

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 1867

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZPATRICK.

5417H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 287.037 and 287.090, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

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

Section A. Sections 287.037 and 287.090, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 287.037 and 287.090, to read as follows:

287.037. 1. Notwithstanding any other provision of law to the contrary, beginning
2 January 1, 1997, those insurance companies providing coverage pursuant to chapter 287, to a
3 limited liability company, as defined in section 347.015, shall provide coverage for the
4 employees of the limited liability company who are not members of the limited liability
5 company. Members of the limited liability company, as defined in section 347.015, shall also
6 be provided coverage pursuant to chapter 287, but such members may individually elect to reject
7 such coverage by providing a written notice of such rejection on a form developed by the
8 department of insurance, financial institutions and professional registration to the limited liability
9 company and its insurer. Failure to provide notice to the limited liability company shall not be
10 grounds for any member to claim that the rejection of such coverage is not legally effective. A
11 member who elects to reject such coverage shall not thereafter be entitled to workers'
12 compensation benefits under the policy, even if serving or working in the capacity of an
13 employee of the limited liability company, at least until such time as said member provides the
14 limited liability company and its insurer with a written notice which rescinds the prior rejection
15 of such coverage. The written notice which rescinds the prior rejection of such coverage shall

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.

16 be on a form developed by the department of insurance, financial institutions and professional
17 registration. Any rescission shall be prospective in nature and shall entitle the member only to
18 such benefits which accrue on or after the date the notice of rescission form is received by the
19 insurance company.

20 **2. Notwithstanding any other provision of law to the contrary, beginning January**
21 **1, 2017, a shareholder of an S corporation, as defined in subsection 1 of section 143.471,**
22 **with at least forty percent or greater interest in the S corporation, may individually elect**
23 **to reject coverage under this chapter by providing a written notice of such rejection to the**
24 **S corporation and its insurer. Failure to provide notice to the S corporation shall not be**
25 **grounds for any shareholder to claim that the rejection of such coverage is not legally**
26 **effective. A shareholder who elects to reject such coverage shall not thereafter be entitled**
27 **to workers' compensation benefits under the policy, even if serving or working in the**
28 **capacity of an employee of the S corporation, at least until such time as such shareholder**
29 **provides the S corporation and its insurer with a written notice that rescinds the prior**
30 **rejection of such coverage. Any rescission shall be prospective in nature and shall entitle**
31 **the shareholder only to such benefits that accrue on or after the date the notice of**
32 **rescission is received by the insurance company.**

287.090. 1. This chapter shall not apply to:

- 2 (1) Employment of farm labor, domestic servants in a private home, including family
3 chauffeurs, or occasional labor performed for and related to a private household;
- 4 (2) Qualified real estate agents and direct sellers as those terms are defined in Section
5 3508 of Title 26 United States Code;
- 6 (3) Employment where the person employed is an inmate confined in a state prison,
7 penitentiary or county or municipal jail, or a patient or resident in a state mental health facility,
8 and the labor or services of such inmate, patient, or resident are exclusively on behalf of the state,
9 county or municipality having custody of said inmate, patient, or resident. Nothing in this
10 subdivision is intended to exempt employment where the inmate, patient or resident was hired
11 by a state, county or municipal government agency after direct competition with persons who are
12 not inmates, patients or residents and the compensation for the position of employment is not
13 contingent upon or affected by the worker's status as an inmate, patient or resident;
- 14 (4) Except as provided in section 287.243, volunteers of a tax-exempt organization
15 which operates under the standards of Section 501(c)(3) or **Section 501(c)(19)** of the federal
16 Internal Revenue Code, where such volunteers are not paid wages, but provide services purely
17 on a charitable and voluntary basis;
- 18 (5) Persons providing services as adjudicators, sports officials, or contest workers for
19 interscholastic activities programs or similar amateur youth programs who are not otherwise

20 employed by the sponsoring school, association of schools or nonprofit tax-exempt organization
21 sponsoring the amateur youth programs.

22 2. Any employer exempted from this chapter as to the employer or as to any class of
23 employees of the employer pursuant to the provisions of subdivision (3) of subsection 1 of
24 section 287.030 or pursuant to subsection 1 of this section may elect coverage as to the employer
25 or as to the class of employees of that employer pursuant to this chapter by purchasing and
26 accepting a valid workers' compensation insurance policy or endorsement, or by written notice
27 to the group self-insurer of which the employer is a member. The election shall take effect on
28 the effective date of the workers' compensation insurance policy or endorsement, or by written
29 notice to the group self-insurer of which the employer is a member, and continue while such
30 policy or endorsement remains in effect or until further written notice to the group self-insurer
31 of which the employer is a member. Any such exempt employer or employer with an exempt
32 class of employees may withdraw such election by the cancellation or nonrenewal of the workers'
33 compensation insurance policy or endorsement, or by written notice to the group self-insurer of
34 which the employer is a member. In the event the employer is electing out of coverage as to the
35 employer, the cancellation shall take effect on the later date of the cancellation of the policy or
36 the filing of notice pursuant to subsection 3 of this section.

37 3. Any insurance company authorized to write insurance under the provisions of this
38 chapter in this state shall file with the division a memorandum on a form prescribed by the
39 division of any workers' compensation policy issued to any employer and of any renewal or
40 cancellation thereof.

41 4. The mandatory coverage sections of this chapter shall not apply to the employment
42 of any member of a family owning a family farm corporation as defined in section 350.010 or
43 to the employment of any salaried officer of a family farm corporation organized pursuant to the
44 laws of this state, but such family members and officers of such family farm corporations may
45 be covered under a policy of workers' compensation insurance if approved by a resolution of the
46 board of directors. Nothing in this subsection shall be construed to apply to any other type of
47 corporation other than a family farm corporation.

48 5. A corporation may withdraw from the provisions of this chapter, when there are no
49 more than two owners of the corporation who are also the only employees of the corporation, by
50 filing with the division notice of election to be withdrawn. The election shall take effect and
51 continue from the date of filing with the division by the corporation of the notice of withdrawal
52 from liability under this chapter. Any corporation making such an election may withdraw its
53 election by filing with the division a notice to withdraw the election, which shall take effect
54 thirty days after the date of the filing, or at such later date as may be specified in the notice of
55 withdrawal.

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