

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NOS. 404 & 614

AN ACT

To repeal sections 287.020, 287.067, 287.120, 287.140, 287.200, 287.210, 287.220, 287.243, 287.280, 287.610, 287.715, 287.745, and 287.955, RSMo, and to enact in lieu thereof fourteen new sections relating to workers' compensation, with an existing penalty provision and an effective date.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 287.020, 287.067, 287.120, 287.140,
2 287.200, 287.210, 287.220, 287.243, 287.280, 287.610, 287.715,
3 287.745, and 287.955, RSMo, are repealed and fourteen new
4 sections enacted in lieu thereof, to be known as sections
5 287.020, 287.067, 287.120, 287.140, 287.200, 287.210, 287.213,
6 287.220, 287.243, 287.280, 287.610, 287.715, 287.745, and
7 287.955, to read as follows:

8 287.020. 1. The word "employee" as used in this chapter
9 shall be construed to mean every person in the service of any
10 employer, as defined in this chapter, under any contract of hire,
11 express or implied, oral or written, or under any appointment or
12 election, including executive officers of corporations. Except

1 as otherwise provided in section 287.200, any reference to any
2 employee who has been injured shall, when the employee is dead,
3 also include his dependents, and other persons to whom
4 compensation may be payable. The word "employee" shall also
5 include all minors who work for an employer, whether or not such
6 minors are employed in violation of law, and all such minors are
7 hereby made of full age for all purposes under, in connection
8 with, or arising out of this chapter. The word "employee" shall
9 not include an individual who is the owner, as defined in
10 subsection 43 of section 301.010, and operator of a motor vehicle
11 which is leased or contracted with a driver to a for-hire motor
12 carrier operating within a commercial zone as defined in section
13 390.020 or 390.041, or operating under a certificate issued by
14 the Missouri department of transportation or by the United States
15 Department of Transportation, or any of its subagencies.

16 2. The word "accident" as used in this chapter shall mean
17 an unexpected traumatic event or unusual strain identifiable by
18 time and place of occurrence and producing at the time objective
19 symptoms of an injury caused by a specific event during a single
20 work shift. An injury is not compensable because work was a
21 triggering or precipitating factor.

22 3. (1) In this chapter the term "injury" is hereby defined
23 to be an injury which has arisen out of and in the course of
24 employment. An injury by accident is compensable only if the
25 accident was the prevailing factor in causing both the resulting
26 medical condition and disability. "The prevailing factor" is
27 defined to be the primary factor, in relation to any other
28 factor, causing both the resulting medical condition and

1 disability.

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

4 (a) It is reasonably apparent, upon consideration of all
5 the circumstances, that the accident is the prevailing factor in
6 causing the injury; and

7 (b) It does not come from a hazard or risk unrelated to the
8 employment to which workers would have been equally exposed
9 outside of and unrelated to the employment in normal
10 nonemployment life.

11 (3) An injury resulting directly or indirectly from
12 idiopathic causes is not compensable.

13 (4) A cardiovascular, pulmonary, respiratory, or other
14 disease, or cerebrovascular accident or myocardial infarction
15 suffered by a worker is an injury only if the accident is the
16 prevailing factor in causing the resulting medical condition.

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

1 at work.

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

7 5. Injuries sustained in company-owned or subsidized
8 automobiles in accidents that occur while traveling from the
9 employee's home to the employer's principal place of business or
10 from the employer's principal place of business to the employee's
11 home are not compensable. The extension of premises doctrine is
12 abrogated to the extent it extends liability for accidents that
13 occur on property not owned or controlled by the employer even if
14 the accident occurs on customary, approved, permitted, usual or
15 accepted routes used by the employee to get to and from their
16 place of employment.

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

21 7. As used in this chapter and all acts amendatory thereof,
22 the term "commission" shall hereafter be construed as meaning and
23 referring exclusively to the labor and industrial relations
24 commission of Missouri, and the term "director" shall hereafter
25 be construed as meaning the director of the department of
26 insurance, financial institutions and professional registration
27 of the state of Missouri or such agency of government as shall
28 exercise the powers and duties now conferred and imposed upon the

1 department of insurance, financial institutions and professional
2 registration of the state of Missouri.

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

6 9. For the purposes of this chapter, the term "minor" means
7 a person who has not attained the age of eighteen years; except
8 that, for the purpose of computing the compensation provided for
9 in this chapter, the provisions of section 287.250 shall control.

10 10. In applying the provisions of this chapter, it is the
11 intent of the legislature to reject and abrogate earlier case law
12 interpretations on the meaning of or definition of "accident",
13 "occupational disease", "arising out of", and "in the course of
14 the employment" to include, but not be limited to, holdings in:
15 Bennett v. Columbia Health Care and Rehabilitation, 80 S.W.3d 524
16 (Mo.App. W.D. 2002); Kasl v. Bristol Care, Inc., 984 S.W.2d 852
17 (Mo.banc 1999); and Drewes v. TWA, 984 S.W.2d 512 (Mo.banc 1999)
18 and all cases citing, interpreting, applying, or following those
19 cases.

20 11. For the purposes of this chapter, "occupational
21 diseases due to toxic exposure" shall only include the following:
22 mesothelioma, asbestosis, berylliosis, coal worker's
23 pneumoconiosis, brochiolitis obliterans, silicosis,
24 silicotuberculosis, manganism, acute myelogenous leukemia, and
25 myelodysplastic syndrome.

26 287.067. 1. In this chapter the term "occupational
27 disease" is hereby defined to mean, unless a different meaning is
28 clearly indicated by the context, an identifiable disease arising

1 with or without human fault out of and in the course of the
2 employment. Ordinary diseases of life to which the general
3 public is exposed outside of the employment shall not be
4 compensable, except where the diseases follow as an incident of
5 an occupational disease as defined in this section. The disease
6 need not to have been foreseen or expected but after its
7 contraction it must appear to have had its origin in a risk
8 connected with the employment and to have flowed from that source
9 as a rational consequence.

10 2. An injury or death by occupational disease is
11 compensable only if the occupational exposure was the prevailing
12 factor in causing both the resulting medical condition and
13 disability. The "prevailing factor" is defined to be the primary
14 factor, in relation to any other factor, causing both the
15 resulting medical condition and disability. Ordinary, gradual
16 deterioration, or progressive degeneration of the body caused by
17 aging or by the normal activities of day-to-day living shall not
18 be compensable.

19 3. An injury due to repetitive motion is recognized as an
20 occupational disease for purposes of this chapter. An
21 occupational disease due to repetitive motion is compensable only
22 if the occupational exposure was the prevailing factor in causing
23 both the resulting medical condition and disability. The
24 "prevailing factor" is defined to be the primary factor, in
25 relation to any other factor, causing both the resulting medical
26 condition and disability. Ordinary, gradual deterioration, or
27 progressive degeneration of the body caused by aging or by the
28 normal activities of day-to-day living shall not be compensable.

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

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

13 6. Disease of the lungs or respiratory tract, hypotension,
14 hypertension, or disease of the heart or cardiovascular system,
15 including carcinoma, may be recognized as occupational diseases
16 for the purposes of this chapter and are defined to be disability
17 due to exposure to smoke, gases, carcinogens, inadequate oxygen,
18 of paid firefighters of a paid fire department or paid police
19 officers of a paid police department certified under chapter 590
20 if a direct causal relationship is established, or psychological
21 stress of firefighters of a paid fire department or paid peace
22 officers of a police department who are certified under chapter
23 590 if a direct causal relationship is established.

24 7. Any employee who is exposed to and contracts any
25 contagious or communicable disease arising out of and in the
26 course of his or her employment shall be eligible for benefits
27 under this chapter as an occupational disease.

28 8. With regard to occupational disease due to repetitive

1 motion, if the exposure to the repetitive motion which is found
2 to be the cause of the injury is for a period of less than three
3 months and the evidence demonstrates that the exposure to the
4 repetitive motion with the immediate prior employer was the
5 prevailing factor in causing the injury, the prior employer shall
6 be liable for such occupational disease.

7 287.120. 1. Every employer subject to the provisions of
8 this chapter shall be liable, irrespective of negligence, to
9 furnish compensation under the provisions of this chapter for
10 personal injury or death of the employee by accident or
11 occupational disease arising out of and in the course of the
12 employee's employment. Any employee of such employer shall not
13 be liable for any injury or death for which compensation is
14 recoverable under this chapter and every employer and employees
15 of such employer shall be released from all other liability
16 whatsoever, whether to the employee or any other person, except
17 that an employee shall not be released from liability for injury
18 or death if the employee engaged in an affirmative negligent act
19 that purposefully and dangerously caused or increased the risk of
20 injury. The term "accident" as used in this section shall
21 include, but not be limited to, injury or death of the employee
22 caused by the unprovoked violence or assault against the employee
23 by any person.

24 2. The rights and remedies herein granted to an employee
25 shall exclude all other rights and remedies of the employee, his
26 wife, her husband, parents, personal representatives, dependents,
27 heirs or next kin, at common law or otherwise, on account of such
28 injury or death by accident or occupational disease, except such

1 rights and remedies as are not provided for by this chapter.

2 3. No compensation shall be allowed under this chapter for
3 the injury or death due to the employee's intentional
4 self-inflicted injury, but the burden of proof of intentional
5 self-inflicted injury shall be on the employer or the person
6 contesting the claim for allowance.

7 4. Where the injury is caused by the failure of the
8 employer to comply with any statute in this state or any lawful
9 order of the division or the commission, the compensation and
10 death benefit provided for under this chapter shall be increased
11 fifteen percent.

12 5. Where the injury is caused by the failure of the
13 employee to use safety devices where provided by the employer, or
14 from the employee's failure to obey any reasonable rule adopted
15 by the employer for the safety of employees, the compensation and
16 death benefit provided for herein shall be reduced at least
17 twenty-five but not more than fifty percent; provided, that it is
18 shown that the employee had actual knowledge of the rule so
19 adopted by the employer; and provided, further, that the employer
20 had, prior to the injury, made a reasonable effort to cause his
21 or her employees to use the safety device or devices and to obey
22 or follow the rule so adopted for the safety of the employees.

23 6. (1) Where the employee fails to obey any rule or policy
24 adopted by the employer relating to a drug-free workplace or the
25 use of alcohol or nonprescribed controlled drugs in the
26 workplace, the compensation and death benefit provided for herein
27 shall be reduced fifty percent if the injury was sustained in
28 conjunction with the use of alcohol or nonprescribed controlled

1 drugs.

2 (2) If, however, the use of alcohol or nonprescribed
3 controlled drugs in violation of the employer's rule or policy is
4 the proximate cause of the injury, then the benefits or
5 compensation otherwise payable under this chapter for death or
6 disability shall be forfeited.

7 (3) The voluntary use of alcohol to the percentage of blood
8 alcohol sufficient under Missouri law to constitute legal
9 intoxication shall give rise to a rebuttable presumption that the
10 voluntary use of alcohol under such circumstances was the
11 proximate cause of the injury. A preponderance of the evidence
12 standard shall apply to rebut such presumption. An employee's
13 refusal to take a test for alcohol or a nonprescribed controlled
14 substance, as defined by section 195.010, at the request of the
15 employer shall result in the forfeiture of benefits under this
16 chapter if the employer had sufficient cause to suspect use of
17 alcohol or a nonprescribed controlled substance by the claimant
18 or if the employer's policy clearly authorizes post-injury
19 testing.

20 7. Where the employee's participation in a recreational
21 activity or program is the prevailing cause of the injury,
22 benefits or compensation otherwise payable under this chapter for
23 death or disability shall be forfeited regardless that the
24 employer may have promoted, sponsored or supported the
25 recreational activity or program, expressly or impliedly, in
26 whole or in part. The forfeiture of benefits or compensation
27 shall not apply when:

28 (1) The employee was directly ordered by the employer to

1 participate in such recreational activity or program;

2 (2) The employee was paid wages or travel expenses while
3 participating in such recreational activity or program; or

4 (3) The injury from such recreational activity or program
5 occurs on the employer's premises due to an unsafe condition and
6 the employer had actual knowledge of the employee's participation
7 in the recreational activity or program and of the unsafe
8 condition of the premises and failed to either curtail the
9 recreational activity or program or cure the unsafe condition.

10 8. Mental injury resulting from work-related stress does
11 not arise out of and in the course of the employment, unless it
12 is demonstrated that the stress is work related and was
13 extraordinary and unusual. The amount of work stress shall be
14 measured by objective standards and actual events.

15 9. A mental injury is not considered to arise out of and in
16 the course of the employment if it resulted from any disciplinary
17 action, work evaluation, job transfer, layoff, demotion,
18 termination or any similar action taken in good faith by the
19 employer.

20 10. The ability of a firefighter to receive benefits for
21 psychological stress under section 287.067 shall not be
22 diminished by the provisions of subsections 8 and 9 of this
23 section.

24 287.140. 1. In addition to all other compensation paid to
25 the employee under this section, the employee shall receive and
26 the employer shall provide such medical, surgical, chiropractic,
27 and hospital treatment, including nursing, custodial, ambulance
28 and medicines, as may reasonably be required after the injury or

1 disability, to cure and relieve from the effects of the injury.
2 If the employee desires, he shall have the right to select his
3 own physician, surgeon, or other such requirement at his own
4 expense. Where the requirements are furnished by a public
5 hospital or other institution, payment therefor shall be made to
6 the proper authorities. Regardless of whether the health care
7 provider is selected by the employer or is selected by the
8 employee at the employee's expense, the health care provider
9 shall have the affirmative duty to communicate fully with the
10 employee regarding the nature of the employee's injury and
11 recommended treatment exclusive of any evaluation for a permanent
12 disability rating. Failure to perform such duty to communicate
13 shall constitute a disciplinary violation by the provider subject
14 to the provisions of chapter 620. When an employee is required
15 to submit to medical examinations or necessary medical treatment
16 at a place outside of the local or metropolitan area from the
17 employee's principal place of employment, the employer or its
18 insurer shall advance or reimburse the employee for all necessary
19 and reasonable expenses; except that an injured employee who
20 resides outside the state of Missouri and who is employed by an
21 employer located in Missouri shall have the option of selecting
22 the location of services provided in this section either at a
23 location within one hundred miles of the injured employee's
24 residence, place of injury or place of hire by the employer. The
25 choice of provider within the location selected shall continue to
26 be made by the employer. In case of a medical examination if a
27 dispute arises as to what expenses shall be paid by the employer,
28 the matter shall be presented to the legal advisor, the

1 administrative law judge or the commission, who shall set the sum
2 to be paid and same shall be paid by the employer prior to the
3 medical examination. In no event, however, shall the employer or
4 its insurer be required to pay transportation costs for a greater
5 distance than two hundred fifty miles each way from place of
6 treatment.

7 2. If it be shown to the division or the commission that
8 the requirements are being furnished in such manner that there is
9 reasonable ground for believing that the life, health, or
10 recovery of the employee is endangered thereby, the division or
11 the commission may order a change in the physician, surgeon,
12 hospital or other requirement.

13 3. All fees and charges under this chapter shall be fair
14 and reasonable, shall be subject to regulation by the division or
15 the commission, or the board of rehabilitation in rehabilitation
16 cases. A health care provider shall not charge a fee for
17 treatment and care which is governed by the provisions of this
18 chapter greater than the usual and customary fee the provider
19 receives for the same treatment or service when the payor for
20 such treatment or service is a private individual or a private
21 health insurance carrier. The division or the commission, or the
22 board of rehabilitation in rehabilitation cases, shall also have
23 jurisdiction to hear and determine all disputes as to such
24 charges. A health care provider is bound by the determination
25 upon the reasonableness of health care bills.

26 4. The division shall, by regulation, establish methods to
27 resolve disputes concerning the reasonableness of medical
28 charges, services, or aids. This regulation shall govern

1 resolution of disputes between employers and medical providers
2 over fees charged, whether or not paid, and shall be in lieu of
3 any other administrative procedure under this chapter. The
4 employee shall not be a party to a dispute over medical charges,
5 nor shall the employee's recovery in any way be jeopardized
6 because of such dispute. Any application for payment of
7 additional reimbursement, as such term is used in 8 CSR 50-2.030,
8 as amended, shall be filed not later than:

9 (1) Two years from the date the medical services were
10 rendered if such services were rendered before July 1, 2013; and

11 (2) One year from the date the medical services were
12 rendered if such services were rendered on or after July 1, 2013.

13 5. No compensation shall be payable for the death or
14 disability of an employee, if and insofar as the death or
15 disability may be caused, continued or aggravated by any
16 unreasonable refusal to submit to any medical or surgical
17 treatment or operation, the risk of which is, in the opinion of
18 the division or the commission, inconsiderable in view of the
19 seriousness of the injury. If the employee dies as a result of
20 an operation made necessary by the injury, the death shall be
21 deemed to be caused by the injury.

22 6. The testimony of any physician or chiropractic physician
23 who treated the employee shall be admissible in evidence in any
24 proceedings for compensation under this chapter, subject to all
25 of the provisions of section 287.210.

26 7. Every hospital or other person furnishing the employee
27 with medical aid shall permit its record to be copied by and
28 shall furnish full information to the division or the commission,

1 the employer, the employee or his dependents and any other party
2 to any proceedings for compensation under this chapter, and
3 certified copies of the records shall be admissible in evidence
4 in any such proceedings.

5 8. The employer may be required by the division or the
6 commission to furnish an injured employee with artificial legs,
7 arms, hands, surgical orthopedic joints, or eyes, or braces, as
8 needed, for life whenever the division or the commission shall
9 find that the injured employee may be partially or wholly
10 relieved of the effects of a permanent injury by the use thereof.
11 The director of the division shall establish a procedure whereby
12 a claim for compensation may be reactivated after settlement of
13 such claim is completed. The claim shall be reactivated only
14 after the claimant can show good cause for the reactivation of
15 this claim and the claim shall be made only for the payment of
16 medical procedures involving life-threatening surgical procedures
17 or if the claimant requires the use of a new, or the
18 modification, alteration or exchange of an existing, prosthetic
19 device. For the purpose of this subsection, "life threatening"
20 shall mean a situation or condition which, if not treated
21 immediately, will likely result in the death of the injured
22 worker.

23 9. Nothing in this chapter shall prevent an employee being
24 provided treatment for his injuries by prayer or spiritual means
25 if the employer does not object to the treatment.

26 10. The employer shall have the right to select the
27 licensed treating physician, surgeon, chiropractic physician, or
28 other health care provider; provided, however, that such

1 physicians, surgeons or other health care providers shall offer
2 only those services authorized within the scope of their
3 licenses. For the purpose of this subsection, subsection 2 of
4 section 287.030 shall not apply.

5 11. Any physician or other health care provider who orders,
6 directs or refers a patient for treatment, testing, therapy or
7 rehabilitation at any institution or facility shall, at or prior
8 to the time of the referral, disclose in writing if such health
9 care provider, any of his partners or his employer has a
10 financial interest in the institution or facility to which the
11 patient is being referred, to the following:

12 (1) The patient;

13 (2) The employer of the patient with workers' compensation
14 liability for the injury or disease being treated;

15 (3) The workers' compensation insurer of such employer; and

16 (4) The workers' compensation adjusting company for such
17 insurer.

18 12. Violation of subsection 11 of this section is a class A
19 misdemeanor.

20 13. (1) No hospital, physician or other health care
21 provider, other than a hospital, physician or health care
22 provider selected by the employee at his own expense pursuant to
23 subsection 1 of this section, shall bill or attempt to collect
24 any fee or any portion of a fee for services rendered to an
25 employee due to a work-related injury or report to any credit
26 reporting agency any failure of the employee to make such
27 payment, when an injury covered by this chapter has occurred and
28 such hospital, physician or health care provider has received

1 actual notice given in writing by the employee, the employer or
2 the employer's insurer. Actual notice shall be deemed received
3 by the hospital, physician or health care provider five days
4 after mailing by certified mail by the employer or insurer to the
5 hospital, physician or health care provider.

6 (2) The notice shall include:

7 (a) The name of the employer;

8 (b) The name of the insurer, if known;

9 (c) The name of the employee receiving the services;

10 (d) The general nature of the injury, if known; and

11 (e) Where a claim has been filed, the claim number, if
12 known.

13 (3) When an injury is found to be noncompensable under this
14 chapter, the hospital, physician or other health care provider
15 shall be entitled to pursue the employee for any unpaid portion
16 of the fee or other charges for authorized services provided to
17 the employee. Any applicable statute of limitations for an
18 action for such fees or other charges shall be tolled from the
19 time notice is given to the division by a hospital, physician or
20 other health care provider pursuant to subdivision (6) of this
21 subsection, until a determination of noncompensability in regard
22 to the injury which is the basis of such services is made, or in
23 the event there is an appeal to the labor and industrial
24 relations commission, until a decision is rendered by that
25 commission.

26 (4) If a hospital, physician or other health care provider
27 or a debt collector on behalf of such hospital, physician or
28 other health care provider pursues any action to collect from an

1 employee after such notice is properly given, the employee shall
2 have a cause of action against the hospital, physician or other
3 health care provider for actual damages sustained plus up to one
4 thousand dollars in additional damages, costs and reasonable
5 attorney's fees.

6 (5) If an employer or insurer fails to make payment for
7 authorized services provided to the employee by a hospital,
8 physician or other health care provider pursuant to this chapter,
9 the hospital, physician or other health care provider may proceed
10 pursuant to subsection 4 of this section with a dispute against
11 the employer or insurer for any fees or other charges for
12 services provided.

13 (6) A hospital, physician or other health care provider
14 whose services have been authorized in advance by the employer or
15 insurer may give notice to the division of any claim for fees or
16 other charges for services provided for a work-related injury
17 that is covered by this chapter, with copies of the notice to the
18 employee, employer and the employer's insurer. Where such notice
19 has been filed, the administrative law judge may order direct
20 payment from the proceeds of any settlement or award to the
21 hospital, physician or other health care provider for such fees
22 as are determined by the division. The notice shall be on a form
23 prescribed by the division.

24 14. The employer may allow or require an employee to use
25 any of the employee's accumulated paid leave, personal leave, or
26 medical or sick leave to attend to medical treatment, physical
27 rehabilitation, or medical evaluations during work time. The
28 intent of this subsection is to specifically supercede and

1 abrogate any case law that contradicts the express language of
2 this section.

3 287.200. 1. Compensation for permanent total disability
4 shall be paid during the continuance of such disability for the
5 lifetime of the employee at the weekly rate of compensation in
6 effect under this subsection on the date of the injury for which
7 compensation is being made. The word "employee" as used in this
8 section shall not include the injured worker's dependents,
9 estate, or other persons to whom compensation may be payable as
10 provided in subsection 1 of section 287.020. The amount of such
11 compensation shall be computed as follows:

12 (1) For all injuries occurring on or after September 28,
13 1983, but before September 28, 1986, the weekly compensation
14 shall be an amount equal to sixty-six and two-thirds percent of
15 the injured employee's average weekly earnings during the year
16 immediately preceding the injury, as of the date of the injury;
17 provided that the weekly compensation paid under this subdivision
18 shall not exceed an amount equal to seventy percent of the state
19 average weekly wage, as such wage is determined by the division
20 of employment security, as of the July first immediately
21 preceding the date of injury;

22 (2) For all injuries occurring on or after September 28,
23 1986, but before August 28, 1990, the weekly compensation shall
24 be an amount equal to sixty-six and two-thirds percent of the
25 injured employee's average weekly earnings during the year
26 immediately preceding the injury, as of the date of the injury;
27 provided that the weekly compensation paid under this subdivision
28 shall not exceed an amount equal to seventy-five percent of the

1 state average weekly wage, as such wage is determined by the
2 division of employment security, as of the July first immediately
3 preceding the date of injury;

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

11 (4) For all injuries occurring on or after August 28, 1991,
12 the weekly compensation shall be an amount equal to sixty-six and
13 two-thirds percent of the injured employee's average weekly
14 earnings as of the date of the injury; provided that the weekly
15 compensation paid under this subdivision shall not exceed an
16 amount equal to one hundred five percent of the state average
17 weekly wage;

18 (5) For all injuries occurring on or after September 28,
19 1981, the weekly compensation shall in no event be less than
20 forty dollars per week.

21 2. Permanent total disability benefits that have accrued
22 through the date of the injured employee's death are the only
23 permanent total disability benefits that are to be paid in
24 accordance with section 287.230. The right to unaccrued
25 compensation for permanent total disability of an injured
26 employee terminates on the date of the injured employee's death
27 in accordance with section 287.230, and does not survive to the
28 injured employee's dependents, estate, or other persons to whom

1 compensation might otherwise be payable.

2 3. All claims for permanent total disability shall be
3 determined in accordance with the facts. When an injured
4 employee receives an award for permanent total disability but by
5 the use of glasses, prosthetic appliances, or physical
6 rehabilitation the employee is restored to his regular work or
7 its equivalent, the life payment mentioned in subsection 1 of
8 this section shall be suspended during the time in which the
9 employee is restored to his regular work or its equivalent. The
10 employer and the division shall keep the file open in the case
11 during the lifetime of any injured employee who has received an
12 award of permanent total disability. In any case where the life
13 payment is suspended under this subsection, the commission may at
14 reasonable times review the case and either the employee or the
15 employer may request an informal conference with the commission
16 relative to the resumption of the employee's weekly life payment
17 in the case.

18 4. For all claims filed on or after the effective date of
19 this section for occupational diseases due to toxic exposure
20 which result in a permanent total disability or death, benefits
21 in this chapter shall be provided as follows:

22 (1) Such amount as due to the employee during said
23 employee's life as provided for under this chapter for an award
24 of permanent total disability and death, except such amount shall
25 only be paid when benefits under subdivision (2) of this
26 subsection have been exhausted; and

27 (2) An amount equal to two hundred percent of the state's
28 average weekly wage as of the date of diagnosis for one hundred

1 weeks paid by the employer; and

2 (3) In cases where occupational diseases due to toxic
3 exposure are found to be mesothelioma, an additional amount of
4 three hundred percent of the state's average weekly wage for one
5 hundred ninety-one weeks shall be paid pursuant to section
6 287.213; and

7 (4) The provisions of subdivisions (2) and (3) of this
8 subsection shall not be subject to suspension of benefits as
9 provided in subsection 3 of this section; and

10 (5) Notwithstanding any other provision of this chapter to
11 the contrary, should the employee die before the additional
12 benefits provided for in subdivisions (2) and (3) of this
13 subsection are paid, the additional benefits are payable to the
14 employee's spouse or children, natural or adopted, legitimate or
15 illegitimate, in addition to benefits provided under section
16 287.240. If there is no surviving spouse or children and the
17 employee has received less than the additional benefits provided
18 for in subdivisions (2) and (3) of this subsection the remainder
19 of such additional benefits shall be paid as a single payment to
20 the estate of the employee.

21 5. The provisions of subsection 4 of this section shall
22 expire on December 31, 2023.

23 287.210. 1. After an employee has received an injury he
24 shall from time to time thereafter during disability submit to
25 reasonable medical examination at the request of the employer,
26 [his] the employer's insurer, the commission, the division [or],
27 an administrative law judge, or the attorney general on behalf of
28 the second injury fund if the employer has not obtained a medical

1 examination report, the time and place of which shall be fixed
2 with due regard to the convenience of the employee and his
3 physical condition and ability to attend. The employee may have
4 his own physician present, and if the employee refuses to submit
5 to the examination, or in any way obstructs it, his right to
6 compensation shall be forfeited during such period unless in the
7 opinion of the commission the circumstances justify the refusal
8 or obstruction.

9 2. The commission, the division or administrative law judge
10 shall, when deemed necessary, appoint a duly qualified impartial
11 physician to examine the injured employee, and any physician so
12 chosen, if he accepts the appointment, shall promptly make the
13 examination requested and make a complete medical report to the
14 commission or the division in such duplication as to provide all
15 parties with copies thereof. The physician's fee shall be fair
16 and reasonable, as provided in subsection 3 of section 287.140,
17 and the fee and other reasonable costs of the impartial
18 examination may be paid as other costs under this chapter. If all
19 the parties shall have had reasonable access thereto, the report
20 of the physician shall be admissible in evidence.

21 3. The testimony of any physician who treated or examined
22 the injured employee shall be admissible in evidence in any
23 proceedings for compensation under this chapter, but only if the
24 medical report of the physician has been made available to all
25 parties as in this section provided. Immediately upon receipt of
26 notice from the division or the commission setting a date for
27 hearing of a case in which the nature and extent of an employee's
28 disability is to be determined, the parties or their attorneys

1 shall arrange, without charge or costs, each to the other, for an
2 exchange of all medical reports, including those made both by
3 treating and examining physician or physicians, to the end that
4 the parties may be commonly informed of all medical findings and
5 opinions. The exchange of medical reports shall be made at least
6 seven days before the date set for the hearing and failure of any
7 party to comply may be grounds for asking for and receiving a
8 continuance, upon proper showing by the party to whom the medical
9 reports were not furnished. If any party fails or refuses to
10 furnish the opposing party with the medical report of the
11 treating or examining physician at least seven days before such
12 physician's deposition or personal testimony at the hearing, as
13 in this section provided, upon the objection of the party who was
14 not provided with the medical report, the physician shall not be
15 permitted to testify at that hearing or by medical deposition.

16 4. Upon request, an administrative law judge, the division,
17 or the commission shall be provided with a copy of any medical
18 report.

19 5. As used in this chapter the terms "physician's report"
20 and "medical report" mean the report of any physician made on any
21 printed form authorized by the division or the commission or any
22 complete medical report. As used in this chapter the term
23 "complete medical report" means the report of a physician giving
24 the physician's qualifications and the patient's history,
25 complaints, details of the findings of any and all laboratory,
26 X-ray and all other technical examinations, diagnosis, prognosis,
27 nature of disability, if any, and an estimate of the percentage
28 of permanent partial disability, if any. An element or elements

1 of a complete medical report may be met by the physician's
2 records.

3 6. Upon the request of a party, the physician or physicians
4 who treated or are treating the injured employee shall be
5 required to furnish to the parties a rating and complete medical
6 report on the injured employee, at the expense of the party
7 selecting the physician, along with a complete copy of the
8 physician's clinical record including copies of any records and
9 reports received from other health care providers.

10 7. The testimony of a treating or examining physician may
11 be submitted in evidence on the issues in controversy by a
12 complete medical report and shall be admissible without other
13 foundational evidence subject to compliance with the following
14 procedures. The party intending to submit a complete medical
15 report in evidence shall give notice at least sixty days prior to
16 the hearing to all parties and shall provide reasonable
17 opportunity to all parties to obtain cross-examination testimony
18 of the physician by deposition. The notice shall include a copy
19 of the report and all the clinical and treatment records of the
20 physician including copies of all records and reports received by
21 the physician from other health care providers. The party
22 offering the report must make the physician available for
23 cross-examination testimony by deposition not later than seven
24 days before the matter is set for hearing, and each
25 cross-examiner shall compensate the physician for the portion of
26 testimony obtained in an amount not to exceed a rate of
27 reasonable compensation taking into consideration the specialty
28 practiced by the physician. Cross-examination testimony shall

1 not bind the cross-examining party. Any testimony obtained by
2 the offering party shall be at that party's expense on a
3 proportional basis, including the deposition fee of the
4 physician. Upon request of any party, the party offering a
5 complete medical report in evidence must also make available
6 copies of X rays or other diagnostic studies obtained by or
7 relied upon by the physician. Within ten days after receipt of
8 such notice a party shall dispute whether a report meets the
9 requirements of a complete medical report by providing written
10 objections to the offering party stating the grounds for the
11 dispute, and at the request of any party, the administrative law
12 judge shall rule upon such objections upon pretrial hearing
13 whether the report meets the requirements of a complete medical
14 report and upon the admissibility of the report or portions
15 thereof. If no objections are filed the report is admissible,
16 and any objections thereto are deemed waived. Nothing herein
17 shall prevent the parties from agreeing to admit medical reports
18 or records by consent. [The provisions of this subsection shall
19 not apply to claims against the second injury fund.]

20 8. Certified copies of the proceedings before any coroner
21 holding an inquest over the body of any employee receiving an
22 injury in the course of his employment resulting in death shall
23 be admissible in evidence in any proceedings for compensation
24 under this chapter, and it shall be the duty of the coroner to
25 give notice of the inquest to the employer and the dependents of
26 the deceased employee, who shall have the right to cross-examine
27 the witness.

28 9. The division or the commission may in its discretion in

1 extraordinary cases order a postmortem examination and for that
2 purpose may also order a body exhumed.

3 287.213. 1. There is hereby created in the state treasury
4 a special fund to be known as the "Mesothelioma Fund" created
5 exclusively for the purposes set forth in this section. Such
6 fund shall be used solely for payment of awards issued pursuant
7 to subdivision (3) of subsection 4 of section 287.200. The state
8 treasurer shall be the custodian of the mesothelioma fund which
9 shall be deposited the same as are state funds and any interest
10 accruing thereon shall be added thereto. The fund shall be
11 subject to audit the same as are state funds and accounts and
12 shall be protected by the general bond given by the state
13 treasurer. Upon the requisition of the director of the division
14 of workers' compensation, warrants on the state treasurer for the
15 payment of all amounts payable for compensation and benefits out
16 of the mesothelioma fund shall be issued.

17 2. Beginning July 1, 2013, and each calendar year
18 thereafter, the director of the division of workers' compensation
19 shall estimate the amount of benefits payable from the
20 mesothelioma fund relating to awards issued pursuant to
21 subdivision (3) of subsection 4 of section 287.200 during the
22 following calendar year and shall calculate the total amount of
23 the mesothelioma fund surcharge to be imposed during the
24 following calendar year upon all workers' compensation
25 policyholders and authorized self-insurers. Such surcharge shall
26 be set by the director based on the average number of awards for
27 such diseases in the three years preceding the year in which such
28 rates are set, multiplied by the benefit allowed in subdivision

1 (3) of subsection 4 of section 287.200. In addition, the
2 surchage shall be increased in an amount to collect a cash
3 reserve of up to fifty percent of the yearly surcharge
4 established in this section, until such time that a one year
5 reserve has been accumulated. All revenue collected under this
6 section shall be deposited in the account established in this
7 section and such revenue shall only be used to satisfy awards
8 issued pursuant to subdivision (3) of subsection 4 of section
9 287.200. All policyholders and self-insurers shall be notified
10 by the division of workers' compensation of the toxic exposure
11 supplemental surcharge percent to be imposed for such period of
12 time as part of the notice provided in subsections 2 and 6 of
13 section 287.715. The amount of the annual surcharge percentage
14 to be imposed upon each policyholder and self-insurer shall be
15 set at and calculated against a percentage for all workers'
16 compensation policyholders and authorized self-insurers with net
17 deposits, net premiums, or net assessments for the previous
18 policy year that are equal to or more than ten thousand dollars.

19 3. Funds collected under the provisions of this chapter
20 shall be the sole funding source of the mesothelioma fund.

21 4. In order for an employee to qualify for an award issued
22 pursuant to subdivision (3) of subsection 4 of section 287.200,
23 such employee must allege in the claim for compensation a disease
24 listed in subsection 11 of section 287.020 and provide notice to
25 the attorney general of such allegations.

26 5. The attorney general shall represent the mesothelioma
27 fund and shall safeguard its revenues for the purposes of this
28 section. The attorney general must be a signatory to any

1 settlement that allows access to the mesothelioma fund.

2 6. The provisions of this section shall expire on December
3 31, 2023.

4 287.220. 1. There is hereby created in the state treasury
5 a special fund to be known as the "Second Injury Fund" created
6 exclusively for the purposes as in this section provided and for
7 special weekly benefits in rehabilitation cases as provided in
8 section 287.141. Maintenance of the second injury fund shall be
9 as provided by section 287.710. The state treasurer shall be the
10 custodian of the second injury fund which shall be deposited the
11 same as are state funds and any interest accruing thereon shall
12 be added thereto. The fund shall be subject to audit the same as
13 state funds and accounts and shall be protected by the general
14 bond given by the state treasurer. Upon the requisition of the
15 director of the division of workers' compensation, warrants on
16 the state treasurer for the payment of all amounts payable for
17 compensation and benefits out of the second injury fund shall be
18 issued.

19 2. All cases of permanent disability where there has been
20 previous disability due to injuries occurring prior to the
21 effective date of this section shall be compensated as [herein]
22 provided in this subsection. Compensation shall be computed on
23 the basis of the average earnings at the time of the last injury.
24 If any employee who has a preexisting permanent partial
25 disability whether from compensable injury or otherwise, of such
26 seriousness as to constitute a hindrance or obstacle to
27 employment or to obtaining reemployment if the employee becomes
28 unemployed, and the preexisting permanent partial disability, if

1 a body as a whole injury, equals a minimum of fifty weeks of
2 compensation or, if a major extremity injury only, equals a
3 minimum of fifteen percent permanent partial disability,
4 according to the medical standards that are used in determining
5 such compensation, receives a subsequent compensable injury
6 resulting in additional permanent partial disability so that the
7 degree or percentage of disability, in an amount equal to a
8 minimum of fifty weeks compensation, if a body as a whole injury
9 or, if a major extremity injury only, equals a minimum of fifteen
10 percent permanent partial disability, caused by the combined
11 disabilities is substantially greater than that which would have
12 resulted from the last injury, considered alone and of itself,
13 and if the employee is entitled to receive compensation on the
14 basis of the combined disabilities, the employer at the time of
15 the last injury shall be liable only for the degree or percentage
16 of disability which would have resulted from the last injury had
17 there been no preexisting disability. After the compensation
18 liability of the employer for the last injury, considered alone,
19 has been determined by an administrative law judge or the
20 commission, the degree or percentage of employee's disability
21 that is attributable to all injuries or conditions existing at
22 the time the last injury was sustained shall then be determined
23 by that administrative law judge or by the commission and the
24 degree or percentage of disability which existed prior to the
25 last injury plus the disability resulting from the last injury,
26 if any, considered alone, shall be deducted from the combined
27 disability, and compensation for the balance, if any, shall be
28 paid out of a special fund known as the second injury fund,

1 hereinafter provided for. If the previous disability or
2 disabilities, whether from compensable injury or otherwise, and
3 the last injury together result in total and permanent
4 disability, the minimum standards under this subsection for a
5 body as a whole injury or a major extremity injury shall not
6 apply and the employer at the time of the last injury shall be
7 liable only for the disability resulting from the last injury
8 considered alone and of itself; except that if the compensation
9 for which the employer at the time of the last injury is liable
10 is less than the compensation provided in this chapter for
11 permanent total disability, then in addition to the compensation
12 for which the employer is liable and after the completion of
13 payment of the compensation by the employer, the employee shall
14 be paid the remainder of the compensation that would be due for
15 permanent total disability under section 287.200 out of [a
16 special fund known as the "Second Injury Fund" hereby created
17 exclusively for the purposes as in this section provided and for
18 special weekly benefits in rehabilitation cases as provided in
19 section 287.141. Maintenance of the second injury fund shall be
20 as provided by section 287.710. The state treasurer shall be the
21 custodian of the second injury fund which shall be deposited the
22 same as are state funds and any interest accruing thereon shall
23 be added thereto. The fund shall be subject to audit the same as
24 state funds and accounts and shall be protected by the general
25 bond given by the state treasurer. Upon the requisition of the
26 director of the division of workers' compensation, warrants on
27 the state treasurer for the payment of all amounts payable for
28 compensation and benefits out of the second injury fund shall be

1 issued.

2 2.] the second injury fund.

3 3. All claims against the second injury fund for injuries
4 occurring after the effective date of this section and all claims
5 against the second injury fund involving a subsequent compensable
6 injury which is an occupational disease filed after the effective
7 date of this section shall be compensated as provided in this
8 subsection.

9 (1) No claims for permanent partial disability occurring
10 after the effective date of this section shall be filed against
11 the second injury fund. Claims for permanent total disability
12 under section 287.200 against the second injury fund shall be
13 compensable only when the following conditions are met:

14 (a) a. An employee has a medically documented preexisting
15 disability equaling a minimum of fifty weeks of permanent partial
16 disability compensation according to the medical standards that
17 are used in determining such compensation which is:

18 i. A direct result of active military duty in any branch of
19 the United States armed forces; or

20 ii. A direct result of a compensable injury as defined in
21 section 287.020; or

22 iii. Not a compensable injury, but such preexisting
23 disability directly and significantly aggravates or accelerates
24 the subsequent work-related injury and shall not include
25 unrelated preexisting injuries or conditions that do not
26 aggravate or accelerate the subsequent work-related injury; or

27 iv. A preexisting permanent partial disability of an
28 extremity, loss of eyesight in one eye, or loss of hearing in one

1 ear, when there is a subsequent compensable work-related injury
2 as set forth in subparagraph b of the opposite extremity, loss of
3 eyesight in the other eye, or loss of hearing in the other ear;
4 and

5 b. Such employee thereafter sustains a subsequent
6 compensable work-related injury that, when combined with the
7 preexisting disability, as set forth in items i, ii, iii, or iv
8 of subparagraph a of this subdivision, results in a permanent
9 total disability as defined under this chapter; or

10 (b) An employee is employed in a sheltered workshop as
11 established in sections 205.968 to 205.972 or sections 178.900 to
12 178.960 and such employee thereafter sustains a compensable work-
13 related injury that, when combined with the preexisting
14 disability, results in a permanent total disability as defined
15 under this chapter.

16 (2) When an employee is entitled to compensation as
17 provided in this subsection, the employer at the time of the last
18 work-related injury shall only be liable for the disability
19 resulting from the subsequent work-related injury considered
20 alone and of itself.

21 (3) Compensation for benefits payable under this subsection
22 shall be based on the employee's compensation rate calculated
23 under section 287.250.

24 4. In all cases in which a recovery against the second
25 injury fund is sought for permanent partial disability, permanent
26 total disability, or death, the state treasurer as custodian
27 thereof shall be named as a party, and shall be entitled to
28 defend against the claim.

1 (1) The state treasurer, with the advice and consent of the
2 attorney general of Missouri, may enter into agreed statements of
3 fact that would affect the second injury fund, or compromise
4 settlements as contemplated by section 287.390[, or agreed
5 statements of fact that would affect the second injury fund. All
6 awards for permanent partial disability, permanent total
7 disability, or death affecting the second injury fund shall be
8 subject to the provisions of this chapter governing review and
9 appeal] with the following limitations:

10 (a) For all claims filed prior to the effective date of
11 this section, with the exception of permanent total disability
12 claims, such settlement may be made in any amount not to exceed
13 sixty thousand dollars; or

14 (b) For all permanent total disability claims, such
15 settlement may be made in any amount not to exceed the sum of two
16 hundred times the employee's permanent total disability rate as
17 of the date of the injury.

18 (2) Notwithstanding subdivision (1) of this subsection to
19 the contrary, the state treasurer, with the advice and consent of
20 the attorney general, may enter into compromise settlements as
21 contemplated by section 287.390 in any amount.

22 (3) The state treasurer, with the advice and consent of the
23 attorney general, may enter into compromise settlements with
24 dependents of claimants, whether finally adjudicated or not,
25 arising from the Missouri supreme court's decision in Schoemehl
26 v. Treasurer of Missouri, 217 S.W.3d 900 (Mo. 2007).

27 (4) For all claims filed against the second injury fund on
28 or after July 1, 1994, the attorney general shall use assistant

1 attorneys general except in circumstances where an actual or
2 potential conflict of interest exists, to provide legal services
3 as may be required in all claims made for recovery against the
4 fund. Any legal expenses incurred by the attorney general's
5 office in the handling of such claims, including, but not limited
6 to, medical examination fees incurred under sections 287.210 and
7 the expenses provided for under section 287.140, expert witness
8 fees, court reporter expenses, travel costs, and related legal
9 expenses shall be paid by the fund. Effective July 1, 1993, the
10 payment of such legal expenses shall be contingent upon annual
11 appropriations made by the general assembly, from the fund, to
12 the attorney general's office for this specific purpose.

13 [3.] 5. If more than one injury in the same employment
14 causes concurrent temporary disabilities, compensation shall be
15 payable only for the longest and largest paying disability.

16 [4.] 6. If more than one injury in the same employment
17 causes concurrent and consecutive permanent partial disability,
18 compensation payments for each subsequent disability shall not
19 begin until the end of the compensation period of the prior
20 disability.

21 [5.] 7. If an employer fails to insure or self-insure as
22 required in section 287.280, funds from the second injury fund
23 may be withdrawn to cover the fair, reasonable, and necessary
24 expenses incurred relating to claims for injuries occurring prior
25 to the effective date of this section, to cure and relieve the
26 effects of the injury or disability of an injured employee in the
27 employ of an uninsured employer consistent with subsection 3 of
28 section 287.140, or in the case of death of an employee in the

1 employ of an uninsured employer, funds from the second injury
2 fund may be withdrawn to cover fair, reasonable, and necessary
3 expenses incurred relating to a death occurring prior to the
4 effective date of this section, in the manner required in
5 sections 287.240 and 287.241. In defense of claims arising under
6 this subsection, the treasurer of the state of Missouri, as
7 custodian of the second injury fund, shall have the same defenses
8 to such claims as would the uninsured employer. Any funds
9 received by the employee or the employee's dependents, through
10 civil or other action, must go towards reimbursement of the
11 second injury fund, for all payments made to the employee, the
12 employee's dependents, or paid on the employee's behalf, from the
13 second injury fund pursuant to this subsection. The office of
14 the attorney general of the state of Missouri shall bring suit in
15 the circuit court of the county in which the accident occurred
16 against any employer not covered by this chapter as required in
17 section 287.280.

18 [6.] 8. Every [three years] year the second injury fund
19 shall have an actuarial study made to determine the solvency of
20 the fund taking into consideration any existing balance carried
21 forward from a previous year, appropriate funding level of the
22 fund, and forecasted expenditures from the fund. The first
23 actuarial study shall be completed prior to July 1, [1988] 2014.
24 The expenses of such actuarial studies shall be paid out of the
25 fund for the support of the division of workers' compensation.

26 [7.] 9. The director of the division of workers'
27 compensation shall maintain the financial data and records
28 concerning the fund for the support of the division of workers'

1 compensation and the second injury fund. The division shall also
2 compile and report data on claims made pursuant to subsection 9
3 of this section. The attorney general shall provide all
4 necessary information to the division for this purpose.

5 [8.] 10. All claims for fees and expenses filed against
6 the second injury fund and all records pertaining thereto shall
7 be open to the public.

8 [9.] 11. Any employee who at the time a compensable
9 work-related injury is sustained prior to the effective date of
10 this section is employed by more than one employer, the employer
11 for whom the employee was working when the injury was sustained
12 shall be responsible for wage loss benefits applicable only to
13 the earnings in that employer's employment and the injured
14 employee shall be entitled to file a claim against the second
15 injury fund for any additional wage loss benefits attributed to
16 loss of earnings from the employment or employments where the
17 injury did not occur, up to the maximum weekly benefit less those
18 benefits paid by the employer in whose employment the employee
19 sustained the injury. The employee shall be entitled to a total
20 benefit based on the total average weekly wage of such employee
21 computed according to subsection 8 of section 287.250. The
22 employee shall not be entitled to a greater rate of compensation
23 than allowed by law on the date of the injury. The employer for
24 whom the employee was working where the injury was sustained
25 shall be responsible for all medical costs incurred in regard to
26 that injury.

27 12. No compensation shall be payable from the second injury
28 fund if the employee files a claim for compensation under the

1 workers' compensation law of another state with jurisdiction over
2 the employee's injury or accident or occupational disease.

3 13. Notwithstanding the requirements of section 287.470,
4 the life payments to an injured employee made from the fund shall
5 be suspended when the employee is able to obtain suitable gainful
6 employment or be self-employed in view of the nature and severity
7 of the injury. The division shall promulgate rules setting forth
8 a reasonable standard means test to determine if such employment
9 warrants the suspension of benefits.

10 14. All awards issued under this chapter affecting the
11 second injury fund shall be subject to the provisions of this
12 chapter governing review and appeal.

13 15. The division shall pay any liabilities of the fund
14 other than those found in subsection 15 of this section, in the
15 following priority:

16 (1) Expenses related to the legal defense of the fund under
17 subsection 4 of this section;

18 (2) Permanent total disability awards in the order in which
19 claims are settled or finally adjudicated;

20 (3) Permanent partial disability awards in the order in
21 which such claims are settled or finally adjudicated;

22 (4) Medical expenses incurred prior to July 1, 2012, under
23 subsection 7 of this section; and

24 (5) Interest on unpaid awards.

25
26 Such liabilities shall be paid to the extent the fund has a
27 positive balance. Any unpaid amounts shall remain an ongoing
28 liability of the fund until satisfied.

1 16. Post award interest for the purpose of second injury
2 fund claims shall be set at the adjusted rate of interest
3 established by the director of revenue pursuant to section 32.065
4 or five percent, whichever is greater.

5 287.243. 1. This section shall be known and may be cited
6 as the "Line of Duty Compensation Act".

7 2. As used in this section, unless otherwise provided, the
8 following words shall mean:

9 (1) "Air ambulance pilot", a person certified as an air
10 ambulance pilot in accordance with sections 190.001 to 190.245
11 and corresponding regulations applicable to air ambulances
12 adopted by the department of health and senior services, division
13 of regulation and licensure, 19 CSR 30-40.005, et seq.;

14 (2) "Air ambulance registered professional nurse", a person
15 licensed as a registered professional nurse in accordance with
16 sections 335.011 to 335.096 and corresponding regulations adopted
17 by the state board of nursing, 20 CSR 2200-4, et seq., who
18 provides registered professional nursing services as a flight
19 nurse in conjunction with an air ambulance program that is
20 certified in accordance with sections 190.001 to 190.245 and the
21 corresponding regulations applicable to such programs;

22 (3) "Emergency medical technician", a person licensed in
23 emergency medical care in accordance with standards prescribed by
24 sections 190.001 to 190.245 and by rules adopted by the
25 department of health and senior services under sections 190.001
26 to 190.245;

27 (4) "Firefighter", any person, including a volunteer
28 firefighter, employed by the state or a local governmental entity

1 as an employer defined under subsection 1 of section 287.030, or
2 otherwise serving as a member or officer of a fire department
3 either for the purpose of the prevention or control of fire or
4 the underwater recovery of drowning victims;

5 (5) "Killed in the line of duty", when [a person defined in
6 this section] any law enforcement officer, emergency medical
7 technician, air ambulance pilot, air ambulance registered
8 professional nurse, paramedic, or firefighter loses [one's] his
9 or her life as a result of an injury received in the active
10 performance of [his or her duties within the ordinary scope of]
11 duties in his or her respective profession [while the individual
12 is on duty and but for the individual's performance, death would
13 have not occurred], if the death occurs as a natural and probable
14 consequence of the injury or disease caused by the accident or
15 violence of another within three hundred weeks from the date the
16 injury was received and if that injury arose from violence of
17 another or accidental cause subject to the provisions of this
18 subdivision. The term excludes death resulting from the willful
19 misconduct or intoxication of the law enforcement officer,
20 emergency medical technician, air ambulance pilot, air ambulance
21 registered professional nurse, paramedic, or firefighter. The
22 division of workers' compensation shall have the burden of
23 proving such willful misconduct or intoxication. For law
24 enforcement officers, emergency medical technicians, air
25 ambulance pilots, air ambulance registered professional nurses,
26 paramedics, and firefighters, the term shall include the death
27 caused as a result of a willful act of violence committed by a
28 person other than the officer, emergency medical technician, air

1 ambulance pilot, air ambulance registered professional nurse,
2 paramedic, or firefighter, and a relationship exists between the
3 commission of such act and the individual's performance of his or
4 her duties as a law enforcement officer, emergency medical
5 technician, air ambulance pilot, air ambulance registered
6 professional nurse, paramedic, or firefighter, regardless of
7 whether the injury is received while the individual is on duty;
8 or the injury is received by a law enforcement officer while he
9 or she is attempting to prevent the commission of a criminal act
10 of another person or attempting to apprehend an individual
11 suspected of committing a crime, regardless of whether the injury
12 is received while the individual is on duty as a law enforcement
13 officer; or the injury is received by the individual while
14 traveling to or from his or her employment or during any meal
15 break, or other break, which takes place during the period in
16 which the law enforcement officer, air ambulance pilot, air
17 ambulance registered professional nurse, emergency medical
18 technician, paramedic, or firefighter, is on duty;

19 (6) "Law enforcement officer", any person employed by the
20 state or a local governmental entity as a police officer, peace
21 officer certified under chapter 590, or serving as an auxiliary
22 police officer or in some like position involving the enforcement
23 of the law and protection of the public interest at the risk of
24 that person's life;

25 (7) "Local governmental entity", includes counties,
26 municipalities, townships, board or other political subdivision,
27 cities under special charter, or under the commission form of
28 government, fire protection districts, ambulance districts, and

1 municipal corporations;

2 (8) "State", the state of Missouri and its departments,
3 divisions, boards, bureaus, commissions, authorities, and
4 colleges and universities;

5 (9) "Volunteer firefighter", a person having principal
6 employment other than as a firefighter, but who is carried on the
7 rolls of a regularly constituted fire department either for the
8 purpose of the prevention or control of fire or the underwater
9 recovery of drowning victims, the members of which are under the
10 jurisdiction of the corporate authorities of a city, village,
11 incorporated town, or fire protection district. Volunteer
12 firefighter shall not mean an individual who volunteers
13 assistance without being regularly enrolled as a firefighter.

14 3. (1) A claim for compensation under this section shall
15 be filed by the estate of the deceased with the division of
16 workers' compensation not later than one year from the date of
17 death of a law enforcement officer, emergency medical technician,
18 air ambulance pilot, air ambulance registered professional nurse,
19 or firefighter. If a claim is made within one year of the date
20 of death of a law enforcement officer, emergency medical
21 technician, air ambulance pilot, air ambulance registered
22 professional nurse, or firefighter killed in the line of duty,
23 compensation shall be paid, if the division finds that the
24 claimant is entitled to compensation under this section. (2)
25 The amount of compensation paid to the claimant shall be twenty-
26 five thousand dollars, subject to appropriation, for death
27 occurring on or after June 19, 2009.

28 4. Notwithstanding subsection 3 of this section, no

1 compensation is payable under this section unless a claim is
2 filed within the time specified under this section setting forth:

3 (1) The name, address, and title or designation of the
4 position in which the law enforcement officer, emergency medical
5 technician, air ambulance pilot, air ambulance registered
6 professional nurse, or firefighter was serving at the time of his
7 or her death;

8 (2) The name and address of the claimant;

9 (3) A full, factual account of the circumstances resulting
10 in or the course of events causing the death at issue; and

11 (4) Such other information that is reasonably required by
12 the division.

13 When a claim is filed, the division of workers' compensation
14 shall make an investigation for substantiation of matters set
15 forth in the application.

16 5. The compensation provided for under this section is in
17 addition to, and not exclusive of, any pension rights, death
18 benefits, or other compensation the claimant may otherwise be
19 entitled to by law.

20 6. Neither employers nor workers' compensation insurers
21 shall have subrogation rights against any compensation awarded
22 for claims under this section. Such compensation shall not be
23 assignable, shall be exempt from attachment, garnishment, and
24 execution, and shall not be subject to setoff or counterclaim, or
25 be in any way liable for any debt, except that the division or
26 commission may allow as lien on the compensation, reasonable
27 attorney's fees for services in connection with the proceedings
28 for compensation if the services are found to be necessary. Such

1 fees are subject to regulation as set forth in section 287.260.

2 7. Any person seeking compensation under this section who
3 is aggrieved by the decision of the division of workers'
4 compensation regarding his or her compensation claim, may make
5 application for a hearing as provided in section 287.450. The
6 procedures applicable to the processing of such hearings and
7 determinations shall be those established by this chapter.
8 Decisions of the administrative law judge under this section
9 shall be binding, subject to review by either party under the
10 provisions of section 287.480.

11 8. Pursuant to section 23.253 of the Missouri sunset act:

12 (1) The provisions of the new program authorized under this
13 section shall automatically sunset six years after June 19, 2009,
14 unless reauthorized by an act of the general assembly; and

15 (2) If such program is reauthorized, the program authorized
16 under this section shall automatically sunset twelve years after
17 the effective date of the reauthorization of this section; and

18 (3) This section shall terminate on September first of the
19 calendar year immediately following the calendar year in which
20 the program authorized under this section is sunset.

21 9. The provisions of this section, unless specified, shall
22 not be subject to other provisions of this chapter.

23 10. There is hereby created in the state treasury the "Line
24 of Duty Compensation Fund", which shall consist of moneys
25 appropriated to the fund and any voluntary contributions, gifts,
26 or bequests to the fund. The state treasurer shall be custodian
27 of the fund and shall approve disbursements from the fund in
28 accordance with sections 30.170 and 30.180. Upon appropriation,

1 money in the fund shall be used solely for paying claims under
2 this section. Notwithstanding the provisions of section 33.080
3 to the contrary, any moneys remaining in the fund at the end of
4 the biennium shall not revert to the credit of the general
5 revenue fund. The state treasurer shall invest moneys in the
6 fund in the same manner as other funds are invested. Any
7 interest and moneys earned on such investments shall be credited
8 to the fund.

9 11. The division shall promulgate rules to administer this
10 section, including but not limited to the appointment of claims
11 to multiple claimants, record retention, and procedures for
12 information requests. Any rule or portion of a rule, as that
13 term is defined in section 536.010, that is created under the
14 authority delegated in this section shall become effective only
15 if it complies with and is subject to all of the provisions of
16 chapter 536 and, if applicable, section 536.028. This section
17 and chapter 536 are nonseverable and if any of the powers vested
18 with the general assembly under chapter 536 to review, to delay
19 the effective date, or to disapprove and annul a rule are
20 subsequently held unconstitutional, then the grant of rulemaking
21 authority and any rule proposed or adopted after June 19, 2009,
22 shall be invalid and void.

23 287.280. 1. Every employer subject to the provisions of
24 this chapter shall, on either an individual or group basis,
25 insure ~~his~~ their entire liability ~~thereunder~~ under the
26 workers' compensation law; and may insure in whole or in part
27 their employer liability, under a policy of insurance or a self-
28 insurance plan, except as hereafter provided, with some insurance

1 carrier authorized to insure such liability in this state, except
2 that an employer or group of employers may themselves carry the
3 whole or any part of the liability without insurance upon
4 satisfying the division of their ability [so to do] to do so. If
5 an employer or group of employers have qualified to self-insure
6 their liability under this chapter, the division of workers'
7 compensation may, if it finds after a hearing that the employer
8 or group of employers are willfully and intentionally violating
9 the provisions of this chapter with intent to defraud their
10 employees of their right to compensation, suspend or revoke the
11 right of the employer or group of employers to self-insure their
12 liability. If the employer or group of employers fail to comply
13 with this section, an injured employee or his dependents may
14 elect after the injury either to bring an action against such
15 employer or group of employers to recover damages for personal
16 injury or death and it shall not be a defense that the injury or
17 death was caused by the negligence of a fellow servant, or that
18 the employee had assumed the risk of the injury or death, or that
19 the injury or death was caused to any degree by the negligence of
20 the employee; or to recover under this chapter with the
21 compensation payments commuted and immediately payable; or, if
22 the employee elects to do so, he or she may file a request with
23 the division for payment to be made for medical expenses out of
24 the second injury fund as provided in subsection 5 of section
25 287.220. If the employer or group of employers are carrying
26 their own insurance, on the application of any person entitled to
27 compensation and on proof of default in the payment of any
28 installment, the division shall require the employer or group of

1 employers to furnish security for the payment of the
2 compensation, and if not given, all other compensation shall be
3 commuted and become immediately payable; provided, that employers
4 engaged in the mining business shall be required to insure only
5 their liability hereunder to the extent of the equivalent of the
6 maximum liability under this chapter for ten deaths in any one
7 accident, but the employer or group of employers may carry their
8 own risk for any excess liability. When a group of employers
9 enter into an agreement to pool their liabilities under this
10 chapter, individual members will not be required to qualify as
11 individual self-insurers.

12 2. Groups of employers qualified to insure their liability
13 pursuant to chapter 537 or this chapter, shall utilize a uniform
14 experience rating plan promulgated by an approved advisory
15 organization. Such groups shall develop experience ratings for
16 their members based on the plan. Nothing in this section shall
17 relieve an employer from remitting, without any charge to the
18 employer, the employer's claims history to an approved advisory
19 organization.

20 3. For every entity qualified to group self-insure their
21 liability pursuant to this chapter or chapter 537, each entity
22 shall not authorize total discounts for any individual member
23 exceeding twenty-five percent beginning January 1, 1999. All
24 discounts shall be based on objective quantitative factors and
25 applied uniformly to all trust members.

26 4. Any group of employers that have qualified to
27 self-insure their liability pursuant to this chapter shall file
28 with the division premium rates, based on pure premium rate data,

1 adjusted for loss development and loss trending as filed by the
2 advisory organization with the department of insurance, financial
3 institutions and professional registration pursuant to section
4 287.975, plus any estimated expenses and other factors or based
5 on average rate classifications calculated by the department of
6 insurance, financial institutions and professional registration
7 as taken from the premium rates filed by the twenty insurance
8 companies providing the greatest volume of workers' compensation
9 insurance coverage in this state. The rate is inadequate if
10 funds equal to the full ultimate cost of anticipated losses and
11 loss adjustment expenses are not produced when the prospective
12 loss costs are applied to anticipated payrolls. The provisions
13 of this subsection shall not apply to those political
14 subdivisions of this state that have qualified to self-insure
15 their liability pursuant to this chapter as authorized by section
16 537.620 on an assessment plan. Any such group may file with the
17 division a composite rate for all coverages provided under that
18 section.

19 5. Any finding or determination made by the division under
20 this section may be reviewed as provided in sections 287.470 and
21 287.480.

22 6. No rule or portion of a rule promulgated under the
23 authority of this section shall become effective unless it has
24 been promulgated pursuant to the provisions of section 536.024.

25 7. Any records submitted pursuant to this section, and
26 pursuant to any rule promulgated by the division pursuant to this
27 section, shall be considered confidential and not subject to
28 chapter 610. Any party to a workers' compensation case involving

1 the party that submitted the records shall be able to subpoena
2 the records for use in a workers' compensation case, if the
3 information is otherwise relevant.

4 287.610. 1. After August 28, 2005, the division may
5 appoint additional administrative law judges for a maximum of
6 forty authorized administrative law judges. Appropriations shall
7 be based upon necessity, measured by the requirements and needs
8 of each division office. Administrative law judges shall be duly
9 licensed lawyers under the laws of this state. Administrative
10 law judges shall not practice law or do law business and shall
11 devote their whole time to the duties of their office. The
12 director of the division of workers' compensation shall publish
13 and maintain on the division's website the appointment dates or
14 initial dates of service for all administrative law judges.

15 2. [The division director, as a member of the
16 administrative law judge review committee, hereafter referred to
17 as "the committee", shall perform, in conjunction with the
18 committee, a performance audit of all administrative law judges
19 by August 28, 2006. The division director, in conjunction with
20 the committee, shall establish the written performance audit
21 standards on or before October 1, 2005.

22 3.] The thirteen administrative law judges with the most
23 years of service shall be subject to a retention vote on August
24 28, 2008. The next thirteen administrative law judges with the
25 most years of service in descending order shall be subject to a
26 retention vote on August 28, 2012. Administrative law judges
27 appointed and not previously referenced in this subsection shall
28 be subject to a retention vote on August 28, 2016. Subsequent

1 retention votes shall be held every twelve years. Any
2 administrative law judge who has received two or more votes of no
3 confidence under performance audits by the committee shall not
4 receive a vote of retention.

5 [4.] 3. The administrative law judge review committee
6 members shall not have any direct or indirect employment or
7 financial connection with a workers' compensation insurance
8 company, claims adjustment company, health care provider nor be a
9 practicing workers' compensation attorney. All members of the
10 committee shall have a working knowledge of workers'
11 compensation.

12 [5.] 4. The committee shall within thirty days of
13 completing each performance audit make a recommendation of
14 confidence or no confidence for each administrative law judge.

15 [6.] 5. The administrative law judges appointed by the
16 division shall only have jurisdiction to hear and determine
17 claims upon original hearing and shall have no jurisdiction upon
18 any review hearing, either in the way of an appeal from an
19 original hearing or by way of reopening any prior award, except
20 to correct a clerical error in an award or settlement if the
21 correction is made by the administrative law judge within twenty
22 days of the original award or settlement. The labor and
23 industrial relations commission may remand any decision of an
24 administrative law judge for a more complete finding of facts.
25 The commission may also correct a clerical error in awards or
26 settlements within thirty days of its final award. With respect
27 to original hearings, the administrative law judges shall have
28 such jurisdiction and powers as are vested in the division of

1 workers' compensation under other sections of this chapter, and
2 wherever in this chapter the word "commission", "commissioners"
3 or "division" is used in respect to any original hearing, those
4 terms shall mean the administrative law judges appointed under
5 this section. When a hearing is necessary upon any claim, the
6 division shall assign an administrative law judge to such
7 hearing. Any administrative law judge shall have power to
8 approve contracts of settlement, as provided by section 287.390,
9 between the parties to any compensation claim or dispute under
10 this chapter pending before the division of workers'
11 compensation. Any award by an administrative law judge upon an
12 original hearing shall have the same force and effect, shall be
13 enforceable in the same manner as provided elsewhere in this
14 chapter for awards by the labor and industrial relations
15 commission, and shall be subject to review as provided by section
16 287.480.

17 [7.] 6. Any of the administrative law judges employed
18 pursuant to this section may be assigned on a temporary basis to
19 the branch offices as necessary in order to ensure the proper
20 administration of this chapter.

21 [8.] 7. All administrative law judges shall be required to
22 participate in, on a continuing basis, specific training that
23 shall pertain to those elements of knowledge and procedure
24 necessary for the efficient and competent performance of the
25 administrative law judges' required duties and responsibilities.
26 Such training requirements shall be established by the division
27 subject to appropriations and shall include training in medical
28 determinations and records, mediation and legal issues pertaining

1 to workers' compensation adjudication. Such training may be
2 credited toward any continuing legal education requirements.

3 [9.] 8. (1) [The director of the division, in conjunction
4 with] The administrative law judge review committee[,] shall
5 conduct a performance audit of all administrative law judges
6 every two years. The audit results, stating the committee's
7 recommendation of confidence or no confidence of each
8 administrative law judge shall be sent to the governor no later
9 than the first week of each legislative session immediately
10 following such audit. Any administrative law judge who has
11 received [two] three or more votes of no confidence under two
12 successive performance audits by the committee may have their
13 appointment immediately withdrawn.

14 (2) The review committee shall consist of [the division
15 director, who shall be appointed by the governor,] one member
16 appointed by the president pro tem of the senate, one member
17 appointed by the minority leader of the senate, one member
18 appointed by the speaker of the house of representatives, and one
19 member appointed by the minority leader of the house of
20 representatives. The governor shall appoint to the committee one
21 member selected from the commission on retirement, removal, and
22 discipline of judges. This member shall act as a member
23 ex-officio and shall not have a vote in the committee. [The
24 division director shall serve as the chairperson of the
25 committee, and shall serve on the committee during the time of
26 employment in such position.] The committee shall annually elect
27 a chairperson from its members for a term of one year. The term
28 of service for all [other] members shall be two years. The

1 review committee members shall all serve without compensation.
2 Necessary expenses for review committee members and all necessary
3 support services to the review committee shall be provided by the
4 division.

5 [10.] 9. No rule or portion of a rule promulgated pursuant
6 to the authority of this section shall become effective unless it
7 has been promulgated pursuant to the provisions of chapter 536.

8 287.715. 1. For the purpose of providing for revenue for
9 the second injury fund, every authorized self-insurer, and every
10 workers' compensation policyholder insured pursuant to the
11 provisions of this chapter, shall be liable for payment of an
12 annual surcharge in accordance with the provisions of this
13 section. The annual surcharge imposed under this section shall
14 apply to all workers' compensation insurance policies and
15 self-insurance coverages which are written or renewed on or after
16 April 26, 1988, including the state of Missouri, including any of
17 its departments, divisions, agencies, commissions, and boards or
18 any political subdivisions of the state who self-insure or hold
19 themselves out to be any part self-insured. Notwithstanding any
20 law to the contrary, the surcharge imposed pursuant to this
21 section shall not apply to any reinsurance or retrocessional
22 transaction.

23 2. Beginning October 31, 2005, and each year thereafter,
24 the director of the division of workers' compensation shall
25 estimate the amount of benefits payable from the second injury
26 fund during the following calendar year and shall calculate the
27 total amount of the annual surcharge to be imposed during the
28 following calendar year upon all workers' compensation

1 policyholders and authorized self-insurers. The amount of the
2 annual surcharge percentage to be imposed upon each policyholder
3 and self-insured for the following calendar year commencing with
4 the calendar year beginning on January 1, 2006, shall be set at
5 and calculated against a percentage, not to exceed three percent,
6 of the policyholder's or self-insured's workers' compensation net
7 deposits, net premiums, or net assessments for the previous
8 policy year, rounded up to the nearest one-half of a percentage
9 point, that shall generate, as nearly as possible, one hundred
10 ten percent of the moneys to be paid from the second injury fund
11 in the following calendar year, less any moneys contained in the
12 fund at the end of the previous calendar year. All policyholders
13 and self-insurers shall be notified by the division of workers'
14 compensation within ten calendar days of the determination of the
15 surcharge percent to be imposed for, and paid in, the following
16 calendar year. The net premium equivalent for individual
17 self-insured employers and any group of political subdivisions of
18 this state qualified to self-insure their liability pursuant to
19 this chapter as authorized by section 537.620 shall be based on
20 average rate classifications calculated by the department of
21 insurance, financial institutions and professional registration
22 as taken from premium rates filed by the twenty insurance
23 companies providing the greatest volume of workers' compensation
24 insurance coverage in this state. For employers qualified to
25 self-insure their liability pursuant to this chapter, the rates
26 filed by such group of employers in accordance with subsection 2
27 of section 287.280 shall be the net premium equivalent. The
28 director may advance funds from the workers' compensation fund to

1 the second injury fund if surcharge collections prove to be
2 insufficient. Any funds advanced from the workers' compensation
3 fund to the second injury fund must be reimbursed by the second
4 injury fund no later than December thirty-first of the year
5 following the advance. The surcharge shall be collected from
6 policyholders by each insurer at the same time and in the same
7 manner that the premium is collected, but no insurer or its agent
8 shall be entitled to any portion of the surcharge as a fee or
9 commission for its collection. The surcharge is not subject to
10 any taxes, licenses or fees.

11 3. All surcharge amounts imposed by this section shall be
12 deposited to the credit of the second injury fund.

13 4. Such surcharge amounts shall be paid quarterly by
14 insurers and self-insurers, and insurers shall pay the amounts
15 not later than the thirtieth day of the month following the end
16 of the quarter in which the amount is received from
17 policyholders. If the director of the division of workers'
18 compensation fails to calculate the surcharge by the thirty-first
19 day of October of any year for the following year, any increase
20 in the surcharge ultimately set by the director shall not be
21 effective for any calendar quarter beginning less than sixty days
22 from the date the director makes such determination.

23 5. If a policyholder or self-insured fails to make payment
24 of the surcharge or an insurer fails to make timely transfer to
25 the division of surcharges actually collected from policyholders,
26 as required by this section, a penalty of one-half of one percent
27 of the surcharge unpaid, or untransferred, shall be assessed
28 against the liable policyholder, self-insured or insurer.

1 Penalties assessed under this subsection shall be collected in a
2 civil action by a summary proceeding brought by the director of
3 the division of workers' compensation.

4 6. Notwithstanding subsection 2 of this section to the
5 contrary, the director of the division of workers' compensation
6 shall collect a supplemental surcharge not to exceed three
7 percent for calendar years 2014 to 2021 of the policyholder's or
8 self-insured's workers' compensation net deposits, net premiums,
9 or net assessments for the previous policy year, rounded up to
10 the nearest one-half of a percentage point. All policyholders
11 and self-insurers shall be notified by the division of the
12 supplemental surcharge percentage to be imposed for such period
13 of time as part of the notice provided in subsection 2 of this
14 section. The provisions of this subsection shall expire on
15 December 31, 2021.

16 7. Funds collected under the provisions of this chapter
17 shall be the sole funding source of the second injury fund.

18 287.745. 1. If the tax imposed by sections 287.690,
19 287.710, and 287.715 are not paid when due, the taxpayer shall be
20 required to pay, as part of such tax, interest thereon at the
21 rate of one and one-half percent per month for each month or
22 fraction thereof delinquent. In the event the state prevails in
23 any dispute concerning an assessment of tax which has not been
24 paid by the taxpayer, interest shall be paid upon the amount
25 found due to the state at the rate of one and one-half percent
26 per month for each month or fraction thereof delinquent.

27 2. In any legal contest concerning the amount of tax under
28 sections 287.690, 287.710 and 287.715 for a calendar year, the

1 quarterly installments for the following year shall continue to
2 be made based upon the amount assessed by the director of revenue
3 for the year in question. If after the end of any taxable year,
4 the amount of the actual tax due is less than the total amount of
5 the installments actually paid, the amount by which the amount
6 paid exceeds the amount due shall at the election of the taxpayer
7 be refunded or credited against the tax for the following year
8 and in the event of a credit, deducted from the quarterly
9 installment otherwise due on June first.

10 287.955. 1. Every workers' compensation insurer shall
11 adhere to a uniform classification system and uniform experience
12 rating plan filed with the director by the advisory organization
13 designated by the director and subject to his disapproval. Every
14 workers' compensation insurer shall report its workers'
15 compensation experience in accordance with the statistical plans
16 and other reporting requirements in use by an advisory
17 organization designated by the director. An insurer may develop
18 subclassifications of the uniform classification system [upon
19 which a rate may be made], except that such subclassifications
20 shall be filed with the director thirty days prior to their use.
21 A workers' compensation insurer may develop other rating plans
22 which reflect additional risk characteristics, and such rating
23 plans and their filing shall be filed with the director thirty
24 days prior to their use. The director shall disapprove
25 subclassifications, rating plans, or other variations from manual
26 rules filed by an insurer if the insurer fails to demonstrate
27 that the data thereby produced can be reported consistent with
28 the uniform statistical plan, [and] classification system, and

1 experience rating systems and is in such a fashion so as to allow
2 for the application of experience rating filed by the advisory
3 organization.

4 2. The director shall designate an advisory organization to
5 assist him in gathering, compiling and reporting relevant
6 statistical information. Every workers' compensation insurer
7 shall record and report its workers' compensation experience to
8 the designated advisory organization as set forth in the uniform
9 statistical plan approved by the director.

10 3. The designated advisory organization shall develop and
11 file manual rules, subject to the approval of the director,
12 reasonably related to the recording and reporting of data
13 pursuant to the uniform statistical plan, uniform experience
14 rating plan, and the uniform classification system. Every
15 workers' compensation insurer shall adhere to the approved manual
16 rules and experience rating plan in writing and reporting its
17 business. No insurer shall agree with any other insurer or with
18 the advisory organization to adhere to manual rules which are not
19 reasonably related to the recording and reporting of data
20 pursuant to the uniform classification system of the uniform
21 statistical plan.

22 Section B. Section A of this act shall become effective
23 January 1, 2014.