

FIRST REGULAR SESSION

SENATE BILL NO. 417

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHNEIDER.

Read 1st time February 5, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1762S.011

AN ACT

To repeal sections 287.160, 287.203 and 287.430, RSMo 2000, relating to workers' compensation, and to enact in lieu thereof three new sections relating to the same subject.

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

Section A. Sections 287.160, 287.203 and 287.430, RSMo 2000, are repealed and three new sections enacted in lieu thereof, to be known as sections 287.160, 287.203 and 287.430, to read as follows:

287.160. 1. Except as provided in section 287.140, no compensation shall be payable for the first three days or less of disability during which the employer is open for the purpose of operating its business or enterprise unless the disability shall last longer than fourteen days. If the disability lasts longer than fourteen days, payment for the first three days shall be made retroactively to the claimant.

2. Compensation shall be payable as the wages were paid prior to the injury, but in any event at least once every two weeks. If an injured employee claims benefits pursuant to this section, an employer may, if the employee agrees in writing, pay directly to the employee any benefits due pursuant to section 287.170. The employer shall continue such payments until the insurer starts making the payments or the claim is contested by any party. Where the claim is found to be compensable the employer's workers' compensation insurer shall indemnify the employer for any payments made pursuant to this subsection. If the employee's claim is found to be fraudulent or noncompensable, after a hearing, the employee shall reimburse the employer, or the insurer if the insurer has indemnified the employer, for any benefits received either by a:

- (1) Lump sum payment;

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

(2) Refund of the compensation equivalent of any accumulated sick or disability leave;

(3) Payroll deduction; or

(4) Secured installment plan. If the employee is no longer employed by such employer, the employer may garnish the employee's wages or execute upon any property, except real estate, of the employee. Nothing in this subsection shall be construed to require any employer to make payments directly to the employee.

3. Where weekly benefit payments that are not being contested by the employer or his insurer are due, and if such weekly benefit payments are made more than [thirty] **fifteen** days after becoming due, the weekly benefit payments that are late shall be increased by ten percent simple interest per annum **from the date when due until paid**. [Provided, however, that if such claim for weekly compensation is contested by the employee, and the employer or his insurer have not paid the disputed weekly benefit payments or lump sum within thirty days of when the administrative law judge's order becomes final, or from the date of a decision by the labor and industrial relations commission, or from the date of the last judicial review, whichever is later, interest on such disputed weekly benefit payments or lump sum so ordered, shall be increased by ten percent simple interest per annum beginning thirty days from the date of such order. Provided, however, that if such claims for weekly compensation are contested solely by the employer or insurer, no interest shall be payable until after thirty days after the award of the administrative law judge. The state of Missouri or any of its political subdivisions, as an employer, is liable for any such interest assessed against it for failure to promptly pay on any award issued against it under this chapter.] **Interest shall be due fifteen days after an award of the administrative law judge unless and to the extent the award may otherwise be modified upon review by the commission or appeal to an appellate court.**

4. Compensation shall be payable in accordance with the rules given in sections 287.170, 287.180, 287.190, 287.200, 287.240, and 287.250.

5. The employer shall not be entitled to credit for wages or such pay benefits paid to the employee or his dependents on account of the injury or death except as provided in section 287.270.

287.203. **1.** Whenever the employer has provided compensation under section 287.170, 287.180 or 287.200, and terminates such compensation, the employer shall notify the employee of such termination and shall advise the employee of the reason for such termination. If the employee disputes the termination of such benefits, the employee may request a hearing before the division and the division shall set the matter for hearing within sixty days of such request and the division shall hear the matter on the date of hearing and no continuances or delays may be granted except upon a showing of good cause or by consent of the parties. The division shall render a decision within thirty days of the date of hearing. Reasonable cost of recovery shall be awarded to the prevailing party. **Upon entry of an award for temporary total benefits, such benefits shall not be terminated except by consent of the employee, or pursuant to subsection 2 of this**

section, or in accordance with the terms of the award, if so ordered.

2. If an employer wishes to terminate compensation after an award for temporary benefits, the employer shall file with the commission and provide a copy to the employee or his or her attorney a complete medical report that provides findings that justify termination of temporary total benefits, including the physician's opinion as to permanent disability, if any. In such event temporary total disability benefits may be terminated on notice to the employee unless the employee objects. If the employee objects, the employer may request a hearing before the division and the division shall set the matter for hearing within sixty days of such request and the division shall hear the matter on the date of the hearing and no continuances or delays may be granted except upon a showing of good cause or by consent of the parties. The division shall render a decision to terminate compensation only upon proof that the employer is justified in terminating compensation pursuant to the provisions of this chapter. The division shall render a decision within fifteen days of the date of the hearing. The employer shall continue to provide compensation until a decision has been rendered by the division that such employer may terminate compensation. If temporary benefits are provided after the date the division finds that such benefits were no longer due, the employer shall receive a credit for such benefits paid against any award. In the event no award is found due to the employee, the employer shall receive an award against the employee for such excess benefits. In lieu of an employer receiving an award against the employee for such excess benefits, in the event no award is found due to the employee and benefits were paid by an insurance carrier required to pay a tax pursuant to section 287.690, such insurance carrier shall be eligible to take a refundable tax credit pursuant to section 287.690 equal to the amount of the excess benefits paid in its return filed pursuant to section 287.710 for the taxable year in which the excess benefits were paid. In no event shall an insurance carrier be eligible to take such a tax credit if the employer receives an award against the employee for the excess benefits.

287.430. Except for a claim for recovery filed against the second injury fund, no proceedings for compensation under this chapter shall be maintained unless a claim therefor is filed with the division within two years after the date of injury or death, or the last payment made under this chapter on account of the injury or death, except that if the report of the injury or the death is not filed by the employer as required by section 287.380, the claim for compensation may be filed within three years after the date of injury, death, or last payment made under this chapter on account of the injury or death. The filing of any form, report, receipt, or agreement, other than a claim for compensation, shall not toll the running of the periods of limitation provided in this section. The filing of the report of injury or death three years or more after the date of injury, death, or last payment made under this chapter on account of the injury or death, shall not toll the

running of the periods of limitation provided in this section, nor shall such filing reactivate or revive the period of time in which a claim may be filed. A claim against the second injury fund shall be filed within two years after the date of the injury [or within one year after a claim is filed against an employer or insurer pursuant to this chapter, whichever is later]. In all other respects the limitations shall be governed by the law of civil actions other than for the recovery of real property, but the appointment of a conservator shall be deemed the termination of the legal disability from minority or disability as defined in chapter 475, RSMo. The statute of limitations contained in this section is one of extinction and not of repose.

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