

SECOND REGULAR SESSION

HOUSE BILL NO. 2855

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VOSS.

6402H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 287.690 and 287.715, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

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

Section A. Sections 287.690 and 287.715, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.690 and 287.715, to read as follows:

287.690. Prior to December 31, 1993, for the purpose of providing for the expense of
2 administering this chapter, every person, partnership, association, corporation, whether
3 organized under the laws of this or any other state or country, the state of Missouri, including
4 any of its departments, divisions, agencies, commissions, and boards or any political
5 subdivisions of the state who self-insure or hold themselves out to be any part self-insured,
6 company, mutual company, the parties to any interindemnity contract, or other plan or
7 scheme, and every other insurance carrier, insuring employers in this state against liability for
8 personal injuries to their employees, or for death caused thereby, under this chapter, shall pay,
9 as provided in this chapter, tax upon the net deposits, net premiums or net assessments
10 received, whether in cash or notes in this state, or on account of business done in this state, for
11 such insurance in this state at the rate of two percent in lieu of all other taxes on such net
12 deposits, net premiums or net assessments, which amount of taxes shall be assessed and
13 collected as herein provided. Beginning October 31, 1993, and every year thereafter, the
14 director of the division of workers' compensation shall estimate the amount of revenue
15 required to administer this chapter and the director shall determine the rate of tax to be paid in
16 the following calendar year pursuant to this section commencing with the calendar year
17 beginning on January 1, 1994. If the balance of the fund estimated to be on hand on

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 December thirty-first of the year each tax rate determination is made is less than one hundred
19 ten percent of the previous year's expenses plus any additional revenue required due to new
20 statutory requirements given to the division by the general assembly, then the director shall
21 impose a tax not to exceed two percent in lieu of all other taxes on net deposits, net premiums
22 or net assessments, rounded up to the nearest ~~one-half~~ **one-tenth** of a percentage point,
23 which amount of taxes shall be assessed and collected as herein provided. The net premium
24 equivalent for individual self-insured employers shall be based on average rate classifications
25 calculated by the department of commerce and insurance as taken from premium rates filed
26 by the twenty insurance companies providing the greatest volume of workers' compensation
27 insurance coverage in this state. For employers qualified to self-insure their liability pursuant
28 to this chapter, the rates filed by such group of employers in accordance with subsection 4 of
29 section 287.280 shall be the net premium equivalent. Any group of political subdivisions of
30 this state qualified to self-insure their liability pursuant to this chapter as authorized by
31 section 537.620 may choose either the average rate classification method or the filed rate
32 method, provided that the method used may only be changed once without receiving the
33 consent of the director of the division of workers' compensation. Every entity required to pay
34 the tax imposed pursuant to this section and section 287.730 shall be notified by the division
35 of workers' compensation within ten calendar days of the date of the determination of the rate
36 of tax to be imposed for the following year. Net premiums, net deposits or net assessments
37 are defined as gross premiums, gross deposits or gross assessments less cancelled or returned
38 premiums, premium deposits or assessments and less dividends or savings, actually paid or
39 credited.

287.715. 1. For the purpose of providing for revenue for the second injury fund,
2 every authorized self-insurer, and every workers' compensation policyholder insured pursuant
3 to the provisions of this chapter, shall be liable for payment of an annual surcharge in
4 accordance with the provisions of this section. The annual surcharge imposed under this
5 section shall apply to all workers' compensation insurance policies and self-insurance
6 coverages which are written or renewed on or after April 26, 1988, including the state of
7 Missouri, including any of its departments, divisions, agencies, commissions, and boards or
8 any political subdivisions of the state who self-insure or hold themselves out to be any part
9 self-insured. Notwithstanding any law to the contrary, the surcharge imposed pursuant to this
10 section shall not apply to any reinsurance or retrocessional transaction.

11 2. Beginning October 31, 2005, and each year thereafter, the director of the division
12 of workers' compensation shall estimate the amount of benefits payable from the second
13 injury fund during the following calendar year and shall calculate the total amount of the
14 annual surcharge to be imposed during the following calendar year upon all workers'
15 compensation policyholders and authorized self-insurers. The amount of the annual

16 surcharge percentage to be imposed upon each policyholder and self-insured for the following
17 calendar year commencing with the calendar year beginning on January 1, 2006, shall be set
18 at and calculated against a percentage, not to exceed three percent, of the policyholder's or
19 self-insured's workers' compensation net deposits, net premiums, or net assessments for the
20 previous policy year, rounded up to the nearest ~~[one-half]~~ **one-tenth** of a percentage point,
21 that shall generate, as nearly as possible, one hundred ten percent of the moneys to be paid
22 from the second injury fund in the following calendar year, less any moneys contained in the
23 fund at the end of the previous calendar year. All policyholders and self-insurers shall be
24 notified by the division of workers' compensation within ten calendar days of the
25 determination of the surcharge percent to be imposed for, and paid in, the following
26 calendar year. The net premium equivalent for individual self-insured employers shall be
27 based on average rate classifications calculated by the department of commerce and insurance
28 as taken from premium rates filed by the twenty insurance companies providing the greatest
29 volume of workers' compensation insurance coverage in this state. For employers qualified to
30 self-insure their liability pursuant to this chapter, the rates filed by such group of employers in
31 accordance with subsection 4 of section 287.280 shall be the net premium equivalent. Any
32 group of political subdivisions of this state qualified to self-insure their liability pursuant to
33 this chapter as authorized by section 537.620 may choose either the average rate classification
34 method or the filed rate method, provided that the method used may only be changed once
35 without receiving the consent of the director of the division of workers' compensation. The
36 director may advance funds from the workers' compensation fund to the second injury fund if
37 surcharge collections prove to be insufficient. Any funds advanced from the workers'
38 compensation fund to the second injury fund must be reimbursed by the second injury fund no
39 later than December thirty-first of the year following the advance. The surcharge shall be
40 collected from policyholders by each insurer at the same time and in the same manner that the
41 premium is collected, but no insurer or its agent shall be entitled to any portion of the
42 surcharge as a fee or commission for its collection. The surcharge is not subject to any taxes,
43 licenses or fees.

44 3. All surcharge amounts imposed by this section shall be deposited to the credit of
45 the second injury fund.

46 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
47 insurers shall pay the amounts not later than the thirtieth day of the month following the end
48 of the quarter in which the amount is received from policyholders. If the director of the
49 division of workers' compensation fails to calculate the surcharge by the thirty-first day of
50 October of any year for the following year, any increase in the surcharge ultimately set by the
51 director shall not be effective for any calendar quarter beginning less than sixty days from the
52 date the director makes such determination.

53 5. If a policyholder or self-insured fails to make payment of the surcharge or an
54 insurer fails to make timely transfer to the division of surcharges actually collected from
55 policyholders, as required by this section, a penalty of one-half of one percent of the
56 surcharge unpaid, or untransferred, shall be assessed against the liable policyholder, self-
57 insured or insurer. Penalties assessed under this subsection shall be collected in a civil action
58 by a summary proceeding brought by the director of the division of workers' compensation.

59 6. Notwithstanding subsection 2 of this section to the contrary, the director of the
60 division of workers' compensation shall collect a supplemental surcharge not to exceed one
61 percent for calendar years 2014 to 2026 of the policyholder's or self-insured's workers'
62 compensation net deposits, net premiums, or net assessments for the previous policy year,
63 rounded up to the nearest one-quarter of a percentage point. All policyholders and self-
64 insurers shall be notified by the division of the supplemental surcharge percentage to be
65 imposed for such period of time as part of the notice provided in subsection 2 of this section.
66 The provisions of this subsection shall expire on December 31, 2026.

67 7. Funds collected under the provisions of this chapter shall be the sole funding
68 source of the second injury fund.

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