

SECOND REGULAR SESSION

SENATE BILL NO. 979

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6266S.01I

AN ACT

To repeal section 287.243, RSMo, and to enact in lieu thereof one new section relating to compensation for emergency personnel killed in the line of duty.

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

Section A. Section 287.243, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 287.243, to read as follows:

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

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

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

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

16 (3) "Emergency medical technician", a person licensed in emergency
17 medical care in accordance with standards prescribed by sections 190.001 to
18 190.245 and by rules adopted by the department of health and senior services
19 under sections 190.001 to 190.245;

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

20 (4) "Firefighter", any person, including a volunteer firefighter, employed
21 by the state or a local governmental entity as an employer defined under
22 subsection 1 of section 287.030, or otherwise serving as a member or officer of a
23 fire department either for the purpose of the prevention or control of fire or the
24 underwater recovery of drowning victims;

25 (5) "Killed in the line of duty", when [a] **any** person defined in this
26 section loses [one's] **his or her** life [as a result of an injury received in the active
27 performance of his or her duties within the ordinary scope of his or her respective
28 profession while the individual is on duty and but for the individual's
29 performance, death would have not occurred] **when:**

30 (a) **Death is caused by an accident or the willful act of violence**
31 **of another;**

32 (b) **The law enforcement officer, emergency medical technician,**
33 **air ambulance pilot, air ambulance registered professional nurse, or**
34 **firefighter is in the active performance of his or her duties in his or her**
35 **respective profession and there is a relationship between the accident**
36 **or commission of the act of violence and the performance of the duty,**
37 **even if the individual is off duty; the law enforcement officer,**
38 **emergency medical technician, air ambulance pilot, air ambulance**
39 **registered professional nurse, or firefighter is traveling to or from**
40 **employment; or the law enforcement officer, emergency medical**
41 **technician, air ambulance pilot, air ambulance registered professional**
42 **nurse, or firefighter is taking any meal break or other break which**
43 **takes place while that individual is on duty;**

44 (c) **Death is the natural and probable consequence of the injury;**
45 **and**

46 (d) **Death occurs within three hundred weeks from the date the**
47 **injury was received.**

48 The term excludes death resulting from the willful misconduct or intoxication of
49 the law enforcement officer, emergency medical technician, air ambulance pilot,
50 air ambulance registered professional nurse, or firefighter. The division of
51 workers' compensation shall have the burden of proving such willful misconduct
52 or intoxication;

53 (6) "Law enforcement officer", any person employed by the state or a local
54 governmental entity as a police officer, peace officer certified under chapter 590,
55 or serving as an auxiliary police officer or in some like position involving the

56 enforcement of the law and protection of the public interest at the risk of that
57 person's life;

58 (7) "Local governmental entity", includes counties, municipalities,
59 townships, board or other political subdivision, cities under special charter, or
60 under the commission form of government, fire protection districts, ambulance
61 districts, and municipal corporations;

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

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

71 3. (1) A claim for compensation under this section shall be filed by the
72 estate of the deceased with the division of workers' compensation not later than
73 one year from the date of death of a law enforcement officer, emergency medical
74 technician, air ambulance pilot, air ambulance registered professional nurse, or
75 firefighter. If a claim is made within one year of the date of death of a law
76 enforcement officer, emergency medical technician, air ambulance pilot, air
77 ambulance registered professional nurse, or firefighter killed in the line of duty,
78 compensation shall be paid, if the division finds that the claimant is entitled to
79 compensation under this section.

80 (2) The amount of compensation paid to the claimant shall be twenty-five
81 thousand dollars, subject to appropriation, for death occurring on or after June
82 19, 2009.

83 4. Notwithstanding subsection 3 of this section, no compensation is
84 payable under this section unless a claim is filed within the time specified under
85 this section setting forth:

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

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

91 (3) A full, factual account of the circumstances resulting in or the course

92 of events causing the death at issue; and

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

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

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

99 6. Neither employers nor workers' compensation insurers shall have
100 subrogation rights against any compensation awarded for claims under this
101 section. Such compensation shall not be assignable, shall be exempt from
102 attachment, garnishment, and execution, and shall not be subject to setoff or
103 counterclaim, or be in any way liable for any debt, except that the division or
104 commission may allow as lien on the compensation, reasonable attorney's fees for
105 services in connection with the proceedings for compensation if the services are
106 found to be necessary. Such fees are subject to regulation as set forth in section
107 287.260.

108 7. Any person seeking compensation under this section who is aggrieved
109 by the decision of the division of workers' compensation regarding his or her
110 compensation claim, may make application for a hearing as provided in section
111 287.450. The procedures applicable to the processing of such hearings and
112 determinations shall be those established by this chapter. Decisions of the
113 administrative law judge under this section shall be binding, subject to review by
114 either party under the provisions of section 287.480.

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

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

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

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

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

127 10. There is hereby created in the state treasury the "Line of Duty

128 Compensation Fund", which shall consist of moneys appropriated to the fund and
129 any voluntary contributions, gifts, or bequests to the fund. The state treasurer
130 shall be custodian of the fund and shall approve disbursements from the fund in
131 accordance with sections 30.170 and 30.180. Upon appropriation, money in the
132 fund shall be used solely for paying claims under this section. Notwithstanding
133 the provisions of section 33.080 to the contrary, any moneys remaining in the
134 fund at the end of the biennium shall not revert to the credit of the general
135 revenue fund. The state treasurer shall invest moneys in the fund in the same
136 manner as other funds are invested. Any interest and moneys earned on such
137 investments shall be credited to the fund.

138 11. The division shall promulgate rules to administer this section,
139 including but not limited to the appointment of claims to multiple claimants,
140 record retention, and procedures for information requests. Any rule or portion
141 of a rule, as that term is defined in section 536.010, that is created under the
142 authority delegated in this section shall become effective only if it complies with
143 and is subject to all of the provisions of chapter 536 and, if applicable, section
144 536.028. This section and chapter 536 are nonseverable and if any of the powers
145 vested with the general assembly under chapter 536 to review, to delay the
146 effective date, or to disapprove and annul a rule are subsequently held
147 unconstitutional, then the grant of rulemaking authority and any rule proposed
148 or adopted after June 19, 2009, shall be invalid and void.

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