

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 360

101ST GENERAL ASSEMBLY

1713S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 287.715, RSMo, and to enact in lieu thereof one new section relating to supplemental surcharges collected by the division of workers' compensation.

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

Section A. Section 287.715, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 287.715,
3 to read as follows:

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

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

17 2. Beginning October 31, 2005, and each year
18 thereafter, the director of the division of workers'
19 compensation shall estimate the amount of benefits payable
20 from the second injury fund during the following calendar
21 year and shall calculate the total amount of the annual
22 surcharge to be imposed during the following calendar year
23 upon all workers' compensation policyholders and authorized
24 self-insurers. The amount of the annual surcharge
25 percentage to be imposed upon each policyholder and self-
26 insured for the following calendar year commencing with the
27 calendar year beginning on January 1, 2006, shall be set at
28 and calculated against a percentage, not to exceed [three]
29 **two and one-half** percent, of the policyholder's or self-
30 insured's workers' compensation net deposits, net premiums,
31 or net assessments for the previous policy year, rounded up
32 to the nearest one-half of a percentage point, that shall
33 generate, as nearly as possible, one hundred ten percent of
34 the moneys to be paid from the second injury fund in the
35 following calendar year, less any moneys contained in the
36 fund at the end of the previous calendar year. All
37 policyholders and self-insurers shall be notified by the
38 division of workers' compensation within ten calendar days
39 of the determination of the surcharge percent to be imposed
40 for, and paid in, the following calendar year. The net
41 premium equivalent for individual self-insured employers
42 shall be based on average rate classifications calculated by
43 the department of commerce and insurance as taken from
44 premium rates filed by the twenty insurance companies
45 providing the greatest volume of workers' compensation
46 insurance coverage in this state. For employers qualified
47 to self-insure their liability pursuant to this chapter, the
48 rates filed by such group of employers in accordance with

49 subsection 4 of section 287.280 shall be the net premium
50 equivalent. Any group of political subdivisions of this
51 state qualified to self-insure their liability pursuant to
52 this chapter as authorized by section 537.620 may choose
53 either the average rate classification method or the filed
54 rate method, provided that the method used may only be
55 changed once without receiving the consent of the director
56 of the division of workers' compensation. The director may
57 advance funds from the workers' compensation fund to the
58 second injury fund if surcharge collections prove to be
59 insufficient. Any funds advanced from the workers'
60 compensation fund to the second injury fund must be
61 reimbursed by the second injury fund no later than December
62 thirty-first of the year following the advance. The
63 surcharge shall be collected from policyholders by each
64 insurer at the same time and in the same manner that the
65 premium is collected, but no insurer or its agent shall be
66 entitled to any portion of the surcharge as a fee or
67 commission for its collection. The surcharge is not subject
68 to any taxes, licenses or fees.

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

71 4. Such surcharge amounts shall be paid quarterly by
72 insurers and self-insurers, and insurers shall pay the
73 amounts not later than the thirtieth day of the month
74 following the end of the quarter in which the amount is
75 received from policyholders. If the director of the
76 division of workers' compensation fails to calculate the
77 surcharge by the thirty-first day of October of any year for
78 the following year, any increase in the surcharge ultimately
79 set by the director shall not be effective for any calendar

80 quarter beginning less than sixty days from the date the
81 director makes such determination.

82 5. If a policyholder or self-insured fails to make
83 payment of the surcharge or an insurer fails to make timely
84 transfer to the division of surcharges actually collected
85 from policyholders, as required by this section, a penalty
86 of one-half of one percent of the surcharge unpaid, or
87 untransferred, shall be assessed against the liable
88 policyholder, self-insured or insurer. Penalties assessed
89 under this subsection shall be collected in a civil action
90 by a summary proceeding brought by the director of the
91 division of workers' compensation.

92 6. Notwithstanding subsection 2 of this section to the
93 contrary, the director of the division of workers'
94 compensation shall collect a supplemental surcharge not to
95 exceed three percent for calendar years 2014 to **[2021] 2025**
96 of the policyholder's or self-insured's workers'
97 compensation net deposits, net premiums, or net assessments
98 for the previous policy year, rounded up to the nearest one-
99 half of a percentage point. All policyholders and self-
100 insurers shall be notified by the division of the
101 supplemental surcharge percentage to be imposed for such
102 period of time as part of the notice provided in subsection
103 2 of this section. The provisions of this subsection shall
104 expire on December 31, **[2021] 2025**.

105 7. Funds collected under the provisions of this
106 chapter shall be the sole funding source of the second
107 injury fund.

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