

HCS SS SCS SB 66 -- WORKERS' COMPENSATION

SPONSOR: Schatz (Fitzwater)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Employment Security by a vote of 7 to 5. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 8 to 3.

This bill changes several provisions of the workers' compensation laws.

This bill defines the term "maximum medical improvement." Beginning January 1, 2018, the bill allows certain shareholders of an S corporation to elect to reject workers' compensation coverage (Section 287.037, RSMo).

Under certain conditions, this bill specifies that a positive test result for a non-prescribed controlled drug creates a rebuttable presumption that the employee's injury was sustained in conjunction with the use of the drug. Temporary total disability and temporary partial disability benefits are not payable if the employee voluntarily separates from work when the employer had work available in compliance with any medical restrictions imposed on the employee. If temporary benefits are terminated, the employee is entitled to a hearing within 30 days to dispute the termination.

The bill further changes the provisions of the Line of Duty Compensation Act. The bill defines the term "child" and clarifies how compensation payable under the act should be distributed to the decedent's survivors (Section 287.243).

New applicants to specified self-insured trusts shall submit to the Division of Workers' Compensation proof of payment of 25% of the estimated annual premium. Self-insured trusts may invest surplus moneys from a prior trust year not needed for current obligations.

In the case of an offer of compromise settlement after the employee has reached maximum medical improvement, the employee shall have 12 months to obtain a second permanent disability rating. The bill modifies the retaliation standard under the workers' compensation laws, providing that no employer may discharge or discriminate against an employee when the employee's exercise of any rights under Chapter 287 was a motivating factor in the discharge or discrimination (Sections 287.120, 287.170, and 287.780).

This bill is similar to HB 1100 (2017) and HCS SS SCS SB 113 (2017).

PROPONENTS: Supporters say that this bill provides a fix to a judicial decision changing the standard in workers' compensation discrimination cases, that it clarifies the beneficiaries in the Line of Duty Compensation Act, and that it clarifies the standard for applying a benefit penalty when an employee improperly uses drugs in conjunction with an injury.

Testifying for the bill were Senator Schatz; Missouri Chamber of Commerce and Industry; Missouri Insurance Coalition; Ambulance District Association of Missouri; Missouri Retailers Association and Missouri Growers Association; Missouri Merchants and Manufacturers Association; Associated Industries Of Missouri; Fire Service Alliance; and the Missouri Self Insurance Association.

OPPONENTS: Those who oppose the bill say that changing the retaliation standard will make it more difficult for an employee to prove retaliatory discharge and discrimination. In addition, the cumulative effect of changing the workers' compensation law is to unravel the bargain struck between employees and employers over 100 years ago when the system was first adopted, which may then subject the workers' compensation laws to a constitutional challenge.

Testifying against the bill were Michael Campbell, Missouri Association of Trial Attorneys and United Steelworkers District 11.