

HCS SS SCS SB 113 -- WORKERS' COMPENSATION

SPONSOR: Schatz

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.

Beginning January 1, 2018, the bill allows certain shareholders of an S corporation to elect to reject workers' compensation coverage (Sections 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. 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).

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).

This bill is similar to HCS SS SCS SB 66.

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; Matthew Murphy; Missouri Retailers Association; Missouri Growers Association; Missouri Merchants and Manufacturers Association; Associated Industries of

Missouri; and 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 was Missouri Association of Trial Attorneys.