

HOUSE SUBSTITUTE
FOR
SENATE BILL NO. 932
AN ACT

2 To repeal sections 286.020, 287.020, 287.067,
3 287.120, 287.128, 287.140, 287.190, 287.240,
4 287.390, 287.510, 287.560, 287.610, 287.800,
5 287.957, and 288.060, RSMo, and to enact in
6 lieu thereof eighteen new sections relating
7 to employment, with penalty provisions.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
9 AS FOLLOWS:

10 Section A. Sections 286.020, 287.020, 287.067, 287.120,
11 287.128, 287.140, 287.190, 287.240, 287.390, 287.510, 287.560,
12 287.610, 287.800, 287.957, and 288.060, RSMo, are repealed and
13 eighteen new sections enacted in lieu thereof, to be known as
14 sections 286.020, 287.020, 287.067, 287.120, 287.128, 287.131,
15 287.140, 287.190, 287.225, 287.240, 287.390, 287.510, 287.560,
16 287.610, 287.800, 287.803, 287.957, and 288.060, to read as
17 follows:

18 286.020. The term of office of each member of the
19 commission shall be six years except that when first constituted
20 one member shall be appointed for two years, one for four years
21 and one for six years, and thereafter all vacancies shall be
22 filled as they occur. The terms of office of the first members
23 of the commission shall begin on the date of their appointment

1 which shall be within thirty days after the effective date of
2 this chapter. Any member appointed to fill a vacancy occurring
3 prior to the expiration of the term for which the member's
4 predecessor was appointed, shall be appointed by the governor, by
5 and with the advice and consent of the senate, for the remainder
6 of such term. Every commission member appointed to serve, either
7 as a permanent, an acting, a temporary, an interim, or as a
8 legislative recess appointment, shall appear for confirmation
9 before the senate within thirty days after the senate next
10 convenes for regular session. Any member appointed or serving
11 the labor and industrial relations commission without senate
12 confirmation after said time period shall immediately resign from
13 the commission, shall not have authority to act, and shall not be
14 reappointed to the same office or position in accordance with
15 section 51 of article IV of the Missouri Constitution. The
16 governor may remove any member of the commission, after notice
17 and hearing, for gross inefficiency, mental or physical
18 incapacity, neglect of duties, malfeasance, misfeasance or
19 nonfeasance in office, incompetence or for any offense involving
20 moral turpitude or oppression in office.

21 287.020. 1. The word "employee" as used in this chapter
22 shall be construed to mean every person in the service of any
23 employer, as defined in this chapter, under any contract of hire,
24 express or implied, oral or written, or under any appointment or
25 election, including executive officers of corporations. Any

1 reference to any employee who has been injured shall, when the
2 employee is dead, also include his dependents, and other persons
3 to whom compensation may be payable. The word "employee" shall
4 also include all minors who work for an employer, whether or not
5 such minors are employed in violation of law, and all such minors
6 are hereby made of full age for all purposes under, in connection
7 with, or arising out of this chapter. The word "employee" shall
8 not include an individual who is the owner and operator of a
9 motor vehicle which is leased or contracted with a driver to a
10 for-hire common or contract motor vehicle carrier operating
11 within a commercial zone as defined in section 390.020 or
12 390.041, RSMo, or operating under a certificate issued by the
13 motor carrier and railroad safety division of the department of
14 economic development or by the interstate commerce commission.

15 2. (1) The word "accident" as used in this chapter [shall,
16 unless a different meaning is clearly indicated by the context,
17 be construed to mean] means an unexpected [or unforeseen
18 identifiable event or series of events happening suddenly and
19 violently, with or without human fault, and] traumatic event or
20 unusual strain identifiable by time and place of occurrence
21 producing at the time objective symptoms of an injury[. An
22 injury is compensable if it is clearly work related. An injury
23 is clearly work related if work was a substantial factor in the
24 cause of the resulting medical condition or disability. An
25 injury is not compensable merely because work was a triggering or

precipitating factor] caused by a specific event during a single work shift.

(2) "Prevailing factor" means the accident is the primary factor in relation to any other factors contributing to the resulting medical condition.

3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out of and in the course of employment. The injury must be incidental to and not independent of the relation of employer and employee. An injury by accident shall be compensable only if the accident was the prevailing factor in causing the resulting medical condition. Ordinary, gradual deterioration or progressive degeneration of the body caused by aging shall not be compensable[, except where the deterioration or degeneration follows as an incident of employment].

(2) An injury shall be deemed to arise out of and in the course of the employment only if all of the following increased risks are met:

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

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

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

1 (d)] It does not come from a hazard or risk unrelated to
2 the employment to which workers would have been equally exposed
3 outside of and unrelated to the employment in normal
4 nonemployment life; and

5 (c) The injury is demonstrated and certified by a physician
6 using medical evidence based only on objective relevant medical
7 findings; and

8 (d) The circumstances of the claimants employment created
9 an increased risk or hazard which resulted in the injury.

10 (3) The terms "injury" and "personal injuries" shall mean
11 violence to the physical structure of the body and to the
12 personal property which is used to make up the physical structure
13 of the body, such as artificial dentures, artificial limbs, glass
14 eyes, eyeglasses, and other prostheses which are placed in or on
15 the body to replace the physical structure and such disease or
16 infection as naturally results therefrom. These terms shall in
17 no case except as specifically provided in this chapter be
18 construed to include occupational disease in any form, nor shall
19 they be construed to include any contagious or infectious disease
20 contracted during the course of the employment, nor shall they
21 include death due to natural causes occurring while the worker is
22 at work.

23 4. Missouri does not apply or follow the positional risk
24 analysis, positional risk doctrine, or positional risk rule. The
25 positional risk doctrine is not to be followed under this chapter

1 and any holding or statement of a judicial opinion or award which
2 recognizes and purportedly follows this rule is hereby abrogated.

3 5. This chapter shall not apply to personal health
4 conditions of an employee which manifest themselves in the
5 employment in which an accident is not the prevailing factor in
6 the resulting need for medical treatment.

7 6. A cardiovascular, pulmonary, respiratory, or other
8 disease, or cerebrovascular accident or myocardial infarction
9 suffered by a worker is an injury only if the accident is the
10 prevailing factor in causing the resulting medical condition.

11 7. The employee shall not be entitled to recover for the
12 aggravation of a preexisting condition, except to the extent that
13 the work-related injury causes increased permanent disability.
14 Any award of compensation shall be reduced by the amount of
15 permanent partial disability determined to be a preexisting
16 disease or condition sufficient to cause or prolong the
17 disability or need for treatment. The resultant condition is
18 compensable only to the extent that the compensable injury is and
19 remains the prevailing cause of the disability or need for
20 treatment.

21 (1) Any reduction or determination shall be made without
22 consideration of whether the preexisting condition would be
23 disabling without the compensable accident.

24 (2) The degree of permanent impairment or disability
25 attributable to the accident or injury shall be compensated in

1 accordance with this section, apportioning out the preexisting
2 condition based on the anatomical impairment rating attributable
3 to the preexisting condition.

4 (3) Medical benefits shall be paid apportioning out the
5 percentage of the need for such care attributable to the
6 preexisting condition.

7 8. Pain or other subjective complaints alone, in the
8 absence of objective relevant medical findings, are not
9 compensable.

10 [4.] 9. "Death" when mentioned as a basis for the right to
11 compensation means only death resulting from such violence and
12 its resultant effects occurring within three hundred weeks after
13 the accident; except that in cases of occupational disease, the
14 limitation of three hundred weeks shall not be applicable.

15 [5.] 10. Without otherwise affecting either the meaning or
16 interpretation of the abridged clause, "personal injuries arising
17 out of and in the course of such employment", it is hereby
18 declared not to cover workers except while engaged in or about
19 the premises where their duties are being performed, or where
20 their services require their presence as a part of such service.
21 Injuries and accidents that occur while traveling to or from work
22 in company-owned or subsidized automobiles are not compensable.
23 The "extension of premises" doctrine is overruled to the extent
24 it extends liability for accidents that occur on property not
25 owned or controlled by any employer.

1 [6.] 11. A person who is employed by the same employer for
2 more than five and one-half consecutive work days shall for the
3 purpose of this chapter be considered an "employee".

4 [7.] 12. The term "total disability" as used in this
5 chapter shall mean inability to return to any employment and not
6 merely mean inability to return to the employment in which the
7 employee was engaged at the time of the accident.

8 [8.] 13. As used in this chapter and all acts amendatory
9 thereof, the term "commission" shall hereafter be construed as
10 meaning and referring exclusively to the labor and industrial
11 relations commission of Missouri, and the term "director" shall
12 hereafter be construed as meaning the director of the department
13 of insurance of the state of Missouri or such agency of
14 government as shall exercise the powers and duties now conferred
15 and imposed upon the department of insurance of the state of
16 Missouri.

17 [9.] 14. The term "division" as used in this chapter means
18 the division of workers' compensation of the department of labor
19 and industrial relations of the state of Missouri.

20 [10.] 15. For the purposes of this chapter, the term
21 "minor" means a person who has not attained the age of eighteen
22 years; except that, for the purpose of computing the compensation
23 provided for in this chapter, the provisions of section 287.250
24 shall control.

25 16. In applying provisions of this chapter, it is the

1 intent of the legislature to reject and abrogate earlier case law
2 interpretations of cases "arising out of" and "in the course of
3 the employment", to include, but not be limited to, holdings in
4 cases such as *Bennett v. Columbia Health Care and Rehabilitation,*
5 80 S.W.3d 524 (Mo.App. W.D. 2002); *Kasl v. Bristol Care, Inc.,*
6 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA,* 984 S.W.2d 512
7 (Mo.banc 1999).

8 17. "Specificity" means information on the claim for
9 benefits sufficient to put the employer or carrier on notice of
10 the exact statutory classification and outstanding time period of
11 benefits being requested and includes a detailed explanation of
12 any benefits received that should be increased, decreased,
13 changed, or otherwise modified. If the claim is for medical
14 benefits, the information shall include specific details as to
15 why such benefits are being requested, why such benefits are
16 medically necessary, and why current treatment, if any, is not
17 sufficient. Any claim requesting alternate or other medical
18 care, including, but not limited to, claims requesting
19 psychiatric or psychological treatment, must specifically
20 identify the physician, as defined in subdivision (8) of section
21 287.120, that is recommending such treatment. A copy of a report
22 from such physician making the recommendation for alternate or
23 other medical care shall also be attached to the claim. An
24 administrative law judge shall not order such treatment if a
25 physician is not recommending such treatment.

1 18. As used in this chapter the term "amount in dispute"
2 means either the dollar amount claimed by the employee that is in
3 excess of the dollar amount offered by the employer prior to
4 attorney involvement, or in the event no amount is offered and
5 tendered by the employer and accepted by the employee, the dollar
6 amount that is in excess of the award granted by the court.

7 19. "Functional impairment" means the extent, expressed as
8 a percentage, of the loss of a portion of the total physiological
9 capabilities of the human body as established by objective
10 relevant medical findings and based on the fourth edition of the
11 American Medical Association Guides to the Evaluation of
12 Permanent Impairment, if the impairment is contained therein.

13 287.067. 1. In this chapter the term "occupational
14 disease" is hereby defined to mean, unless a different meaning is
15 clearly indicated by the context, an identifiable disease arising
16 with or without human fault out of and in the course of the
17 employment. Ordinary diseases of life to which the general
18 public is exposed outside of the employment shall not be
19 compensable, except where the diseases follow as an incident of
20 an occupational disease as defined in this section. The disease
21 need not to have been foreseen or expected but after its
22 contraction it must appear to have had its origin in a risk
23 connected with the employment and to have flowed from that source
24 as a rational consequence. "Occupational disease" means only a
25 disease for which there are epidemiological studies showing that

1 exposure to the specific substance involved, at the levels to
2 which the employee was exposed, may cause the precise disease
3 sustained by the employee.

4 2. An occupational disease is compensable only if [it is
5 clearly work related and meets the requirements of an injury
6 which is compensable as provided in subsections 2 and 3 of
7 section 287.020. An occupational disease is not compensable
8 merely because work was a triggering or precipitating factor] the
9 occupational exposure was the prevailing factor in causing the
10 resulting medical condition.

11 (1) Ordinary, gradual deterioration, or progressive
12 degeneration of the body caused by aging shall not be
13 compensable.

14 (2) "Prevailing factor" shall mean the occupational
15 exposure is the primary factor in relation to any other factors,
16 such that when compared to the other factors individually and not
17 collectively, the accident has a greater effect than any of the
18 other factors on the resulting medical condition or disability.

19 (3) The occupational exposure must be demonstrated and
20 certified by a physician using medical evidence based exclusively
21 on objective relevant medical findings.

22 3. An occupational disease or occupational exposure injury
23 shall be deemed to rise out of and in the course of the
24 employment only if all of the following increased risks are met:

25 (1) It is reasonably apparent upon consideration of all the

1 circumstances that the occupational disease is the prevailing
2 factor in causing the injury; and

3 (2) It does not come from a hazard or risk unrelated to the
4 employment to which workers would have been equally exposed
5 outside of and unrelated to the employment in normal
6 nonemployment life; and

7 (3) The injury is demonstrated and certified by a physician
8 using medical evidence based exclusively on objective relevant
9 medical findings; and

10 (4) If the circumstances of the claimants employment led to
11 an increase in the risk or hazard which resulted in the injury.

12 4. Missouri does not apply or follow the positional risk
13 analysis, positional risk doctrine, or positional risk rule. The
14 positional risk doctrine is not to be followed under this chapter
15 and any holding or statement of a judicial opinion or award which
16 recognizes and purportedly follows this rule is hereby abrogated.

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

22 [4.] 6. "Radiation disability" is recognized as an
23 occupational disease for purposes of this chapter and is hereby
24 defined to be that disability due to radioactive properties or
25 substances or to Roentgen rays (X rays) or exposure to ionizing

1 radiation caused by any process involving the use of or direct
2 contact with radium or radioactive properties or substances or
3 the use of or direct exposure to Roentgen rays (X rays) or
4 ionizing radiation.

5 [5.] 7. Disease of the lungs or respiratory tract,
6 hypotension, hypertension, or disease of the heart or
7 cardiovascular system, including carcinoma, may be recognized as
8 occupational diseases for the purposes of this chapter and are
9 defined to be disability due to exposure to smoke, gases,
10 carcinogens, inadequate oxygen, or psychological stress of
11 firefighters of a paid fire department and peace officers
12 certified pursuant to chapter 590, RSMo, if a direct causal
13 relationship is established.

14 [6.] 8. Any employee who is exposed to and contracts any
15 contagious or communicable disease arising out of and in the
16 course of his or her employment shall be eligible for benefits
17 under this chapter as an occupational disease.

18 [7.] 9. With regard to occupational disease due to
19 repetitive motion, if the exposure to the repetitive motion which
20 is found to be the cause of the injury is for a period of less
21 than three months and the evidence demonstrates that the exposure
22 to the repetitive motion with a prior employer was the
23 [substantial contributing] prevailing factor [to] in causing the
24 injury, the prior employer shall be liable for such occupational
25 disease.

1 287.120. 1. Every employer subject to the provisions of
2 this chapter shall be liable, irrespective of negligence, to
3 furnish compensation [under the provisions of] pursuant to this
4 chapter for personal injury or death of the employee by accident
5 arising out of and in the course of [his] the employee's
6 employment, and shall be released from all other liability
7 therefor whatsoever, whether to the employee or any other person.
8 The term "accident" as used in this section shall include, but
9 not be limited to, injury or death of the employee caused by the
10 unprovoked violence or assault against the employee by any
11 person.

12 2. The rights and remedies herein granted to an employee
13 shall exclude all other rights and remedies of the employee, his
14 wife, her husband, parents, personal representatives, dependents,
15 heirs or next kin, at common law or otherwise, on account of such
16 accidental injury or death, except such rights and remedies as
17 are not provided for by this chapter.

18 3. No compensation shall be allowed [under] pursuant to
19 this chapter for the injury or death due to the employee's
20 intentional self-inflicted injury, but the burden of proof of
21 intentional self-inflicted injury shall be on the employer or the
22 person contesting the claim for allowance. Compensation is not
23 allowed for an injury or death due to the employee's willful
24 attempt to injure another, or intentionally engaging in any
25 criminal act for the purpose of securing workers' compensation

1 benefits.

2 4. Where the injury is caused by the failure of the
3 employer to comply with any statute in this state or any lawful
4 order of the division or the commission, the compensation and
5 death benefit provided [for under] pursuant to this chapter shall
6 be increased fifteen percent.

7 5. Where the injury is caused by the willful failure of the
8 employee to use safety devices where provided by the employer, or
9 from the employee's failure to obey any reasonable rule adopted
10 by the employer for the safety of employees, which rule has been
11 kept posted in a conspicuous place on the employer's premises,
12 the compensation and death benefit provided for herein shall be
13 reduced fifteen percent; provided, that it is shown that the
14 employee had actual knowledge of the rule so adopted by the
15 employer; and provided, further, that the employer had, prior to
16 the injury, made a diligent effort to cause his or her employees
17 to use the safety device or devices and to obey or follow the
18 rule so adopted for the safety of the employees.

19 6. (1) Where the employee fails to obey any rule or policy
20 adopted by the employer relating to the use of alcohol or
21 nonprescribed controlled drugs in the workplace, which rule or
22 policy has been kept posted in a conspicuous place on the
23 employer's premises, the compensation and death benefit provided
24 for herein shall be [reduced fifteen percent] deemed void if the
25 injury was sustained in conjunction with the use of alcohol or

1 nonprescribed controlled drugs; provided, that it is shown that
2 the employee had actual knowledge of the rules or policy so
3 adopted by the employer and, provided further that the employer
4 had, prior to the injury, made a diligent effort to inform the
5 employee of the requirement to obey any reasonable rule or policy
6 adopted by the employer.

7 (2) If, however, the use of alcohol or nonprescribed
8 controlled drugs in violation of the employer's rule or policy
9 which is posted and publicized as set forth in subdivision (1) is
10 the proximate cause of the injury, then the benefits or
11 compensation otherwise payable [under] pursuant to this chapter
12 for death or disability shall be forfeited. The forfeiture of
13 benefits or compensation shall not apply when:

14 (a) The employer has actual knowledge of the employee's use
15 of the alcohol or nonprescribed controlled drugs and in the face
16 thereof fails to take any recuperative or disciplinary action; or

17 (b) As part of the employee's employment, he or she is
18 authorized or ordered by the employer to use such alcohol or
19 nonprescribed controlled drugs.

20 (3) The voluntary use of alcohol resulting in a blood
21 alcohol content equal to or greater than the amount established
22 in section 577.012, RSMo, shall be presumed to mean the voluntary
23 use of alcohol under such circumstances is the proximate cause of
24 the injury. This presumption may be rebutted with a showing by
25 the employee by clear and convincing evidence that alcohol was

1 not the proximate cause of the injury.

2 7. Where the employee's participation in a voluntary
3 recreational activity or program is the proximate cause of the
4 injury, benefits or compensation otherwise payable [under]
5 pursuant to this chapter for death or disability shall be
6 forfeited regardless that the employer may have promoted,
7 sponsored or supported the recreational activity or program,
8 expressly or impliedly, in whole or in part. The forfeiture of
9 benefits or compensation shall not apply when:

10 (a) The employee was directly ordered by the employer to
11 participate in such recreational activity or program;

12 (b) The employee was paid wages or travel expenses while
13 participating in such recreational activity or program; or

14 (c) The injury from such recreational activity or program
15 occurs on the employer's premises due to an unsafe condition and
16 the employer had actual knowledge of the employee's participation
17 in the recreational activity or program and of the unsafe
18 condition of the premises and failed to either curtail the
19 recreational activity or program or cure the unsafe condition.

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

25 9. A mental injury is not considered to arise out of and in

1 the course of the employment if it resulted from any disciplinary
2 action, work evaluation, job transfer, layoff, demotion,
3 termination or any similar action taken in good faith by the
4 employer.

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

9 11. If the employee unjustifiably refuses, as determined by
10 an administrative law judge, to submit to a reliable, scientific
11 test to determine the presence of alcohol, marijuana, or a
12 controlled substance in an employee's blood, urine, breath, or
13 other bodily substance, it shall be concluded that the accident
14 and injury or death were proximately caused by intoxication by
15 alcohol or being under the influence of marijuana or a controlled
16 substance.

17 287.128. 1. It shall be unlawful for any person to:

18 (1) Knowingly present or cause to be presented any false or
19 fraudulent claim for the payment of benefits pursuant to a
20 workers' compensation claim;

21 (2) Knowingly present multiple claims for the same
22 occurrence with intent to defraud;

23 (3) Purposefully prepare, make or subscribe to any writing
24 with intent to present or use the same, or to allow it to be
25 presented in support of any false or fraudulent claim;

1 (4) Knowingly assist, abet, solicit or conspire with:

2 (a) Any person who knowingly presents any false or
3 fraudulent claim for the payment of benefits;

4 (b) Any person who knowingly presents multiple claims for
5 the same occurrence with an intent to defraud; or

6 (c) Any person who purposefully prepares, makes or
7 subscribes to any writing with the intent to present or use the
8 same, or to allow it to be presented in support of any such
9 claim;

10 (5) Knowingly make or cause to be made any false or
11 fraudulent claim for payment of a health care benefit;

12 (6) Knowingly submit a claim for a health care benefit
13 which was not used by, or on behalf of, the claimant;

14 (7) Knowingly present multiple claims for payment of the
15 same health care benefit with an intent to defraud;

16 (8) Knowingly make or cause to be made any false or
17 fraudulent material statement or material representation for the
18 purpose of obtaining or denying any benefit;

19 (9) Knowingly make or cause to be made any false or
20 fraudulent statements with regard to entitlement to benefits with
21 the intent to discourage an injured worker from making a
22 legitimate claim.

23 For the purposes of subdivisions (8) and (9) of this subsection,
24 the term "statement" includes any notice, proof of injury, bill

1 for services, payment for services, hospital or doctor records, X
2 ray or test results.

3 (10) Knowingly answer untruthfully regarding previous
4 injuries, disabilities, or other medical conditions provided the
5 inquiry about previous medical conditions is on a written form
6 that contains a notice advising the employee that his or her
7 willful failure to answer truthfully shall result in the
8 forfeiture or reduction of benefits or possible prosecution.

9 Nothing in this chapter shall prohibit an employer from inquiring
10 about previous injuries, disabilities, or other medical
11 conditions.

12 2. It shall be unlawful for any insurance company or
13 self-insurer in this state to:

14 (1) Intentionally refuse to comply with known and legally
15 indisputable compensation obligations;

16 (2) Discharge or administer compensation obligations in a
17 dishonest manner; and

18 (3) Discharge or administer compensation obligations in
19 such a manner as to cause injury to the public or those persons
20 dealing with the employer or insurer.

21 3. Any person violating any of the provisions of
22 subsections 1 and 2 of this section or section 287.129, shall be
23 guilty of a class A misdemeanor and, in addition, shall be liable
24 to the state of Missouri for a fine not to exceed ten thousand
25 dollars or double the value of the fraud whichever is greater.

1 Any person who has previously pled guilty to or has been found
2 guilty of violating any of the provisions of subsections 1 and 2
3 of this section or the provisions of section 287.129 and who
4 subsequently violates any of the provisions of subsections 1 and
5 2 of this section or the provisions of section 287.129 shall be
6 guilty of a class D felony.

7 4. Any person who knowingly misrepresents any fact in order
8 to obtain workers' compensation insurance at less than the proper
9 rate for that insurance shall be guilty of a class A misdemeanor.
10 Any person who has previously pled guilty to or has been found
11 guilty of violating any of the provisions of this section or the
12 provisions of section 287.129 and who subsequently violates any
13 of the provisions of this section or the provisions of section
14 287.129 shall be guilty of a class D felony.

15 5. Any employer failing to insure his liability pursuant to
16 this chapter shall be guilty of a class A misdemeanor and, in
17 addition, shall be liable to the state of Missouri for a penalty
18 in an amount equal to twice the annual premium the employer would
19 have paid had such employer been insured or twenty-five thousand
20 dollars, whichever amount is greater. Any person who has
21 previously pled guilty to or has been found guilty of violating
22 any of the provisions of this section or the provisions of
23 section 287.129 and who subsequently violates any of the
24 provisions of this section or the provisions of section 287.129
25 shall be guilty of a class D felony.

1 6. (1) Any person may file a complaint alleging fraud or
2 noncompliance with this chapter with a legal advisor in the
3 division of workers' compensation. In the absence of fraud or
4 bad faith, a person is not subject to civil liability for libel,
5 slander, or any other relevant tort by virtue of filing reports,
6 without malice, or furnishing other information, without malice,
7 required by this section or required by the division, and no
8 civil cause of action of any nature shall arise against such
9 person for any of the following:

10 (a) Information relating to suspected fraudulent acts
11 furnished to or received from law enforcement officials, their
12 agents, or employees;

13 (b) Information relating to suspected fraudulent acts
14 furnished to or received from other persons subject to the
15 provisions of this chapter; or

16 (c) Such information relating to suspected fraudulent acts
17 furnished in reports to the bureau, or the National Association
18 of Insurance Commissioners.

19 (2) The legal advisor shall refer the complaint to the
20 fraud and noncompliance unit within the division. The unit shall
21 investigate all complaints and present any finding of fraud or
22 noncompliance to the director, who may refer the file to the
23 attorney general. The attorney general may prosecute any fraud
24 or noncompliance associated with this chapter. All costs
25 incurred by the attorney general associated with any

1 investigation and prosecution pursuant to this subsection shall
2 be paid out of the workers' compensation fund. Any fines or
3 penalties levied and received as a result of any prosecution
4 under this section shall be paid to the workers' compensation
5 fund. Any restitution ordered as a part of the judgment shall be
6 paid to the person or persons who were defrauded.

7 7. There is hereby established in the division of workers'
8 compensation a fraud and noncompliance administrative unit
9 responsible for investigating incidences of fraud and failure to
10 comply with the provisions of this chapter.

11 287.131. Claims for legal services for workers'
12 compensation benefits filed on or after August 28, 2004, shall
13 not exceed twenty five percent of the amount in dispute to the
14 employee exclusive of medical and rehabilitation services.

15 287.140. 1. In addition to all other compensation, the
16 employee shall receive and the employer shall provide such
17 medical, surgical, chiropractic, and hospital treatment,
18 including nursing, custodial, ambulance and medicines, as may
19 reasonably be required after the injury or disability, to cure
20 and relieve from the effects of the injury. If the employee
21 desires, he shall have the right to select his own physician,
22 surgeon, or other such requirement at his own expense. Where the
23 requirements are furnished by a public hospital or other
24 institution, payment therefor shall be made to the proper
25 authorities. Regardless of whether the health care provider is

1 selected by the employer or is selected by the employee at the
2 employee's expense, the health care provider shall have the
3 affirmative duty to communicate fully with the employee regarding
4 the nature of the employee's injury and recommended treatment
5 exclusive of any evaluation for a permanent disability rating.
6 Failure to perform such duty to communicate shall constitute a
7 disciplinary violation by the provider subject to the provisions
8 of chapter 620, RSMo. When an employee is required to submit to
9 medical examinations or necessary medical treatment at a place
10 outside of the local or metropolitan area from the place of
11 injury or the place of his residence, the employer or its insurer
12 shall advance or reimburse the employee for all necessary and
13 reasonable expenses; except that an injured employee who resides
14 outside the state of Missouri and who is employed by an employer
15 located in Missouri shall have the option of selecting the
16 location of services provided in this section either at a
17 location within one hundred miles of the injured employee's
18 residence, place of injury or place of hire by the employer. The
19 choice of provider within the location selected shall continue to
20 be made by the employer. In case of a medical examination if a
21 dispute arises as to what expenses shall be paid by the employer,
22 the matter shall be presented to the legal advisor, the
23 administrative law judge or the commission, who shall set the sum
24 to be paid and same shall be paid by the employer prior to the
25 medical examination. In no event, however, shall the employer or

1 its insurer be required to pay transportation costs for a greater
2 distance than two hundred fifty miles each way from place of
3 treatment. In addition to all other payments authorized or
4 mandated under this subsection, when an employee who has returned
5 to full-time employment is required to submit to a medical
6 examination for the purpose of evaluating permanent disability,
7 or to undergo physical rehabilitation, the employer or its
8 insurer shall pay a proportionate weekly compensation benefit
9 based on the provisions of section 287.180 for such wages that
10 are lost due to time spent undergoing such medical examinations
11 or physical rehabilitation, except that where the employee is
12 undergoing physical rehabilitation, such proportionate weekly
13 compensation benefit payment shall be limited to a time period of
14 no more than twenty weeks. For purposes of this subsection only,
15 "physical rehabilitation" shall mean the restoration of the
16 seriously injured person as soon as possible and as nearly as
17 possible to a condition of self-support and maintenance as an
18 able-bodied worker. Determination as to what care and
19 restoration constitutes physical rehabilitation shall be the sole
20 province of the treating physician. Should the employer or its
21 insurer contest the determination of the treating physician, then
22 the director shall review the case at question and issue his
23 determination. Such determination by the director shall be
24 appealable like any other finding of the director or the
25 division. Serious injury includes, but is not limited to,

1 quadriplegia, paraplegia, amputations of hand, arm, foot or leg,
2 atrophy due to nerve injury or nonuse, and back injuries not
3 amenable alone to recognized medical and surgical procedures.

4 2. If it be shown to the division or the commission that
5 the requirements are being furnished in such manner that there is
6 reasonable ground for believing that the life, health, or
7 recovery of the employee is endangered thereby, the division or
8 the commission may order a change in the physician, surgeon,
9 hospital or other requirement.

10 3. All fees and charges under this chapter shall be fair
11 and reasonable, shall be subject to regulation by the division or
12 the commission, or the board of rehabilitation in rehabilitation
13 cases. A health care provider shall not charge a fee for
14 treatment and care which is governed by the provisions of this
15 chapter greater than the usual and customary fee the provider
16 receives for the same treatment or service when the payor for
17 such treatment or service is a private individual or a private
18 health insurance carrier. The division or the commission, or the
19 board of rehabilitation in rehabilitation cases, shall also have
20 jurisdiction to hear and determine all disputes as to such
21 charges. A health care provider is bound by the determination
22 upon the reasonableness of health care bills.

23 4. The division shall, by regulation, establish methods to
24 resolve disputes concerning the reasonableness of medical
25 charges, services, or aids. This regulation shall govern

1 resolution of disputes between employers and medical providers
2 over fees charged, whether or not paid, and shall be in lieu of
3 any other administrative procedure under this chapter. The
4 employee shall not be a party to a dispute over medical charges,
5 nor shall the employee's recovery in any way be jeopardized
6 because of such dispute.

7 5. No compensation shall be payable for the death or
8 disability of an employee, if and insofar as the death or
9 disability may be caused, continued or aggravated by any
10 unreasonable refusal to submit to any medical or surgical
11 treatment or operation, the risk of which is, in the opinion of
12 the division or the commission, inconsiderable in view of the
13 seriousness of the injury. If the employee dies as a result of
14 an operation made necessary by the injury, the death shall be
15 deemed to be caused by the injury.

16 6. The testimony of any physician or chiropractic physician
17 who treated the employee shall be admissible in evidence in any
18 proceedings for compensation under this chapter, subject to all
19 of the provisions of section 287.210.

20 7. Every hospital or other person furnishing the employee
21 with medical aid shall permit its record to be copied by and
22 shall furnish full information to the division or the commission,
23 the employer, the employee or his dependents and any other party
24 to any proceedings for compensation under this chapter, and
25 certified copies of the records shall be admissible in evidence

1 in any such proceedings. An employee who reports an injury or
2 illness alleged to be work-related waives any physician-patient
3 privilege with respect to any condition or complaint reasonably
4 related to the condition for which the employee claim
5 compensation. If medical records, reports, and information of an
6 injured employee are sought from health care providers who are
7 not subject to the jurisdiction of the state, the injured
8 employee shall sign an authorization allowing for the employer or
9 carrier to obtain the medical records, reports, or information.

10 8. The employer may be required by the division or the
11 commission to furnish an injured employee with artificial legs,
12 arms, hands, surgical orthopedic joints, or eyes, or braces, as
13 needed, for life whenever the division or the commission shall
14 find that the injured employee may be partially or wholly
15 relieved of the effects of a permanent injury by the use thereof.
16 The director of the division shall establish a procedure whereby
17 a claim for compensation may be reactivated after settlement of
18 such claim is completed. The claim shall be reactivated only
19 after the claimant can show good cause for the reactivation of
20 this claim and the claim shall be made only for the payment of
21 medical procedures involving life-threatening surgical procedures
22 or if the claimant requires the use of a new, or the
23 modification, alteration or exchange of an existing, prosthetic
24 device. For the purpose of this subsection, "life threatening"
25 shall mean a situation or condition which, if not treated

1 immediately, will likely result in the death of the injured
2 worker.

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

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

13 11. Any physician or other health care provider who orders,
14 directs or refers a patient for treatment, testing, therapy or
15 rehabilitation at any institution or facility shall, at or prior
16 to the time of the referral, disclose in writing if such health
17 care provider, any of his partners or his employer has a
18 financial interest in the institution or facility to which the
19 patient is being referred, to the following:

20 (1) The patient;

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

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

24 (4) The workers' compensation adjusting company for such
25 insurer.

1 12. Violation of subsection 11 of this section is a class A
2 misdemeanor.

3 13. (1) No hospital, physician or other health care
4 provider, other than a hospital, physician or health care
5 provider selected by the employee at his own expense pursuant to
6 subsection 1 of this section, shall bill or attempt to collect
7 any fee or any portion of a fee for services rendered to an
8 employee due to a work-related injury or report to any credit
9 reporting agency any failure of the employee to make such
10 payment, when an injury covered by this chapter has occurred and
11 such hospital, physician or health care provider has received
12 actual notice given in writing by the employee, the employer or
13 the employer's insurer. Actual notice shall be deemed received
14 by the hospital, physician or health care provider five days
15 after mailing by certified mail by the employer or insurer to the
16 hospital, physician or health care provider.

17 (2) The notice shall include:

18 (a) The name of the employer;

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

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

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

22 (e) Where a claim has been filed, the claim number, if
23 known.

24 (3) When an injury is found to be noncompensable under this
25 chapter, the hospital, physician or other health care provider

1 shall be entitled to pursue the employee for any unpaid portion
2 of the fee or other charges for authorized services provided to
3 the employee. Any applicable statute of limitations for an
4 action for such fees or other charges shall be tolled from the
5 time notice is given to the division by a hospital, physician or
6 other health care provider pursuant to subdivision (6) of this
7 subsection, until a determination of noncompensability in regard
8 to the injury which is the basis of such services is made, or in
9 the event there is an appeal to the labor and industrial
10 relations commission, until a decision is rendered by that
11 commission.

12 (4) If a hospital, physician or other health care provider
13 or a debt collector on behalf of such hospital, physician or
14 other health care provider pursues any action to collect from an
15 employee after such notice is properly given, the employee shall
16 have a cause of action against the hospital, physician or other
17 health care provider for actual damages sustained plus up to one
18 thousand dollars in additional damages, costs and reasonable
19 attorney's fees.

20 (5) If an employer or insurer fails to make payment for
21 authorized services provided to the employee by a hospital,
22 physician or other health care provider pursuant to this chapter,
23 the hospital, physician or other health care provider may proceed
24 pursuant to subsection 4 of this section with a dispute against
25 the employer or insurer for any fees or other charges for

1 services provided.

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

13 287.190. 1. For permanent partial disability, which shall
14 be in addition to compensation for temporary total disability or
15 temporary partial disability paid in accordance with sections
16 287.170 and 287.180, respectively, the employer shall pay to the
17 employee compensation computed at the weekly rate of compensation
18 in effect under subsection 5 of this section on the date of the
19 injury for which compensation is being made, which compensation
20 shall be allowed for loss by severance, total loss of use, or
21 proportionate loss of use of one or more of the members mentioned
22 in the schedule of losses.

23 SCHEDULE OF LOSSES

24 Weeks

25 (1) Loss of arm at shoulder 232

1	(2)	Loss of arm between shoulder and elbow	222
2	(3)	Loss of arm at elbow joint	210
3	(4)	Loss of arm between elbow and wrist	200
4	(5)	Loss of hand at the wrist joint	175
5	(6)	Loss of thumb at proximal joint	60
6	(7)	Loss of thumb at distal joint	45
7	(8)	Loss of index finger at proximal joint	45
8	(9)	Loss of index finger at second joint	35
9	(10)	Loss of index finger at distal joint	30
10	(11)	Loss of either the middle or ring finger at the	
11		proximal joint	35
12	(12)	Loss of either the middle or ring finger at second	
13		joint	30
14	(13)	Loss of either the middle or ring finger at the distal	
15		joint	26
16	(14)	Loss of little finger at proximal joint	22
17	(15)	Loss of little finger at second joint	20
18	(16)	Loss of little finger at distal joint	16
19	(17)	Loss of one leg at the hip joint or so near thereto as	
20		to preclude the use of artificial limb	
21			207
22	(18)	Loss of one leg at or above the knee, where the stump	
23		remains sufficient to permit the use of artificial limb	
24		160
25	(19)	Loss of one leg at or above ankle and below knee joint	

155

(20)	Loss of one foot in tarsus	150
(21)	Loss of one foot in metatarsus	110
(22)	Loss of great toe of one foot at proximal joint ..	40
(23)	Loss of great toe of one foot at distal joint ...	22
(24)	Loss of any other toe at proximal joint	14
(25)	Loss of any other toe at second joint	10
(26)	Loss of any other toe at distal joint	8
(27)	Complete deafness of both ears	180
(28)	Complete deafness of one ear, the other being normal.....	49
(29)	Complete loss of the sight of one eye	140

2. If the disability suffered in any of items (1) through (29) of the schedule of losses is total by reason of severance or complete loss of use thereof the number of weeks of compensation allowed in the schedule for such disability shall be increased by ten percent.

3. For permanent injuries other than those specified in the schedule of losses, the compensation shall be paid for such periods as are proportionate to the relation which the other injury bears to the injuries above specified, but no period shall exceed four hundred weeks, at the rates fixed in subsection 1. The other injuries shall include permanent injuries causing a loss of earning power. For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe or phalange,

1 compensation shall be paid for the proportionate loss of the use
2 of the arm, hand, thumb, finger, leg, foot, toe or phalange, as
3 provided in the schedule of losses.

4 4. If an employee is seriously and permanently disfigured
5 about the head, neck, hands or arms, the division or commission
6 may allow such additional sum for the compensation on account
7 thereof as it may deem just, but the sum shall not exceed forty
8 weeks of compensation. If both the employer and employee agree,
9 the administrative law judge may utilize a photograph of the
10 disfigurement in determining the amount of such additional sum.

11 5. The amount of compensation to be paid under subsection 1
12 of this section shall be computed as follows:

13 (1) For all injuries occurring on or after September 28,
14 1983, but before August 28, 1990, the weekly compensation shall
15 be an amount equal to sixty-six and two-thirds percent of the
16 employee's average weekly earnings as of the date of the injury;
17 provided that the weekly compensation paid under this subdivision
18 shall not exceed an amount equal to forty-five percent of the
19 state average weekly wage, as such wage is determined by the
20 division of employment security, as of the July first immediately
21 preceding the date of injury;

22 (2) For all injuries occurring on or after September 28,
23 1981, the weekly compensation shall in no event be less than
24 forty dollars per week;

25 (3) For all injuries occurring on or after August 28, 1990,

1 but before August 28, 1991, the weekly compensation shall be an
2 amount equal to sixty-six and two-thirds percent of the
3 employee's average weekly earnings as of the date of the injury;
4 provided that the weekly compensation paid under this subdivision
5 shall not exceed an amount equal to fifty percent of the state
6 average weekly wage;

7 (4) For all injuries occurring on or after August 28, 1991,
8 but before August 28, 1992, the weekly compensation shall be an
9 amount equal to sixty-six and two-thirds percent of the
10 employee's average weekly earnings as of the date of the injury;
11 provided that the weekly compensation paid under this subdivision
12 shall not exceed an amount equal to fifty-two percent of the
13 state average weekly wage;

14 (5) For all injuries occurring on or after August 28, 1992,
15 the weekly compensation shall be an amount equal to sixty-six and
16 two-thirds percent of the employee's average weekly earnings as
17 of the date of the injury; provided that the weekly compensation
18 paid under this subdivision shall not exceed an amount equal to
19 fifty-five percent of the state average weekly wage.

20 6. "Permanent partial disability" means a disability that
21 is permanent in nature and partial in degree, and when payment
22 therefor has been made in accordance with a settlement approved
23 either by an administrative law judge or by the labor and
24 industrial relations commission, a rating approved by an
25 administrative law judge or legal advisor, or an award by an

1 administrative law judge or the commission, the percentage of
2 disability shall be conclusively presumed to continue
3 undiminished whenever a subsequent injury to the same member or
4 same part of the body also results in permanent partial
5 disability for which compensation under this chapter may be due;
6 provided, however, the presumption shall apply only to
7 compensable injuries which may occur after August 29, 1959.

8 7. For any compensable injuries which occur after August
9 29, 2004, the loss of a scheduled member shall be based upon
10 permanent impairment of function to the scheduled member as
11 determined using the fourth edition of the American Medical
12 Association Guides to the Evaluation of Permanent Impairment, if
13 the impairment is contained therein.

14 287.225. If an employer shall voluntarily pay unearned
15 wages to an employee in addition to an excess of any amount of
16 disability benefits to which the employee is entitled under this
17 chapter, the excess amount paid shall be allowed as a credit to
18 the employer in any final lump-sum settlement, or may be withheld
19 from the employee's wages in weekly amounts the same as the
20 weekly amount or amounts paid in excess of compensation due, but
21 not until and unless the employee's average gross weekly wage for
22 the calendar year exceeds one hundred twenty-five percent of the
23 state's average weekly wage.

24 287.240. If the injury causes death, either with or without
25 disability, the compensation therefor shall be as provided in

1 this section:

2 (1) In all cases the employer shall pay direct to the
3 persons furnishing the same the reasonable expense of the burial
4 of the deceased employee not exceeding [~~five~~] seven thousand five
5 hundred dollars. But no person shall be entitled to compensation
6 for the burial expenses of a deceased employee unless he has
7 furnished the same by authority of the widow or widower, the
8 nearest relative of the deceased employee in the county of his
9 death, his personal representative, or the employer, who shall
10 have the right to give the authority in the order named. All
11 fees and charges under this section shall be fair and reasonable,
12 shall be subject to regulation by the division or the commission
13 and shall be limited to such as are fair and reasonable for
14 similar service to persons of a like standard of living. The
15 division or the commission shall also have jurisdiction to hear
16 and determine all disputes as to the charges. If the deceased
17 employee leaves no dependents, the death benefit in this
18 subdivision provided shall be the limit of the liability of the
19 employer under this chapter on account of the death, except as
20 herein provided for burial expenses and except as provided in
21 section 287.140; provided that in all cases when the employer
22 admits or does not deny liability for the burial expense, it
23 shall be paid within thirty days after written notice, that the
24 service has been rendered, has been delivered to the employer.
25 The notice may be sent by registered mail, return receipt

1 requested, or may be made by personal delivery;

2 (2) The employer shall also pay to the total dependents of
3 the employee a death benefit based on the employee's average
4 weekly earnings during the year immediately preceding the injury
5 that results in the death of the employee, as provided in section
6 287.250. The amount of compensation for death, which shall be
7 paid in installments in the same manner that compensation is
8 required to be paid under this chapter, shall be computed as
9 follows:

10 (a) If the injury which caused the death occurred on or
11 after September 28, 1983, but before September 28, 1986, the
12 weekly compensation shall be an amount equal to sixty-six and
13 two-thirds percent of the employee's average weekly earnings
14 during the year immediately preceding the injury; provided that
15 the weekly compensation paid under this paragraph shall not
16 exceed an amount equal to seventy percent of the state average
17 weekly wage, as such wage is determined by the division of
18 employment security, as of the July first immediately preceding
19 the date of injury. If there is a total dependent, no death
20 benefits shall be payable to partial dependents or any other
21 persons except as provided in subdivision (1) of this section;

22 (b) If the injury which caused the death occurred on or
23 after September 28, 1986, but before August 28, 1990, the weekly
24 compensation shall be an amount equal to sixty-six and two-thirds
25 percent of the employee's average weekly earnings during the year

1 immediately preceding the injury; provided that the weekly
2 compensation paid under this paragraph shall not exceed an amount
3 equal to seventy-five percent of the state average weekly wage,
4 as such wage is determined by the division of employment
5 security, as of the July first immediately preceding the date of
6 injury. If there is a total dependent, no death benefit shall be
7 payable to partial dependents or any other persons except as
8 provided in subdivision (1) of this section;

9 (c) If the injury which caused the death occurred on or
10 after August 28, 1990, but before August 28, 1991, the weekly
11 compensation shall be an amount equal to sixty-six and two-
12 thirds percent of the injured employee's average weekly earnings
13 as of the date of the injury; provided that the weekly
14 compensation paid under this paragraph shall not exceed an amount
15 equal to one hundred percent of the state average weekly wage;

16 (d) If the injury which caused the death occurred on or
17 after August 28, 1991, the weekly compensation shall be an amount
18 equal to sixty-six and two-thirds percent of the injured
19 employee's average weekly earnings as of the date of the injury;
20 provided that the weekly compensation paid under this paragraph
21 shall not exceed an amount equal to one hundred five percent of
22 the state average weekly wage;

23 (e) If the injury which caused the death occurred on or
24 after September 28, 1981, the weekly compensation shall in no
25 event be less than forty dollars per week;

1 (3) If there are partial dependents, and no total
2 dependents, a part of the death benefit herein provided in the
3 case of total dependents, determined by the proportion of his
4 contributions to all partial dependents by the employee at the
5 time of the injury, shall be paid by the employer to each of the
6 dependents proportionately;

7 (4) The word "dependent" as used in this chapter shall be
8 construed to mean a relative by blood or marriage of a deceased
9 employee, who is actually dependent for support, in whole or in
10 part, upon his or her wages at the time of the injury. The
11 following persons shall be conclusively presumed to be totally
12 dependent for support upon a deceased employee, and any death
13 benefit shall be payable to them to the exclusion of other total
14 dependents:

15 (a) A wife upon a husband with whom she lives or who is
16 legally liable for her support, and a husband upon a wife with
17 whom he lives or who is legally liable for his support; provided
18 that on the death or remarriage of a widow or widower, the death
19 benefit shall cease unless there be other total dependents
20 entitled to any death benefits under this chapter. In the event
21 of remarriage, a lump sum payment equal in amount to the benefits
22 due for a period of two years shall be paid to the widow or
23 widower. Thereupon the periodic death benefits shall cease
24 unless there are other total dependents entitled to any death
25 benefit under this chapter, in which event the periodic benefits

1 to which such widow or widower would have been entitled had he or
2 she not died or remarried shall be divided among such other total
3 dependents and paid to them during their period of entitlement
4 under this chapter;

5 (b) A natural, posthumous, or adopted child or children,
6 whether legitimate or illegitimate, under the age of eighteen
7 years, or over that age if physically or mentally incapacitated
8 from wage earning, upon the parent legally liable for the support
9 or with whom he, she, or they are living at the time of the death
10 of the parent. In case there is a wife or a husband mentally or
11 physically incapacitated from wage earning, dependent upon a wife
12 or husband, and a child or more than one child thus dependent,
13 the death benefit shall be divided among them in such proportion
14 as may be determined by the commission after considering their
15 ages and other facts bearing on the dependency. In all other
16 cases questions of total or partial dependency shall be
17 determined in accordance with the facts at the time of the
18 injury, and in such other cases if there is more than one person
19 wholly dependent the death benefit shall be divided equally among
20 them. The payment of death benefits to a child or other
21 dependent as provided in this paragraph shall cease when the
22 dependent dies, attains the age of eighteen years, or becomes
23 physically and mentally capable of wage earning over that age, or
24 until twenty-two years of age if the child of the deceased is in
25 attendance and remains as a full-time student in any accredited

1 educational institution, or if at eighteen years of age the
2 dependent child is a member of the armed forces of the United
3 States on active duty; provided, however, that such dependent
4 child shall be entitled to compensation during four years of
5 full-time attendance at a fully accredited educational
6 institution to commence prior to twenty-three years of age and
7 immediately upon cessation of his active duty in the armed
8 forces, unless there are other total dependents entitled to the
9 death benefit under this chapter;

10 (5) The division or the commission may, in its discretion,
11 order or award the share of compensation of any such child to be
12 paid to the parent, grandparent, or other adult next of kin or
13 conservator of the child for the latter's support, maintenance
14 and education, which order or award upon notice to the parties
15 may be modified from time to time by the commission in its
16 discretion with respect to the person to whom shall be paid the
17 amount of the order or award remaining unpaid at the time of the
18 modification;

19 (6) The payments of compensation by the employer in
20 accordance with the order or award of the division or the
21 commission shall discharge the employer from all further
22 obligations as to the compensation;

23 (7) All death benefits in this chapter shall be paid in
24 installments in the same manner as provided for disability
25 compensation;

1 (8) Every employer shall keep a record of the correct names
2 and addresses of the dependents of each of his employees, and
3 upon the death of an employee by accident arising out of and in
4 the course of his employment shall so far as possible immediately
5 furnish the division with such names and addresses;

6 (9) Dependents receiving death benefits under the
7 provisions of this chapter shall annually report to the division
8 as to marital status in the case of a widow or widower or age and
9 physical or mental condition of a dependent child. The division
10 shall provide forms for the making of such reports.

11 287.390. 1. [Nothing in this chapter shall be construed as
12 preventing the] Parties to claims [hereunder from entering] under
13 this chapter may enter into voluntary agreements in settlement
14 thereof, but no agreement by an employee or his or her dependents
15 to waive his or her rights under this chapter shall be valid, nor
16 shall any agreement of settlement or compromise of any dispute or
17 claim for compensation under this chapter be valid until approved
18 by an administrative law judge or the commission, nor shall an
19 administrative law judge or the commission approve any settlement
20 which is not in accordance with the rights of the parties as
21 given in this chapter.

22 (1) No such agreement shall be valid unless made after
23 seven days from the date of the injury or death.

24 (2) An administrative law judge, associate administrative
25 law judge, legal advisor, or the labor and industrial relations

1 commission shall approve a settlement agreement as valid and
2 enforceable as long as:

3 (a) The employee has consulted with a legal advisor;

4 (b) The settlement is not the result of undue influence or
5 fraud;

6 (c) The employee understands his or her rights and
7 benefits; and

8 (d) The employee voluntarily agrees to accept the terms of
9 the agreement.

10 2. A compromise settlement approved by an administrative
11 law judge or the commission during the employee's lifetime shall
12 extinguish and bar all claims for compensation for the employee's
13 death if the settlement compromises a dispute on any question or
14 issue other than the extent of disability or the rate of
15 compensation.

16 3. Notwithstanding the provisions of section 287.190, an
17 employee shall be afforded the option of receiving a compromise
18 settlement as a one-time lump sum payment. A compromise
19 settlement approved by an administrative law judge or the
20 commission shall indicate the manner of payment chosen by the
21 employee.

22 4. A minor dependent, by parent or conservator, may
23 compromise disputes and may enter into a compromise settlement
24 agreement, and upon approval by an administrative law judge or
25 the commission the settlement agreement shall have the same force

1 and effect as though the minor had been an adult. The payment of
2 compensation by the employer in accordance with the settlement
3 agreement shall discharge the employer from all further
4 obligation.

5 287.510. In any case a temporary or partial award of
6 compensation may be made, and the same may be modified from time
7 to time to meet the needs of the case, and the same may be kept
8 open until a final award can be made, and if the same be not
9 complied with, the amount [thereof] equal to the value of
10 compensation ordered and unpaid may be doubled in the final
11 award, if the final award shall be in accordance with the
12 temporary or partial award.

13 287.560. The division, any administrative law judge thereof
14 or the commission, shall have power to issue process, subpoena
15 witnesses, administer oaths, examine books and papers, and
16 require the production thereof, and to cause the deposition of
17 any witness to be taken and the costs thereof paid as other costs
18 under this chapter. Any party shall be entitled to process to
19 compel the attendance of witnesses and the production of books
20 and papers, and at his own cost to take and use depositions in
21 like manner as in civil cases in the circuit court, except that
22 depositions may be recorded by electronic means. The party
23 electing to record a deposition by electronic means shall be
24 responsible for the preparation and proper certification of the
25 transcript and for maintaining a copy of the tape or other medium

1 on which the deposition was recorded for the use of the division
2 or any party upon request. Copies of the transcript shall be
3 provided to all parties at a cost approved by the division.
4 Subpoena shall extend to all parts of the state, and may be
5 served as in civil actions in the circuit court, but the costs of
6 the service shall be as in other civil actions. Each witness
7 shall receive the fees and mileage prescribed by law in civil
8 cases, but the same shall not be allowed as costs to the party in
9 whose behalf the witness was summoned unless the persons before
10 whom the hearing is had shall certify that the testimony of the
11 witness was necessary. All costs under this section shall be
12 approved by the division and paid out of the state treasury from
13 the fund for the support of the Missouri division of workers'
14 compensation; provided, however, that if the division or the
15 commission determines that any proceedings have been brought,
16 prosecuted or defended without reasonable ground, it may assess
17 the whole cost of the proceedings upon the party who so brought,
18 prosecuted or defended them. If the commission is making such
19 assessment against an employer, the division or commission shall
20 exclude those claims for costs of proceedings when the employer
21 provides evidence that at some point the employer had commenced
22 providing benefits but had subsequently sought to challenge the
23 claim, unless such challenge is proved to be of a willful,
24 egregious, and abusive nature. The division or the commission
25 may permit a claimant to prosecute a claim as a poor person as

1 provided by law in civil cases.

2 287.610. 1. (1) Before January 1, 2005, the division may
3 appoint such number of administrative law judges as it may find
4 necessary, but not exceeding [twenty-five] ~~twenty-six~~ in number
5 [beginning January 1, 1999, with one additional appointment
6 authorized as of July 1, 2000, and one additional appointment
7 authorized in each succeeding year thereafter until and including
8 the year 2004, for a maximum of thirty authorized administrative
9 law judges].

10 (2) Beginning January 1, 2005, the terms of the ten most
11 senior administrative law judges appointed under subdivision (1)
12 of subsection 1 of this section and holding office as of January
13 1, 2005, shall expire, and the governor may with the advice and
14 consent of the senate appoint such number of administrative law
15 judges as the governor may find necessary, but not exceeding ten
16 in number. Beginning January 1, 2007, the terms of the remaining
17 administrative law judges appointed under subdivision (1) of
18 subsection 1 of this section and holding office as of January 1,
19 2007, shall expire, and the governor may with the advice and
20 consent of the senate appoint such number of administrative law
21 judges as the governor may find necessary, but not exceeding
22 sixteen in number. Administrative law judges appointed under
23 this subdivision shall be appointed to a four-year term by the
24 governor with the advice and consent of the senate, with the
25 initially appointed administrative law judges to remain in office

1 until a successor is appointed, and shall take office upon being
2 appointed. Each administrative law judge may be reappointed.
3 Vacancies shall be filled in the same manner in which the
4 administrative law judge vacating the office was originally
5 appointed.

6 (3) Appropriations for any additional appointment shall be
7 based upon necessity, measured by the requirements and needs of
8 each division office. Administrative law judges shall be duly
9 licensed lawyers under the laws of this state. Administrative
10 law judges shall not practice law or do law business and shall
11 devote their whole time to the duties of their office. Any
12 administrative law judge may be discharged or removed only by the
13 governor pursuant to an evaluation and recommendation by the
14 administrative law judge review committee, hereinafter referred
15 to as "the committee", of the judge's conduct, performance and
16 productivity.

17 2. The division shall require and perform annual
18 evaluations of an administrative law judge, associate
19 administrative law judge and legal advisor's conduct, performance
20 and productivity based upon written standards established by
21 rule. The division, by rule, shall establish the written
22 standards on or before January 1, 1999.

23 (1) After an evaluation by the division, any administrative
24 law judge, associate administrative law judge or legal advisor
25 who has received an unsatisfactory evaluation in any of the three

1 categories of conduct, performance or productivity, may appeal
2 the evaluation to the committee.

3 (2) The division director shall refer an unsatisfactory
4 evaluation of any administrative law judge, associate
5 administrative law judge or legal advisor to the committee.

6 (3) When a written, signed complaint is made against an
7 administrative law judge, associate administrative law judge or
8 legal advisor, it shall be referred to the director of the
9 division for a determination of merit. When the director finds
10 the complaint has merit, it shall be referred to the committee
11 for investigation and review.

12 3. The administrative law judge review committee shall be
13 composed of one administrative law judge, who shall act as a peer
14 judge on the committee and shall be domiciled in a division
15 office other than that of the judge being reviewed, one employee
16 representative and one employer representative, neither of whom
17 shall have any direct or indirect employment or financial
18 connection with a workers' compensation insurance company, claims
19 adjustment company, health care provider nor be a practicing
20 workers' compensation attorney. The employee representative and
21 employer representative shall have a working knowledge of
22 workers' compensation. The employee and employer representative
23 shall serve for four-year staggered terms and they shall be
24 appointed by the governor. The initial employee representative
25 shall be appointed for a two-year term. The administrative law

1 judge who acts as a peer judge shall be appointed by the chairman
2 of the labor and industrial relations commission and shall not
3 serve on any two consecutive reviews conducted by the committee.
4 Chairmanship of the committee shall rotate between the employee
5 representative and the employer representative every other year.
6 Staffing for the administrative review committee shall be
7 provided, as needed, by the director of the department of labor
8 and industrial relations and shall be funded from the workers'
9 compensation fund. The committee shall conduct a hearing as part
10 of any review of a referral or appeal made according to
11 subsection 2 of this section.

12 4. The committee shall determine within thirty days whether
13 an investigation shall be conducted for a referral made pursuant
14 to subdivision (3) of subsection 2 of this section. The
15 committee shall make a final referral to the governor pursuant to
16 subsection 1 of this section within two hundred seventy days of
17 the receipt of a referral or appeal.

18 5. The administrative law judges appointed by the division
19 shall only have jurisdiction to hear and determine claims upon
20 original hearing and shall have no jurisdiction upon any review
21 hearing, either in the way of an appeal from an original hearing
22 or by way of reopening any prior award, except to correct a
23 clerical error in an award or settlement if the correction is
24 made by the administrative law judge within twenty days of the
25 original award or settlement. The labor and industrial relations

1 commission may remand any decision of an administrative law judge
2 for a more complete finding of facts. The commission may also
3 correct a clerical error in awards or settlements within thirty
4 days of its final award. With respect to original hearings, the
5 administrative law judges shall have such jurisdiction and powers
6 as are vested in the division of workers' compensation under
7 other sections of this chapter, and wherever in this chapter the
8 word "commission", "commissioners" or "division" is used in
9 respect to any original hearing, those terms shall mean the
10 administrative law judges appointed under this section. When a
11 hearing is necessary upon any claim, the division shall assign an
12 administrative law judge to such hearing. Any administrative law
13 judge shall have power to approve contracts of settlement, as
14 provided by section 287.390, between the parties to any
15 compensation claim or dispute under this chapter pending before
16 the division of workers' compensation. Any award by an
17 administrative law judge upon an original hearing shall have the
18 same force and effect, shall be enforceable in the same manner as
19 provided elsewhere in this chapter for awards by the labor and
20 industrial relations commission, and shall be subject to review
21 as provided by section 287.480.

22 6. Any of the administrative law judges employed pursuant
23 to this section may be assigned on a temporary basis to the
24 branch offices as necessary in order to ensure the proper
25 administration of this chapter.

1 7. All administrative law judges and legal advisors shall
2 be required to participate in, on a continuing basis, specific
3 training that shall pertain to those elements of knowledge and
4 procedure necessary for the efficient and competent performance
5 of the administrative law judges' and legal advisors' required
6 duties and responsibilities. Such training requirements shall be
7 established by the division subject to appropriations and shall
8 include training in medical determinations and records, mediation
9 and legal issues pertaining to workers' compensation
10 adjudication. Such training may be credited toward any
11 continuing legal education requirements.

12 8. No rule or portion of a rule promulgated pursuant to the
13 authority of this section shall become effective unless it has
14 been promulgated pursuant to the provisions of chapter 536, RSMo.

15 9. No administrative law judge shall establish, maintain,
16 or contribute to a committee that is regulated by campaign
17 finance disclosure law in chapter 130, RSMo.

18 287.800. All of the provisions of this chapter shall be
19 [liberally] impartially construed with a view to the public
20 welfare[, and a substantial compliance therewith shall be
21 sufficient to give effect to rules, regulations, requirements,
22 awards, orders or decisions of the division and the commission,
23 and they shall not be declared inoperative, illegal or void for
24 any omission of a technical nature in respect thereto]. The
25 labor and industrial relations commission and all officials

1 within the division of workers' compensation shall apply an
2 impartial standard of review when weighing evidence and resolving
3 factual conflicts.

4 287.803. 1. An employee may elect to reject the provisions
5 of this chapter because such employee is a member of a religious
6 sect that is adherent of established tenets or teaching whereby
7 members are conscientiously opposed to the acceptance of the
8 benefits of any public or private insurance which makes payments
9 toward the costs of, or provided services for medical bills
10 including benefits of any insurance system established by the
11 Federal Social Security Act, 42 U.S.C. 301 et. seq. The employee
12 shall submit a written waiver of all benefits pursuant to this
13 chapter and an affidavit that he or she has been a member of said
14 religious sect for at least eighteen years attesting to the
15 rejection of the benefits of public or private insurance.

16 2. The waiver and affidavit required by subsection 1 of
17 this section shall be made upon a form to be provided by the
18 division of workers' compensation, and said waiver shall include
19 a statement agreeing to a prohibition of future civil action
20 relating to an injury arising during said employment.

21 3. An exception granted in regards to a specific employee
22 shall continue to be valid until such employee rescinds the prior
23 rejection of coverage or the employee or sect ceases to meet the
24 requirements of subsection 1 of this section.

25 4. Any rescission shall be prospective in nature and shall

1 entitle the employee only to such benefits that accrue on or
2 after the date the rescission form is received by the insurance
3 company.

4 287.957. 1. The experience rating plan shall contain
5 reasonable eligibility standards, provide adequate incentives for
6 loss prevention, and shall provide for sufficient premium
7 differentials so as to encourage safety. The uniform experience
8 rating plan shall be the exclusive means of providing prospective
9 premium adjustment based upon measurement of the loss-producing
10 characteristics of an individual insured. An insurer may submit
11 a rating plan or plans providing for retrospective premium
12 adjustments based upon an insured's past experience. Such system
13 shall provide for retrospective adjustment of an experience
14 modification and premiums paid pursuant to such experience
15 modification where a prior reserved claim produced an experience
16 modification that varied by greater than fifty percent from the
17 experience modification that would have been established based on
18 the settlement amount of that claim. The rating plan shall
19 prohibit an adjustment to the experience modification of an
20 employer if the total medical cost does not exceed one thousand
21 five hundred dollars and the employer pays all of the total
22 medical costs and there is no lost time from the employment and
23 no claim is filed.

24 2. As used in this section, "no lost time" shall mean no
25 greater than one lost day of a regularly scheduled workday.

1 288.060. 1. All benefits shall be paid through employment
2 offices in accordance with such regulations as the division may
3 prescribe.

4 2. Each eligible insured worker who is totally unemployed
5 in any week shall be paid for such week a sum equal to his weekly
6 benefit amount.

7 3. Each eligible insured worker who is partially unemployed
8 in any week shall be paid for such week a partial benefit. Such
9 partial benefit shall be an amount equal to the difference
10 between his weekly benefit amount and that part of his wages for
11 such week in excess of twenty dollars, and, if such partial
12 benefit amount is not a multiple of one dollar, such amount shall
13 be reduced to the nearest lower full dollar amount. Termination
14 pay, severance pay or pay received by an eligible insured worker
15 who is a member of the organized militia for training or duty
16 authorized by section 502(a)(1) of Title 32, United States Code[,
17 or who is an elected official] shall not be considered wages for
18 the purpose of this subsection.

19 4. The division shall compute the wage credits for each
20 individual by crediting him with the wages paid to him for
21 insured work during each quarter of his base period or twenty-six
22 times his weekly benefit amount, whichever is the lesser. In
23 addition, if a claimant receives wages in the form of termination
24 pay or severance pay and such payment appears in a base period
25 established by the filing of an initial claim, the claimant may,

1 at his option, choose to have such payment included in the
2 calendar quarter in which it was paid or choose to have it
3 prorated equally among the quarters comprising the base period of
4 the claim. The maximum total amount of benefits payable to any
5 insured worker during any benefit year shall not exceed
6 twenty-six times his weekly benefit amount, or thirty-three and
7 one-third percent of his wage credits, whichever is the lesser.
8 For the purpose of this section, wages shall be counted as wage
9 credits for any benefit year, only if such benefit year begins
10 subsequent to the date on which the employing unit by whom such
11 wages were paid has become an employer. The wage credits of an
12 individual earned during the period commencing with the end of a
13 prior base period and ending on the date on which he filed an
14 allowed initial claim shall not be available for benefit purposes
15 in a subsequent benefit year unless, in addition thereto, such
16 individual has subsequently earned either wages for insured work
17 in an amount equal to at least five times his current weekly
18 benefit amount or wages in an amount equal to at least ten times
19 his current weekly benefit amount.

20 5. In the event that benefits are due a deceased person and
21 no petition has been filed for the probate of the will or for the
22 administration of the estate of such person within thirty days
23 after his death, the division may by regulation provide for the
24 payment of such benefits to such person or persons as the
25 division finds entitled thereto and every such payment shall be a

1 valid payment to the same extent as if made to the legal
2 representatives of the deceased.

3 6. The division is authorized to cancel any benefit warrant
4 remaining outstanding and unpaid one year after the date of its
5 issuance and there shall be no liability for the payment of any
6 such benefit warrant thereafter.

7 7. The division may establish an electronic funds transfer
8 system to transfer directly to claimants' accounts in financial
9 institutions benefits payable to them pursuant to this chapter.
10 To receive benefits by electronic funds transfer, a claimant
11 shall satisfactorily complete a direct deposit application form
12 authorizing the division to deposit benefit payments into a
13 designated checking or savings account. Any electronic funds
14 transfer system created pursuant to this subsection shall be
15 administered in accordance with regulations prescribed by the
16 division.

17 8. The division may issue a benefit warrant covering more
18 than one week of benefits.