

FIRST REGULAR SESSION

HOUSE BILL NO. 768

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Read 1st time February 13, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

0045L.02I

AN ACT

To repeal section 287.020, RSMo 2000, relating to workers' compensation, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 287.020, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 287.020, to read as follows:

287.020. 1. The word "employee" as used in this chapter shall be construed to mean every person in the service of any employer, as defined in this chapter, under any contract of hire, express or implied, oral or written, or under any appointment or election, including executive officers of corporations. Any reference to any employee who has been injured shall, when the employee is dead, also include his dependents, and other persons to whom compensation may be payable. The word "employee" shall also include all minors who work for an employer, whether or not such minors are employed in violation of law, and all such minors are hereby made of full age for all purposes under, in connection with, or arising out of this chapter. The word "employee" shall not include an individual who is [the owner and operator] **an owner-operator, or an individual who is employed by an owner-operator**, of a motor vehicle [which is]. **An "owner-operator" is a person, firm, corporation or limited liability company which has one or more motor vehicles** leased or contracted [with a driver] to a for-hire common or contract motor vehicle carrier operating within a commercial zone as defined in section 390.020 or 390.041, RSMo, or operating under a certificate, **permit, or property carrier registration** issued by the **division of** motor carrier and railroad safety [division of] **within** the department of economic development or by the [interstate commerce commission] **federal Motor Carrier**

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

17 **Safety Administration.**

18 2. The word "accident" as used in this chapter shall, unless a different meaning is clearly
19 indicated by the context, be construed to mean an unexpected or unforeseen identifiable event
20 or series of events happening suddenly and violently, with or without human fault, and producing
21 at the time objective symptoms of an injury. An injury is compensable if it is clearly work
22 related. An injury is clearly work related if work was a substantial factor in the cause of the
23 resulting medical condition or disability. An injury is not compensable merely because work was
24 a triggering or precipitating factor.

25 3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen
26 out of and in the course of employment. The injury must be incidental to and not independent
27 of the relation of employer and employee. Ordinary, gradual deterioration or progressive
28 degeneration of the body caused by aging shall not be compensable, except where the
29 deterioration or degeneration follows as an incident of employment.

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

32 (a) It is reasonably apparent, upon consideration of all the circumstances, that the
33 employment is a substantial factor in causing the injury; and

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

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

36 (d) It does not come from a hazard or risk unrelated to the employment to which workers
37 would have been equally exposed outside of and unrelated to the employment in normal
38 nonemployment life;

39 (3) The terms "injury" and "personal injuries" shall mean violence to the physical
40 structure of the body and to the personal property which is used to make up the physical structure
41 of the body, such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other
42 prostheses which are placed in or on the body to replace the physical structure and such disease
43 or infection as naturally results therefrom. These terms shall in no case except as specifically
44 provided in this chapter be construed to include occupational disease in any form, nor shall they
45 be construed to include any contagious or infectious disease contracted during the course of the
46 employment, nor shall they include death due to natural causes occurring while the worker is at
47 work.

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

52 5. Without otherwise affecting either the meaning or interpretation of the abridged

53 clause, "personal injuries arising out of and in the course of such employment", it is hereby
54 declared not to cover workers except while engaged in or about the premises where their duties
55 are being performed, or where their services require their presence as a part of such service.

56 6. A person who is employed by the same employer for more than five and one-half
57 consecutive work days shall for the purpose of this chapter be considered an "employee".

58 7. The term "total disability" as used in this chapter shall mean inability to return to any
59 employment and not merely mean inability to return to the employment in which the employee
60 was engaged at the time of the accident.

61 8. As used in this chapter and all acts amendatory thereof, the term "commission" shall
62 hereafter be construed as meaning and referring exclusively to the labor and industrial relations
63 commission of Missouri, and the term "director" shall hereafter be construed as meaning the
64 director of the department of insurance of the state of Missouri or such agency of government
65 as shall exercise the powers and duties now conferred and imposed upon the department of
66 insurance of the state of Missouri.

67 9. The term "division" as used in this chapter means the division of workers'
68 compensation of the department of labor and industrial relations of the state of Missouri.

69 10. For the purposes of this chapter, the term "minor" means a person who has not
70 attained the age of eighteen years; except that, for the purpose of computing the compensation
71 provided for in this chapter, the provisions of section 287.250 shall control.