

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ Of \_\_\_\_\_

Amend SS/SCS/Senate Bill No. 113, Page 15, Section 287.170, Line 11

of said page, by inserting after all of said line the following:

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

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

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

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

(3) "Child", any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased law enforcement



1 officer, emergency medical technician, air ambulance pilot, air  
2 ambulance registered professional nurse, or firefighter who, at  
3 the time of the law enforcement officer's, emergency medical  
4 technician's, air ambulance pilot's, air ambulance registered  
5 professional nurse's, or firefighter's fatality is:

6 (a) Eighteen years of age or under;

7 (b) Over eighteen years of age and a student as defined in  
8 section 8101 of title 5, United States Code; or

9 (c) Over eighteen years of age and incapable of  
10 self-support because of physical or mental disability;

11 (4) "Emergency medical technician", a person licensed in  
12 emergency medical care in accordance with standards prescribed by  
13 sections 190.001 to 190.245 and by rules adopted by the  
14 department of health and senior services under sections 190.001  
15 to 190.245;

16 **[(4)]** (5) "Firefighter", any person, including a volunteer  
17 firefighter, employed by the state or a local governmental entity  
18 as an employer defined under subsection 1 of section 287.030, or  
19 otherwise serving as a member or officer of a fire department  
20 either for the purpose of the prevention or control of fire or  
21 the underwater recovery of drowning victims;

22 **[(5)]** (6) "Killed in the line of duty", when any person  
23 defined in this section loses his or her life when:

24 (a) Death is caused by an accident or the willful act of  
25 violence of another;

26 (b) The law enforcement officer, emergency medical  
27 technician, air ambulance pilot, air ambulance registered  
28 professional nurse, or firefighter is in the active performance  
29 of his or her duties in his or her respective profession and



1       there is a relationship between the accident or commission of the  
2       act of violence and the performance of the duty, even if the  
3       individual is off duty; the law enforcement officer, emergency  
4       medical technician, air ambulance pilot, air ambulance registered  
5       professional nurse, or firefighter is traveling to or from  
6       employment; or the law enforcement officer, emergency medical  
7       technician, air ambulance pilot, air ambulance registered  
8       professional nurse, or firefighter is taking any meal break or  
9       other break which takes place while that individual is on duty;

10           (c) Death is the natural and probable consequence of the  
11       injury; and

12           (d) Death occurs within three hundred weeks from the date  
13       the injury was received.

14  
15       The term excludes death resulting from the willful misconduct or  
16       intoxication of the law enforcement officer, emergency medical  
17       technician, air ambulance pilot, air ambulance registered  
18       professional nurse, or firefighter. The division of workers'  
19       compensation shall have the burden of proving such willful  
20       misconduct or intoxication;

21           [(6)] (7) "Law enforcement officer", any person employed by  
22       the state or a local governmental entity as a police officer,  
23       peace officer certified under chapter 590, or serving as an  
24       auxiliary police officer or in some like position involving the  
25       enforcement of the law and protection of the public interest at  
26       the risk of that person's life;

27           [(7)] (8) "Local governmental entity", includes counties,  
28       municipalities, townships, board or other political subdivision,  
29       cities under special charter, or under the commission form of



1 government, fire protection districts, ambulance districts, and  
2 municipal corporations;

3 [(8)] (9) "State", the state of Missouri and its  
4 departments, divisions, boards, bureaus, commissions,  
5 authorities, and colleges and universities;

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

15 3. (1) A claim for compensation under this section shall  
16 be filed [by the estate of] by survivors of the deceased with the  
17 division of workers' compensation not later than one year from  
18 the date of death of a law enforcement officer, emergency medical  
19 technician, air ambulance pilot, air ambulance registered  
20 professional nurse, or firefighter. If a claim is made within  
21 one year of the date of death of a law enforcement officer,  
22 emergency medical technician, air ambulance pilot, air ambulance  
23 registered professional nurse, or firefighter killed in the line  
24 of duty, compensation shall be paid, if the division finds that  
25 the claimant is entitled to compensation under this section.

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

29 4. Any compensation awarded under the provisions of this



1 section shall be distributed as follows:

2 (1) If there is no child who survived the law enforcement  
3 officer, emergency medical technician, air ambulance pilot, air  
4 ambulance registered professional nurse, or firefighter, to the  
5 surviving spouse of the law enforcement officer, emergency  
6 medical technician, air ambulance pilot, air ambulance registered  
7 professional nurse, or firefighter;

8 (2) If there is at least one child who survived the law  
9 enforcement officer, emergency medical technician, air ambulance  
10 pilot, air ambulance registered professional nurse, or  
11 firefighter, and a surviving spouse of the law enforcement  
12 officer, emergency medical technician, air ambulance pilot, air  
13 ambulance registered professional nurse, or firefighter, fifty  
14 percent to the surviving child, or children, in equal shares, and  
15 fifty percent to the surviving spouse;

16 (3) If there is no surviving spouse of the law enforcement  
17 officer, emergency medical technician, air ambulance pilot, air  
18 ambulance registered professional nurse, or firefighter, to the  
19 surviving child, or children, in equal shares;

20 (4) If there is no surviving spouse of the law enforcement  
21 officer, emergency medical technician, air ambulance pilot, air  
22 ambulance registered professional nurse, or firefighter and no  
23 surviving child:

24 (a) To the surviving individual, or individuals, in shares  
25 per the designation or, otherwise, in equal shares, designated by  
26 the law enforcement officer, emergency medical technician, air  
27 ambulance pilot, air ambulance registered professional nurse, or  
28 firefighter to receive benefits under this subsection in the most  
29 recently executed designation of beneficiary of the law



1 enforcement officer, emergency medical technician, air ambulance  
2 pilot, air ambulance registered professional nurse, or  
3 firefighter on file at the time of death with the public safety  
4 agency, organization, or unit; or

5 (b) If there is no individual qualifying under paragraph  
6 (a), to the surviving individual, or individuals, in equal  
7 shares, designated by the law enforcement officer, emergency  
8 medical technician, air ambulance pilot, air ambulance registered  
9 professional nurse, or firefighter to receive benefits under the  
10 most recently executed life insurance policy of the law  
11 enforcement officer, emergency medical technician, air ambulance  
12 pilot, air ambulance registered professional nurse, or  
13 firefighter on file at the time of death with the public safety  
14 agency, organization, or unit;

15 (5) If there is no individual qualifying under subdivisions  
16 (1), (2), (3), or (4) of this subsection, to the surviving  
17 parent, or parents, in equal shares, of the law enforcement  
18 officer, emergency medical technician, air ambulance pilot, air  
19 ambulance registered professional nurse, or firefighter; or

20 (6) If there is no individual qualifying under subdivisions  
21 (1), (2), (3), (4), or (5) of this subsection, to the surviving  
22 individual, or individuals, in equal shares, who would otherwise  
23 qualify under the definition of the term "child" but for his or  
24 her age.

25 5. Notwithstanding subsection 3 of this section, no  
26 compensation is payable under this section unless a claim is  
27 filed within the time specified under this section setting forth:

28 (1) The name, address, and title or designation of the  
29 position in which the law enforcement officer, emergency medical



1 technician, air ambulance pilot, air ambulance registered  
2 professional nurse, or firefighter was serving at the time of his  
3 or her death;

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

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

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

9  
10 When a claim is filed, the division of workers' compensation  
11 shall make an investigation for substantiation of matters set  
12 forth in the application.

13 [5.] 6. The compensation provided for under this section is  
14 in addition to, and not exclusive of, any pension rights, death  
15 benefits, or other compensation the claimant may otherwise be  
16 entitled to by law.

17 [6.] 7. Neither employers nor workers' compensation  
18 insurers shall have subrogation rights against any compensation  
19 awarded for claims under this section. Such compensation shall  
20 not be assignable, shall be exempt from attachment, garnishment,  
21 and execution, and shall not be subject to setoff or  
22 counterclaim, or be in any way liable for any debt, except that  
23 the division or commission may allow as lien on the compensation,  
24 reasonable attorney's fees for services in connection with the  
25 proceedings for compensation if the services are found to be  
26 necessary. Such fees are subject to regulation as set forth in  
27 section 287.260.

28 [7.] 8. Any person seeking compensation under this section  
29 who is aggrieved by the decision of the division of workers'



1 compensation regarding his or her compensation claim, may make  
2 application for a hearing as provided in section 287.450. The  
3 procedures applicable to the processing of such hearings and  
4 determinations shall be those established by this chapter.  
5 Decisions of the administrative law judge under this section  
6 shall be binding, subject to review by either party under the  
7 provisions of section 287.480.

8 [8.] 9. Pursuant to section 23.253 of the Missouri sunset  
9 act:

10 (1) The provisions of the new program authorized under this  
11 section shall automatically sunset six years after June 19, 2019,  
12 unless reauthorized by an act of the general assembly; and

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

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

19 [9.] 10. The provisions of this section, unless specified,  
20 shall not be subject to other provisions of this chapter.

21 [10.] 11. There is hereby created in the state treasury the  
22 "Line of Duty Compensation Fund", which shall consist of moneys  
23 appropriated to the fund and any voluntary contributions, gifts,  
24 or bequests to the fund. The state treasurer shall be custodian  
25 of the fund and shall approve disbursements from the fund in  
26 accordance with sections 30.170 and 30.180. Upon appropriation,  
27 money in the fund shall be used solely for paying claims under  
28 this section. Notwithstanding the provisions of section 33.080  
29 to the contrary, any moneys remaining in the fund at the end of



1 the biennium shall not revert to the credit of the general  
2 revenue fund. The state treasurer shall invest moneys in the  
3 fund in the same manner as other funds are invested. Any  
4 interest and moneys earned on such investments shall be credited  
5 to the fund.

6 [11.] 12. The division shall promulgate rules to administer  
7 this section, including but not limited to the appointment of  
8 claims to multiple claimants, record retention, and procedures  
9 for information requests. Any rule or portion of a rule, as that  
10 term is defined in section 536.010, that is created under the  
11 authority delegated in this section shall become effective only  
12 if it complies with and is subject to all of the provisions of  
13 chapter 536 and, if applicable, section 536.028. This section  
14 and chapter 536 are nonseverable and if any of the powers vested  
15 with the general assembly under chapter 536 to review, to delay  
16 the effective date, or to disapprove and annul a rule are  
17 subsequently held unconstitutional, then the grant of rulemaking  
18 authority and any rule proposed or adopted after June 19, 2009,  
19 shall be invalid and void. "; and

20 Further amend the title and enacting clause accordingly.