

# SENATE BILL NO. 505

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

1724S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 287, RSMo, by adding thereto one new section relating to workers' compensation claims.

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

Section A. Chapter 287, RSMo, is amended by adding thereto  
2 one new section, to be known as section 287.445, to read as  
3 follows:

**287.445. 1. Within ninety days of the filing of a  
2 claim pursuant to this chapter, if the matter has not  
3 already been set for division hearing, the employer may file  
4 a motion to dismiss the matter. The employer may file the  
5 motion to dismiss to specifically raise one or more of the  
6 following arguments:**

7 (1) That the employee did not notify the employer or  
8 file the claim in a timely manner pursuant to sections  
9 287.420 and 287.430;

10 (2) That the employee was not employed by or acting  
11 within the scope of their employment for the employer at the  
12 time when the alleged accident occurred; or

13 (3) That the employer is not liable due to the  
14 employee's intoxication from use of alcohol or controlled  
15 substances pursuant to section 287.120.

16 2. Following the filing of a motion to dismiss, the  
17 division shall set a date for a hearing, but no later than  
18 six months following the filing of the motion to dismiss,

19 which shall be held as soon as practicable, and shall notify  
20 the interested parties of the time and place of the  
21 hearing. Should the employee or their counsel elect to file  
22 an application for a change of judge and in relation to a  
23 hearing that has been set on the motion to dismiss, such an  
24 application for change of judge shall not constitute an  
25 election for a change of judge as set forth in subsection 3  
26 of section 287.810 and the employee shall retain the right  
27 to exercise such a change of judge prior to the setting of a  
28 temporary, partial, hardship or final hearing.

29 3. At the motion to dismiss hearing, the division,  
30 through an administrative law judge, shall consider evidence  
31 submitted by the parties at issue and their representatives  
32 and witnesses. Such evidence shall be related only to the  
33 issues raised by the employer in its motion to dismiss. If  
34 the division determines that, by a preponderance of the  
35 evidence, the employer has established that the matter  
36 should be dismissed for one or more of the arguments made in  
37 its motion to dismiss, the division shall issue an order  
38 within thirty days dismissing the claim. Such dismissal  
39 shall be subject to review and appeal, subject to the  
40 provisions of sections 287.470, 287.480, and 287.490. If  
41 the motion to dismiss is denied, the issues raised in the  
42 motion to dismiss and ruled upon in the order following the  
43 hearing shall be conclusively adjudicated and shall not be  
44 relitigated at a subsequent temporary, partial, hardship or  
45 final hearing.

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