing and harvesting of any agricultural commodities, the raising of livestock,
 6 fish and other marine life, bees, fur-bearing animals or poultry and any practices
 7 performed by a farmer or on a farm as an incident to or in conjunction with
 8 farming operations, including preparation for market, delivery to storage or to
 9 market or to carriers for transportation to market;

10 (2) "Director", the director of the department of labor and industrial
 11 relations or his **or her** authorized representative;

12 (3) "Employee", any individual employed by an employer, except that the
 13 term "employee" shall not include:

14 (a) Any individual employed in a bona fide executive, administrative, or
 15 professional capacity;

16 (b) Any individual engaged in the activities of an educational, charitable,
 17 religious, or nonprofit organization where the employer-employee relationship
 18 does not, in fact, exist or where the services rendered to the organization are on
 19 a voluntary basis;

20 (c) Any individual standing in loco parentis to foster children in their
 21 care;

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

26 (e) Any individual engaged in the activities of an educational organization
 27 where employment by the organization is in lieu of the requirement that the
 28 individual pay the cost of tuition, housing or other educational fees of the

29 organization or where earnings of the individual employed by the organization are
30 credited toward the payment of the cost of tuition, housing or other educational
31 fees of the organization;

32 (f) Any individual employed on or about a private residence on an
33 occasional basis for six hours or less on each occasion;

34 (g) Any [handicapped] person **with a disability** employed in a sheltered
35 workshop, certified by the department of elementary and secondary education;

36 (h) Any person employed on a casual basis to provide baby-sitting
37 services;

38 (i) Any individual employed by an employer subject to the provisions of
39 part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

40 (j) Any individual employed on a casual or intermittent basis as a golf
41 caddy, newsboy, or in a similar occupation;

42 (k) Any individual whose earnings are derived in whole or in part from
43 sales commissions and whose hours and places of employment are not
44 substantially controlled by the employer;

45 (l) Any individual who is employed in any government position defined in
46 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

47 (m) Any individual employed by a retail or service business whose annual
48 gross volume sales made or business done is less than five hundred thousand
49 dollars;

50 (n) Any individual who is an offender, as defined in section 217.010, who
51 is incarcerated in any correctional facility operated by the department of
52 corrections, including offenders who provide labor or services on the grounds of
53 such correctional facility pursuant to section 217.550;

54 (o) Any individual described by the provisions of section 29 U.S.C. 213(a)
55 (8);

56 (4) "Employer", any person acting directly or indirectly in the interest of
57 an employer in relation to an employee;

58 (5) "Learner and apprentice", any individual under 20 years of age who
59 has not completed the required training for a particular job. In no event shall the
60 individual be deemed a learner or apprentice in the occupation after three months
61 of training except where the director finds, after investigation, that for the
62 particular occupation a minimum of proficiency cannot be acquired in three
63 months. In no case shall a person be declared to be a learner or apprentice after
64 six months of training for a particular employer or job. Employees of an

65 amusement or recreation business that meets the criteria set out in 29 U.S.C. §
66 213(a) (3) may be deemed a learner or apprentice for ninety working days. No
67 individual shall be deemed a learner or apprentice solely for the purpose of
68 evading the provisions of sections 290.500 to 290.530;

69 (6) "Occupation", any occupation, service, trade, business, industry, or
70 branch or group of industries or employment or class of employment in which
71 individuals are gainfully employed;

72 (7) "Wage", compensation due to an employee by reason of his **or her**
73 employment, payable in legal tender of the United States or checks on banks
74 convertible into cash on demand at full face value;

75 (8) "Person", any individual, partnership, association, corporation,
76 business, business trust, legal representative, or any organized group of persons;

77 (9) "Man-day", any day during which an employee performs any
78 agricultural labor for not less than one hour.

337.505. No person shall use the title of "professional counselor",
2 "counselor" or "provisional licensed professional counselor" or engage in the
3 practice of professional counseling in this state unless the person is licensed as
4 required by the provisions of sections 337.500 to 337.540. Sections 337.500 to
5 337.540 do not apply to:

6 (1) Any person registered, certificated or licensed by this state, another
7 state, or any recognized national certification agent, acceptable to the committee,
8 to practice any other occupation or profession while rendering counseling service
9 in the performance of the occupation or profession for which the person is
10 registered, certificated, or licensed, including but not limited to physicians,
11 psychologists and attorneys;

12 (2) School counselors, school administration personnel, or classroom
13 teachers, so long as they are performing their assigned duties within the scope
14 of their employment by a board of education or private school;

15 (3) Counselors in postsecondary educational institutions so long as they
16 are practicing within the scope of their employment;

17 (4) Student interns or trainees in counseling procedures pursuing a course
18 of study in counseling in an institution of higher education or training institution
19 if such activities and services constitute a part of their course of study and
20 provided that such persons are designated as "counselor interns";

21 (5) Professionals employed by postsecondary educational institutions as
22 counselor educators so long as they are practicing counseling within the scope of

23 their employment;

24 (6) Duly ordained ministers or clergy or religious workers while
25 functioning in their ministerial capacity;

26 (7) Alcoholism counselors so long as they serve only individuals with
27 alcohol related concerns;

28 (8) Any nonresident temporarily employed in this state to render
29 counseling services for not more than thirty days in any year, if in the opinion of
30 the committee the person would qualify for a license pursuant to the provisions
31 of sections 337.500 to 337.540, and if the person holds a license required for
32 counselors in the person's home state or country;

33 (9) Duly accredited Christian Science practitioners, so long as they are
34 practicing within the scope of Christian Science principles;

35 (10) Counselors employed by the Missouri state department of elementary
36 and secondary education or the Missouri state bureau for the blind while
37 rendering counseling services in the performance of their state assigned duties;

38 (11) Professionals employed by vocational and medical rehabilitation
39 facilities accredited by the commission on the accreditation of rehabilitation
40 facilities, the joint committee on accreditation of hospitals or other agents
41 acceptable to the committee while rendering counseling services in the
42 performance of their assigned duties, and so long as they do not use the title of
43 "counselor";

44 (12) Employees or volunteers of sheltered workshops who are providing
45 meaningful employment services for [handicapped] workers **with disabilities**,
46 so long as they do not use the "counselor" title;

47 (13) Marital therapists or family therapists or both, certified by the
48 American Association of Marriage and Family Therapists or an agent acceptable
49 to the committee, and their supervisees, so long as they serve only individuals
50 with marital or family systems concerns, and, so long as they do not use the titles
51 of "counselor" or "counseling";

52 (14) Staff counselors employed by religious institutions in a religious
53 counseling ministries program;

54 (15) Drug abuse counselors certified by the department of mental health
55 as meeting standards in rules promulgated pursuant to section 630.655, certified
56 by the Missouri substance abuse counselors certification board, or by an agent
57 acceptable to the committee, so long as such counselors are practicing consistent
58 with such standards, and they are serving only individuals with drug-related

59 concerns;

60 (16) Social workers, certified by the National Association of Social
61 Workers, Inc., or by an agent acceptable to the committee, or workers under their
62 supervision so long as they are doing work consistent with their training and with
63 a code of ethics of the social work profession, and so long as they do not use the
64 title of "professional counselor";

65 (17) Professionals in the employ of a governmental agency while rendering
66 services in the performance of their duties;

67 (18) Any person performing counseling, as defined in sections 337.500 to
68 337.540, without receiving compensation, monetary or otherwise, and so long as
69 they do not use the title of "professional counselor";

70 (19) Employment counselors and interviewers, personnel officers,
71 personnel analysts and consultants and related workers who in the normal course
72 of their duties and responsibilities as employees of this state may engage in the
73 screening, examination, assessment, referral or selection of individuals for
74 employment or for consideration for employment;

75 (20) Counselors and employees of employee assistance programs which are
76 members of the Association of Labor-Management Administrators and
77 Consultants on Alcoholism, Inc., a Wisconsin corporation, or its successors or such
78 other accrediting body for EAP Programs acceptable to the committee who provide
79 evaluation, assessment, information, and referral services so long as they are
80 performing their assigned duties within the scope of their employment; provided,
81 however, that this exemption shall not apply to individuals employed by employee
82 assistance programs who provide direct long-term therapy and counseling
83 services, as may be defined by regulation, so long as they do not use the title of
84 counselor or counseling;

85 (21) Individuals who are duly certified by the employee assistance
86 certification commission as administered by the Association of Labor-Management
87 Administrators and Consultants on Alcoholism, Inc., a Wisconsin corporation, or
88 its successor; so long as the individual is an employee of a generally recognized
89 employee assistance program and so long as such individual is performing
90 services within the scope of such individual's employment and education;

91 (22) Weight loss or weight control consultants or advisors in recognized,
92 legitimate programs or business environments so long as they serve only
93 individuals or groups who have weight related concerns and discuss only weight
94 improvement issues and do not use the titles of "counselor" or "counseling"

95 without using an adjective which describes to the ordinary person that the
96 counseling is limited to weight loss or weight control;

97 (23) Activity therapists as certified or licensed by their respective
98 professional organizations including, but not limited to art, music, dance,
99 recreation, and occupation, and who have received certification or licensure by
100 their respective professional organizations by January 1, 1994, so long as they do
101 not use the titles of "counselor" or "counseling";

102 (24) Professionals certified by the American Board of Medical
103 Psychotherapists and who have received certification from the American Board
104 of Medical Psychotherapists by January 1, 1994, so long as they do not use the
105 titles of "counselor" or "counseling"; and

106 (25) Transactional analysts certified by the International Transactional
107 Analysis Association and who have received certification from the International
108 Transactional Analysis Association as a level one transactional analyst,
109 specializing in clinical application by January 1, 1994, so long as they do not use
110 the titles of "counselor" or "counseling"; or

111 (26) Any person with a doctoral degree in anthropology received on or
112 prior to December 31, 1989, and which was from an educational institution
113 accredited by one of the regional accrediting associations approved by the council
114 on postsecondary accreditation; provided further that said individual has
115 completed at least twenty-four months of supervised clinical experience in
116 psychotherapy under the supervision of a physician.

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