

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 347**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Small Business, Insurance and Industrial Relations, February 20, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1258S.03C

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**AN ACT**

To repeal sections 287.020 and 287.067, RSMo, and to enact in lieu thereof three new sections relating to workers' compensation law.

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

Section A. Sections 287.020 and 287.067, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 287.020, 287.067 and 287.803, to read as follows:

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is the owner and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the motor carrier and railroad safety division of the department of economic development or by the interstate commerce commission.

2. The word "accident" as used in this chapter shall[, unless a different meaning is clearly indicated by the context,] be construed to mean an unexpected **traumatic event or unusual**

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

**strain identifiable by time and place of occurrence** [or unforeseen identifiable event or series of events happening suddenly and violently, with or without human fault, and] producing at the time objective symptoms of an injury, **caused by a specific event during a single work shift.** [An injury is compensable if it is clearly work related. An injury is clearly work related if work was a substantial factor in the cause of the resulting medical condition or disability. An injury is not compensable merely because work was a triggering or precipitating factor.]

3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. The injury must be incidental to and not independent of the relation of employer and employee. **An injury by accident is compensable only if the accident was the dominant factor in causing the mental or physical condition or disability.** Ordinary, gradual deterioration or progressive degeneration of the body caused by aging **or by the normal physical and mental activities of day to day living** shall not be compensable[, except where the deterioration or degeneration follows as an incident of employment].

(2) An injury shall be deemed to arise out of and in the course of the employment only if:

(a) It is reasonably apparent, upon consideration of all the circumstances, that the [employment] **accident** is [a substantial] **the dominant** factor in causing the injury; and

[(b) It can be seen to have followed as a natural incident of the work; and

(c) It can be fairly traced to the employment as a proximate cause; and

(d)] **(b)** It does not come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of and unrelated to the employment in normal nonemployment life;

(3) **This chapter shall not apply to personal health conditions of an employee which manifest themselves in the employment in which the accident is not the dominant factor in the resulting need for medical treatment.**

(4) **An injury resulting directly or indirectly from idiopathic causes is not compensable.**

(5) **"Dominant factor"** shall mean the accident is the prevailing factor in relation to any other factors contributing to the mental or physical condition or disability.

(6) **A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or myocardial infarction suffered by a worker is an injury only if the accident is the dominant factor in causing the physical or mental condition or disability.**

(7) **The employee shall not be entitled to recover for the aggravation of a pre-**

**existing condition, except to the extent that the work-related injury causes increased permanent disability. Any award of compensation shall be reduced by the amount of permanent partial disability determined to be pre-existing disease or condition to cause or prolong disability or need for treatment, the resultant condition is compensable only to the extent that the compensable injury is and remains the dominant cause of the disability or need for treatment.**

(8) The terms "injury" and "personal injuries" shall mean violence to the physical structure of the body and to the personal property which is used to make up the physical structure of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are placed in or on the body to replace the physical structure and such disease or infection as naturally results therefrom. These terms shall in no case except as specifically provided in this chapter be construed to include occupational disease in any form, nor shall they be construed to include any contagious or infectious disease contracted during the course of the employment, nor shall they include death due to natural causes occurring while the worker is at work.

[4.] (9) "Death" when mentioned as a basis for the right to compensation means only death resulting from such violence and its resultant effects occurring within three hundred weeks after the accident; except that in cases of occupational disease, the limitation of three hundred weeks shall not be applicable.

[5.] 4. Without otherwise affecting either the meaning or interpretation of the abridged clause, "personal injuries arising out of and in the course of such employment", it is hereby declared not to cover workers except while engaged in or about the premises where their duties are being performed, or where their services require their presence as a part of such service.

[6.] 5. A person who is employed by the same employer for more than five and one-half consecutive work days shall for the purpose of this chapter be considered an "employee".

[7.] 6. The term "total disability" as used in this chapter shall mean inability to return to any employment and not merely mean inability to return to the employment in which the employee was engaged at the time of the accident.

[8.] 7. As used in this chapter and all acts amendatory thereof, the term "commission" shall hereafter be construed as meaning and referring exclusively to the labor and industrial relations commission of Missouri, and the term "director" shall hereafter be construed as meaning the director of the department of insurance of the state of Missouri or such agency of government as shall exercise the powers and duties now conferred and imposed upon the department of insurance of the state of Missouri.

[9.] 8. The term "division" as used in this chapter means the division of workers' compensation of the department of labor and industrial relations of the state of Missouri.

[10.] 9. For the purposes of this chapter, the term "minor" means a person who has not

attained the age of eighteen years; except that, for the purpose of computing the compensation provided for in this chapter, the provisions of section 287.250 shall control.

287.067. 1. In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

2. An occupational disease is compensable **only** if [it is clearly work related and meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020. An occupational disease is not compensable merely because work was a triggering or precipitating factor.] **the occupational exposure was the dominant factor in causing the physical condition. An occupational disease is compensable only if the occupational disease was the dominate factor in causing the mental or physical condition or disability. Ordinary, gradual deterioration or progressive degeneration of the body caused by aging or by the normal physical and mental activities of day to day living shall not be compensable.**

3. "Loss of hearing due to industrial noise" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of producing occupational deafness.

4. "Radiation disability" is recognized as an occupational disease for purposes of this chapter and is hereby defined to be that disability due to radioactive properties or substances or to Roentgen rays (X rays) or exposure to ionizing radiation caused by any process involving the use of or direct contact with radium or radioactive properties or substances or the use of or direct exposure to Roentgen rays (X rays) or ionizing radiation.

5. **Except as provided in subsections 8 and 9 of section 287.120**, disease of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart or cardiovascular system, including carcinoma, may be recognized as occupational diseases for the purposes of this chapter and are defined to be disability due to exposure to smoke, gases, carcinogens, inadequate oxygen, or psychological stress of firefighters of a paid fire department [if a direct causal relationship is established] **and peace officers certified pursuant to chapter 590, RSMo, if the exposure was the dominant factor in causing the condition or disability.**

6. Any employee who is exposed to and contracts any contagious or communicable disease arising out of and in the course of his or her employment shall be eligible for benefits under this

chapter as an occupational disease.

7. With regard to occupational disease due to repetitive motion, if the exposure to the repetitive motion which is found to be the cause of the injury is for a period of less than three months and the evidence demonstrates that the exposure to the repetitive motion with a prior employer was the [substantial contributing] **dominant** factor [to] **in causing** the injury, the prior employer shall be liable for such occupational disease.

**287.803. 1. An employee may choose to reject the provisions of this chapter based on the fact that such employee is a member of a religious sect, and such religion has established tenets or teaching opposed to the acceptance of benefits by its members from any public or private insurance which makes payments toward the costs of, or provides services for medical bills including benefits of any insurance system established pursuant to the Federal Social Security Act, 42 U.S.C. 301, et seq. To reject the provisions of this chapter, the employee shall submit a written waiver of all benefits of this chapter and an affidavit that he or she is a member of said religious sect, attesting to the rejection of the benefits of public or private insurance.**

**2. The waiver and affidavit required by subsection 1 of this section shall be made upon a form to be provided by the division of workers' compensation.**

**3. An exception granted in regards to a specific employee shall continue to be valid until such employee rescinds the prior rejection of coverage or the employee or sect ceases to meet the requirements of subsection 1 of this section.**

**4. Any rejection pursuant to subsection 1 of this section shall be prospective in nature and shall entitle the employee only to reject such benefits that accrue on or after the date the rescission form is received by the insurance company.**

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