

SECOND REGULAR SESSION

HOUSE BILL NO. 3032

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOK.

6239H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 287.030 and 287.128, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 287.030 and 287.128, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.030 and 287.128, to read as follows:

287.030. 1. The word "employer" as used in this chapter shall be construed to mean:
2 (1) Every person, partnership, association, corporation, limited liability partnership or
3 company, trustee, receiver, the legal representatives of a deceased employer, and every other
4 person, including any person or corporation operating a railroad and any public service
5 corporation, using the service of another for pay;

6 (2) The state, county, municipal corporation, township, school or road, drainage,
7 swamp and levee districts, or school boards, board of education, regents, curators, managers
8 or control commission, board or any other political subdivision, corporation, or quasi-
9 corporation, or cities under special charter, or under the commission form of government;

10 (3) Any of the above-defined employers must have five or more employees to be
11 deemed an employer for the purposes of this chapter unless election is made to become
12 subject to the provisions of this chapter as provided in subsection 2 of section 287.090,
13 ~~[except that]~~ **and** construction industry employers who erect, demolish, alter or repair
14 improvements shall be deemed an employer for the purposes of this chapter if they have ~~[one]~~
15 **five** or more employees. An employee who is a member of the employer's family within the
16 third degree of affinity or consanguinity shall be counted in determining the total number of
17 employees of such employer.

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 2. Any reference to the employer shall also include his or her insurer or group self-
19 insurer.

 287.128. 1. It shall be unlawful for any person to knowingly present or cause to be
2 presented any false or fraudulent claim for the payment of benefits pursuant to a workers'
3 compensation claim.

4 2. It shall be unlawful for any insurance company or self-insurer in this state to
5 knowingly and intentionally refuse to comply with known and legally indisputable
6 compensation obligations with intent to defraud.

7 3. It shall be unlawful for any person to:

8 (1) Knowingly present multiple claims for the same occurrence with intent to
9 defraud;

10 (2) Knowingly assist, abet, solicit or conspire with:

11 (a) Any person who knowingly presents any false or fraudulent claim for the payment
12 of benefits;

13 (b) Any person who knowingly presents multiple claims for the same occurrence with
14 an intent to defraud; or

15 (c) Any person who purposefully prepares, makes or subscribes to any writing with
16 the intent to present or use the same, or to allow it to be presented in support of any such
17 claim;

18 (3) Knowingly make or cause to be made any false or fraudulent claim for payment of
19 a health care benefit;

20 (4) Knowingly submit a claim for a health care benefit which was not used by, or on
21 behalf of, the claimant;

22 (5) Knowingly present multiple claims for payment of the same health care benefit
23 with an intent to defraud;

24 (6) Knowingly make or cause to be made any false or fraudulent material statement or
25 material representation for the purpose of obtaining or denying any benefit;

26 (7) Knowingly make or cause to be made any false or fraudulent statements with
27 regard to entitlement to benefits with the intent to discourage an injured worker from making
28 a legitimate claim;

29 (8) Knowingly make or cause to be made a false or fraudulent material statement to
30 an investigator of the division in the course of the investigation of fraud or noncompliance.

31

32 For the purposes of subdivisions (6), (7), and (8) of this subsection, the term "statement"
33 includes any notice, proof of injury, bill for services, payment for services, hospital or doctor
34 records, X-ray or test results.

35 4. Any person violating any of the provisions of subsection 1 or 2 of this section shall
36 be guilty of a class E felony. In addition, the person shall be liable to the state of Missouri for
37 a fine up to ten thousand dollars or double the value of the fraud whichever is greater. Any
38 person violating any of the provisions of subsection 3 of this section shall be guilty of a class
39 A misdemeanor and the person shall be liable to the state of Missouri for a fine up to ten
40 thousand dollars. Any person who has previously been found guilty of violating any of the
41 provisions of subsection 1, 2 or 3 of this section and who subsequently violates any of the
42 provisions of subsection 1, 2 or 3 of this section shall be guilty of a class D felony.

43 5. It shall be unlawful for any person, company, or other entity to prepare or provide
44 an invalid certificate of insurance as proof of workers' compensation insurance. Any person
45 violating any of the provisions of this subsection shall be guilty of a class E felony and, in
46 addition, shall be liable to the state of Missouri for a fine up to ten thousand dollars or double
47 the value of the fraud, whichever is greater.

48 6. Any person who knowingly misrepresents any fact in order to obtain workers'
49 compensation insurance at less than the proper rate for that insurance shall be guilty of a class
50 A misdemeanor. Any person who has previously been found guilty of violating any of the
51 provisions of this section and who subsequently violates any of the provisions of this section
52 shall be guilty of a class E felony.

53 7. Any employer who knowingly fails to insure his **or her** liability pursuant to this
54 chapter **shall result in a written warning for the first violation and upon a second**
55 **violation or any additional subsequent violations thereafter** shall be guilty of a class A
56 misdemeanor and, in addition, shall be liable to the state of Missouri for a penalty in an
57 amount up to three times the annual premium the employer would have paid had such
58 employer been insured or up to fifty thousand dollars, whichever amount is greater. ~~Any~~
59 ~~person who has previously been found guilty of violating any of the provisions of this section~~
60 ~~and who subsequently violates any of the provisions of this section shall be guilty of a class E~~
61 ~~felony.]~~

62 8. Any person may file a complaint alleging fraud or noncompliance with this chapter
63 with a legal advisor in the division of workers' compensation. The legal advisor shall refer
64 the complaint to the fraud and noncompliance unit within the division. The unit shall
65 investigate all complaints and present any finding of fraud or noncompliance to the director,
66 who may refer the file to the attorney general. The attorney general may prosecute any fraud
67 or noncompliance associated with this chapter. All costs incurred by the attorney general
68 associated with any investigation and prosecution pursuant to this subsection shall be paid out
69 of the workers' compensation fund. Any fines or penalties levied and received as a result of
70 any prosecution under this section shall be paid to the workers' compensation fund. Any

71 restitution ordered as a part of the judgment shall be paid to the person or persons who were
72 defrauded.

73 9. Any and all reports, records, tapes, photographs, and similar materials or
74 documentation submitted by any person, including the department of commerce and
75 insurance, to the fraud and noncompliance unit or otherwise obtained by the unit pursuant to
76 this section, used to conduct an investigation for any violation under this chapter, shall be
77 considered confidential and not subject to the requirements of chapter 610. Nothing in this
78 subsection prohibits the fraud and noncompliance unit from releasing records used to conduct
79 an investigation to the local, state, or federal law enforcement authority or federal or state
80 agency conducting an investigation, upon written request.

81 10. There is hereby established in the division of workers' compensation a fraud and
82 noncompliance administrative unit responsible for investigating incidences of fraud and
83 failure to comply with the provisions of this chapter.

84 11. Any prosecution for a violation of the provisions of this section or section
85 287.129 shall be commenced within three years after discovery of the offense by an aggrieved
86 party or by a person who has a legal duty to represent an aggrieved party and who is not a
87 party to the offense. As used in this subsection, the term "person who has a legal duty to
88 represent an aggrieved party" shall mean the attorney general or the prosecuting attorney
89 having jurisdiction to prosecute the action.

90 12. By January 1, 2006, the attorney general shall forward to the division and the
91 members of the general assembly the first edition of an annual report of the costs of
92 prosecuting fraud and noncompliance under this chapter. The report shall include the number
93 of cases filed with the attorney general by county by the fraud and noncompliance unit, the
94 number of cases prosecuted by county by the attorney general, fines and penalties levied and
95 received, and all incidental costs.

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