

FIRST REGULAR SESSION

HOUSE BILL NO. 207

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time January 12, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0955L.011

AN ACT

To repeal sections 287.020 and 288.035, RSMo, and to enact in lieu thereof three new sections relating to for-hire motor carriers.

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

Section A. Sections 287.020 and 288.035, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 287.020, 287.041, and 288.035, to read as
3 follows:

287.020. 1. The word "employee" as used in this chapter shall be construed to mean
2 every person in the service of any employer, as defined in this chapter, under any contract of hire,
3 express or implied, oral or written, or under any appointment or election, including executive
4 officers of corporations. Any reference to any employee who has been injured shall, when the
5 employee is dead, also include his dependents, and other persons to whom compensation may
6 be payable. The word "employee" shall also include all minors who work for an employer,
7 whether or not such minors are employed in violation of law, and all such minors are hereby
8 made of full age for all purposes under, in connection with, or arising out of this chapter. The
9 word "employee" shall not include an individual who is the owner, **as defined in section**
10 **301.010(43), RSMo**, and operator of a motor vehicle which is leased or contracted with a driver
11 to a for-hire [common or contract] motor [vehicle] carrier operating within a commercial zone
12 as defined in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the
13 [motor carrier and railroad safety division of the department of economic development] **Missouri**
14 **department of transportation** or by the [interstate commerce commission] **federal**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **Department of Transportation or any of its subagencies.**

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

23 3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen
24 out of and in the course of employment. The injury must be incidental to and not independent
25 of the relation of employer and employee. Ordinary, gradual deterioration or progressive
26 degeneration of the body caused by aging shall not be compensable, except where the
27 deterioration or degeneration follows as an incident of employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**287.041. Notwithstanding the provisions of sections 287.030 and 287.040, under no
2 circumstances shall a for-hire motor carrier operating within a commercial zone as defined
3 in section 390.020 or 390.041, RSMo, or operating under a certificate issued by the
4 Missouri department of transportation or the federal Department of Transportation or its
5 subagencies, be determined to be an employer of a lessor, as defined in 49 CFR Part
6 376.2(f), or of a driver receiving remuneration from a lessor, as defined in 49 CFR Part
7 376.2(f); provided, however, the term "for-hire motor carrier" shall not include an
8 organization described in section 501(c)(3) of the Internal Revenue Code or any
9 governmental entity.**

288.035. Notwithstanding the provisions of section 288.034, RSMo, in the case of an
2 individual who is the owner, **as defined in section 301.010(43), RSMo**, and operator of a motor
3 vehicle which is leased or contracted with driver to a for-hire common or contract motor vehicle
4 carrier operating within a commercial zone as defined in section 390.020 or 390.041, **RSMo**, or
5 operating under a certificate issued by the [motor carrier and railroad safety division of the
6 department of economic development under the provisions of this chapter] **Missouri**
7 **department of transportation** or by the [interstate commerce commission] **federal**
8 **Department of Transportation, or any of its subagencies**, such owner/operator shall not be

9 deemed to be an employee, provided, however, such individual owner and operator shall be
10 deemed to be in employment if the for-hire [common or contract vehicle] **motor** carrier is an
11 organization described in section 501(c)(3) of the Internal Revenue Code or any governmental
12 entity.