

SECOND REGULAR SESSION

# SENATE BILL NO. 865

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BECK.

4869S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 287.020, 287.043, 287.067, 287.120, and 287.140, RSMo, and to enact in lieu thereof six new sections relating to workers' compensation, with penalty provisions.

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

Section A. Sections 287.020, 287.043, 287.067, 287.120,  
2 and 287.140, RSMo, are repealed and six new sections enacted in  
3 lieu thereof, to be known as sections 287.020, 287.043, 287.067,  
4 287.120, 287.140, and 287.485, to read as follows:

287.020. 1. The word "employee" as used in this  
2 chapter shall be construed to mean every person in the  
3 service of any employer, as defined in this chapter, under  
4 any contract of hire, express or implied, oral or written,  
5 or under any appointment or election, including executive  
6 officers of corporations. Except as otherwise provided in  
7 section 287.200, any reference to any employee who has been  
8 injured shall, when the employee is dead, also include his  
9 or her dependents, and other persons to whom compensation  
10 may be payable. The word "employee" shall also include all  
11 minors who work for an employer, whether or not such minors  
12 are employed in violation of law, and all such minors are  
13 hereby made of full age for all purposes under, in  
14 connection with, or arising out of this chapter. The word  
15 "employee" shall not include an individual who is the owner,  
16 as defined in section 301.010, and operator of a motor

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

17 vehicle which is leased or contracted with a driver to a for-  
18 hire motor carrier operating within a commercial zone as  
19 defined in section 390.020 or 390.041, or operating under a  
20 certificate issued by the Missouri department of  
21 transportation or by the United States Department of  
22 Transportation, or any of its subagencies. The word  
23 "employee" also shall not include any person performing  
24 services for board, lodging, aid, or sustenance received  
25 from any religious, charitable, or relief organization.

26 2. The word "accident" as used in this chapter shall  
27 mean an unexpected [traumatic event or unusual strain  
28 identifiable by time and place of occurrence] **or unforeseen**  
29 **identifiable event or series of events happening suddenly**  
30 **and violently, with or without human fault,** and producing at  
31 the time objective symptoms of an injury [caused by a  
32 specific event during a single work shift]. **An injury is**  
33 **compensable if it is clearly work related. An injury is**  
34 **clearly work related if work was a substantial factor in the**  
35 **cause of the resulting medical condition or disability.** An  
36 injury is not compensable **merely** because work was a  
37 triggering or precipitating factor.

38 3. (1) In this chapter the term "injury" is hereby  
39 defined to be an injury which has arisen out of and in the  
40 course of employment. [An injury by accident is compensable  
41 only if the accident was the prevailing factor in causing  
42 both the resulting medical condition and disability. "The  
43 prevailing factor" is defined to be the primary factor, in  
44 relation to any other factor, causing both the resulting  
45 medical condition and disability.]

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

48           (a) It is reasonably apparent, upon consideration of  
49 all the circumstances, that the [accident] **employment** is  
50 [the prevailing] **a substantial** factor in causing the injury;  
51 and

52           (b) **It can be seen to have followed as a natural**  
53 **incident of the work; and**

54           (c) **It can be fairly traced to the employment as a**  
55 **proximate cause; and**

56           (d) It does not come from a hazard or risk unrelated  
57 to the employment to which workers would have been equally  
58 exposed outside of and unrelated to the employment in normal  
59 nonemployment life.

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

62           (4) A cardiovascular, pulmonary, respiratory, or other  
63 disease, or cerebrovascular accident or myocardial  
64 infarction suffered by a worker is an injury only if the  
65 [accident] **employment** is [the prevailing] **a substantial**  
66 factor in causing the resulting medical condition.

67           (5) The terms "injury" and "personal injuries" shall  
68 mean violence to the physical structure of the body and to  
69 the personal property which is used to make up the physical  
70 structure of the body, such as artificial dentures,  
71 artificial limbs, glass eyes, eyeglasses, and other  
72 prostheses which are placed in or on the body to replace the  
73 physical structure and such disease or infection as  
74 naturally results therefrom. These terms shall in no case  
75 except as specifically provided in this chapter be construed  
76 to include occupational disease in any form, nor shall they  
77 be construed to include any contagious or infectious disease  
78 contracted during the course of the employment, nor shall

79 they include death due to natural causes occurring while the  
80 worker is at work.

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

87 5. Injuries sustained in company-owned or subsidized  
88 automobiles in accidents that occur while traveling from the  
89 employee's home to the employer's principal place of  
90 business or from the employer's principal place of business  
91 to the employee's home are not compensable. The extension  
92 of premises doctrine [is abrogated to the extent it extends]  
93 **as it existed prior to August 28, 2005 is reinstated for**  
94 liability for accidents that occur on property not owned or  
95 controlled by the employer even if the accident occurs on  
96 customary, approved, permitted, usual or accepted routes  
97 used by the employee to get to and from their place of  
98 employment.

99 6. The term "total disability" as used in this chapter  
100 shall mean inability to return to any employment and not  
101 merely mean inability to return to the employment in which  
102 the employee was engaged at the time of the accident.

103 7. As used in this chapter and all acts amendatory  
104 thereof, the term "commission" shall hereafter be construed  
105 as meaning and referring exclusively to the labor and  
106 industrial relations commission of Missouri, and the term  
107 "director" shall hereafter be construed as meaning the  
108 director of the department of commerce and insurance of the  
109 state of Missouri or such agency of government as shall  
110 exercise the powers and duties now conferred and imposed

111 upon the department of commerce and insurance of the state  
112 of Missouri.

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

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

121 10. In applying the provisions of this chapter, it is  
122 the intent of the legislature to **[reject and abrogate**  
123 **earlier]** **adopt** case law interpretations on the meaning of or  
124 definition of "accident", "occupational disease", "arising  
125 out of", and "in the course of the employment" to include,  
126 but not be limited to, holdings in: *Bennett v. Columbia*  
127 *Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D.  
128 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc  
129 1999); and *Drewes v. TWA*, 984 S.W.2d 512 (Mo.banc 1999) and  
130 all cases citing, interpreting, applying, or following those  
131 cases. **All case law inconsistent with such interpretations**  
132 **is abrogated.**

133 11. For the purposes of this chapter, "occupational  
134 diseases due to toxic exposure" shall only include the  
135 following: mesothelioma, asbestosis, berylliosis, coal  
136 worker's pneumoconiosis, bronchiolitis obliterans, silicosis,  
137 silicotuberculosis, manganism, acute myelogenous leukemia,  
138 and myelodysplastic syndrome.

139 12. For the purposes of this chapter, "maximum medical  
140 improvement" shall mean the point at which the injured  
141 employee's medical condition has stabilized and can no

142 longer reasonably improve with additional medical care, as  
143 determined within a reasonable degree of medical certainty.

287.043. In applying the provisions of subsection 1 of  
2 section 287.020 and subsection 4 of section 287.040, it is  
3 the intent of the legislature to **[reject and abrogate**  
4 **earlier] adopt** case law interpretations on the meaning of or  
5 definition of "owner", as extended in the following cases:  
6 Owner Operator Independent Drivers Ass'n., Inc. v. New  
7 Prime, Inc., 133 S.W.3d 162 (Mo. App. S.D., 2004); Nunn v.  
8 C.C. Midwest, 151 S.W.3d 388 (Mo. App. W.D., 2004). **All**  
9 **case law inconsistent with such interpretations is abrogated.**

287.067. 1. In this chapter the term "occupational  
2 disease" is hereby defined to mean, unless a different  
3 meaning is clearly indicated by the context, an identifiable  
4 disease arising with or without human fault out of and in  
5 the course of the employment. Ordinary diseases of life to  
6 which the general public is exposed outside of the  
7 employment shall not be compensable, except where the  
8 diseases follow as an incident of an occupational disease as  
9 defined in this section. The disease need not to have been  
10 foreseen or expected but after its contraction it must  
11 appear to have had its origin in a risk connected with the  
12 employment and to have flowed from that source as a rational  
13 consequence.

14 2. An injury or death by occupational disease is  
15 compensable **[only]** if **[the occupational exposure was the**  
16 **prevailing factor in causing both the resulting medical**  
17 **condition and disability. The "prevailing factor" is**  
18 **defined to be the primary factor, in relation to any other**  
19 **factor, causing both the resulting medical condition and**  
20 **disability. Ordinary, gradual deterioration, or progressive**  
21 **degeneration of the body caused by aging or by the normal**

activities of day-to-day living shall not be compensable] it is clearly work related and meets the requirements of an injury which is compensable as provided in subsections 2 and 3 of section 287.020. An occupational disease is not compensable merely because work was a triggering or precipitating factor.

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

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

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

53           6. Disease of the lungs or respiratory tract,  
54   hypotension, hypertension, or disease of the heart or  
55   cardiovascular system, including carcinoma, may be  
56   recognized as occupational diseases for the purposes of this  
57   chapter and are defined to be disability due to exposure to  
58   smoke, gases, carcinogens, inadequate oxygen, of paid  
59   firefighters of a paid fire department or paid police  
60   officers of a paid police department certified under chapter  
61   590 if a direct causal relationship is established, or  
62   psychological stress of firefighters of a paid fire  
63   department or paid peace officers of a police department who  
64   are certified under chapter 590 if a direct causal  
65   relationship is established.

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

70           8. With regard to occupational disease due to  
71   repetitive motion, if the exposure to the repetitive motion  
72   which is found to be the cause of the injury is for a period  
73   of less than three months and the evidence demonstrates that  
74   the exposure to the repetitive motion with the immediate  
75   prior employer was **[the prevailing] a substantial**  
76   **contributing** factor in causing the injury, the prior  
77   employer shall be liable for such occupational disease.

78           9. (1) (a) Posttraumatic stress disorder (PTSD), as  
79   described in the Diagnostic and Statistical Manual of Mental  
80   Health Disorders, Fifth Edition, published by the American  
81   Psychiatric Association, (DSM-5) is recognized as a  
82   compensable occupational disease for purposes of this  
83   chapter when diagnosed in a first responder, as that term is  
84   defined under section 67.145.



85 (b) Benefits payable to a first responder under this  
86 section shall not require a physical injury to the first  
87 responder, and are not subject to any preexisting PTSD.

88 (c) Benefits payable to a first responder under this  
89 section are compensable only if demonstrated by clear and  
90 convincing evidence that PTSD has resulted from the course  
91 and scope of employment, and the first responder is examined  
92 and diagnosed with PTSD by an authorized treating physician,  
93 due to the first responder experiencing one of the following  
94 qualifying events:

95 a. Seeing for oneself a deceased minor;

96 b. Witnessing directly the death of a minor;

97 c. Witnessing directly the injury to a minor who  
98 subsequently died prior to or upon arrival at a hospital  
99 emergency department, participating in the physical  
100 treatment of, or manually transporting, an injured minor who  
101 subsequently died prior to or upon arrival at a hospital  
102 emergency department;

103 d. Seeing for oneself a person who has suffered  
104 serious physical injury of a nature that shocks the  
105 conscience;

106 e. Witnessing directly a death, including suicide, due  
107 to serious physical injury; or homicide, including murder,  
108 mass killings, manslaughter, self-defense, misadventure, and  
109 negligence;

110 f. Witnessing directly an injury that results in  
111 death, if the person suffered serious physical injury that  
112 shocks the conscience;

113 g. Participating in the physical treatment of an  
114 injury, including attempted suicide, or manually  
115 transporting an injured person who suffered serious physical

116 injury, if the injured person subsequently died prior to or  
117 upon arrival at a hospital emergency department; or

118 h. Involvement in an event that caused or may have  
119 caused serious injury or harm to the first responder or had  
120 the potential to cause the death of the first responder,  
121 whether accidental or by an intentional act of another  
122 individual.

123 (2) The time for notice of injury or death in cases of  
124 compensable PTSD under this section is measured from  
125 exposure to one of the qualifying stressors listed in the  
126 DSM-5 criteria, or the diagnosis of the disorder, whichever  
127 is later. Any claim for compensation for such injury shall  
128 be properly noticed within fifty-two weeks after the  
129 qualifying exposure, or the diagnosis of the disorder,  
130 whichever is later.

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

18           2. The rights and remedies herein granted to an  
19 employee shall exclude all other rights and remedies of the  
20 employee, the employee's spouse, parents, personal  
21 representatives, dependents, heirs or next kin, at common  
22 law or otherwise, on account of such injury or death by  
23 accident or occupational disease, except such rights and  
24 remedies as are not provided for by this chapter.

25           3. No compensation shall be allowed under this chapter  
26 for the injury or death due to the employee's intentional  
27 self-inflicted injury, but the burden of proof of  
28 intentional self-inflicted injury shall be on the employer  
29 or the person contesting the claim for allowance.

30           4. Where the injury is caused by the failure of the  
31 employer to comply with any statute in this state or any  
32 lawful order of the division or the commission, the  
33 compensation and death benefit provided for under this  
34 chapter shall be increased fifteen percent.

35           5. Where the injury is caused by the failure of the  
36 employee to use safety devices where provided by the  
37 employer, or from the employee's failure to obey any  
38 reasonable rule adopted by the employer for the safety of  
39 employees, the compensation and death benefit provided for  
40 herein shall be reduced at least twenty-five but not more  
41 than fifty percent; provided, that it is shown that the  
42 employee had actual knowledge of the rule so adopted by the  
43 employer; and provided, further, that the employer had,  
44 prior to the injury, made a reasonable effort to cause his  
45 or her employees to use the safety device or devices and to  
46 obey or follow the rule so adopted for the safety of the  
47 employees.

48           6. (1) Where the employee fails to obey any rule or  
49 policy adopted by the employer relating to a drug-free

workplace or the use of alcohol or nonprescribed controlled drugs in the workplace, the compensation and death benefit provided for herein shall be reduced fifty percent if the injury was sustained in conjunction with the use of alcohol or nonprescribed controlled drugs.

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

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

(4) Any positive test result for a nonprescribed controlled drug or the metabolites of such drug from an employee shall give rise to a rebuttable presumption, which may be rebutted by a preponderance of evidence, that the tested nonprescribed controlled drug was in the employee's system at the time of the accident or injury and that the injury was sustained in conjunction with the use of the tested nonprescribed controlled drug if:

82           (a) The initial testing was administered within twenty-  
83 four hours of the accident or injury;

84           (b) Notice was given to the employee of the test  
85 results within fourteen calendar days of the insurer or  
86 group self-insurer receiving actual notice of the  
87 confirmatory test results;

88           (c) The employee was given an opportunity to perform a  
89 second test upon the original sample; and

90           (d) The initial or any subsequent testing that forms  
91 the basis of the presumption was confirmed by mass  
92 spectrometry using generally accepted medical or forensic  
93 testing procedures.

94           7. Where the employee's participation in a  
95 recreational activity or program is the [prevailing]  
96 **proximate** cause of the injury, benefits or compensation  
97 otherwise payable under this chapter for death or disability  
98 shall be forfeited regardless that the employer may have  
99 promoted, sponsored or supported the recreational activity  
100 or program, expressly or impliedly, in whole or in part.  
101 The forfeiture of benefits or compensation shall not apply  
102 when:

103           (1) The employee was directly ordered by the employer  
104 to participate in such recreational activity or program;

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

108           (3) The injury from such recreational activity or  
109 program occurs on the employer's premises due to an unsafe  
110 condition and the employer had actual knowledge of the  
111 employee's participation in the recreational activity or  
112 program and of the unsafe condition of the premises and

failed to either curtail the recreational activity or program or cure the unsafe condition.

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

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

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

287.140. 1. In addition to all other compensation paid to the employee under this section, the employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury. If the employee desires, he shall have the right to select his own physician, surgeon, or other such requirement at his own expense. Where the requirements are furnished by a public hospital or other institution, payment therefor shall be made to the proper authorities. Regardless of whether the health care provider is selected by the employer or is selected by the employee at the employee's expense, the health care provider shall have the affirmative duty to

16 communicate fully with the employee regarding the nature of  
17 the employee's injury and recommended treatment exclusive of  
18 any evaluation for a permanent disability rating. Failure  
19 to perform such duty to communicate shall constitute a  
20 disciplinary violation by the provider subject to the  
21 provisions of chapter 620. When an employee is required to  
22 submit to medical examinations or necessary medical  
23 treatment at a place outside of the local or metropolitan  
24 area from the employee's principal place of employment, the  
25 employer or its insurer shall advance or reimburse the  
26 employee for all necessary and reasonable expenses; except  
27 that an injured employee who resides outside the state of  
28 Missouri and who is employed by an employer located in  
29 Missouri shall have the option of selecting the location of  
30 services provided in this section either at a location  
31 within one hundred miles of the injured employee's  
32 residence, place of injury or place of hire by the  
33 employer. The choice of provider within the location  
34 selected shall continue to be made by the employer. In case  
35 of a medical examination if a dispute arises as to what  
36 expenses shall be paid by the employer, the matter shall be  
37 presented to the legal advisor, the administrative law judge  
38 or the commission, who shall set the sum to be paid and same  
39 shall be paid by the employer prior to the medical  
40 examination. In no event, however, shall the employer or  
41 its insurer be required to pay transportation costs for a  
42 greater distance than two hundred fifty miles each way from  
43 place of treatment.

44 2. If it be shown to the division or the commission  
45 that the requirements are being furnished in such manner  
46 that there is reasonable ground for believing that the life,  
47 health, or recovery of the employee is endangered thereby,

48 the division or the commission may order a change in the  
49 physician, surgeon, hospital or other requirement.

50 3. All fees and charges under this chapter shall be  
51 fair and reasonable, shall be subject to regulation by the  
52 division or the commission, or the board of rehabilitation  
53 in rehabilitation cases. A health care provider shall not  
54 charge a fee for treatment and care which is governed by the  
55 provisions of this chapter greater than the usual and  
56 customary fee the provider receives for the same treatment  
57 or service when the payor for such treatment or service is a  
58 private individual or a private health insurance carrier.  
59 The division or the commission, or the board of  
60 rehabilitation in rehabilitation cases, shall also have  
61 jurisdiction to hear and determine all disputes as to such  
62 charges. A health care provider is bound by the  
63 determination upon the reasonableness of health care bills.

64 4. The division shall, by regulation, establish  
65 methods to resolve disputes concerning the reasonableness of  
66 medical charges, services, or aids. This regulation shall  
67 govern resolution of disputes between employers and medical  
68 providers over fees charged, whether or not paid, and shall  
69 be in lieu of any other administrative procedure under this  
70 chapter. The employee shall not be a party to a dispute  
71 over medical charges, nor shall the employee's recovery in  
72 any way be jeopardized because of such dispute. Any  
73 application for payment of additional reimbursement, as such  
74 term is used in 8 CSR 50- 2.030, as amended, shall be filed  
75 not later than:

76 (1) Two years from the date the first notice of  
77 dispute of the medical charge was received by the health  
78 care provider if such services were rendered before July 1,  
79 2013; and



80           (2) One year from the date the first notice of dispute  
81 of the medical charge was received by the health care  
82 provider if such services were rendered after July 1, 2013.

83 Notice shall be presumed to occur no later than five  
84 business days after transmission by certified United States  
85 mail.

86           5. No compensation shall be payable for the death or  
87 disability of an employee, if and insofar as the death or  
88 disability may be caused, continued or aggravated by any  
89 unreasonable refusal to submit to any medical or surgical  
90 treatment or operation, the risk of which is, in the opinion  
91 of the division or the commission, inconsiderable in view of  
92 the seriousness of the injury. If the employee dies as a  
93 result of an operation made necessary by the injury, the  
94 death shall be deemed to be caused by the injury.

95           6. The testimony of any physician or chiropractic  
96 physician who treated the employee shall be admissible in  
97 evidence in any proceedings for compensation under this  
98 chapter, subject to all of the provisions of section 287.210.

99           7. Every hospital or other person furnishing the  
100 employee with medical aid shall permit its record to be  
101 copied by and shall furnish full information to the division  
102 or the commission, the employer, the employee or his  
103 dependents and any other party to any proceedings for  
104 compensation under this chapter, and certified copies of the  
105 records shall be admissible in evidence in any such  
106 proceedings.

107           8. The employer may be required by the division or the  
108 commission to furnish an injured employee with artificial  
109 legs, arms, hands, surgical orthopedic joints, or eyes, or  
110 braces, as needed, for life whenever the division or the

commission shall find that the injured employee may be partially or wholly relieved of the effects of a permanent injury by the use thereof. The director of the division shall establish a procedure whereby a claim for compensation may be reactivated after settlement of such claim is completed. The claim shall be reactivated only after the claimant can show good cause for the reactivation of this claim and the claim shall be made only for the payment of medical procedures involving life-threatening surgical procedures or if the claimant requires the use of a new, or the modification, alteration or exchange of an existing, prosthetic device. For the purpose of this subsection, "life threatening" shall mean a situation or condition which, if not treated immediately, will likely result in the death of the injured worker.

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

10. The employer shall have the right to select the licensed treating physician, surgeon, chiropractic physician, or other health care provider; provided, however, that such physicians, surgeons or other health care providers shall offer only those services authorized within the scope of their licenses. For the purpose of this subsection, subsection 2 of section 287.030 shall not apply.

11. Any physician or other health care provider who orders, directs or refers a patient for treatment, testing, therapy or rehabilitation at any institution or facility shall, at or prior to the time of the referral, disclose in writing if such health care provider, any of his partners or his employer has a financial interest in the institution or

143 facility to which the patient is being referred, to the  
144 following:

145 (1) The patient;

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

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

151 (4) The workers' compensation adjusting company for  
152 such insurer.

153 12. Violation of subsection 11 of this section is a  
154 class A misdemeanor.

155 13. (1) No hospital, physician or other health care  
156 provider, other than a hospital, physician or health care  
157 provider selected by the employee at his own expense  
158 pursuant to subsection 1 of this section, shall bill or  
159 attempt to collect any fee or any portion of a fee for  
160 services rendered to an employee due to a work-related  
161 injury or report to any credit reporting agency any failure  
162 of the employee to make such payment, when an injury covered  
163 by this chapter has occurred and such hospital, physician or  
164 health care provider has received actual notice given in  
165 writing by the employee, the employer or the employer's  
166 insurer. Actual notice shall be deemed received by the  
167 hospital, physician or health care provider five days after  
168 mailing by certified mail by the employer or insurer to the  
169 hospital, physician or health care provider.

170 (2) The notice shall include:

171 (a) The name of the employer;

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

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

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

175 (e) Where a claim has been filed, the claim number, if  
176 known.

177 (3) When an injury is found to be noncompensable under  
178 this chapter, the hospital, physician or other health care  
179 provider shall be entitled to pursue the employee for any  
180 unpaid portion of the fee or other charges for authorized  
181 services provided to the employee. Any applicable statute  
182 of limitations for an action for such fees or other charges  
183 shall be tolled from the time notice is given to the  
184 division by a hospital, physician or other health care  
185 provider pursuant to subdivision (6) of this subsection,  
186 until a determination of noncompensability in regard to the  
187 injury which is the basis of such services is made, or in  
188 the event there is an appeal to the labor and industrial  
189 relations commission, until a decision is rendered by that  
190 commission.

191 (4) If a hospital, physician or other health care  
192 provider or a debt collector on behalf of such hospital,  
193 physician or other health care provider pursues any action  
194 to collect from an employee after such notice is properly  
195 given, the employee shall have a cause of action against the  
196 hospital, physician or other health care provider for actual  
197 damages sustained plus up to one thousand dollars in  
198 additional damages, costs and reasonable attorney's fees.

199 (5) If an employer or insurer fails to make payment  
200 for authorized services provided to the employee by a  
201 hospital, physician or other health care provider pursuant  
202 to this chapter, the hospital, physician or other health  
203 care provider may proceed pursuant to subsection 4 of this  
204 section with a dispute against the employer or insurer for  
205 any fees or other charges for services provided.

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

[14. The employer may allow or require an employee to use any of the employee's accumulated paid leave, personal leave, or medical or sick leave to attend to medical treatment, physical rehabilitation, or medical evaluations during work time. The intent of this subsection is to specifically supercede and abrogate any case law that contradicts the express language of this section.]

**287.485. Any time after one year following the date when an employee has reached maximum medical improvement based on the evaluation of a physician, either the employee or the employer may request a final hearing. Such final hearing shall be set within six months after when the request is made and not to be continued, cancelled, or reset without consent of both the employee and the employer.**

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