

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SCS/House Bill No. 604, Page 1, Section A, Line 6,

2 by inserting after all of said line the following:

3 "287.170. 1. For temporary total disability the
4 employer shall pay compensation for not more than four
5 hundred weeks during the continuance of such disability at
6 the weekly rate of compensation in effect under this section
7 on the date of the injury for which compensation is being
8 made. The amount of such compensation shall be computed as
9 follows:

10 (1) For all injuries occurring on or after September
11 28, 1983, but before September 28, 1986, the weekly
12 compensation shall be an amount equal to sixty-six and two-
13 thirds percent of the injured employee's average weekly
14 earnings as of the date of the injury; provided that the
15 weekly compensation paid under this subdivision shall not
16 exceed an amount equal to seventy percent of the state
17 average weekly wage, as such wage is determined by the
18 division of employment security, as of the July first
19 immediately preceding the date of injury;

20 (2) For all injuries occurring on or after September
21 28, 1986, but before August 28, 1990, the weekly
22 compensation shall be an amount equal to sixty-six and two-
23 thirds percent of the injured employee's average weekly
24 earnings as of the date of the injury; provided that the
25 weekly compensation paid under this subdivision shall not
26 exceed an amount equal to seventy-five percent of the state

27 average weekly wage, as such wage is determined by the
28 division of employment security, as of the July first
29 immediately preceding the date of injury;

30 (3) For all injuries occurring on or after August 28,
31 1990, but before August 28, 1991, the weekly compensation
32 shall be an amount equal to sixty-six and two-thirds percent
33 of the injured employee's average weekly earnings as of the
34 date of the injury; provided that the weekly compensation
35 paid under this subdivision shall not exceed an amount equal
36 to one hundred percent of the state average weekly wage;

37 (4) For all injuries occurring on or after August 28,
38 1991, the weekly compensation shall be an amount equal to
39 sixty-six and two-thirds percent of the injured employee's
40 average weekly earnings as of the date of the injury;
41 provided that the weekly compensation paid under this
42 subdivision shall not exceed an amount equal to one hundred
43 five percent of the state average weekly wage;

44 (5) For all injuries occurring on or after September
45 28, 1981, the weekly compensation shall in no event be less
46 than forty dollars per week.

47 2. Temporary total disability payments shall be made
48 to the claimant by check or other negotiable [instruments
49 approved by the director which will not result in delay in
50 payment] instrument, or by electronic transfer or other
51 manner authorized by the claimant, and shall be forwarded
52 directly to the claimant without intervention, or, when
53 requested, to claimant's attorney if represented, except as
54 provided in section 454.517, by any other party except by
55 order of the division of workers' compensation.

56 3. An employee is disqualified from receiving
57 temporary total disability during any period of time in
58 which the claimant applies and receives unemployment
59 compensation.

60 4. If the employee is terminated from post-injury
61 employment based upon the employee's post-injury misconduct,
62 neither temporary total disability nor temporary partial
63 disability benefits under this section or section 287.180
64 are payable. As used in this section, the phrase "post-
65 injury misconduct" shall not include absence from the
66 workplace due to an injury unless the employee is capable of
67 working with restrictions, as certified by a physician.

68 5. If an employee voluntarily separates from
69 employment with an employer at a time when the employer had
70 work available for the employee that was in compliance with
71 any medical restriction imposed upon the employee within a
72 reasonable degree of medical certainty as a result of the
73 injury that is the subject of a claim for benefits under
74 this chapter, neither temporary total disability nor
75 temporary partial disability benefits available under this
76 section or section 287.180 shall be payable.

77 287.180. 1. For temporary partial disability,
78 compensation shall be paid during such disability but not
79 for more than one hundred weeks, and shall be sixty-six and
80 two-thirds percent of the difference between the average
81 earnings prior to the accident and the amount which the
82 employee, in the exercise of reasonable diligence, will be
83 able to earn during the disability, to be determined in view
84 of the nature and extent of the injury and the ability of
85 the employee to compete in an open labor market. The amount
86 of such compensation shall be computed as follows:

87 (1) For all injuries occurring on or after September
88 28, 1983, but before September 28, 1986, the weekly
89 compensation shall be an amount equal to sixty-six and two-
90 thirds percent of the injured employee's average weekly
91 earnings as of the date of injury; provided that the weekly
92 compensation paid under this subdivision shall not exceed an

93 amount equal to seventy percent of the state average weekly
94 wage, as such wages are determined by the division of
95 employment security, as of the July first immediately
96 preceding the date of injury;

97 (2) For all injuries occurring on or after September
98 28, 1986, but before August 28, 1990, the weekly
99 compensation shall be an amount equal to sixty-six and two-
100 thirds percent of the injured employee's average weekly
101 earnings as of the date of the injury; provided that the
102 weekly compensation paid under this subdivision shall not
103 exceed an amount equal to seventy-five percent of the state
104 average weekly wage, as such wage is determined by the
105 division of employment security, as of the July first
106 immediately preceding the date of injury;

107 (3) For all injuries occurring on or after August 28,
108 1990, but before August 28, 1991, the weekly compensation
109 shall be an amount equal to sixty-six and two-thirds percent
110 of the injured employee's average weekly earnings as of the
111 date of the injury; provided that the weekly compensation
112 paid under this subdivision shall not exceed an amount equal
113 to one hundred percent of the state average weekly wage;

114 (4) For all injuries occurring on or after August 28,
115 1991, the weekly compensation shall be an amount equal to
116 sixty-six and two-thirds percent of the injured employee's
117 average weekly earnings as of the date of the injury;
118 provided that the weekly compensation paid under this
119 subdivision shall not exceed an amount equal to one hundred
120 five percent of the state average weekly wage.

121 2. Temporary partial disability payments shall be made
122 to the claimant by check, or other negotiable instrument
123 [approved by the director which will not result in delay in
124 payment], or by electronic transfer or other manner
125 authorized by the claimant.

126 287.715. 1. For the purpose of providing for revenue
127 for the second injury fund, every authorized self-insurer,
128 and every workers' compensation policyholder insured
129 pursuant to the provisions of this chapter, shall be liable
130 for payment of an annual surcharge in accordance with the
131 provisions of this section. The annual surcharge imposed
132 under this section shall apply to all workers' compensation
133 insurance policies and self-insurance coverages which are
134 written or renewed on or after April 26, 1988, including the
135 state of Missouri, including any of its departments,
136 divisions, agencies, commissions, and boards or any
137 political subdivisions of the state who self-insure or hold
138 themselves out to be any part self-insured. Notwithstanding
139 any law to the contrary, the surcharge imposed pursuant to
140 this section shall not apply to any reinsurance or
141 retrocessional transaction.

142 2. Beginning October 31, 2005, and each year
143 thereafter, the director of the division of workers'
144 compensation shall estimate the amount of benefits payable
145 from the second injury fund during the following calendar
146 year and shall calculate the total amount of the annual
147 surcharge to be imposed during the following calendar year
148 upon all workers' compensation policyholders and authorized
149 self-insurers. The amount of the annual surcharge
150 percentage to be imposed upon each policyholder and self-
151 insured for the following calendar year commencing with the
152 calendar year beginning on January 1, 2006, shall be set at
153 and calculated against a percentage, not to exceed three
154 percent, of the policyholder's or self-insured's workers'
155 compensation net deposits, net premiums, or net assessments
156 for the previous policy year, rounded up to the nearest one-
157 half of a percentage point, that shall generate, as nearly
158 as possible, one hundred ten percent of the moneys to be

159 paid from the second injury fund in the following calendar
160 year, less any moneys contained in the fund at the end of
161 the previous calendar year. All policyholders and self-
162 insurers shall be notified by the division of workers'
163 compensation within ten calendar days of the determination
164 of the surcharge percent to be imposed for, and paid in, the
165 following calendar year. The net premium equivalent for
166 individual self-insured employers shall be based on average
167 rate classifications calculated by the department of
168 commerce and insurance as taken from premium rates filed by
169 the twenty insurance companies providing the greatest volume
170 of workers' compensation insurance coverage in this state.
171 For employers qualified to self-insure their liability
172 pursuant to this chapter, the rates filed by such group of
173 employers in accordance with subsection 4 of section 287.280
174 shall be the net premium equivalent. Any group of political
175 subdivisions of this state qualified to self-insure their
176 liability pursuant to this chapter as authorized by section
177 537.620 may choose either the average rate classification
178 method or the filed rate method, provided that the method
179 used may only be changed once without receiving the consent
180 of the director of the division of workers' compensation.
181 The director may advance funds from the workers'
182 compensation fund to the second injury fund if surcharge
183 collections prove to be insufficient. Any funds advanced
184 from the workers' compensation fund to the second injury
185 fund must be reimbursed by the second injury fund no later
186 than December thirty-first of the year following the
187 advance. The surcharge shall be collected from
188 policyholders by each insurer at the same time and in the
189 same manner that the premium is collected, but no insurer or
190 its agent shall be entitled to any portion of the surcharge

191 as a fee or commission for its collection. The surcharge is
192 not subject to any taxes, licenses or fees.

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

195 4. Such surcharge amounts shall be paid quarterly by
196 insurers and self-insurers, and insurers shall pay the
197 amounts not later than the thirtieth day of the month
198 following the end of the quarter in which the amount is
199 received from policyholders. If the director of the
200 division of workers' compensation fails to calculate the
201 surcharge by the thirty-first day of October of any year for
202 the following year, any increase in the surcharge ultimately
203 set by the director shall not be effective for any calendar
204 quarter beginning less than sixty days from the date the
205 director makes such determination.

206 5. If a policyholder or self-insured fails to make
207 payment of the surcharge or an insurer fails to make timely
208 transfer to the division of surcharges actually collected
209 from policyholders, as required by this section, a penalty
210 of one-half of one percent of the surcharge unpaid, or
211 untransferred, shall be assessed against the liable
212 policyholder, self-insured or insurer. Penalties assessed
213 under this subsection shall be collected in a civil action
214 by a summary proceeding brought by the director of the
215 division of workers' compensation.

216 6. Notwithstanding subsection 2 of this section to the
217 contrary, the director of the division of workers'
218 compensation shall collect a supplemental surcharge not to
219 exceed three percent for calendar years 2014 to ~~2021~~ 2022
220 of the policyholder's or self-insured's workers'
221 compensation net deposits, net premiums, or net assessments
222 for the previous policy year, rounded up to the nearest one-
223 half of a percentage point. For calendar year 2023, the

224 director of the division of workers' compensation shall
225 collect a supplemental surcharge not to exceed two and one-
226 half percent of the policyholder's or self-insured's
227 workers' compensation net deposits, net premiums, or net
228 assessments for the previous policy year, rounded up to the
229 nearest one-half of a percentage point. All policyholders
230 and self-insurers shall be notified by the division of the
231 supplemental surcharge percentage to be imposed for such
232 period of time as part of the notice provided in subsection
233 2 of this section. The provisions of this subsection shall
234 expire on December 31, ~~[2021]~~ 2023.

235 7. Funds collected under the provisions of this
236 chapter shall be the sole funding source of the second
237 injury fund."; and

238 Further amend the title and enacting clause accordingly.