

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 852,
2 Page 4, Section 105.935, Line 54, by inserting after all of said line the following:

3
4 "287.243. 1. This section shall be known and may be cited as the "Line of Duty
5 Compensation Act".

6 2. As used in this section, unless otherwise provided, the following words shall mean:

7 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in accordance with
8 sections 190.001 to 190.245 and corresponding regulations applicable to air ambulances adopted by
9 the department of health and senior services, division of regulation and licensure, 19 CSR 30-40.005,
10 et seq.;

11 (2) "Air ambulance registered professional nurse", a person licensed as a registered
12 professional nurse in accordance with sections 335.011 to 335.096 and corresponding regulations
13 adopted by the state board of nursing, 20 CSR 2200-4, et seq., who provides registered professional
14 nursing services as a flight nurse in conjunction with an air ambulance program that is certified in
15 accordance with sections 190.001 to 190.245 and the corresponding regulations applicable to such
16 programs;

17 (3) "Emergency medical technician", a person licensed in emergency medical care in
18 accordance with standards prescribed by sections 190.001 to 190.245 and by rules adopted by the
19 department of health and senior services under sections 190.001 to 190.245;

20 (4) "Firefighter", any person, including a volunteer firefighter, employed by the state or a
21 local governmental entity as an employer defined under subsection 1 of section 287.030, or
22 otherwise serving as a member or officer of a fire department either for the purpose of the prevention
23 or control of fire or the underwater recovery of drowning victims;

24 (5) "Killed in the line of duty", when [a] any person defined in this section loses [one's] his
25 or her life [as a result of an injury received in the active performance of his or her duties within the
26 ordinary scope of his or her respective profession while the individual is on duty and but for the
27 individual's performance, death would have not occurred] when:

28 (a) Death is caused by an accident or the willful act of violence of another;

29 (b) The law enforcement officer, emergency medical technician, air ambulance pilot, air
30 ambulance registered professional nurse, or firefighter is in the active performance of his or her
31 duties in his or her respective profession and there is a relationship between the accident or
32 commission of the act of violence and the performance of the duty, even if the individual is off duty;
33 the law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
34 registered professional nurse, or firefighter is traveling to or from employment; or the law
35 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered
36 professional nurse, or firefighter is taking any meal break or other break which takes place while that

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1 individual is on duty;

2 (c) Death is the natural and probable consequence of the injury; and

3 (d) Death occurs within three hundred weeks from the date the injury was received.

4 The term excludes death resulting from the willful misconduct or intoxication of the law
5 enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered
6 professional nurse, or firefighter. The division of workers' compensation shall have the burden of
7 proving such willful misconduct or intoxication;

8 (6) "Law enforcement officer", any person employed by the state or a local governmental
9 entity as a police officer, peace officer certified under chapter 590, or serving as an auxiliary police
10 officer or in some like position involving the enforcement of the law and protection of the public
11 interest at the risk of that person's life;

12 (7) "Local governmental entity", includes counties, municipalities, townships, board or other
13 political subdivision, cities under special charter, or under the commission form of government, fire
14 protection districts, ambulance districts, and municipal corporations;

15 (8) "State", the state of Missouri and its departments, divisions, boards, bureaus,
16 commissions, authorities, and colleges and universities;

17 (9) "Volunteer firefighter", a person having principal employment other than as a firefighter,
18 but who is carried on the rolls of a regularly constituted fire department either for the purpose of the
19 prevention or control of fire or the underwater recovery of drowning victims, the members of which
20 are under the jurisdiction of the corporate authorities of a city, village, incorporated town, or fire
21 protection district. Volunteer firefighter shall not mean an individual who volunteers assistance
22 without being regularly enrolled as a firefighter.

23 3. (1) A claim for compensation under this section shall be filed by the estate of the
24 deceased with the division of workers' compensation not later than one year from the date of death of
25 a law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
26 registered professional nurse, or firefighter. If a claim is made within one year of the date of death of
27 a law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance
28 registered professional nurse, or firefighter killed in the line of duty, compensation shall be paid, if
29 the division finds that the claimant is entitled to compensation under this section.

30 (2) The amount of compensation paid to the claimant shall be twenty-five thousand dollars,
31 subject to appropriation, for death occurring on or after June 19, 2009.

32 4. Notwithstanding subsection 3 of this section, no compensation is payable under this
33 section unless a claim is filed within the time specified under this section setting forth:

34 (1) The name, address, and title or designation of the position in which the law enforcement
35 officer, emergency medical technician, air ambulance pilot, air ambulance registered professional
36 nurse, or firefighter was serving at the time of his or her death;

37 (2) The name and address of the claimant;

38 (3) A full, factual account of the circumstances resulting in or the course of events causing
39 the death at issue; and

40 (4) Such other information that is reasonably required by the division.

41 When a claim is filed, the division of workers' compensation shall make an investigation for
42 substantiation of matters set forth in the application.

43 5. The compensation provided for under this section is in addition to, and not exclusive of,
44 any pension rights, death benefits, or other compensation the claimant may otherwise be entitled to
45 by law.

46 6. Neither employers nor workers' compensation insurers shall have subrogation rights
47 against any compensation awarded for claims under this section. Such compensation shall not be
48 assignable, shall be exempt from attachment, garnishment, and execution, and shall not be subject to

1 setoff or counterclaim, or be in any way liable for any debt, except that the division or commission
2 may allow as lien on the compensation, reasonable attorney's fees for services in connection with the
3 proceedings for compensation if the services are found to be necessary. Such fees are subject to
4 regulation as set forth in section 287.260.

5 7. Any person seeking compensation under this section who is aggrieved by the decision of
6 the division of workers' compensation regarding his or her compensation claim, may make
7 application for a hearing as provided in section 287.450. The procedures applicable to the
8 processing of such hearings and determinations shall be those established by this chapter. Decisions
9 of the administrative law judge under this section shall be binding, subject to review by either party
10 under the provisions of section 287.480.

11 8. Pursuant to section 23.253 of the Missouri sunset act:

12 (1) The provisions of the new program authorized under this section shall automatically
13 sunset six years after June 19, [2009] 2019, unless reauthorized by an act of the general assembly;
14 and

15 (2) If such program is reauthorized, the program authorized under this section shall
16 automatically sunset twelve years after the effective date of the reauthorization of this section; and

17 (3) This section shall terminate on September first of the calendar year immediately
18 following the calendar year in which the program authorized under this section is sunset.

19 9. The provisions of this section, unless specified, shall not be subject to other provisions of
20 this chapter.

21 10. There is hereby created in the state treasury the "Line of Duty Compensation Fund",
22 which shall consist of moneys appropriated to the fund and any voluntary contributions, gifts, or
23 bequests to the fund. The state treasurer shall be custodian of the fund and shall approve
24 disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation,
25 money in the fund shall be used solely for paying claims under this section. Notwithstanding the
26 provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the
27 biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest
28 moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned
29 on such investments shall be credited to the fund.

30 11. The division shall promulgate rules to administer this section, including but not limited
31 to the appointment of claims to multiple claimants, record retention, and procedures for information
32 requests. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
33 under the authority delegated in this section shall become effective only if it complies with and is
34 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
35 chapter 536 are nonseverable and if any of the powers vested with the general assembly under
36 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
37 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
38 June 19, 2009, shall be invalid and void."; and

39
40 Further amend said bill by amending the title, enacting clause, and intersectional references
41 accordingly.