

HOUSE SUBSTITUTE
FOR
SENATE BILL NO. 932

1 AN ACT

2 To repeal sections 286.020, 287.020, 287.067,
3 287.120, 287.128, 287.135, 287.140, 287.160,
4 287.190, 287.200, 287.240, 287.390, 287.420,
5 287.510, 287.520, 287.560, 287.800, 287.957,
6 and 288.060, RSMo, and to enact in lieu
7 thereof twenty-five new sections relating to
8 employment, with penalty provisions.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
10 AS FOLLOWS:

11 Section A. Sections 286.020, 287.020, 287.067, 287.120,
12 287.128, 287.135, 287.140, 287.160, 287.190, 287.200, 287.240,
13 287.390, 287.420, 287.510, 287.520, 287.560, 287.800, 287.957,
14 and 288.060, RSMo, are repealed and twenty-five new sections
15 enacted in lieu thereof, to be known as sections 286.020,
16 287.020, 287.067, 287.120, 287.128, 287.135, 287.136, 287.140,
17 287.160, 287.190, 287.200, 287.201, 287.240, 287.390, 287.420,
18 287.510, 287.520, 287.560, 287.800, 287.803, 287.957, 288.060,
19 288.386, 1, and 2, to read as follows:

20 286.020. The term of office of each member of the
21 commission shall be six years except that when first constituted
22 one member shall be appointed for two years, one for four years
23 and one for six years, and thereafter all vacancies shall be
24 filled as they occur. The terms of office of the first members

1 of the commission shall begin on the date of their appointment
2 which shall be within thirty days after the effective date of
3 this chapter. Any member appointed to fill a vacancy occurring
4 prior to the expiration of the term for which the member's
5 predecessor was appointed, shall be appointed by the governor, by
6 and with the advice and consent of the senate, for the remainder
7 of such term. Every commission member appointed to serve either
8 as a permanent, acting, temporary, interim, or legislative recess
9 appointment shall appear for confirmation before the senate
10 within thirty days after the senate next convenes for regular
11 session. Any member appointed or serving the labor and
12 industrial relations commission without senate confirmation after
13 that time period shall immediately resign from the commission.
14 The governor may remove any member of the commission, after
15 notice and hearing, for gross inefficiency, mental or physical
16 incapacity, neglect of duties, malfeasance, misfeasance or
17 nonfeasance in office, incompetence or for any offense involving
18 moral turpitude or oppression in office.

19 287.020. 1. The word "employee" as used in this chapter
20 shall be construed to mean every person in the service of any
21 employer, as defined in this chapter, under any contract of hire,
22 express or implied, oral or written, or under any appointment or
23 election, including executive officers of corporations. Any
24 reference to any employee who has been injured shall, when the
25 employee is dead, also include his dependents, and other persons

1 to whom compensation may be payable. The word "employee" shall
2 also include all minors who work for an employer, whether or not
3 such minors are employed in violation of law, and all such minors
4 are hereby made of full age for all purposes under, in connection
5 with, or arising out of this chapter. The word "employee" shall
6 not include an individual who is the owner and operator of a
7 motor vehicle which is leased or contracted with a driver to a
8 for-hire common or contract motor vehicle carrier operating
9 within a commercial zone as defined in section 390.020 or
10 390.041, RSMo, or operating under a certificate issued by the
11 motor carrier and railroad safety division of the department of
12 economic development or by the interstate commerce commission.

13 2. (1) The word "accident" as used in this chapter [shall,
14 unless a different meaning is clearly indicated by the context,
15 be construed to mean] means an unexpected [or unforeseen
16 identifiable event or series of events happening suddenly and
17 violently, with or without human fault, and] traumatic event or
18 unusual strain identifiable by time and place of occurrence
19 producing at the time objective symptoms of an injury[. An
20 injury is compensable if it is clearly work related. An injury
21 is clearly work related if work was a substantial factor in the
22 cause of the resulting medical condition or disability. An
23 injury is not compensable merely because work was a triggering or
24 precipitating factor] caused by a specific event during a single
25 work shift.

1 (2) "Prevailing factor" means the accident is the primary
2 factor in relation to any other factors contributing to the
3 resulting medical condition.

4 3. (1) In this chapter the term "injury" is hereby defined
5 to be an injury which has arisen out of and in the course of
6 employment. The injury must be incidental to and not independent
7 of the relation of employer and employee. An injury by accident
8 is compensable only if the accident was the prevailing factor in
9 causing the resulting medical condition. Ordinary, gradual
10 deterioration or progressive degeneration of the body caused by
11 aging shall not be compensable[, except where the deterioration
12 or degeneration follows as an incident of employment].

13 (2) An injury shall be deemed to arise out of and in the
14 course of the employment only if all of the following increased
15 risks are met:

16 (a) It is reasonably apparent, upon consideration of all
17 the circumstances, that the [employment] accident is [a
18 substantial] the prevailing factor in causing the injury; and

19 (b) [It can be seen to have followed as a natural incident
20 of the work; and

21 (c) It can be fairly traced to the employment as a
22 proximate cause; and

23 (d)] It does not come from a hazard or risk unrelated to
24 the employment to which workers would have been equally exposed
25 outside of and unrelated to the employment in normal

1 nonemployment life; and

2 (c) If the circumstances of the claimant's employment led
3 to an increase in the risk or hazard which resulted in the
4 injury; and

5 (d) Missouri does not apply or follow the positional risk
6 analysis, positional risk doctrine, or positional risk rule. The
7 positional risk doctrine is not to be followed under this chapter
8 and any holding or statement of a judicial opinion or award which
9 recognizes and purportedly follows this rule is hereby abrogated.

10 (3) This chapter shall not apply to personal health
11 conditions of an employee that manifest themselves in the
12 employment in which the accident is not the prevailing factor in
13 the resulting need for medical treatment.

14 (4) An injury resulting directly or indirectly from
15 idiopathic causes is not compensable.

16 (5) A cardiovascular, pulmonary, respiratory, or other
17 disease, or cerebrovascular accident or myocardial infarction
18 suffered by a worker is an injury only if the accident is the
19 prevailing factor in causing the resulting medical condition.

20 (6) The employee shall not be entitled to recover for the
21 aggravation or acceleration of a preexisting condition, except to
22 the extent that the work-related injury causes increased
23 permanent disability. Any award of compensation shall be reduced
24 by the amount of permanent partial disability, determined at the
25 time of the impairment rating or at the time of the accident, to

1 be preexisting disease or condition to cause or prolong
2 disability or need for treatment, the resultant condition is
3 compensable only to the extent that the compensable injury is and
4 remains the prevailing cause of the need for treatment. This
5 reduction or determination shall be without consideration of
6 whether the preexisting condition would be disabling without the
7 compensable accident. The degree of permanent impairment or
8 disability attributable to the accident or injury shall be
9 compensated in accordance with this section, apportioning out the
10 preexisting condition based on the anatomical impairment rating
11 attributable to the preexisting condition. Medical benefits
12 shall be paid apportioning out the percentage of the need for
13 such care attributable to the preexisting condition.

14 (7) The terms "injury" and "personal injuries" shall mean
15 violence to the physical structure of the body and to the
16 personal property which is used to make up the physical structure
17 of the body, such as artificial dentures, artificial limbs, glass
18 eyes, eyeglasses, and other prostheses which are placed in or on
19 the body to replace the physical structure and such disease or
20 infection as naturally results therefrom. These terms shall in
21 no case except as specifically provided in this chapter be
22 construed to include occupational disease in any form, nor shall
23 they be construed to include any contagious or infectious disease
24 contracted during the course of the employment, nor shall they
25 include death due to natural causes occurring while the worker is

1 at work.

2 (8) Pain or other subjective complaints alone, in the
3 absence of objective relevant medical findings, are not
4 compensable.

5 [4.] (9) "Death" when mentioned as a basis for the right to
6 compensation means only death resulting from such violence and
7 its resultant effects occurring within three hundred weeks after
8 the accident; except that in cases of occupational disease, the
9 limitation of three hundred weeks shall not be applicable.

10 [5.] 4. Without otherwise affecting either the meaning or
11 interpretation of the abridged clause, "personal injuries arising
12 out of and in the course of such employment", it is hereby
13 declared not to cover workers except while engaged in or about
14 the premises where their duties are being performed, or where
15 their services require their presence as a part of such service.
16 Injuries and accidents sustained in company-owned or subsidized
17 automobiles in accidents that occur while traveling to or from
18 work are not compensable. The "extension of premises" doctrine
19 is overruled to the extent it extends liability for accidents
20 that occur on property not owned or controlled by an employer.

21 [6.] 5. A person who is employed by the same employer for
22 more than five and one-half consecutive work days shall for the
23 purpose of this chapter be considered an "employee".

24 [7.] 6. The term "total disability" as used in this chapter
25 shall mean inability to return to any employment and not merely

1 mean inability to return to the employment in which the employee
2 was engaged at the time of the accident.

3 [8.] 7. As used in this chapter and all acts amendatory
4 thereof, the term "commission" shall hereafter be construed as
5 meaning and referring exclusively to the labor and industrial
6 relations commission of Missouri, and the term "director" shall
7 hereafter be construed as meaning the director of the department
8 of insurance of the state of Missouri or such agency of
9 government as shall exercise the powers and duties now conferred
10 and imposed upon the department of insurance of the state of
11 Missouri.

12 [9.] 8. The term "division" as used in this chapter means
13 the division of workers' compensation of the department of labor
14 and industrial relations of the state of Missouri.

15 [10.] 9. For the purposes of this chapter, the term "minor"
16 means a person who has not attained the age of eighteen years;
17 except that, for the purpose of computing the compensation
18 provided for in this chapter, the provisions of section 287.250
19 shall control.

20 10. In applying provisions of this chapter, it is the
21 intent of the legislature to reject and abrogate earlier case law
22 interpretations of cases "arising out of" and "in the course of
23 the employment", to include, but not be limited to, holdings in
24 cases such as Wolfgeher v. Wagner Cartage Service, Inc., 646 S.W.
25 2d 781, (Mo.banc 1983); Wynn v. Navajo Freight Lines, Inc., 654

1 S.W. 2d 87 (Mo. Banc 1983); Smith v. Climate Engineering, 939
2 S.W. 2d 429 (Mo.App. E.D. 1996); Bennett v. Columbia Health Care,
3 80 S.W.3d 524 (Mo.App. W.D. 2002); Kasl v. Bristol Care, Inc.,
4 984 S.W.2d 852 (Mo.banc 1999); and Drewes v. Trans World
5 Airlines, Inc., 984 S.W.2d 512 (Mo.banc 1999).

6 11. "Objective relevant medical findings" in support of
7 medical evidence are verifiable indications of injury or disease
8 that may include, but are not limited to, range of motion,
9 atrophy, muscle strength, and palpable muscle spasm. Objective
10 relevant medical findings do not include physical findings or
11 subjective responses to physical examinations that are not
12 reproducible, measurable, or observable by diagnostic testing.
13 Objective relevant medical findings are those findings which
14 cannot solely come under the voluntary control of the patient.
15 Medical opinions addressing compensability and permanent
16 impairment shall be stated within a reasonable degree of medical
17 certainty.

18 12. "Specificity" means information on the claim for
19 benefits sufficient to put the employer or carrier on notice of
20 the exact statutory classification and outstanding time period of
21 benefits being requested and includes a detailed explanation of
22 any benefits received that should be increased, decreased,
23 changed, or otherwise modified. If the claim is for medical
24 benefits, the information shall include specific details as to
25 why such benefits are being requested, why such benefits are

1 medically necessary, and why current treatment, if any, is not
2 sufficient. Any claim requesting alternate or other medical
3 care, including, but not limited to, claims requesting
4 psychiatric or psychological treatment, shall specifically
5 identify the physician that is recommending such treatment. A
6 copy of a report from such physician making the recommendation
7 for alternate or other medical care shall also be attached to the
8 claim. An administrative law judge shall not order such
9 treatment if a physician is not recommending such treatment.

10 13. "Functional impairment" means the extent, expressed as
11 a percentage, of the loss of a portion of the total physiological
12 capabilities of the human body as established by objective
13 relevant medical findings and based on the fourth edition of the
14 American Medical Association Guides to the Evaluation of
15 Permanent Impairment, if the impairment is contained therein.

16 287.067. 1. In this chapter the term "occupational
17 disease" is hereby defined to mean, unless a different meaning is
18 clearly indicated by the context, an identifiable disease arising
19 with or without human fault out of and in the course of the
20 employment. Ordinary diseases of life to which the general
21 public is exposed outside of the employment shall not be
22 compensable, except where the diseases follow as an incident of
23 an occupational disease as defined in this section. The disease
24 need not to have been foreseen or expected but after its
25 contraction it must appear to have had its origin in a risk

1 connected with the employment and to have flowed from that source
2 as a rational consequence. "Occupational disease" means only a
3 disease for which there are epidemiological studies showing that
4 exposure to the specific substance involved, at the levels to
5 which the employee was exposed, may cause the precise disease
6 sustained by the employee.

7 2. An occupational disease is compensable only if [it is
8 clearly work related and meets the requirements of an injury
9 which is compensable as provided in subsections 2 and 3 of
10 section 287.020. An occupational disease is not compensable
11 merely because work was a triggering or precipitating factor.]
12 the occupational exposure was the prevailing factor in causing
13 the resulting medical condition. Ordinary, gradual deterioration
14 or progressive degeneration of the body caused by aging shall not
15 be compensable. "Prevailing factor" as used in relation to
16 occupational disease means the occupational exposure is the
17 primary factor in relation to any other factors contributing to
18 the resulting medical condition. In cases involving occupational
19 disease or repetitive exposure, both the occupational exposure
20 and the sufficiency of the occupational exposure shall be proven
21 by clear and convincing evidence. The occupational exposure
22 shall be demonstrated and certified by a physician only using
23 medical evidence based on objective relevant medical findings.

24 3. An occupational disease or occupational exposure injury
25 shall be deemed to rise out of and in the course of the

1 employment only if all of the following increased risks are met:

2 (1) It is reasonably apparent upon consideration of all the
3 circumstances that the occupational disease is the prevailing
4 factor in causing the injury; and

5 (2) It does not come from a hazard or risk unrelated to the
6 employment to which workers would have been equally exposed
7 outside of and unrelated to the employment in normal
8 nonemployment life; and

9 (3) The injury is demonstrated and certified by a physician
10 only using medical evidence based on objective relevant medical
11 findings; and

12 (4) If the circumstances of the claimant's employment led
13 to an increase in the risk or hazard which resulted in the
14 injury; and

15 (5) Missouri does not apply or follow the positional risk
16 analysis, positional risk doctrine, or positional risk rule. The
17 positional risk doctrine is not to be followed under this chapter
18 and any holding or statement of a judicial opinion or award which
19 recognizes and purportedly follows this rule is hereby abrogated.

20 [3.] 4. "Loss of hearing due to industrial noise" is
21 recognized as an occupational disease for purposes of this
22 chapter and is hereby defined to be a loss of hearing in one or
23 both ears due to prolonged exposure to harmful noise in
24 employment. "Harmful noise" means sound capable of producing
25 occupational deafness.

1 [4.] 5. "Radiation disability" is recognized as an
2 occupational disease for purposes of this chapter and is hereby
3 defined to be that disability due to radioactive properties or
4 substances or to Roentgen rays (X rays) or exposure to ionizing
5 radiation caused by any process involving the use of or direct
6 contact with radium or radioactive properties or substances or
7 the use of or direct exposure to Roentgen rays (X rays) or
8 ionizing radiation.

9 [5.] 6. Disease of the lungs or respiratory tract,
10 hypotension, hypertension, or disease of the heart or
11 cardiovascular system, including carcinoma, may be recognized as
12 occupational diseases for the purposes of this chapter and are
13 defined to be disability due to exposure to smoke, gases,
14 carcinogens, inadequate oxygen, or psychological stress of
15 firefighters of a paid fire department and peace officers
16 certified under chapter 590, RSMo, if a direct causal
17 relationship is established.

18 [6.] 7. Any employee who is exposed to and contracts any
19 contagious or communicable disease arising out of and in the
20 course of his or her employment shall be eligible for benefits
21 under this chapter as an occupational disease.

22 [7.] 8. With regard to occupational disease due to
23 repetitive motion, if the exposure to the repetitive motion which
24 is found to be the cause of the injury is for a period of less
25 than three months and the evidence demonstrates that the exposure

1 to the repetitive motion with a prior employer was the
2 [substantial contributing] prevailing factor [to] in causing the
3 injury, the prior employer shall be liable for such occupational
4 disease.

5 9. A disease caused by exposure to a toxic substance,
6 including, but not limited to, fungus or mold, is not an injury
7 or disease arising out of the employment unless there is clear
8 and convincing evidence establishing that exposure to the
9 specific substance involved, at the levels to which the employee
10 was exposed, can cause the disease sustained by the employee.

11 10. "Objective relevant medical findings" in support of
12 medical evidence are verifiable indications of injury or disease
13 that may include, but are not limited to, range of motion,
14 atrophy, muscle strength, and palpable muscle spasm. Objective
15 relevant medical findings do not include physical findings or
16 subjective responses to physical examinations that are not
17 reproducible, measurable or observable by diagnostic testing.
18 Objective relevant medical findings are those findings which
19 cannot solely come under the voluntary control of the patient.
20 Medical opinions addressing compensability and permanent
21 impairment shall be stated within a reasonable degree of medical
22 certainty.

23 287.120. 1. Every employer subject to the provisions of
24 this chapter shall be liable, irrespective of negligence, to
25 furnish compensation under the provisions of this chapter for

1 personal injury or death of the employee by accident arising out
2 of and in the course of [his] the employee's employment, and
3 shall be released from all other liability therefor whatsoever,
4 whether to the employee or any other person. The term "accident"
5 as used in this section shall include, but not be limited to,
6 injury or death of the employee caused by the unprovoked violence
7 or assault against the employee by any person.

8 2. The rights and remedies herein granted to an employee
9 shall exclude all other rights and remedies of the employee, his
10 wife, her husband, parents, personal representatives, dependents,
11 heirs or next kin, at common law or otherwise, on account of such
12 accidental injury or death, except such rights and remedies as
13 are not provided for by this chapter.

14 3. No compensation shall be allowed under this chapter for
15 the injury or death due to the employee's intentional
16 self-inflicted injury, but the burden of proof of intentional
17 self-inflicted injury shall be on the employer or the person
18 contesting the claim for allowance.

19 4. Where the injury is caused by the failure of the
20 employer to comply with any statute in this state or any lawful
21 order of the division or the commission, the compensation and
22 death benefit provided for under this chapter shall be increased
23 fifteen percent.

24 5. Where the injury is caused by the willful failure of the
25 employee to use safety devices where provided by the employer, or

1 from the employee's failure to obey any reasonable rule adopted
2 by the employer for the safety of employees, which rule has been
3 kept posted in a conspicuous place on the employer's premises,
4 the compensation and death benefit provided for herein shall be
5 reduced fifteen percent; provided, that it is shown that the
6 employee had actual knowledge of the rule so adopted by the
7 employer; and provided, further, that the employer had, prior to
8 the injury, made a diligent effort to cause his or her employees
9 to use the safety device or devices and to obey or follow the
10 rule so adopted for the safety of the employees.

11 6. (1) Where the employee fails to obey any rule or policy
12 adopted by the employer relating to the use of alcohol or
13 nonprescribed controlled drugs in the workplace, which rule or
14 policy has been kept posted in a conspicuous place on the
15 employer's premises, the compensation and death benefit provided
16 for herein shall be [reduced fifteen percent] deemed void if the
17 injury was sustained in conjunction with the use of alcohol or
18 nonprescribed controlled drugs; provided, that it is shown that
19 the employee had actual knowledge of the rules or policy so
20 adopted by the employer and, provided further that the employer
21 had, prior to the injury, made a diligent effort to inform the
22 employee of the requirement to obey any reasonable rule or policy
23 adopted by the employer.

24 (2) If, however, the use of alcohol or nonprescribed
25 controlled drugs in violation of the employer's rule or policy

1 which is posted and publicized as set forth in subdivision (1) is
2 the proximate cause of the injury, then the benefits or
3 compensation otherwise payable under this chapter for death or
4 disability shall be forfeited. The forfeiture of benefits or
5 compensation shall not apply when:

6 (a) The employer has actual knowledge of the employee's use
7 of the alcohol or nonprescribed controlled drugs and in the face
8 thereof fails to take any recuperative or disciplinary action; or

9 (b) As part of the employee's employment, he is authorized
10 or ordered by the employer to use such alcohol or nonprescribed
11 controlled drugs.

12 The voluntary use of alcohol to the percentage of blood alcohol
13 sufficient under Missouri law to constitute legal intoxication
14 shall be presumed to mean the voluntary use of alcohol under such
15 circumstances is the proximate cause of the injury. This
16 presumption could be rebutted with a showing by the employee by
17 clear and convincing evidence that alcohol was not the proximate
18 cause of the injury.

19 7. Where the employee's participation in a voluntary
20 recreational activity or program is the proximate cause of the
21 injury, benefits or compensation otherwise payable under this
22 chapter for death or disability shall be forfeited regardless
23 that the employer may have promoted, sponsored or supported the
24 recreational activity or program, expressly or impliedly, in

1 whole or in part. The forfeiture of benefits or compensation
2 shall not apply when:

3 (a) The employee was directly ordered by the employer to
4 participate in such recreational activity or program;

5 (b) The employee was paid wages or travel expenses while
6 participating in such recreational activity or program; or

7 (c) The injury from such recreational activity or program
8 occurs on the employer's premises due to an unsafe condition and
9 the employer had actual knowledge of the employee's participation
10 in the recreational activity or program and of the unsafe
11 condition of the premises and failed to either curtail the
12 recreational activity or program or cure the unsafe condition.

13 8. Mental injury resulting from work related stress does
14 not arise out of and in the course of the employment, unless it
15 is demonstrated that the stress is work related and was
16 extraordinary and unusual. The amount of work stress shall be
17 measured by objective standards and actual events. Mental
18 injuries occurring as a manifestation of an injury compensable
19 under this chapter shall be demonstrated by clear and convincing
20 evidence by a licensed psychiatrist meeting criteria established
21 in the most recent edition of the diagnostic and statistical
22 manual of mental disorders published by the American Psychiatric
23 Association. The compensable physical injury or accident shall
24 be and remain the prevailing factor in causing the resulting
25 mental condition.

1 9. A mental injury is not considered to arise out of and in
2 the course of the employment if it resulted from any disciplinary
3 action, work evaluation, job transfer, layoff, demotion,
4 termination or any similar action taken in good faith by the
5 employer. Compensation is not payable for the mental,
6 psychological, or emotional injury arising out of depression from
7 being out of work or losing employment opportunities, resulting
8 from a preexisting mental, psychological, or emotional condition
9 or due to pain or other subjective complaints that cannot be
10 substantiated by objective, relevant medical findings.

11 10. The ability of a firefighter to receive benefits for
12 psychological stress under section 287.067 shall not be
13 diminished by the provisions of subsections 8 and 9 of this
14 section.

15 11. If the employee unjustifiably refuses to submit to a
16 reliable, scientific test to determine the presence of alcohol,
17 marijuana, or a controlled substance in an employee's blood,
18 urine, breath, or other bodily substance, it may be inferred that
19 the accident and injury or death were proximately caused by
20 intoxication by alcohol or being under the influence of marijuana
21 or a controlled substance.

22 287.128. 1. It shall be unlawful for any person to:

23 (1) Knowingly present or cause to be presented any false or
24 fraudulent claim for the payment of benefits pursuant to a
25 workers' compensation claim;

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

3 (3) Purposefully prepare, make or subscribe to any writing
4 with intent to present or use the same, or to allow it to be
5 presented in support of any false or fraudulent claim;

6 (4) Knowingly assist, abet, solicit or conspire with:

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

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

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

15 (5) Knowingly make or cause to be made any false or
16 fraudulent claim for payment of a health care benefit;

17 (6) Knowingly submit a claim for a health care benefit
18 which was not used by, or on behalf of, the claimant;

19 (7) Knowingly present multiple claims for payment of the
20 same health care benefit with an intent to defraud;

21 (8) Knowingly make or cause to be made any false or
22 fraudulent material statement or material representation for the
23 purpose of obtaining or denying any benefit;

24 (9) Knowingly make or cause to be made any false or
25 fraudulent statements with regard to entitlement to benefits with

1 the intent to discourage an injured worker from making a
2 legitimate claim.

3 For the purposes of subdivisions (8) and (9) of this subsection,
4 the term "statement" includes any notice, proof of injury, bill
5 for services, payment for services, hospital or doctor records, X
6 ray or test results.

7 (10) Knowingly answer untruthfully regarding previous
8 injuries, disabilities, or other medical conditions provided the
9 inquiry about previous medical conditions is on a written form
10 that contains a notice advising the employee that his or her
11 willful failure to answer truthfully shall result in the
12 forfeiture or reduction of benefits or possible prosecution.
13 Nothing in this act shall prohibit an employer from inquiring
14 about previous injuries, disabilities, or other medical
15 conditions.

16 (11) An injured employee or any other party making a claim
17 under this chapter shall provide his or her personal signature
18 attesting that he or she has reviewed, understands, and
19 acknowledges the following statement: "Any person who, knowingly
20 and with intent to injure, defraud, or deceive any employer or
21 employee, insurance company, or self-insured program, files a
22 statement of claim containing any false or misleading information
23 commits insurance fraud, punishable as provided by chapter
24 287.128, RSMo." If the injured employee or other party refuses

1 to sign the document attesting that he or she has reviewed,
2 understands, and acknowledges the statement, benefits, or
3 payments under this chapter shall be suspended until such
4 signature is obtained.

5 2. It shall be unlawful for any insurance company or
6 self-insurer in this state to:

7 (1) Intentionally refuse to comply with known and legally
8 indisputable compensation obligations;

9 (2) Discharge or administer compensation obligations in a
10 dishonest manner; and

11 (3) Discharge or administer compensation obligations in
12 such a manner as to cause injury to the public or those persons
13 dealing with the employer or insurer.

14 3. Any person violating any of the provisions of
15 subsections 1 and 2 of this section or section 287.129, shall be
16 guilty of a class A misdemeanor and, in addition, shall be liable
17 to the state of Missouri for a fine not to exceed ten thousand
18 dollars or double the value of the fraud whichever is greater.
19 Any person who has previously pled guilty to or has been found
20 guilty of violating any of the provisions of subsections 1 and 2
21 of this section or the provisions of section 287.129 and who
22 subsequently violates any of the provisions of subsections 1 and
23 2 of this section or the provisions of section 287.129 shall be
24 guilty of a class D felony.

25 4. Any person who knowingly misrepresents any fact in order

1 to obtain workers' compensation insurance at less than the proper
2 rate for that insurance shall be guilty of a class A misdemeanor.
3 Any person who has previously pled guilty to or has been found
4 guilty of violating any of the provisions of this section or the
5 provisions of section 287.129 and who subsequently violates any
6 of the provisions of this section or the provisions of section
7 287.129 shall be guilty of a class D felony.

8 5. Any employer failing to insure his liability pursuant to
9 this chapter shall be guilty of a class A misdemeanor and, in
10 addition, shall be liable to the state of Missouri for a penalty
11 in an amount equal to twice the annual premium the employer would
12 have paid had such employer been insured or twenty-five thousand
13 dollars, whichever amount is greater. Any person who has
14 previously pled guilty to or has been found guilty of violating
15 any of the provisions of this section or the provisions of
16 section 287.129 and who subsequently violates any of the
17 provisions of this section or the provisions of section 287.129
18 shall be guilty of a class D felony.

19 6. (1) Any person may file a complaint alleging fraud or
20 noncompliance with this chapter with a legal advisor in the
21 division of workers' compensation. In the absence of fraud or
22 bad faith, a person is not subject to civil liability for libel,
23 slander, or any other relevant tort by virtue of filing reports,
24 without malice, or furnishing other information, without malice,
25 required by this section or required by the bureau, and no civil

1 cause of action of any nature shall arise against such person:

2 (a) For any information relating to suspected fraudulent
3 acts furnished to or received from law enforcement officials,
4 their agents, or employees;

5 (b) For any information relating to suspected fraudulent
6 acts furnished to or received from other persons subject to the
7 provisions of this chapter; or

8 (c) For any such information relating to suspected
9 fraudulent acts furnished in reports to the bureau, or the
10 National Association of Insurance Commissioners.

11 (2) The legal advisor shall refer the complaint to the
12 fraud and noncompliance unit within the division. The unit shall
13 investigate all complaints and present any finding of fraud or
14 noncompliance to the director, who may refer the file to the
15 attorney general. The attorney general may prosecute any fraud
16 or noncompliance associated with this chapter. All costs
17 incurred by the attorney general associated with any
18 investigation and prosecution pursuant to this subsection shall
19 be paid out of the workers' compensation fund. Any fines or
20 penalties levied and received as a result of any prosecution
21 under this section shall be paid to the workers' compensation
22 fund. Any restitution ordered as a part of the judgment shall be
23 paid to the person or persons who were defrauded.

24 7. There is hereby established in the division of workers'
25 compensation a fraud and noncompliance administrative unit

1 responsible for investigating incidences of fraud and failure to
2 comply with the provisions of this chapter.

3 8. Upon the request of an employer, an applicant for
4 employment shall disclose both of the following:

5 (a) Whether he or she has ever been adjudicated to be in
6 violation of this section;

7 (b) Whether he or she has ever been convicted of violating
8 any state insurance fraud provision or criminal violation with
9 respect to a workers' compensation insurance claim.

10 287.135. 1. The department of insurance shall establish a
11 program whereby managed care organizations in this state shall be
12 certified by the department for the provision of managed care
13 services to employers who voluntarily choose to use such
14 organizations. The department shall report to the division of
15 workers' compensation all managed care organizations certified
16 pursuant to the provisions of this section. The division shall
17 maintain a registry of certified managed care organizations that
18 can be readily accessed by employers for the provision of managed
19 care services. For the purposes of this section, the term
20 "managed care organizations" shall mean organizations such as
21 preferred provider organizations, health maintenance
22 organizations and other direct employer/provider arrangements
23 which have been certified by the department designed to provide
24 incentives to medical care providers to manage the cost and use
25 of care associated with claims covered by workers' compensation

1 insurance.

2 2. The director of the department of insurance shall
3 promulgate rules which set out the approval criteria for
4 certification of a managed care organization. Approval criteria
5 shall take into consideration the adequacy of services that the
6 organization will be able to offer the employer, the geographic
7 area to be served, staff size and makeup of the organization in
8 relation to both services offered and geographic location, access
9 to health care providers, the adequacy of internal management and
10 oversight, the adequacy of procedures for peer review,
11 utilization review, and internal dispute resolution, including a
12 method to resolve complaints by injured employees, medical
13 providers, and insurers over the cost, necessity and
14 appropriateness of medical services, the availability of case
15 management services, and any other criteria as determined by the
16 director. Thirty days prior to the annual anniversary of any
17 current certification granted by the director, any managed care
18 organization seeking continued certification shall file an
19 application for recertification with the director, on a form
20 approved by the director, accompanied by a filing fee established
21 by the director by rule and any other materials specified by the
22 director.

23 3. The director of the department of insurance shall
24 promulgate rules which set out the criteria under which the fees
25 charged by a managed care organization shall be reimbursed by an

1 employer's workers' compensation insurer and which establish
2 criteria providing for the coordination and integration between
3 the managed care organization and the insurer of their respective
4 internal operational systems relating to such matters as claim
5 reporting and handling, medical case management procedures and
6 billing. Such criteria shall require any such reimbursable fees
7 to be reasonable in relation both to the managed care services
8 provided and to the savings which result from those services.
9 Such criteria shall discourage the use of fee arrangements which
10 result in unjustified costs being billed for either medical
11 services or managed care services. Insurers and managed care
12 organizations shall be permitted to voluntarily negotiate and
13 utilize alternative fee arrangements. Notwithstanding any
14 provision of this subsection to the contrary, if an insurer and a
15 managed care organization enter into a voluntary agreement that
16 accomplishes the same purposes as this subsection, that insurer
17 and that managed care organization with respect to that agreement
18 shall not be required to meet the requirements of this subsection
19 or regulations promulgated by the department pursuant to this
20 subsection.

21 4. Any managed care organization, including any managed
22 care organization that has been established or selected by or has
23 contracted with a workers' compensation insurance carrier to
24 provide managed care services to insured employers, that has
25 previously been certified prior to August 28, 1993, by the

1 director of the department of insurance shall be deemed to have
2 met the criteria set forth in this section.

3 5. The necessity and appropriateness of medical care
4 services recommended or provided by providers shall be subject to
5 review by [the division of workers' compensation, upon
6 application, following a decision by] the managed care
7 organization's utilization review and dispute resolution review
8 and appeal procedure. Carriers and managed care organizations
9 shall review all bills, invoices, and other claims for payment
10 submitted by health care providers in order to identify
11 overutilization and billing errors, including compliance with
12 practice parameters and protocols of treatment established in
13 accordance with this chapter, and may hire peer review
14 consultants or conduct independent medical evaluations. Such
15 consultants, including peer review organizations, are immune from
16 liability in the execution of their functions under this chapter.
17 If a carrier or managed care organization finds that
18 overutilization of medical services or a billing error has
19 occurred, or there is a violation of the practice parameters and
20 protocols of treatment established in accordance with this
21 chapter, it shall disallow or adjust payment for such services or
22 error without order of an administrative law judge or the
23 division, if the carrier or managed care organization, in making
24 its determination, has complied with this section and rules
25 adopted by the agency. The decision of the managed care

1 organization relating to payment for such medical care services
2 shall be subject to modification by the division of workers'
3 compensation, after mediation conference or hearing, only upon
4 showing that it was unreasonable, arbitrary or capricious.

5 287.136. 1. Carriers shall report to the agency all
6 instances of overutilization including, but not limited to, all
7 instances in which the carrier disallows or adjusts payment or a
8 determination has been made that the provided or recommended
9 treatment is in excess of the practice parameters and protocols
10 of treatment established in this chapter. The agency shall
11 determine whether a pattern or practice of overutilization
12 exists.

13 2. If the agency determines that a health care provider has
14 engaged in a pattern or practice of overutilization or a
15 violation of this chapter or rules adopted by the agency,
16 including a pattern or practice of providing treatment in excess
17 of the practice parameters or protocols of treatment, it may
18 impose one or more of the following penalties:

19 (1) An order of the agency barring the provider from
20 payment under this chapter;

21 (2) Deauthorization of care;

22 (3) Denial of payment for care rendered in the future;

23 (4) Decertification of a health care provider for
24 permission to appear before the division or commission as an
25 expert medical advisor;

1 (5) An administrative fine assessed by the division in an
2 amount not to exceed five thousand dollars per instance of
3 violation; and

4 (6) Notification of and review by the appropriate licensing
5 authority.

6 287.140. 1. In addition to all other compensation, the
7 employee shall receive and the employer shall provide such
8 medical, surgical, chiropractic, and hospital treatment,
9 including nursing, custodial, ambulance and medicines, as may
10 reasonably be required after the injury or disability, to cure
11 and relieve from the effects of the injury. If the employee
12 desires, he shall have the right to select his own physician,
13 surgeon, or other such requirement at his own expense. Where the
14 requirements are furnished by a public hospital or other
15 institution, payment therefor shall be made to the proper
16 authorities. Regardless of whether the health care provider is
17 selected by the employer or is selected by the employee at the
18 employee's expense, the health care provider shall have the
19 affirmative duty to communicate fully with the employee regarding
20 the nature of the employee's injury and recommended treatment
21 exclusive of any evaluation for a permanent disability rating.
22 Failure to perform such duty to communicate shall constitute a
23 disciplinary violation by the provider subject to the provisions
24 of chapter 620, RSMo. When an employee is required to submit to
25 medical examinations or necessary medical treatment at a place

1 outside of the local or metropolitan area from the place of
2 injury or the place of his residence, the employer or its insurer
3 shall advance or reimburse the employee for all necessary and
4 reasonable expenses; except that an injured employee who resides
5 outside the state of Missouri and who is employed by an employer
6 located in Missouri shall have the option of selecting the
7 location of services provided in this section either at a
8 location within one hundred miles of the injured employee's
9 residence, place of injury or place of hire by the employer. The
10 choice of provider within the location selected shall continue to
11 be made by the employer. In case of a medical examination if a
12 dispute arises as to what expenses shall be paid by the employer,
13 the matter shall be presented to the legal advisor, the
14 administrative law judge or the commission, who shall set the sum
15 to be paid and same shall be paid by the employer prior to the
16 medical examination. In no event, however, shall the employer or
17 its insurer be required to pay transportation costs for a greater
18 distance than two hundred fifty miles each way from place of
19 treatment. In addition to all other payments authorized or
20 mandated under this subsection, when an employee who has returned
21 to full-time employment is required to submit to a medical
22 examination for the purpose of evaluating permanent disability,
23 or to undergo physical rehabilitation, the employer or its
24 insurer shall pay a proportionate weekly compensation benefit
25 based on the provisions of section 287.180 for such wages that

1 are lost due to time spent undergoing such medical examinations
2 or physical rehabilitation, except that where the employee is
3 undergoing physical rehabilitation, such proportionate weekly
4 compensation benefit payment shall be limited to a time period of
5 no more than twenty weeks. For purposes of this subsection only,
6 "physical rehabilitation" shall mean the restoration of the
7 seriously injured person as soon as possible and as nearly as
8 possible to a condition of self-support and maintenance as an
9 able-bodied worker. Determination as to what care and
10 restoration constitutes physical rehabilitation shall be the sole
11 province of the treating physician. Should the employer or its
12 insurer contest the determination of the treating physician, then
13 the director shall review the case at question and issue his
14 determination. Such determination by the director shall be
15 appealable like any other finding of the director or the
16 division. Serious injury includes, but is not limited to,
17 quadriplegia, paraplegia, amputations of hand, arm, foot or leg,
18 atrophy due to nerve injury or nonuse, and back injuries not
19 amenable alone to recognized medical and surgical procedures.

20 2. If it be shown to the division or the commission that
21 the requirements are being furnished in such manner that there is
22 reasonable ground for believing that the life, health, or
23 recovery of the employee is endangered thereby, the division or
24 the commission may order a change in the physician, surgeon,
25 hospital or other requirement.

1 3. All fees and charges under this chapter shall be fair
2 and reasonable, shall be subject to regulation by the division or
3 the commission, or the board of rehabilitation in rehabilitation
4 cases. A health care provider shall not charge a fee for
5 treatment and care which is governed by the provisions of this
6 chapter greater than the usual and customary fee the provider
7 receives for the same treatment or service when the payor for
8 such treatment or service is a private individual or a private
9 health insurance carrier. The division or the commission, or the
10 board of rehabilitation in rehabilitation cases, shall also have
11 jurisdiction to hear and determine all disputes as to such
12 charges. A health care provider is bound by the determination
13 upon the reasonableness of health care bills.

14 4. The division shall, by regulation, establish methods to
15 resolve disputes concerning the reasonableness of medical
16 charges, services, or aids. This regulation shall govern
17 resolution of disputes between employers and medical providers
18 over fees charged, whether or not paid, and shall be in lieu of
19 any other administrative procedure under this chapter. The
20 employee shall not be a party to a dispute over medical charges,
21 nor shall the employee's recovery in any way be jeopardized
22 because of such dispute.

23 5. No compensation shall be payable for the death or
24 disability of an employee, if and insofar as the death or
25 disability may be caused, continued or aggravated by any

1 unreasonable refusal to submit to any medical or surgical
2 treatment or operation, the risk of which is, in the opinion of
3 the division or the commission, inconsiderable in view of the
4 seriousness of the injury. If the employee dies as a result of
5 an operation made necessary by the injury, the death shall be
6 deemed to be caused by the injury.

7 6. The testimony of any physician or chiropractic physician
8 who treated the employee shall be admissible in evidence in any
9 proceedings for compensation under this chapter, subject to all
10 of the provisions of section 287.210.

11 7. (1) Every hospital or other person furnishing the
12 employee with medical aid shall permit its record to be copied by
13 and shall furnish full information to the division or the
14 commission, the employer, the employee or his dependents and any
15 other party to any proceedings for compensation under this
16 chapter, and certified copies of the records shall be admissible
17 in evidence in any such proceedings. An employee who reports an
18 injury or illness alleged to be work-related waives any
19 physician-patient privilege with respect to any condition or
20 complaint reasonably related to the condition for which the
21 employee claims compensation. Release of medical information by
22 the health care provider or other physician does not require the
23 authorization of the injured employee. If medical records,
24 reports, and information of an injured employee are sought from
25 health care providers who are not subject to the jurisdiction of

1 the state, the injured employee shall sign an authorization
2 allowing for the employer or carrier to obtain the medical
3 records, reports, or information.

4 (2) A health care provider who willfully refuses to provide
5 medical records or to discuss the medical condition of the
6 injured employee, after a reasonable request is made for such
7 information under this subsection, shall be subject by referral
8 from the division to one or more of the penalties set forth as
9 follows. The division may adopt rules to carry out this
10 subsection, and it may impose one or more of the following
11 penalties:

12 (a) An order of the agency barring the provider from
13 payment under this chapter;

14 (b) Deauthorization of care;

15 (c) Denial of payment for care rendered in the future;

16 (d) Decertification of a health care provider to appear
17 before the division or commission as an expert medical advisor;

18 (e) An administrative fine assessed by the division in an
19 amount not to exceed five thousand dollars per instance of
20 violation; and

21 (f) Notification of and review by the appropriate licensing
22 authority.

23 Any rule or portion of a rule, as that term is defined in section
24 536.010, RSMo, that is created under the authority delegated in

1 this subdivision shall become effective only if it complies with
2 and is subject to all of the provisions of chapter 536, RSMo,
3 and, if applicable, section 536.028, RSMo. This subdivision and
4 chapter 536, RSMo, are nonseverable and if any of the powers
5 vested with the general assembly under chapter 536, RSMo, to
6 review, to delay the effective date, or to disapprove and annul a
7 rule are subsequently held unconstitutional, then the grant of
8 rulemaking authority and any rule proposed or adopted after
9 August 28, 2004, shall be invalid and void.

10 8. The employer may be required by the division or the
11 commission to furnish an injured employee with artificial legs,
12 arms, hands, surgical orthopedic joints, or eyes, or braces, as
13 needed, for life whenever the division or the commission shall
14 find that the injured employee may be partially or wholly
15 relieved of the effects of a permanent injury by the use thereof.
16 The director of the division shall establish a procedure whereby
17 a claim for compensation may be reactivated after settlement of
18 such claim is completed. The claim shall be reactivated only
19 after the claimant can show good cause for the reactivation of
20 this claim and the claim shall be made only for the payment of
21 medical procedures involving life-threatening surgical procedures
22 or if the claimant requires the use of a new, or the
23 modification, alteration or exchange of an existing, prosthetic
24 device. For the purpose of this subsection, "life threatening"
25 shall mean a situation or condition which, if not treated

1 immediately, will likely result in the death of the injured
2 worker.

3 9. Nothing in this chapter shall prevent an employee being
4 provided treatment for his injuries by prayer or spiritual means
5 if the employer does not object to the treatment.

6 10. The employer shall have the right to select the
7 licensed treating physician, surgeon, chiropractic physician, or
8 other health care provider; provided, however, that such
9 physicians, surgeons or other health care providers shall offer
10 only those services authorized within the scope of their
11 licenses. For the purpose of this subsection, subsection 2 of
12 section 287.030 shall not apply.

13 11. Any physician or other health care provider who orders,
14 directs or refers a patient for treatment, testing, therapy or
15 rehabilitation at any institution or facility shall, at or prior
16 to the time of the referral, disclose in writing if such health
17 care provider, any of his partners or his employer has a
18 financial interest in the institution or facility to which the
19 patient is being referred, to the following:

20 (1) The patient;

21 (2) The employer of the patient with workers' compensation
22 liability for the injury or disease being treated;

23 (3) The workers' compensation insurer of such employer; and

24 (4) The workers' compensation adjusting company for such
25 insurer.

1 12. Violation of subsection 11 of this section is a class A
2 misdemeanor.

3 13. (1) No hospital, physician or other health care
4 provider, other than a hospital, physician or health care
5 provider selected by the employee at his own expense pursuant to
6 subsection 1 of this section, shall bill or attempt to collect
7 any fee or any portion of a fee for services rendered to an
8 employee due to a work-related injury or report to any credit
9 reporting agency any failure of the employee to make such
10 payment, when an injury covered by this chapter has occurred and
11 such hospital, physician or health care provider has received
12 actual notice given in writing by the employee, the employer or
13 the employer's insurer. Actual notice shall be deemed received
14 by the hospital, physician or health care provider five days
15 after mailing by certified mail by the employer or insurer to the
16 hospital, physician or health care provider.

17 (2) The notice shall include:

18 (a) The name of the employer;

19 (b) The name of the insurer, if known;

20 (c) The name of the employee receiving the services;

21 (d) The general nature of the injury, if known; and

22 (e) Where a claim has been filed, the claim number, if
23 known.

24 (3) When an injury is found to be noncompensable under this
25 chapter, the hospital, physician or other health care provider

1 shall be entitled to pursue the employee for any unpaid portion
2 of the fee or other charges for authorized services provided to
3 the employee. Any applicable statute of limitations for an
4 action for such fees or other charges shall be tolled from the
5 time notice is given to the division by a hospital, physician or
6 other health care provider pursuant to subdivision (6) of this
7 subsection, until a determination of noncompensability in regard
8 to the injury which is the basis of such services is made, or in
9 the event there is an appeal to the labor and industrial
10 relations commission, until a decision is rendered by that
11 commission.

12 (4) If a hospital, physician or other health care provider
13 or a debt collector on behalf of such hospital, physician or
14 other health care provider pursues any action to collect from an
15 employee after such notice is properly given, the employee shall
16 have a cause of action against the hospital, physician or other
17 health care provider for actual damages sustained plus up to one
18 thousand dollars in additional damages, costs and reasonable
19 attorney's fees.

20 (5) If an employer or insurer fails to make payment for
21 authorized services provided to the employee by a hospital,
22 physician or other health care provider pursuant to this chapter,
23 the hospital, physician or other health care provider may proceed
24 pursuant to subsection 4 of this section with a dispute against
25 the employer or insurer for any fees or other charges for

1 services provided.

2 (6) A hospital, physician or other health care provider
3 whose services have been authorized in advance by the employer or
4 insurer may give notice to the division of any claim for fees or
5 other charges for services provided for a work-related injury
6 that is covered by this chapter, with copies of the notice to the
7 employee, employer and the employer's insurer. Where such notice
8 has been filed, the administrative law judge may order direct
9 payment from the proceeds of any settlement or award to the
10 hospital, physician or other health care provider for such fees
11 as are determined by the division. The notice shall be on a form
12 prescribed by the division.

13 287.160. 1. Except as provided in section 287.140, no
14 compensation shall be payable for the first [~~three~~] five days or
15 less of disability during which the employer is open for the
16 purpose of operating its business or enterprise unless the
17 disability shall last longer than fourteen days. If the
18 disability lasts longer than fourteen days, payment for the first
19 [~~three~~] five days shall be made retroactively to the claimant.

20 2. Compensation shall be payable as the wages were paid
21 prior to the injury, but in any event at least once every two
22 weeks. If an injured employee claims benefits pursuant to this
23 section, an employer may, if the employee agrees in writing, pay
24 directly to the employee any benefits due pursuant to section
25 287.170. The employer shall continue such payments until the

1 insurer starts making the payments or the claim is contested by
2 any party. Where the claim is found to be compensable the
3 employer's workers' compensation insurer shall indemnify the
4 employer for any payments made pursuant to this subsection. If
5 the employee's claim is found to be fraudulent or noncompensable,
6 after a hearing, the employee shall reimburse the employer, or
7 the insurer if the insurer has indemnified the employer, for any
8 benefits received either by a:

9 (1) Lump sum payment;

10 (2) Refund of the compensation equivalent of any
11 accumulated sick or disability leave;

12 (3) Payroll deduction; or

13 (4) Secured installment plan.

14 If the employee is no longer employed by such employer, the
15 employer may garnish the employee's wages or execute upon any
16 property, except real estate, of the employee. Nothing in this
17 subsection shall be construed to require any employer to make
18 payments directly to the employee.

19 3. Where weekly benefit payments that are not being
20 contested by the employer or his insurer are due, and if such
21 weekly benefit payments are made more than thirty days after
22 becoming due, the weekly benefit payments that are late shall be
23 increased by ten percent simple interest per annum. Provided,
24 however, that if such claim for weekly compensation is contested

1 by the employee, and the employer or his insurer have not paid
2 the disputed weekly benefit payments or lump sum within thirty
3 days of when the administrative law judge's order becomes final,
4 or from the date of a decision by the labor and industrial
5 relations commission, or from the date of the last judicial
6 review, whichever is later, interest on such disputed weekly
7 benefit payments or lump sum so ordered, shall be increased by
8 ten percent simple interest per annum beginning thirty days from
9 the date of such order. Provided, however, that if such claims
10 for weekly compensation are contested solely by the employer or
11 insurer, no interest shall be payable until after thirty days
12 after the award of the administrative law judge. The state of
13 Missouri or any of its political subdivisions, as an employer, is
14 liable for any such interest assessed against it for failure to
15 promptly pay on any award issued against it under this chapter.

16 4. Compensation shall be payable in accordance with the
17 rules given in sections 287.170, 287.180, 287.190, 287.200,
18 287.240, and 287.250.

19 5. The employer shall not be entitled to credit for wages
20 or such pay benefits paid to the employee or his dependents on
21 account of the injury or death except as provided in section
22 287.270.

23 287.190. 1. For permanent partial disability, which shall
24 be in addition to compensation for temporary total disability or
25 temporary partial disability paid in accordance with sections

1 287.170 and 287.180, respectively, the employer shall pay to the
 2 employee compensation computed at the weekly rate of compensation
 3 in effect under subsection 5 of this section on the date of the
 4 injury for which compensation is being made, which compensation
 5 shall be allowed for loss by severance, total loss of use, or
 6 proportionate loss of use of one or more of the members mentioned
 7 in the schedule of losses.

8 SCHEDULE OF LOSSES

	Weeks
10 (1) Loss of arm at shoulder	232
11 (2) Loss of arm between shoulder and elbow	222
12 (3) Loss of arm at elbow joint	210
13 (4) Loss of arm between elbow and wrist	200
14 (5) Loss of hand at the wrist joint	175
15 (6) Loss of thumb at proximal joint	60
16 (7) Loss of thumb at distal joint	45
17 (8) Loss of index finger at proximal joint	45
18 (9) Loss of index finger at second joint	35
19 (10) Loss of index finger at distal joint	30
20 (11) Loss of either the middle or ring finger at the	
21 proximal joint	35
22 (12) Loss of either the middle or ring finger at second	
23 joint	30
24 (13) Loss of either the middle or ring finger at the distal	
25 joint	26

1	(14)	Loss of little finger at proximal joint	22
2	(15)	Loss of little finger at second joint	20
3	(16)	Loss of little finger at distal joint	16
4	(17)	Loss of one leg at the hip joint or so near thereto as	
5		to preclude the use of artificial limb	207
6	(18)	Loss of one leg at or above the knee, where the stump	
7		remains sufficient to permit the use of artificial limb	160
8	(19)	Loss of one leg at or above ankle and below knee joint	
9		155
10	(20)	Loss of one foot in tarsus	150
11	(21)	Loss of one foot in metatarsus	110
12	(22)	Loss of great toe of one foot at proximal joint ..	40
13	(23)	Loss of great toe of one foot at distal joint ...	22
14	(24)	Loss of any other toe at proximal joint	14
15	(25)	Loss of any other toe at second joint	10
16	(26)	Loss of any other toe at distal joint	8
17	(27)	Complete deafness of both ears	180
18	(28)	Complete deafness of one ear, the other being	
19		normal.....	49
20	(29)	Complete loss of the sight of one eye	140

21 2. If the disability suffered in any of items (1) through
22 (29) of the schedule of losses is total by reason of severance or
23 complete loss of use thereof the number of weeks of compensation
24 allowed in the schedule for such disability shall be increased by
25 ten percent.

1 3. For permanent injuries other than those specified in the
2 schedule of losses, the compensation shall be paid for such
3 periods as are proportionate to the relation which the other
4 injury bears to the injuries above specified, but no period shall
5 exceed four hundred weeks, at the rates fixed in subsection 1.
6 The other injuries shall include permanent injuries causing a
7 loss of earning power. For the permanent partial loss of the use
8 of an arm, hand, thumb, finger, leg, foot, toe or phalange,
9 compensation shall be paid for the proportionate loss of the use
10 of the arm, hand, thumb, finger, leg, foot, toe or phalange, as
11 provided in the schedule of losses.

12 4. If an employee is seriously and permanently disfigured
13 about the head, neck, hands or arms, the division or commission
14 may allow such additional sum for the compensation on account
15 thereof as it may deem just, but the sum shall not exceed forty
16 weeks of compensation. If both the employer and employee agree,
17 the administrative law judge may utilize a photograph of the
18 disfigurement in determining the amount of such additional sum.

19 5. The amount of compensation to be paid under subsection 1
20 of this section shall be computed as follows:

21 (1) For all injuries occurring on or after September 28,
22 1983, but before August 28, 1990, the weekly compensation shall
23 be an amount equal to sixty-six and two-thirds percent of the
24 employee's average weekly earnings as of the date of the injury;
25 provided that the weekly compensation paid under this subdivision

1 shall not exceed an amount equal to forty-five percent of the
2 state average weekly wage, as such wage is determined by the
3 division of employment security, as of the July first immediately
4 preceding the date of injury;

5 (2) For all injuries occurring on or after September 28,
6 1981, the weekly compensation shall in no event be less than
7 forty dollars per week;

8 (3) For all injuries occurring on or after August 28, 1990,
9 but before August 28, 1991, the weekly compensation shall be an
10 amount equal to sixty-six and two-thirds percent of the
11 employee's average weekly earnings as of the date of the injury;
12 provided that the weekly compensation paid under this subdivision
13 shall not exceed an amount equal to fifty percent of the state
14 average weekly wage;

15 (4) For all injuries occurring on or after August 28, 1991,
16 but before August 28, 1992, the weekly compensation shall be an
17 amount equal to sixty-six and two-thirds percent of the
18 employee's average weekly earnings as of the date of the injury;
19 provided that the weekly compensation paid under this subdivision
20 shall not exceed an amount equal to fifty-two percent of the
21 state average weekly wage;

22 (5) For all injuries occurring on or after August 28, 1992,
23 the weekly compensation shall be an amount equal to sixty-six and
24 two-thirds percent of the employee's average weekly earnings as
25 of the date of the injury; provided that the weekly compensation

1 paid under this subdivision shall not exceed an amount equal to
2 fifty-five percent of the state average weekly wage.

3 6. "Permanent partial disability" means a disability that
4 is permanent in nature and partial in degree, and when payment
5 therefor has been made in accordance with a settlement approved
6 either by an administrative law judge or by the labor and
7 industrial relations commission, a rating approved by an
8 administrative law judge or legal advisor, or an award by an
9 administrative law judge or the commission, the percentage of
10 disability shall be conclusively presumed to continue
11 undiminished whenever a subsequent injury to the same member or
12 same part of the body also results in permanent partial
13 disability for which compensation under this chapter may be due;
14 provided, however, the presumption shall apply only to
15 compensable injuries which may occur after August 29, 1959.

16 7. For any compensable injuries which occur after August
17 29, 2004, the loss of a scheduled member shall be based upon
18 permanent impairment of function to the scheduled member as
19 determined using the fourth edition of the American Medical
20 Association Guides to the Evaluation of Permanent Impairment, if
21 the impairment is contained therein.

22 8. If the employee is terminated from post injury
23 employment based on the employee's misconduct, temporary partial
24 disability benefits are not payable as provided for in this
25 section.

1 287.200. 1. Compensation for permanent total disability
2 shall be paid during the continuance of such disability for the
3 lifetime of the employee at the weekly rate of compensation in
4 effect under this subsection on the date of the injury for which
5 compensation is being made. The amount of such compensation
6 shall be computed as follows:

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

17 (2) For all injuries occurring on or after September 28,
18 1986, but before August 28, 1990, the weekly compensation shall
19 be an amount equal to sixty-six and two-thirds percent of the
20 injured employee's average weekly earnings during the year
21 immediately preceding the injury, as of the date of the injury;
22 provided that the weekly compensation paid under this subdivision
23 shall not exceed an amount equal to seventy-five percent of the
24 state average weekly wage, as such wage is determined by the
25 division of employment security, as of the July first immediately

1 preceding the date of injury;

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

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

16 (5) For all injuries occurring on or after September 28,
17 1981, the weekly compensation shall in no event be less than
18 forty dollars per week.

19 2. All claims for permanent total disability shall be
20 determined in accordance with the facts. When an injured
21 employee receives an award for permanent total disability but by
22 the use of glasses, prosthetic appliances, or physical
23 rehabilitation the employee is restored to his regular work or
24 its equivalent, the life payment mentioned in subsection 1 of
25 this section shall be suspended during the time in which the

1 employee is restored to his regular work or its equivalent. The
2 employer and the division shall keep the file open in the case
3 during the lifetime of any injured employee who has received an
4 award of permanent total disability. In any case where the life
5 payment is suspended under this subsection, the commission may at
6 reasonable times review the case and either the employee or the
7 employer may request an informal conference with the commission
8 relative to the resumption of the employee's weekly life payment
9 in the case.

10 287.201. 1. The maximum compensation benefits payable by
11 an employer shall not exceed the following:

12 (1) For permanent total disability, including temporary
13 total, temporary partial, permanent partial and temporary partial
14 disability payments paid or due, one hundred twenty-five thousand
15 dollars for an injury or any aggravation thereof;

16 (2) For temporary total disability, including any prior
17 permanent total, permanent partial or temporary partial
18 disability payments paid or due, one hundred thousand dollars for
19 an injury or any aggravation thereof;

20 (3) Subject to the provisions of subdivision (4) of this
21 subsection, for permanent or temporary partial disability,
22 including any prior temporary total, permanent total, temporary
23 partial, or permanent partial disability payments paid or due,
24 one hundred thousand dollars for an injury or any aggravation
25 thereof; and

1 (4) For permanent partial disability, where functional
2 impairment only is awarded, fifty thousand dollars for an injury
3 or aggravation thereof.

4 2. If an employer shall voluntarily pay unearned wages to
5 an employee in addition to and in excess of any amount of
6 disability benefits to which the employee is entitled under the
7 workers' compensation chapter, the excess amount paid shall be
8 allowed as a credit to the employer in any final lump-sum
9 settlement, or may be withheld from the employee's wages in
10 weekly amounts the same as the weekly amount or amounts paid in
11 excess of compensation due, but not until and unless the
12 employee's average gross weekly wage for the calendar year
13 exceeds one hundred twenty-five percent of the state's average
14 weekly wage.

15 287.240. If the injury causes death, either with or without
16 disability, the compensation therefor shall be as provided in
17 this section:

18 (1) In all cases the employer shall pay direct to the
19 persons furnishing the same the reasonable expense of the burial
20 of the deceased employee not exceeding ~~[five]~~ seven thousand five
21 hundred dollars. But no person shall be entitled to compensation
22 for the burial expenses of a deceased employee unless he has
23 furnished the same by authority of the widow or widower, the
24 nearest relative of the deceased employee in the county of his
25 death, his personal representative, or the employer, who shall

1 have the right to give the authority in the order named. All
2 fees and charges under this section shall be fair and reasonable,
3 shall be subject to regulation by the division or the commission
4 and shall be limited to such as are fair and reasonable for
5 similar service to persons of a like standard of living. The
6 division or the commission shall also have jurisdiction to hear
7 and determine all disputes as to the charges. If the deceased
8 employee leaves no dependents, the death benefit in this
9 subdivision provided shall be the limit of the liability of the
10 employer under this chapter on account of the death, except as
11 herein provided for burial expenses and except as provided in
12 section 287.140; provided that in all cases when the employer
13 admits or does not deny liability for the burial expense, it
14 shall be paid within thirty days after written notice, that the
15 service has been rendered, has been delivered to the employer.
16 The notice may be sent by registered mail, return receipt
17 requested, or may be made by personal delivery;

18 (2) The employer shall also pay to the total dependents of
19 the employee a death benefit based on the employee's average
20 weekly earnings during the year immediately preceding the injury
21 that results in the death of the employee, as provided in section
22 287.250. The amount of compensation for death, which shall be
23 paid in installments in the same manner that compensation is
24 required to be paid under this chapter, shall be computed as
25 follows:

1 (a) If the injury which caused the death occurred on or
2 after September 28, 1983, but before September 28, 1986, the
3 weekly compensation shall be an amount equal to sixty-six and
4 two-thirds percent of the employee's average weekly earnings
5 during the year immediately preceding the injury; provided that
6 the weekly compensation paid under this paragraph shall not
7 exceed an amount equal to seventy percent of the state average
8 weekly wage, as such wage is determined by the division of
9 employment security, as of the July first immediately preceding
10 the date of injury. If there is a total dependent, no death
11 benefits shall be payable to partial dependents or any other
12 persons except as provided in subdivision (1) of this section;

13 (b) If the injury which caused the death occurred on or
14 after September 28, 1986, but before August 28, 1990, the weekly
15 compensation shall be an amount equal to sixty-six and two-thirds
16 percent of the employee's average weekly earnings during the year
17 immediately preceding the injury; provided that the weekly
18 compensation paid under this paragraph shall not exceed an amount
19 equal to seventy-five percent of the state average weekly wage,
20 as such wage is determined by the division of employment
21 security, as of the July first immediately preceding the date of
22 injury. If there is a total dependent, no death benefit shall be
23 payable to partial dependents or any other persons except as
24 provided in subdivision (1) of this section;

25 (c) If the injury which caused the death occurred on or

1 after August 28, 1990, but before August 28, 1991, the weekly
2 compensation shall be an amount equal to sixty-six and two-
3 thirds percent of the injured employee's average weekly earnings
4 as of the date of the injury; provided that the weekly
5 compensation paid under this paragraph shall not exceed an amount
6 equal to one hundred percent of the state average weekly wage;

7 (d) If the injury which caused the death occurred on or
8 after August 28, 1991, the weekly compensation shall be an amount
9 equal to sixty-six and two-thirds percent of the injured
10 employee's average weekly earnings as of the date of the injury;
11 provided that the weekly compensation paid under this paragraph
12 shall not exceed an amount equal to one hundred five percent of
13 the state average weekly wage;

14 (e) If the injury which caused the death occurred on or
15 after September 28, 1981, the weekly compensation shall in no
16 event be less than forty dollars per week;

17 (3) If there are partial dependents, and no total
18 dependents, a part of the death benefit herein provided in the
19 case of total dependents, determined by the proportion of his
20 contributions to all partial dependents by the employee at the
21 time of the injury, shall be paid by the employer to each of the
22 dependents proportionately;

23 (4) The word "dependent" as used in this chapter shall be
24 construed to mean a relative by blood or marriage of a deceased
25 employee, who is actually dependent for support, in whole or in

1 part, upon his or her wages at the time of the injury. The
2 following persons shall be conclusively presumed to be totally
3 dependent for support upon a deceased employee, and any death
4 benefit shall be payable to them to the exclusion of other total
5 dependents:

6 (a) A wife upon a husband with whom she lives or who is
7 legally liable for her support, and a husband upon a wife with
8 whom he lives or who is legally liable for his support; provided
9 that on the death or remarriage of a widow or widower, the death
10 benefit shall cease unless there be other total dependents
11 entitled to any death benefits under this chapter. In the event
12 of remarriage, a lump sum payment equal in amount to the benefits
13 due for a period of two years shall be paid to the widow or
14 widower. Thereupon the periodic death benefits shall cease
15 unless there are other total dependents entitled to any death
16 benefit under this chapter, in which event the periodic benefits
17 to which such widow or widower would have been entitled had he or
18 she not died or remarried shall be divided among such other total
19 dependents and paid to them during their period of entitlement
20 under this chapter;

21 (b) A natural, posthumous, or adopted child or children,
22 whether legitimate or illegitimate, under the age of eighteen
23 years, or over that age if physically or mentally incapacitated
24 from wage earning, upon the parent legally liable for the support
25 or with whom he, she, or they are living at the time of the death

1 of the parent. In case there is a wife or a husband mentally or
2 physically incapacitated from wage earning, dependent upon a wife
3 or husband, and a child or more than one child thus dependent,
4 the death benefit shall be divided among them in such proportion
5 as may be determined by the commission after considering their
6 ages and other facts bearing on the dependency. In all other
7 cases questions of total or partial dependency shall be
8 determined in accordance with the facts at the time of the
9 injury, and in such other cases if there is more than one person
10 wholly dependent the death benefit shall be divided equally among
11 them. The payment of death benefits to a child or other
12 dependent as provided in this paragraph shall cease when the
13 dependent dies, attains the age of eighteen years, or becomes
14 physically and mentally capable of wage earning over that age, or
15 until twenty-two years of age if the child of the deceased is in
16 attendance and remains as a full-time student in any accredited
17 educational institution, or if at eighteen years of age the
18 dependent child is a member of the armed forces of the United
19 States on active duty; provided, however, that such dependent
20 child shall be entitled to compensation during four years of
21 full-time attendance at a fully accredited educational
22 institution to commence prior to twenty-three years of age and
23 immediately upon cessation of his active duty in the armed
24 forces, unless there are other total dependents entitled to the
25 death benefit under this chapter;

1 (5) The division or the commission may, in its discretion,
2 order or award the share of compensation of any such child to be
3 paid to the parent, grandparent, or other adult next of kin or
4 conservator of the child for the latter's support, maintenance
5 and education, which order or award upon notice to the parties
6 may be modified from time to time by the commission in its
7 discretion with respect to the person to whom shall be paid the
8 amount of the order or award remaining unpaid at the time of the
9 modification;

10 (6) The payments of compensation by the employer in
11 accordance with the order or award of the division or the
12 commission shall discharge the employer from all further
13 obligations as to the compensation;

14 (7) All death benefits in this chapter shall be paid in
15 installments in the same manner as provided for disability
16 compensation;

17 (8) Every employer shall keep a record of the correct names
18 and addresses of the dependents of each of his employees, and
19 upon the death of an employee by accident arising out of and in
20 the course of his employment shall so far as possible immediately
21 furnish the division with such names and addresses;

22 (9) Dependents receiving death benefits under the
23 provisions of this chapter shall annually report to the division
24 as to marital status in the case of a widow or widower or age and
25 physical or mental condition of a dependent child. The division

1 shall provide forms for the making of such reports.

2 287.390. 1. [Nothing in this chapter shall be construed as
3 preventing the] Parties to claims [hereunder from entering] under
4 this chapter may enter into voluntary agreements in settlement
5 thereof, but no agreement by an employee or his or her dependents
6 to waive his or her rights under this chapter shall be valid, nor
7 shall any agreement of settlement or compromise of any dispute or
8 claim for compensation under this chapter be valid until approved
9 by an administrative law judge or the commission, nor shall an
10 administrative law judge or the commission approve any settlement
11 which is not in accordance with the rights of the parties as
12 given in this chapter. No such agreement shall be valid unless
13 made after seven days from the date of the injury or death. An
14 administrative law judge, associate administrative law judge,
15 legal advisor, or the labor and industrial relations commission
16 shall approve a settlement agreement as valid and enforceable as
17 long as the settlement is not the result of undue influence or
18 fraud, the employee understands his or her rights and benefits,
19 and voluntarily agrees to accept the terms of the agreement.

20 2. A compromise settlement approved by an administrative
21 law judge or the commission during the employee's lifetime shall
22 extinguish and bar all claims for compensation for the employee's
23 death if the settlement compromises a dispute on any question or
24 issue other than the extent of disability or the rate of
25 compensation.

1 3. Notwithstanding the provisions of section 287.190, an
2 employee shall be afforded the option of receiving a compromise
3 settlement as a one-time lump sum payment. A compromise
4 settlement approved by an administrative law judge or the
5 commission shall indicate the manner of payment chosen by the
6 employee.

7 4. A minor dependent, by parent or conservator, may
8 compromise disputes and may enter into a compromise settlement
9 agreement, and upon approval by an administrative law judge or
10 the commission the settlement agreement shall have the same force
11 and effect as though the minor had been an adult. The payment of
12 compensation by the employer in accordance with the settlement
13 agreement shall discharge the employer from all further
14 obligation.

15 287.420. No proceedings for compensation under this chapter
16 shall be maintained unless written notice of the time, place and
17 nature of the injury, and the name and address of the person
18 injured, have been given to the employer as soon as practicable
19 after the happening thereof but not later than thirty days after
20 the accident, unless the division or the commission finds that
21 there was good cause for failure to give the notice, or that the
22 employer was not prejudiced by failure to receive the notice. In
23 all accidents where the injured employee or his or her
24 representative does not give notice within thirty days after the
25 accident, compensation is not payable unless the injured employee

1 proves his or her case by clear and convincing evidence. No
2 defect or inaccuracy in the notice shall invalidate it unless the
3 commission finds that the employer was in fact misled and
4 prejudiced thereby.

5 287.510. In any case a temporary or partial award of
6 compensation may be made, and the same may be modified from time
7 to time to meet the needs of the case, and the same may be kept
8 open until a final award can be made, and if the same be not
9 complied with, the amount [thereof] equal to the value of
10 compensation ordered and unpaid may be doubled in the final
11 award, if the final award shall be in accordance with the
12 temporary or partial award.

13 287.520. Any notice required under this chapter shall be
14 deemed to have been properly given and served when sent by
15 registered or certified mail properly stamped and addressed to
16 the person or entity to whom given, at the last known address in
17 time to reach the person or entity in due time to act thereon, or
18 to counsel for that person or entity in like manner. Notice may
19 also be given and served in like manner as summons in civil
20 actions. Any employee may, for any benefit that is ripe, due,
21 and owing, file by certified mail, or by electronic means if
22 approved by the director of the division of workers'
23 compensation, a petition for benefits which meets the
24 requirements of this section and the definition of specificity in
25 287.020.

1 287.560. The division, any administrative law judge thereof
2 or the commission, shall have power to issue process, subpoena
3 witnesses, administer oaths, examine books and papers, and
4 require the production thereof, and to cause the deposition of
5 any witness to be taken and the costs thereof paid as other costs
6 under this chapter. Any party shall be entitled to process to
7 compel the attendance of witnesses and the production of books
8 and papers, and at his own cost to take and use depositions in
9 like manner as in civil cases in the circuit court, except that
10 depositions may be recorded by electronic means. The party
11 electing to record a deposition by electronic means shall be
12 responsible for the preparation and proper certification of the
13 transcript and for maintaining a copy of the tape or other medium
14 on which the deposition was recorded for the use of the division
15 or any party upon request. Copies of the transcript shall be
16 provided to all parties at a cost approved by the division.
17 Subpoena shall extend to all parts of the state, and may be
18 served as in civil actions in the circuit court, but the costs of
19 the service shall be as in other civil actions. Each witness
20 shall receive the fees and mileage prescribed by law in civil
21 cases, but the same shall not be allowed as costs to the party in
22 whose behalf the witness was summoned unless the persons before
23 whom the hearing is had shall certify that the testimony of the
24 witness was necessary. All costs under this section shall be
25 approved by the division and paid out of the state treasury from

1 the fund for the support of the Missouri division of workers'
2 compensation; provided, however, that if the division or the
3 commission determines that any proceedings have been brought,
4 prosecuted or defended without reasonable ground, it may assess
5 the whole cost of the proceedings upon the party who so brought,
6 prosecuted or defended them. If the commission is making such
7 assessment against an employer, the division or commission shall
8 exclude those claims for costs of proceedings when the employer
9 provides evidence that at some point the employer had commenced
10 providing benefits but had subsequently sought to challenge the
11 claim, unless such challenge is proved to be of a willful,
12 egregious, and abusive nature. The division or the commission
13 may permit a claimant to prosecute a claim as a poor person as
14 provided by law in civil cases.

15 287.800. All of the provisions of this chapter shall be
16 [liberally] impartially construed to their plain meaning with a
17 view to the public welfare[, and a substantial compliance
18 therewith shall be sufficient to give effect to rules,
19 regulations, requirements, awards, orders or decisions of the
20 division and the commission, and they shall not be declared
21 inoperative, illegal or void for any omission of a technical
22 nature in respect thereto.] The labor and industrial relations
23 commission and all officials within the division of workers'
24 compensation shall apply an impartial standard of review when
25 weighing evidence and resolving factual conflicts. In addition,

1 no presumption or inference in favor of coverage or benefits on
2 behalf of the employee or employer whatsoever shall be applied in
3 deciding the facts or ruling upon the law.

4 287.803. 1. An employee may elect to reject the provisions
5 of this chapter based on the fact that such employee is a member
6 of a religious sect that is adherent to established tenets or
7 teaching opposed to the acceptance of benefits by its members
8 from any public or private insurance which makes payments toward
9 the costs of or provides services for medical bills including
10 benefits of any insurance system established by the Federal
11 Social Security Act, 42 U.S.C. 301 et seq. The employee shall
12 submit a written waiver of all benefits under this chapter and an
13 affidavit that he or she is a member of said religious sect
14 attesting to the rejection of the benefits of public or private
15 insurance.

16 2. The waiver and affidavit required by subsection 1 of
17 this section shall be made upon a form to be provided by the
18 division of workers' compensation.

19 3. An exception granted in regard to a specific employee
20 shall continue to be valid until such employee rescinds the prior
21 rejection of coverage or the employee or sect ceases to meet the
22 requirements of subsection 1 of this section.

23 4. Any rescission shall be prospective in nature and shall
24 entitle the employee only to such benefits that accrue on or
25 after the date the rescission form is received by the insurance

1 company.

2 287.957. The experience rating plan shall contain
3 reasonable eligibility standards, provide adequate incentives for
4 loss prevention, and shall provide for sufficient premium
5 differentials so as to encourage safety. The uniform experience
6 rating plan shall be the exclusive means of providing prospective
7 premium adjustment based upon measurement of the loss-producing
8 characteristics of an individual insured. An insurer may submit
9 a rating plan or plans providing for retrospective premium
10 adjustments based upon an insured's past experience. Such system
11 shall provide for retrospective adjustment of an experience
12 modification and premiums paid pursuant to such experience
13 modification where a prior reserved claim produced an experience
14 modification that varied by greater than fifty percent from the
15 experience modification that would have been established based on
16 the settlement amount of that claim. The rating plan shall
17 prohibit an adjustment to the experience modification of an
18 employer if the total medical cost does not exceed one thousand
19 five hundred dollars and the employer pays all of the total
20 medical costs and there is no lost time from the employment and
21 no claim is filed. As used in this section, "no lost time" means
22 no greater than one lost day of a regularly scheduled workday.

23 288.060. 1. All benefits shall be paid through employment
24 offices in accordance with such regulations as the division may
25 prescribe.

1 2. Each eligible insured worker who is totally unemployed
2 in any week shall be paid for such week a sum equal to his weekly
3 benefit amount.

4 3. Each eligible insured worker who is partially unemployed
5 in any week shall be paid for such week a partial benefit. Such
6 partial benefit shall be an amount equal to the difference
7 between his weekly benefit amount and that part of his wages for
8 such week in excess of twenty dollars, and, if such partial
9 benefit amount is not a multiple of one dollar, such amount shall
10 be reduced to the nearest lower full dollar amount. Termination
11 pay, severance pay or pay received by an eligible insured worker
12 who is a member of the organized militia for training or duty
13 authorized by section 502(a)(1) of Title 32, United States Code[,
14 or who is an elected official] shall not be considered wages for
15 the purpose of this subsection.

16 4. The division shall compute the wage credits for each
17 individual by crediting him with the wages paid to him for
18 insured work during each quarter of his base period or twenty-six
19 times his weekly benefit amount, whichever is the lesser. In
20 addition, if a claimant receives wages in the form of termination
21 pay or severance pay and such payment appears in a base period
22 established by the filing of an initial claim, the claimant may,
23 at his option, choose to have such payment included in the
24 calendar quarter in which it was paid or choose to have it
25 prorated equally among the quarters comprising the base period of

1 the claim. The maximum total amount of benefits payable to any
2 insured worker during any benefit year shall not exceed
3 twenty-six times his weekly benefit amount, or thirty-three and
4 one-third percent of his wage credits, whichever is the lesser.
5 For the purpose of this section, wages shall be counted as wage
6 credits for any benefit year, only if such benefit year begins
7 subsequent to the date on which the employing unit by whom such
8 wages were paid has become an employer. The wage credits of an
9 individual earned during the period commencing with the end of a
10 prior base period and ending on the date on which he filed an
11 allowed initial claim shall not be available for benefit purposes
12 in a subsequent benefit year unless, in addition thereto, such
13 individual has subsequently earned either wages for insured work
14 in an amount equal to at least five times his current weekly
15 benefit amount or wages in an amount equal to at least ten times
16 his current weekly benefit amount.

17 5. In the event that benefits are due a deceased person and
18 no petition has been filed for the probate of the will or for the
19 administration of the estate of such person within thirty days
20 after his death, the division may by regulation provide for the
21 payment of such benefits to such person or persons as the
22 division finds entitled thereto and every such payment shall be a
23 valid payment to the same extent as if made to the legal
24 representatives of the deceased.

25 6. The division is authorized to cancel any benefit warrant

1 remaining outstanding and unpaid one year after the date of its
2 issuance and there shall be no liability for the payment of any
3 such benefit warrant thereafter.

4 7. The division may establish an electronic funds transfer
5 system to transfer directly to claimants' accounts in financial
6 institutions benefits payable to them pursuant to this chapter.
7 To receive benefits by electronic funds transfer, a claimant
8 shall satisfactorily complete a direct deposit application form
9 authorizing the division to deposit benefit payments into a
10 designated checking or savings account. Any electronic funds
11 transfer system created pursuant to this subsection shall be
12 administered in accordance with regulations prescribed by the
13 division.

14 8. The division may issue a benefit warrant covering more
15 than one week of benefits.

16 288.386. 1. The employer or the employer's carrier against
17 whom a claim for benefits under chapter 287, RSMo, has been made,
18 or a representative of either, may request from the division of
19 employment security records of wages of the employee reported to
20 the division by any employer for the quarter that includes the
21 date of the accident that is the subject of such claim and for
22 subsequent quarters. The request must be made with the
23 authorization or consent of the employee or any employer who paid
24 wages to the employee subsequent to the date of the accident.

25 2. The employer or carrier shall make the request on a form

1 prescribed by rule for such purpose by the division of employment
2 security. Such form shall contain a certification by the
3 requesting party that it is a party entitled to the information
4 requested as authorized by this section.

5 3. The division of employment security shall provide the
6 most current information readily available within fifteen days
7 after receiving the request.

8 Section 1. If any provision of sections 286.020, 287.020,
9 287.067, 287.120, 287.128, 287.135, 287.136, 287.140, 287.160,
10 287.190, 287.200, 287.201, 287.240, 287.390, 287.420, 287.510,
11 287.520, 287.560, 287.800, 287.803, 287.957, 288.386 of this act
12 are found by a court of competent jurisdiction to be invalid or
13 unconstitutional it is the stated intent of the legislature that
14 the legislature would have approved the remaining portions of
15 such sections, and the remaining portions of such sections shall
16 remain in full force and effect.

17 Section 2. The provisions of this act shall only apply to
18 claims filed after August 28, 2004.