

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 1617, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "287.020. 1. The word "employee" as used in this chapter shall be construed to mean every
5 person in the service of any employer, as defined in this chapter, under any contract of hire, express
6 or implied, oral or written, or under any appointment or election, including executive officers of
7 corporations. Except as otherwise provided in section 287.200, any reference to any employee who
8 has been injured shall, when the employee is dead, also include his or her dependents, and other
9 persons to whom compensation may be payable. The word "employee" shall also include all minors
10 who work for an employer, whether or not such minors are employed in violation of law, and all
11 such minors are hereby made of full age for all purposes under, in connection with, or arising out of
12 this chapter. The word "employee" shall not include an individual who is the owner, as defined in
13 section 301.010, and operator of a motor vehicle which is leased or contracted with a driver to a for-
14 hire motor carrier operating within a commercial zone as defined in section 390.020 or 390.041, or
15 operating under a certificate issued by the Missouri department of transportation or by the United
16 States Department of Transportation, or any of its subagencies. The word "employee" also shall not
17 include any person performing services for board, lodging, aid, or sustenance received from any
18 religious, charitable, or relief organization. The word "employee" shall under no circumstances
19 include an unborn child as defined in section 188.015.

20 2. The word "accident" as used in this chapter shall mean an unexpected traumatic event or
21 unusual strain identifiable by time and place of occurrence and producing at the time objective
22 symptoms of an injury caused by a specific event during a single work shift. An injury is not
23 compensable because work was a triggering or precipitating factor.

24 3. (1) In this chapter the term "injury" is hereby defined to be an injury which has arisen out
25 of and in the course of employment. An injury by accident is compensable only if the accident was
26 the prevailing factor in causing both the resulting medical condition and disability. "The prevailing
27 factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting
28 medical condition and disability.

29 (2) An injury shall be deemed to arise out of and in the course of the employment only if:

30 (a) It is reasonably apparent, upon consideration of all the circumstances, that the accident is
31 the prevailing factor in causing the injury; and

32 (b) It does not come from a hazard or risk unrelated to the employment to which workers
33 would have been equally exposed outside of and unrelated to the employment in normal
34 nonemployment life.

35 (3) An injury resulting directly or indirectly from idiopathic causes is not compensable.

36 (4) A cardiovascular, pulmonary, respiratory, or other disease, or cerebrovascular accident or

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1 myocardial infarction suffered by a worker is an injury only if the accident is the prevailing factor in
2 causing the resulting medical condition.

3 (5) The terms "injury" and "personal injuries" shall mean violence to the physical structure
4 of the body and to the personal property which is used to make up the physical structure of the body,
5 such as artificial dentures, artificial limbs, glass eyes, eyeglasses, and other prostheses which are
6 placed in or on the body to replace the physical structure and such disease or infection as naturally
7 results therefrom. These terms shall in no case except as specifically provided in this chapter be
8 construed to include occupational disease in any form, nor shall they be construed to include any
9 contagious or infectious disease contracted during the course of the employment, nor shall they
10 include death due to natural causes occurring while the worker is at work.

11 4. "Death" when mentioned as a basis for the right to compensation means only death
12 resulting from such violence and its resultant effects occurring within three hundred weeks after the
13 accident; except that in cases of occupational disease, the limitation of three hundred weeks shall
14 not be applicable.

15 5. Injuries sustained in company-owned or subsidized automobiles in accidents that occur
16 while traveling from the employee's home to the employer's principal place of business or from the
17 employer's principal place of business to the employee's home are not compensable. The extension
18 of premises doctrine is abrogated to the extent it extends liability for accidents that occur on
19 property not owned or controlled by the employer even if the accident occurs on customary,
20 approved, permitted, usual or accepted routes used by the employee to get to and from their place of
21 employment.

22 6. The term "total disability" as used in this chapter shall mean inability to return to any
23 employment and not merely mean inability to return to the employment in which the employee was
24 engaged at the time of the accident.

25 7. As used in this chapter and all acts amendatory thereof, the term "commission" shall
26 hereafter be construed as meaning and referring exclusively to the labor and industrial relations
27 commission of Missouri, and the term "director" shall hereafter be construed as meaning the director
28 of the department of commerce and insurance of the state of Missouri or such agency of government
29 as shall exercise the powers and duties now conferred and imposed upon the department of
30 commerce and insurance of the state of Missouri.

31 8. The term "division" as used in this chapter means the division of workers' compensation
32 of the department of labor and industrial relations of the state of Missouri.

33 9. For the purposes of this chapter, the term "minor" means a person who has not attained
34 the age of eighteen years; except that, for the purpose of computing the compensation provided for
35 in this chapter, the provisions of section 287.250 shall control.

36 10. In applying the provisions of this chapter, it is the intent of the legislature to reject and
37 abrogate earlier case law interpretations on the meaning of or definition of "accident", "occupational
38 disease", "arising out of", and "in the course of the employment" to include, but not be limited to,
39 holdings in: *Bennett v. Columbia Health Care and Rehabilitation*, 80 S.W.3d 524 (Mo.App. W.D.
40 2002); *Kasl v. Bristol Care, Inc.*, 984 S.W.2d 852 (Mo.banc 1999); and *Drewes v. TWA*, 984 S.W.2d
41 512 (Mo.banc 1999) and all cases citing, interpreting, applying, or following those cases.

42 11. For the purposes of this chapter, "occupational diseases due to toxic exposure" shall only
43 include the following: mesothelioma, asbestosis, berylliosis, coal worker's pneumoconiosis,
44 bronchiolitis obliterans, silicosis, silicotuberculosis, manganism, acute myelogenous leukemia, and
45 myelodysplastic syndrome.

46 12. For the purposes of this chapter, "maximum medical improvement" shall mean the point
47 at which the injured employee's medical condition has stabilized and can no longer reasonably
48 improve with additional medical care, as determined within a reasonable degree of medical
49 certainty.

1 537.025. 1. This section shall be known and may be cited as "Jaxx's Law".
2 2. For the purposes of any civil action in this state or for any civil action arising out of acts
3 or omissions occurring within this state, including a wrongful death action, an unborn child shall not
4 be considered an employee of a business located within this state, of a business conducting business
5 within this state, or of a state agency of the state of Missouri. For purposes of this section, "unborn
6 child" has the same meaning as provided under section 188.015."; and
7
8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.