

HB 2308 -- Workers' Compensation

Sponsor: Hunter

This bill changes the laws regarding workers' compensation. In its main provisions, the bill:

- (1) Requires the Division of Workers' Compensation within the Department of Labor and Industrial Relations and the Missouri Commission on Human Rights to provide every employer, labor organization, employment agency, business, or establishment that is required to post the commission's equal employment, fair housing, or public accommodation posters with information on how to obtain the posters free of charge;
- (2) Specifies that the posters developed by the division and commission are the official posters to be used in Missouri;
- (3) Specifies that in applying the provisions of the Workers' Compensation Law it is the intent of the legislature to reject and abrogate *Schoemehl v. Treasurer of the State of Missouri*, 217 S.W.3d 900 (Mo. banc 2007) and all cases interpreting, applying, or following this case. The bill reaffirms that the right for compensation for permanent total disability of an injured employee terminates on the date of the injured employee's death;
- (4) Specifies that payments of unpaid compensation for all types of disability cease upon the death of the employee;
- (5) Requires a surviving dependent's claim to be filed within three years of the death of the qualifying employee;
- (6) Requires all claims of permanent partial disability, permanent total disability, or death against the Second Injury Fund to be accompanied by a determination of disability certified by a physician based upon objective medical findings;
- (7) Specifies that no compromise settlement paid by the fund can exceed \$10,000;
- (8) Specifies that the reasonableness of medical charges and fees may be disputed based upon audits of medical bills and the State Treasurer may present evidence of the audit findings;
- (9) Changes the occurrence of actuarial studies of the fund from once every three years to every year;
- (10) Specifies certain instances whereby claims against the fund may be made after August 28, 2008, and how the awards will be compiled;

(11) Specifies that, beginning August 28, 2008, permanent total disability, death, and medical benefits for uninsured workers are allowed against the fund if the pre-existing condition resulted from active military duty or was work related. Claims for temporary total disability, permanent partial disability, and physical rehabilitation can be filed against the primary workers' compensation insurance policy and the employer's experience rating will be adjusted accordingly;

(12) Specifies that the life time payment for permanent total disability may be suspended if the worker is able to return to work or be self-employed in view of the nature and severity of the injury;

(13) Increases the notification period from 10 days to 30 days from the date of determination of the rate of premium tax to be imposed for the following year that the division director has to notify all insurers and self-insurers of the rate;

(14) Extends the time frame in which the division must publish the new administrative tax rate and suspend delinquent carriers;

(15) Specifies that surcharge payment amounts to the fund are deemed made the earlier of the date postmarked by the United States Post Office or the date certified by a commercial delivery service as the date its customer deposited the envelope or parcel;

(16) Reduces the interest penalty on premium taxes and late surcharge payments from 1.5% to 1% per month for each month delinquent prorated from the date the payment is made;

(17) Specifies that an insurer or self-insurer upon application to the Director of the Department of Revenue in the case of premium tax or the division director in the case of the fund surcharge may refund an overpayment if no other obligation is owed;

(18) Specifies that any cause of action for whistleblowing or refusal to commit an illegal act previously existing in common law is revoked;

(19) Specifies that any individual not hired under a contract is employed at-will and may be discharged at any time, with or without cause, except if the employee was discharged as a whistleblower or for refusing to commit an illegal act; and

(20) Specifies the circumstances for the determination of a cause of action for wrongful discharge.

The bill contains an emergency clause.