

HCS SS SCS SB 66 -- WORKERS' COMPENSATION

This bill modifies provisions relating to workers' compensation.

S CORPORATIONS

Beginning January 1, 2018, this bill allows a shareholder of an S corporation with at least 40% or more interest in the S corporation to individually elect to reject coverage under the workers' compensation laws by providing a written notice of the rejection to the S corporation and its insurer. Failure to provide notice to the S corporation shall not be grounds for any shareholder to claim that the rejection is not legally effective. The shareholder may rescind the rejection in writing to the S corporation and its insurer. The rescission shall entitle the shareholder only to the benefits which accrue on or after the date of the notice of rescission is received by the insurance company (Section 287.037, RSMo).

MAXIMUM MEDICAL IMPROVEMENT

This bill defines the term "maximum medical improvement" as the point at which the injured employee's medical condition has stabilized and can no longer reasonably improve with additional medical care, within a reasonable degree of medical certainty.

The bill specifies that in the case of temporary total and temporary partial disability benefits, such benefits shall only continue until the employee reaches maximum medical improvement unless such benefits are terminated by the employee's return to work or are otherwise terminated under law. In the case of permanent total disability, compensation shall be paid during the continuance of such disability from the date of maximum medical improvement for the lifetime of the employee at the appropriate weekly rate.

This bill modifies provisions relating to compromise settlements under workers' compensation laws. For all compromise settlements offered after a claimant has reached maximum medical improvement, such claimants have 12 months after receiving an initial permanent disability rating from the employer's physician to acquire a rating from a second physician of his or her own choosing. Absent extenuating circumstances, if after 12 months the claimant has not acquired a second rating then any compromise settlement entered into shall be based upon the initial rating. Employers may waive these provisions with or without stating a reason (Sections 287.020, 287.149, 287.200, 287.280, and 287.780).

REDUCTION OF WORKERS' COMPENSATION AWARD BASED ON USE OF DRUGS

Currently, if an employee fails to obey any rule or policy of an employer relating to the use of alcohol or nonprescribed controlled drugs in the workplace, the compensation or death benefit available under workers' compensation laws shall be reduced by 50% if the injury was sustained in conjunction with the use of alcohol or nonprescribed controlled drugs. This bill provides that any positive test for a nonprescribed controlled drug or the metabolites of such drug from an employee creates a rebuttable presumption that the employee's injury was sustained in conjunction with the use of the drug (Section 287.120).

TERMINATION OF DISABILITY PAYMENTS - VOLUNTARY SEPARATION

If an employee voluntarily separates from employment at a time when the employer made work available for the employee which was in compliance with any medical restriction imposed upon the employee as a result of an injury that is the subject of a claim for benefits under workers' compensation, neither temporary total disability nor temporary partial disability benefits shall be payable to the employee (Section 287.170).

HEARINGS FOLLOWING TERMINATION OF WORKERS' COMPENSATION BENEFITS

Currently, the Division of Workers' Compensation is required to set a hearing for any dispute over the termination of workers' compensation benefits within 60 days of an employee making a request for a hearing. This bill requires a hearing to be set within 30 days (Section 287.203).

DEATH BENEFITS AND BURIAL EXPENSES

The bill modifies the definition of "dependent" for purposes of death benefits and burial expenses available under workers' compensation laws. The term "dependent" is modified to mean only the claimant's spouse or the claimant's natural, posthumous, or adopted child or children, including any stepchild claimable by the deceased on his or her federal tax return at the time of injury, who is under the age of 18 years or over that age but physically or mentally incapacitated from wage earning. This bill also eliminates partial dependents from the definition of "dependent" (Section 287.240).

LINE OF DUTY COMPENSATION

Currently, the estate of a deceased law enforcement officer, emergency medical technician, air ambulance pilot, air ambulance registered professional nurse, or firefighter who is killed in the line of duty is eligible to receive \$25,000 in compensation. This

bill clarifies how the compensation should be awarded to the survivors (Section 287.243).

TRUST SELF-INSURERS

The bill requires new applicants to specified self-insured trusts to submit proof of payment of 25% of the estimated annual premium to the Division of Workers' Compensation. Self-insured trusts are further permitted to invest surplus moneys from a prior trust year not needed for current obligations (Sections 287.280).

DISCHARGE AND DISCRIMINATION

Currently, an employer or agent shall not discharge or in any way discriminate against any employee for exercising any of his or her rights under workers' compensation statutes. This bill modifies that provision so that an employer or agent shall not discharge or discriminate against any employee when the exercising of such rights is the motivating factor in the discharge or discrimination (Section 287.780).