

SECOND REGULAR SESSION

HOUSE BILL NO. 2421

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PFAUTSCH.

6348H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 287.690 and 287.715, RSMo, and to enact in lieu thereof two new sections relating to methods of self-insurance under workers' compensation laws.

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

Section A. Sections 287.690 and 287.715, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 287.690 and 287.715, to read as follows:

287.690. 1. Prior to December 31, 1993, for the purpose of providing for the expense of administering this chapter and for the purpose set out in subsection 2 of this section, every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, the state of Missouri, including any of its departments, divisions, agencies, commissions, and boards or any political subdivisions of the state who self-insure or hold themselves out to be any part self-insured, company, mutual company, the parties to any interindemnity contract, or other plan or scheme, and every other insurance carrier, insuring employers in this state against liability for personal injuries to their employees, or for death caused thereby, under this chapter, shall pay, as provided in this chapter, tax upon the net deposits, net premiums or net assessments received, whether in cash or notes in this state, or on account of business done in this state, for such insurance in this state at the rate of two percent in lieu of all other taxes on such net deposits, net premiums or net assessments, which amount of taxes shall be assessed and collected as herein provided. Beginning October 31, 1993, and every year thereafter, the director of the division of workers' compensation shall estimate the amount of revenue required to administer this chapter and the director shall determine the rate of tax to be paid in the following calendar year pursuant to this section commencing with the calendar year beginning on January 1, 1994. If the balance of the fund estimated to be on hand

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

18 on December thirty-first of the year each tax rate determination is made is less than one hundred
19 ten percent of the previous year's expenses plus any additional revenue required due to new
20 statutory requirements given to the division by the general assembly, then the director shall
21 impose a tax not to exceed two percent in lieu of all other taxes on net deposits, net premiums
22 or net assessments, rounded up to the nearest one-half of a percentage point, which amount of
23 taxes shall be assessed and collected as herein provided. The net premium equivalent for
24 individual self-insured employers [~~and any group of political subdivisions of this state qualified~~
25 ~~to self-insure their liability pursuant to this chapter as authorized by section 537.620]~~ shall be
26 based on average rate classifications calculated by the department of insurance, financial
27 institutions and professional registration as taken from premium rates filed by the twenty
28 insurance companies providing the greatest volume of workers' compensation insurance coverage
29 in this state. For employers qualified to self-insure their liability pursuant to this chapter, the
30 rates filed by such group of employers in accordance with subsection 4 of section 287.280 shall
31 be the net premium equivalent. **Any group of political subdivisions of this state qualified to**
32 **self-insure their liability under this chapter as authorized by section 537.620 may choose**
33 **either the average rate classification method or the filed rate method, provided that the**
34 **method used may be changed only once without receiving the consent of the director of the**
35 **division of workers' compensation.** Every entity required to pay the tax imposed pursuant to
36 this section and section 287.730 shall be notified by the division of workers' compensation
37 within ten calendar days of the date of the determination of the rate of tax to be imposed for the
38 following year. Net premiums, net deposits or net assessments are defined as gross premiums,
39 gross deposits or gross assessments less cancelled or returned premiums, premium deposits or
40 assessments and less dividends or savings, actually paid or credited.

41 2. After January 1, 1994, the director of the division shall make one or more loans to the
42 Missouri employers mutual insurance company in an amount not to exceed an aggregate amount
43 of five million dollars from the fund maintained to administer this chapter for start-up funding
44 and initial capitalization of the company. The board of the company shall make application to
45 the director for the loans, stating the amount to be loaned to the company. The loans shall be for
46 a term of five years and, at the time the application for such loans is approved by the director,
47 shall bear interest at the annual rate based on the rate for linked deposit loans as calculated by
48 the state treasurer pursuant to section 30.758.

287.715. 1. For the purpose of providing for revenue for the second injury fund, every
2 authorized self-insurer, and every workers' compensation policyholder insured pursuant to the
3 provisions of this chapter, shall be liable for payment of an annual surcharge in accordance with
4 the provisions of this section. The annual surcharge imposed under this section shall apply to
5 all workers' compensation insurance policies and self-insurance coverages which are written or

6 renewed on or after April 26, 1988, including the state of Missouri, including any of its
7 departments, divisions, agencies, commissions, and boards or any political subdivisions of the
8 state who self-insure or hold themselves out to be any part self-insured. Notwithstanding any
9 law to the contrary, the surcharge imposed pursuant to this section shall not apply to any
10 reinsurance or retrocessional transaction.

11 2. Beginning October 31, 2005, and each year thereafter, the director of the division of
12 workers' compensation shall estimate the amount of benefits payable from the second injury fund
13 during the following calendar year and shall calculate the total amount of the annual surcharge
14 to be imposed during the following calendar year upon all workers' compensation policyholders
15 and authorized self-insurers. The amount of the annual surcharge percentage to be imposed upon
16 each policyholder and self-insured for the following calendar year commencing with the calendar
17 year beginning on January 1, 2006, shall be set at and calculated against a percentage, not to
18 exceed three percent, of the policyholder's or self-insured's workers' compensation net deposits,
19 net premiums, or net assessments for the previous policy year, rounded up to the nearest one-half
20 of a percentage point, that shall generate, as nearly as possible, one hundred ten percent of the
21 moneys to be paid from the second injury fund in the following calendar year, less any moneys
22 contained in the fund at the end of the previous calendar year. All policyholders and self-insurers
23 shall be notified by the division of workers' compensation within ten calendar days of the
24 determination of the surcharge percent to be imposed for, and paid in, the following calendar
25 year. The net premium equivalent for individual self-insured employers [~~and any group of~~
26 ~~political subdivisions of this state qualified to self-insure their liability pursuant to this chapter~~
27 ~~as authorized by section 537.620]~~ shall be based on average rate classifications calculated by the
28 department of insurance, financial institutions and professional registration as taken from
29 premium rates filed by the twenty insurance companies providing the greatest volume of workers'
30 compensation insurance coverage in this state. For employers qualified to self-insure their
31 liability pursuant to this chapter, the rates filed by such group of employers in accordance with
32 subsection 4 of section 287.280 shall be the net premium equivalent. **Any group of political**
33 **subdivisions of this state qualified to self-insure their liability under this chapter as**
34 **authorized by section 537.620 may choose either the average rate classification method or**
35 **the filed rate method, provided that the method used may be changed only once without**
36 **receiving the consent of the director of the division of workers' compensation.** The director
37 may advance funds from the workers' compensation fund to the second injury fund if surcharge
38 collections prove to be insufficient. Any funds advanced from the workers' compensation fund
39 to the second injury fund must be reimbursed by the second injury fund no later than December
40 thirty-first of the year following the advance. The surcharge shall be collected from
41 policyholders by each insurer at the same time and in the same manner that the premium is

42 collected, but no insurer or its agent shall be entitled to any portion of the surcharge as a fee or
43 commission for its collection. The surcharge is not subject to any taxes, licenses or fees.

44 3. All surcharge amounts imposed by this section shall be deposited to the credit of the
45 second injury fund.

46 4. Such surcharge amounts shall be paid quarterly by insurers and self-insurers, and
47 insurers shall pay the amounts not later than the thirtieth day of the month following the end of
48 the quarter in which the amount is received from policyholders. If the director of the division
49 of workers' compensation fails to calculate the surcharge by the thirty-first day of October of any
50 year for the following year, any increase in the surcharge ultimately set by the director shall not
51 be effective for any calendar quarter beginning less than sixty days from the date the director
52 makes such determination.

53 5. If a policyholder or self-insured fails to make payment of the surcharge or an insurer
54 fails to make timely transfer to the division of surcharges actually collected from policyholders,
55 as required by this section, a penalty of one-half of one percent of the surcharge unpaid, or
56 untransferred, shall be assessed against the liable policyholder, self-insured or insurer. Penalties
57 assessed under this subsection shall be collected in a civil action by a summary proceeding
58 brought by the director of the division of workers' compensation.

59 6. Notwithstanding subsection 2 of this section to the contrary, the director of the
60 division of workers' compensation shall collect a supplemental surcharge not to exceed three
61 percent for calendar years 2014 to 2021 of the policyholder's or self-insured's workers'
62 compensation net deposits, net premiums, or net assessments for the previous policy year,
63 rounded up to the nearest one-half of a percentage point. All policyholders and self-insurers
64 shall be notified by the division of the supplemental surcharge percentage to be imposed for such
65 period of time as part of the notice provided in subsection 2 of this section. The provisions of
66 this subsection shall expire on December 31, 2021.

67 7. Funds collected under the provisions of this chapter shall be the sole funding source
68 of the second injury fund.

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