

SECOND REGULAR SESSION

HOUSE BILL NO. 3072

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VEIT.

6610H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 287.200 and 287.470, 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Section A. Sections 287.200 and 287.470, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.200 and 287.470, to read as follows:

287.200. 1. Compensation for permanent total disability shall be paid during the
2 continuance of such disability from the date of maximum medical improvement for the
3 lifetime of the employee at the weekly rate of compensation in effect under this subsection on
4 the date of the injury for which compensation is being made. The word "employee" as used
5 in this section shall not include the injured worker's dependents, estate, or other persons to
6 whom compensation may be payable as provided in subsection 1 of section 287.020. The
7 amount of such compensation shall be computed as follows:

8 (1) For all injuries occurring on or after September 28, 1983, but before September
9 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds
10 percent of the injured employee's average weekly earnings during the year immediately
11 preceding the injury, as of the date of the injury; provided that the weekly compensation paid
12 under this subdivision shall not exceed an amount equal to seventy percent of the state
13 average weekly wage, as such wage is determined by the division of employment security, as
14 of the July first immediately preceding the date of injury;

15 (2) For all injuries occurring on or after September 28, 1986, but before August 28,
16 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent
17 of the injured employee's average weekly earnings during the year immediately preceding the

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 injury, as of the date of the injury; provided that the weekly compensation paid under this
19 subdivision shall not exceed an amount equal to seventy-five percent of the state average
20 weekly wage, as such wage is determined by the division of employment security, as of the
21 July first immediately preceding the date of injury;

22 (3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991,
23 the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the
24 injured employee's average weekly earnings as of the date of the injury; provided that the
25 weekly compensation paid under this subdivision shall not exceed an amount equal to one
26 hundred percent of the state average weekly wage;

27 (4) For all injuries occurring on or after August 28, 1991, the weekly compensation
28 shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average
29 weekly earnings as of the date of the injury; provided that the weekly compensation paid
30 under this subdivision shall not exceed an amount equal to one hundred five percent of the
31 state average weekly wage;

32 (5) For all injuries occurring on or after September 28, 1981, the weekly
33 compensation shall in no event be less than forty dollars per week.

34 2. Permanent total disability benefits that have accrued through the date of the injured
35 employee's death are the only permanent total disability benefits that are to be paid in
36 accordance with section 287.230. The right to unaccrued compensation for permanent total
37 disability of an injured employee terminates on the date of the injured employee's death in
38 accordance with section 287.230, and does not survive to the injured employee's dependents,
39 estate, or other persons to whom compensation might otherwise be payable.

40 3. **(1)** All claims for permanent total disability shall be determined in accordance
41 with the facts. When an injured employee receives an award for permanent total disability
42 but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is
43 restored to his or her regular work or its equivalent, the life payment mentioned in subsection
44 1 of this section shall be suspended during the time in which the employee is restored to his or
45 her regular work or its equivalent. The employer and the division shall keep the file open in
46 the case during the lifetime of any injured employee who has received an award of permanent
47 total disability. In any case where the life payment is suspended under this subsection, the
48 commission may at reasonable times review the case and either the employee or the employer
49 may request an informal conference with the commission relative to the resumption of the
50 employee's weekly life payment in the case.

51 **(2) Upon the filing of a written agreement signed by the claimant and his or her**
52 **attorney, the commission shall change the name, information, or fee arrangement of the**
53 **attorney or law firm associated with the claimant's case.**

54 4. For all claims filed on or after January 1, 2014, for occupational diseases due to
55 toxic exposure which result in a permanent total disability or death, benefits in this chapter
56 shall be provided as follows:

57 (1) Notwithstanding any provision of law to the contrary, such amount as due to the
58 employee during said employee's life as provided for under this chapter for an award of
59 permanent total disability and death, except such amount shall only be paid when benefits
60 under subdivisions (2) and (3) of this subsection have been exhausted;

61 (2) For occupational diseases due to toxic exposure, but not including mesothelioma,
62 an amount equal to two hundred percent of the state's average weekly wage as of the date of
63 diagnosis for one hundred weeks paid by the employer; and

64 (3) In cases where occupational diseases due to toxic exposure are diagnosed to be
65 mesothelioma:

66 (a) For employers that have elected to accept mesothelioma liability under this
67 subsection, an additional amount of three hundred percent of the state's average weekly wage
68 for two hundred twelve weeks shall be paid by the employer or group of employers such
69 employer is a member of. Employers that elect to accept mesothelioma liability under this
70 subsection may do so by either insuring their liability, by qualifying as a self-insurer, or by
71 becoming a member of a group insurance pool. A group of employers may enter into an
72 agreement to pool their liabilities under this subsection. If such group is joined, individual
73 members shall not be required to qualify as individual self-insurers. Such group shall comply
74 with section 287.223. In order for an employer to make such an election, the employer shall
75 provide the department with notice of such an election in a manner established by the
76 department. The provisions of this paragraph shall expire on December 31, 2038; or

77 (b) For employers who reject mesothelioma under this subsection, then the exclusive
78 remedy provisions under section 287.120 shall not apply to such liability. The provisions of
79 this paragraph shall expire on December 31, 2038; and

80 (4) The provisions of subdivision (2) and paragraph (a) of subdivision (3) of this
81 subsection shall not be subject to suspension of benefits as provided in subsection 3 of this
82 section; and

83 (5) Notwithstanding any other provision of this chapter to the contrary, should the
84 employee die before the additional benefits provided for in subdivision (2) and paragraph (a)
85 of subdivision (3) of this subsection are paid, the additional benefits are payable to the
86 employee's spouse or children, natural or adopted, legitimate or illegitimate, in addition to
87 benefits provided under section 287.240. If there is no surviving spouse or children and the
88 employee has received less than the additional benefits provided for in subdivision (2) and
89 paragraph (a) of subdivision (3) of this subsection the remainder of such additional benefits
90 shall be paid as a single payment to the estate of the employee;

91 (6) The provisions of subdivision (1) of this subsection shall not be construed to
92 affect the employee's ability to obtain medical treatment at the employer's expense or any
93 other benefits otherwise available under this chapter.

94 5. Any employee who obtains benefits under subdivision (2) of subsection 4 of this
95 section for acquiring asbestosis who later obtains an award for mesothelioma shall not receive
96 more benefits than such employee would receive having only obtained benefits for
97 mesothelioma under this section.

287.470. 1. Upon its own motion or upon the application of any party in interest on
2 the ground of a change in condition, the commission may at any time upon a rehearing after
3 due notice to the parties interested review any award and on such review may make an award
4 ending, diminishing or increasing the compensation previously awarded, subject to the
5 maximum or minimum provided in this chapter, and shall immediately send to the parties and
6 the employer's insurer a copy of the award. No such review shall affect such award as regards
7 any moneys paid.

8 **2. Upon the filing of a written agreement signed by the claimant and his or her**
9 **attorney, the commission shall change the name, information, or fee arrangement of the**
10 **attorney or law firm associated with the claimant's case.**

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