

HOUSE BILL NO. 1817

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES NOLTE (Sponsor), FAITH, GRISAMORE,
BIVINS AND McGHEE (Co-sponsors).

3831L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 287.190, RSMo, and to enact in lieu thereof one new section relating to workers' compensation.

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

Section A. Section 287.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 287.190, to read as follows:

287.190. 1. For permanent partial disability, which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with sections 287.170 and 287.180, respectively, the employer shall pay to the employee compensation computed at the weekly rate of compensation in effect under subsection 5 of this section on the date of the injury for which compensation is being made, which compensation shall be allowed for loss by severance, total loss of use, or proportionate loss of use of one or more of the members mentioned in the schedule of losses.

SCHEDULE OF LOSSES

	Weeks
(1) Loss of arm at shoulder	232
(2) Loss of arm between shoulder and elbow	222
(3) Loss of arm at elbow joint	210
(4) Loss of arm between elbow and wrist	200
(5) Loss of hand at the wrist joint	175
(6) Loss of thumb at proximal joint	60
(7) Loss of thumb at distal joint	45

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

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

23 at second joint 30

24 (13) Loss of either the middle or ring finger

25 at the distal joint 26

26 (14) Loss of little finger at proximal joint 22

27 (15) Loss of little finger at second joint 20

28 (16) Loss of little finger at distal joint 16

29 (17) Loss of one leg at the hip joint or so near thereto

30 as to preclude the use of artificial limb 207

31 (18) Loss of one leg at or above the knee, where the

32 stump remains sufficient to permit the use of

33 artificial limb 160

34 (19) Loss of one leg at or above ankle and below knee

35 joint 155

36 (20) Loss of one foot in tarsus 150

37 (21) Loss of one foot in metatarsus 110

38 (22) Loss of great toe of one foot at proximal joint 40

39 (23) Loss of great toe of one foot at distal joint 22

40 (24) Loss of any other toe at proximal joint 14

41 (25) Loss of any other toe at second joint 10

42 (26) Loss of any other toe at distal joint 8

43 (27) Complete deafness of both ears 180

44 (28) Complete deafness of one ear, the

45 other being normal 49

46 (29) Complete loss of the sight of one eye 140

47 2. If the disability suffered in any of items (1) through (29) of the schedule of losses is

48 total by reason of severance or complete loss of use thereof the number of weeks of

49 compensation allowed in the schedule for such disability shall be increased by ten percent.

50 3. For permanent injuries other than those specified in the schedule of losses, the

51 compensation shall be paid for such periods as are proportionate to the relation which the other

52 injury bears to the injuries above specified, but no period shall exceed four hundred weeks, at

53 the rates fixed in subsection 1. The other injuries shall include permanent injuries causing a loss
54 of earning power. For the permanent partial loss of the use of an arm, hand, thumb, finger, leg,
55 foot, toe or phalange, compensation shall be paid for the proportionate loss of the use of the arm,
56 hand, thumb, finger, leg, foot, toe or phalange, as provided in the schedule of losses.

57 4. If an employee is seriously and permanently disfigured about the head[,] or neck[,
58 hands or arms] **and such disfigurement is a hindrance to employment**, the division or
59 commission may allow such additional sum for the compensation on account thereof as it may
60 deem just, but the sum shall not exceed forty weeks of compensation. If both the employer and
61 employee agree, the administrative law judge may utilize a photograph of the disfigurement in
62 determining the amount of such additional sum.

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

65 (1) For all injuries occurring on or after September 28, 1983, but before August 28,
66 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of
67 the employee's average weekly earnings as of the date of the injury; provided that the weekly
68 compensation paid under this subdivision shall not exceed an amount equal to forty-five percent
69 of the state average weekly wage, as such wage is determined by the division of employment
70 security, as of the July first immediately preceding the date of injury;

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

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

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

83 (5) For all injuries occurring on or after August 28, 1992, the weekly compensation shall
84 be an amount equal to sixty-six and two-thirds percent of the employee's average weekly
85 earnings as of the date of the injury; provided that the weekly compensation paid under this
86 subdivision shall not exceed an amount equal to fifty-five percent of the state average weekly
87 wage.

88 6. (1) "Permanent partial disability" means a disability that is permanent in nature and
89 partial in degree, and when payment therefor has been made in accordance with a settlement
90 approved either by an administrative law judge or by the labor and industrial relations
91 commission, a rating established by medical finding, certified by a physician, and approved by
92 an administrative law judge or legal advisor, or an award by an administrative law judge or the
93 commission, the percentage of disability shall be conclusively presumed to continue
94 undiminished whenever a subsequent injury to the same member or same part of the body also
95 results in permanent partial disability for which compensation under this chapter may be due;
96 provided, however, the presumption shall apply only to compensable injuries which may occur
97 after August 29, 1959.

98 (2) Permanent partial disability or permanent total disability shall be demonstrated and
99 certified by a physician. Medical opinions addressing compensability and disability shall be
100 stated within a reasonable degree of medical certainty. In determining compensability and
101 disability, where inconsistent or conflicting medical opinions exist, objective medical findings
102 shall prevail over subjective medical findings. Objective medical findings are those findings
103 demonstrable on physical examination or by appropriate tests or diagnostic procedures.

104 (3) Any award of compensation shall be reduced by an amount proportional to the
105 permanent partial disability determined to be a preexisting disease or condition or attributed to
106 the natural process of aging sufficient to cause or prolong the disability or need of treatment.

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