

SECOND REGULAR SESSION

HOUSE BILL NO. 2272

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FISHER (125) (Sponsor) AND JONES (89) (Co-sponsor).

5299L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 287.690 and 287.715, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation law, with an emergency clause for a certain section.

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

Section A. Sections 287.690 and 287.715, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 287.690 and 287.715, to read as follows:

287.690. [1. Prior to December 31, 1993,] **Beginning January 1, 2011**, for the purpose of providing for the expense of administering this chapter [and for the purpose set out in subsection 2 of this section], every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured, company, mutual company, the parties to any interindemnity contract, or other plan or scheme, and every other insurance carrier, insuring employers in this state against liability for personal injuries to their employees, or for death caused thereby, under this chapter, shall pay, as provided in this chapter, tax upon the net deposits, net premiums or net assessments received, whether in cash or notes in this state, or on account of business done in this state, for such insurance in this state at the rate of two percent in lieu of all [other] **premium** taxes on such net deposits, net premiums or net assessments, which amount of taxes shall be assessed and collected as herein provided. Beginning October 31, [1993] **2010**, and every year thereafter, the director of the division of workers' compensation shall estimate the amount of revenue required to administer this chapter and the **division** director shall determine the rate of tax to be paid in the following calendar year pursuant to this section commencing with the calendar year beginning on January 1, [1994] **2011**.

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.

18 If the balance of the fund [estimated to be] on hand on [December thirty-first] **July first** of the
19 year each tax rate determination is made **on October thirty-first** is less than one hundred ten
20 percent of the previous year's expenses plus any additional revenue required due to new statutory
21 requirements given to the division by the general assembly, then the **division** director shall
22 impose a tax not to exceed two percent in lieu of all other taxes on net deposits, net premiums
23 or net assessments, rounded up to the nearest one-half of a percentage point, which amount of
24 taxes shall be assessed and collected as herein provided. The net premium equivalent for
25 individual self-insured employers and any group of political subdivisions of this state qualified
26 to self-insure their liability pursuant to this chapter as authorized by section 537.620, RSMo,
27 shall be based on average rate classifications calculated by the department of insurance, financial
28 institutions and professional registration as taken from premium rates filed by the twenty
29 insurance companies providing the greatest volume of workers' compensation insurance coverage
30 in this state. For employers qualified to self-insure their liability pursuant to this chapter, the
31 rates filed by such group of employers in accordance with subsection 2 of section 287.280 shall
32 be the net premium equivalent. Every entity required to pay the tax imposed pursuant to this
33 section and section 287.730 shall be notified by the division of workers' compensation within
34 ten calendar days of the date of the determination of the rate of tax to be imposed for the
35 following year. Net premiums, net deposits or net assessments are defined as gross premiums,
36 gross deposits or gross assessments less canceled or returned premiums, premium deposits or
37 assessments and less dividends or savings, actually paid or credited.

38 [2. After January 1, 1994, the director of the division shall make one or more loans to
39 the Missouri employers mutual insurance company in an amount not to exceed an aggregate
40 amount of five million dollars from the fund maintained to administer this chapter for start-up
41 funding and initial capitalization of the company. The board of the company shall make
42 application to the director for the loans, stating the amount to be loaned to the company. The
43 loans shall be for a term of five years and, at the time the application for such loans is approved
44 by the director, shall bear interest at the annual rate based on the rate for linked deposit loans as
45 calculated by the state treasurer pursuant to section 30.758, RSMo.]

287.715. 1. For the purpose of providing for revenue for the second injury fund, every
2 authorized self-insurer, and every workers' compensation policyholder insured pursuant to the
3 provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with
4 the provisions of this section. The annual surcharge imposed under this section shall apply to
5 all workers' compensation insurance policies and self-insurance coverages which are written or
6 renewed on or after April 26, 1988, including the state of Missouri, including any of its
7 departments, divisions, agencies, commissions, and boards or any political subdivisions of the
8 state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any

9 law to the contrary, the surcharge imposed pursuant to this section shall not apply to any
10 reinsurance or retrocessional transaction.

11 2. Beginning October 31, [2005] **2010**, and each year thereafter, the director of the
12 division of workers' compensation shall estimate the amount of benefits payable from the second
13 injury fund during the following calendar year and shall calculate the total amount of the annual
14 surcharge to be imposed during the following calendar year upon all workers' compensation
15 policyholders and authorized self-insurers. The amount of the annual surcharge percentage to
16 be imposed upon each policyholder and self-insured for the following calendar year commencing
17 with the calendar year beginning on January 1, [2006] **2011**, shall be set at and calculated against
18 a percentage, not to exceed three percent, of the policyholder's or self-insured's workers'
19 compensation net deposits, net premiums, or net assessments for the previous policy year,
20 rounded up to the nearest one-half of a percentage point, that shall generate, as nearly as possible,
21 one hundred ten percent of the moneys to be paid from the second injury fund in the following
22 calendar year, less any moneys contained in the fund at the end of the previous [calendar] **fiscal**
23 year. All policyholders and self-insurers shall be notified by the division of workers'
24 compensation within ten calendar days of the determination of the surcharge percent to be
25 imposed for, and paid in, the following calendar year. The net premium equivalent for individual
26 self-insured employers and any group of political subdivisions of this state qualified to
27 self-insure their liability pursuant to this chapter as authorized by section 537.620, RSMo, shall
28 be based on average rate classifications calculated by the department of insurance, financial
29 institutions and professional registration as taken from premium rates filed by the twenty
30 insurance companies providing the greatest volume of workers' compensation insurance coverage
31 in this state. For employers qualified to self-insure their liability pursuant to this chapter, the
32 rates filed by such group of employers in accordance with subsection 2 of section 287.280 shall
33 be the net premium equivalent. The **division** director may advance [funds] **moneys** from the
34 workers' compensation fund to the second injury fund if surcharge collections prove to be
35 insufficient. **The outstanding total of moneys advanced by the division director from the**
36 **workers' compensation fund to the second injury fund shall not exceed thirty-three and**
37 **one-third percent of the total amount of the annual surcharge as calculated in this section**
38 **to be imposed in the year moneys are advanced to the second injury fund. No additional**
39 **advance from the workers' compensation fund to the second injury fund shall be made by**
40 **the director until the previous advance has been reimbursed in full.** Any [funds] **moneys**
41 advanced from the workers' compensation fund to the second injury fund [must] **shall** be
42 reimbursed by the second injury fund no later than December thirty-first of the **fifth** year
43 following the advance. The surcharge shall be collected from policyholders by each insurer at
44 the same time and in the same manner that the premium is collected, but no insurer or its agent

45 shall be entitled to any portion of the surcharge as a fee or commission for its collection. The
46 surcharge is not subject to any taxes, licenses or fees.

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

49 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
50 insurers shall pay the amounts not later than the thirtieth day of the month following the end of
51 the quarter in which the amount is received from policyholders. If the director of the division
52 of workers' compensation fails to calculate the surcharge by the thirty-first day of October of any
53 year for the following year, any increase in the surcharge ultimately set by the director shall not
54 be effective for any calendar quarter beginning less than sixty days from the date the director
55 makes such determination.

56 5. If a policyholder or self-insured fails to make payment of the surcharge or an insurer
57 fails to make timely transfer to the division of surcharges actually collected from policyholders,
58 as required by this section, a penalty of one-half of one percent of the surcharge unpaid, or
59 untransferred, shall be assessed against the liable policyholder, self-insured or insurer. Penalties
60 assessed under this subsection shall be collected in a civil action by a summary proceeding
61 brought by the director of the division of workers' compensation.

62 **6. Funds collected under the provisions of this section shall be the sole funding**
63 **source of the second injury fund.**

64 **7. Subsections 1 and 3 to 6 of this section shall become effective August 28, 2010.**

Section B. Because immediate action is necessary to help injured Missouri workers, the
2 repeal and reenactment of section 287.715 of section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and the repeal and reenactment
5 of section 287.715 of section A of this act shall be in full force and effect upon its passage and
6 approval.

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