

FIRST REGULAR SESSION

SENATE BILL NO. 323

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1706S.011

AN ACT

To repeal section 287.190, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

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

Section A. Section 287.190, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 287.190, to read as follows:

287.190. 1. For permanent partial disability, which shall be in addition
2 to compensation for temporary total disability or temporary partial disability paid
3 in accordance with sections 287.170 and 287.180, respectively, the employer shall
4 pay to the employee compensation computed at the weekly rate of compensation
5 in effect under subsection 5 of this section on the date of the injury for which
6 compensation is being made, which compensation shall be allowed for loss by
7 severance, total loss of use, or proportionate loss of use of one or more of the
8 members mentioned in the schedule of losses.

SCHEDULE OF LOSSES

	Weeks
(1) Loss of arm at shoulder	232
(2) Loss of arm between shoulder and elbow	222
(3) Loss of arm at elbow joint	210
(4) Loss of arm between elbow and wrist	200
(5) Loss of hand at the wrist joint	175
(6) Loss of thumb at proximal joint	60
(7) Loss of thumb at distal joint	45
(8) Loss of index finger at proximal joint	45
(9) Loss of index finger at second joint	35

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

20	(10) Loss of index finger at distal joint	30
21	(11) Loss of either the middle or ring finger at the	
22	proximal joint	35
23	(12) Loss of either the middle or ring finger	
24	at second joint	30
25	(13) Loss of either the middle or ring finger	
26	at the distal joint	26
27	(14) Loss of little finger at proximal joint	22
28	(15) Loss of little finger at second joint	20
29	(16) Loss of little finger at distal joint	16
30	(17) Loss of one leg at the hip joint or so near thereto	
31	as to preclude the use of artificial limb	207
32	(18) Loss of one leg at or above the knee, where the	
33	stump remains sufficient to permit the use of	
34	artificial limb	160
35	(19) Loss of one leg at or above ankle and below knee	
36	joint	155
37	(20) Loss of one foot in tarsus	150
38	(21) Loss of one foot in metatarsus	110
39	(22) Loss of great toe of one foot at proximal joint	40
40	(23) Loss of great toe of one foot at distal joint	22
41	(24) Loss of any other toe at proximal joint	14
42	(25) Loss of any other toe at second joint	10
43	(26) Loss of any other toe at distal joint	8
44	(27) Complete deafness of both ears	180
45	(28) Complete deafness of one ear, the	
46	other being normal	49
47	(29) Complete loss of the sight of one eye	140
48	2. If the disability suffered in any of items (1) through (29) of the schedule	
49	of losses is total by reason of severance or complete loss of use thereof the number	
50	of weeks of compensation allowed in the schedule for such disability shall be	
51	increased by ten percent.	
52	3. For permanent injuries other than those specified in the schedule of	
53	losses, the compensation shall be paid for such periods as are proportionate to the	
54	relation which the other injury bears to the injuries above specified, but no period	
55	shall exceed four hundred weeks, at the rates fixed in subsection 1. The other	

injuries shall include permanent injuries causing a loss of earning power. For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe or phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe or phalange, as provided in the schedule of losses.

4. If an employee is seriously and permanently disfigured about the head[,] or neck[, hands or arms] **and the disfigurement is a hindrance to employment**, the division or commission may allow such additional sum for the compensation on account thereof as it may deem just, but the sum shall not exceed forty weeks of compensation. If both the employer and employee agree, the administrative law judge may utilize a photograph of the disfigurement in determining the amount of such additional sum.

5. The amount of compensation to be paid under subsection 1 of this section shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to forty-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1981, the weekly compensation shall in no event be less than forty dollars per week;

(3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to fifty percent of the state average weekly wage;

(4) For all injuries occurring on or after August 28, 1991, but before August 28, 1992, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to fifty-two percent of the state average weekly wage;

(5) For all injuries occurring on or after August 28, 1992, the weekly

92 compensation shall be an amount equal to sixty-six and two-thirds percent of the
93 employee's average weekly earnings as of the date of the injury; provided that the
94 weekly compensation paid under this subdivision shall not exceed an amount
95 equal to fifty-five percent of the state average weekly wage.

96 6. (1) "Permanent partial disability" means a disability that is permanent
97 in nature and partial in degree, and when payment therefor has been made in
98 accordance with a settlement approved either by an administrative law judge or
99 by the labor and industrial relations commission, a rating established by medical
100 finding, certified by a physician, and approved by an administrative law judge or
101 legal advisor, or an award by an administrative law judge or the commission, the
102 percentage of disability shall be conclusively presumed to continue undiminished
103 whenever a subsequent injury to the same member or same part of the body also
104 results in permanent partial disability for which compensation under this chapter
105 may be due; provided, however, the presumption shall apply only to compensable
106 injuries which may occur after August 29, 1959.

107 (2) Permanent partial disability or permanent total disability shall be
108 demonstrated and certified by a physician. Medical opinions addressing
109 compensability and disability shall be stated within a reasonable degree of
110 medical certainty. In determining compensability and disability, where
111 inconsistent or conflicting medical opinions exist, objective medical findings shall
112 prevail over subjective medical findings. Objective medical findings are those
113 findings demonstrable on physical examination or by appropriate tests or
114 diagnostic procedures.

115 (3) Any award of compensation shall be reduced by an amount
116 proportional to the permanent partial disability determined to be a preexisting
117 disease or condition or attributed to the natural process of aging sufficient to
118 cause or prolong the disability or need of treatment.

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