

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 981

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time February 1, 2018, and ordered printed.

Read 2nd time February 15, 2018, and referred to the Committee on Insurance and Banking.

Reported from the Committee March 8, 2018, with recommendation that the bill do pass.

Taken up for Perfection March 26, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

6259S.01P

AN ACT

To repeal sections 287.127, 287.690, and 287.715, RSMo, and to enact in lieu thereof three new sections relating to workers' compensation, with an existing penalty provision.

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

Section A. Sections 287.127, 287.690, and 287.715, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 287.127,
3 287.690, and 287.715, to read as follows:

287.127. 1. Beginning January 1, 1993, all employers shall post a notice
2 at their place of employment, in a sufficient number of places on the premises to
3 assure that such notice will reasonably be seen by all employees. An employer
4 for whom services are performed by individuals who may not reasonably be
5 expected to see a posted notice shall notify each such employee in writing of the
6 contents of such notice. The notice shall include:

7 (1) That the employer is operating under and subject to the provisions of
8 the Missouri workers' compensation law;

9 (2) That employees must report all injuries immediately to the employer
10 by advising the employer personally, the employer's designated individual or the
11 employee's immediate boss, supervisor or foreman and that the employee may
12 lose the right to receive compensation if the injury or illness is not reported
13 within thirty days or in the case of occupational illness or disease, within thirty
14 days of the time he or she is reasonably aware of work relatedness of the injury

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 or illness; employees who fail to notify their employer within thirty days may
16 jeopardize their ability to receive compensation, and any other benefits under this
17 chapter;

18 (3) The name, address and telephone number of the insurer, if insured.
19 If self-insured, the name, address and telephone number of the employer's
20 designated individual responsible for reporting injuries or the name, address and
21 telephone number of the adjusting company or service company designated by the
22 employer to handle workers' compensation matters;

23 (4) The name, address and the toll-free telephone number of the division
24 of workers' compensation;

25 (5) That the employer will supply, upon request, additional information
26 provided by the division of workers' compensation;

27 (6) That a fraudulent action by the employer, employee or any other
28 person is unlawful.

29 2. The division of workers' compensation shall develop the notice to be
30 posted [and shall], distribute such notice free of charge to employers and insurers
31 upon request, **and publish the notice on the website of the department of**
32 **labor and industrial relations.** Failure to request such notice does not relieve
33 the employer of its obligation to post the notice. If the employer carries workers'
34 compensation insurance, the carrier shall provide the notice, **in paper or**
35 **electronic format**, to the insured within thirty days of the insurance policy's
36 inception date. **A carrier who elects to provide the notice in electronic**
37 **format shall direct the insured to the notice available on the website**
38 **of the department of labor and industrial relations.**

39 3. Any employer who willfully violates the provisions of this section shall
40 be guilty of a class A misdemeanor and shall be punished by a fine of not less
41 than fifty dollars nor more than one thousand dollars, or by imprisonment in the
42 county jail for not more than six months or by both such fine and imprisonment,
43 and each such violation or each day such violation continues shall be deemed a
44 separate offense.

287.690. 1. Prior to December 31, 1993, for the purpose of providing for
2 the expense of administering this chapter and for the purpose set out in
3 subsection 2 of this section, every person, partnership, association, corporation,
4 whether organized under the laws of this or any other state or country, the state
5 of Missouri, including any of its departments, divisions, agencies, commissions,
6 and boards or any political subdivisions of the state who self-insure or hold

7 themselves out to be any part self-insured, company, mutual company, the parties
8 to any interindemnity contract, or other plan or scheme, and every other
9 insurance carrier, insuring employers in this state against liability for personal
10 injuries to their employees, or for death caused thereby, under this chapter, shall
11 pay, as provided in this chapter, tax upon the net deposits, net premiums or net
12 assessments received, whether in cash or notes in this state, or on account of
13 business done in this state, for such insurance in this state at the rate of two
14 percent in lieu of all other taxes on such net deposits, net premiums or net
15 assessments, which amount of taxes shall be assessed and collected as herein
16 provided. Beginning October 31, 1993, and every year thereafter, the director of
17 the division of workers' compensation shall estimate the amount of revenue
18 required to administer this chapter and the director shall determine the rate of
19 tax to be paid in the following calendar year pursuant to this section commencing
20 with the calendar year beginning on January 1, 1994. If the balance of the fund
21 estimated to be on hand on December thirty-first of the year each tax rate
22 determination is made is less than one hundred ten percent of the previous year's
23 expenses plus any additional revenue required due to new statutory requirements
24 given to the division by the general assembly, then the director shall impose a tax
25 not to exceed two percent in lieu of all other taxes on net deposits, net premiums
26 or net assessments, rounded up to the nearest one-half of a percentage point,
27 which amount of taxes shall be assessed and collected as herein provided. The
28 net premium equivalent for individual self-insured employers [and any group of
29 political subdivisions of this state qualified to self-insure their liability pursuant
30 to this chapter as authorized by section 537.620] shall be based on average rate
31 classifications calculated by the department of insurance, financial institutions
32 and professional registration as taken from premium rates filed by the twenty
33 insurance companies providing the greatest volume of workers' compensation
34 insurance coverage in this state. For employers qualified to self-insure their
35 liability pursuant to this chapter, the rates filed by such group of employers in
36 accordance with subsection 4 of section 287.280 shall be the net premium
37 equivalent. **Any group of political subdivisions of this state qualified to**
38 **self-insure their liability pursuant to this chapter as authorized by**
39 **section 537.620 may choose either the average rate classification**
40 **method or the filed rate method, provided that the method used may**
41 **only be changed once without receiving the consent of the director of**
42 **the division of workers' compensation.** Every entity required to pay the tax

43 imposed pursuant to this section and section 287.730 shall be notified by the
44 division of workers' compensation within ten calendar days of the date of the
45 determination of the rate of tax to be imposed for the following year. Net
46 premiums, net deposits or net assessments are defined as gross premiums, gross
47 deposits or gross assessments less cancelled or returned premiums, premium
48 deposits or assessments and less dividends or savings, actually paid or credited.

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

287.715. 1. For the purpose of providing for revenue for the second injury
2 fund, every authorized self-insurer, and every workers' compensation policyholder
3 insured pursuant to the provisions of this chapter, shall be liable for payment of
4 an annual surcharge in accordance with the provisions of this section. The
5 annual surcharge imposed under this section shall apply to all workers'
6 compensation insurance policies and self-insurance coverages which are written
7 or renewed on or after April 26, 1988, including the state of Missouri, including
8 any of its departments, divisions, agencies, commissions, and boards or any
9 political subdivisions of the state who self-insure or hold themselves out to be any
10 part self-insured. Notwithstanding any law to the contrary, the surcharge
11 imposed pursuant to this section shall not apply to any reinsurance or
12 retrocessional transaction.

13 2. Beginning October 31, 2005, and each year thereafter, the director of
14 the division of workers' compensation shall estimate the amount of benefits
15 payable from the second injury fund during the following calendar year and shall
16 calculate the total amount of the annual surcharge to be imposed during the
17 following calendar year upon all workers' compensation policyholders and
18 authorized self-insurers. The amount of the annual surcharge percentage to be
19 imposed upon each policyholder and self-insured for the following calendar year
20 commencing with the calendar year beginning on January 1, 2006, shall be set at

21 and calculated against a percentage, not to exceed three percent, of the
22 policyholder's or self-insured's workers' compensation net deposits, net premiums,
23 or net assessments for the previous policy year, rounded up to the nearest
24 one-half of a percentage point, that shall generate, as nearly as possible, one
25 hundred ten percent of the moneys to be paid from the second injury fund in the
26 following calendar year, less any moneys contained in the fund at the end of the
27 previous calendar year. All policyholders and self-insurers shall be notified by
28 the division of workers' compensation within ten calendar days of the
29 determination of the surcharge percent to be imposed for, and paid in, the
30 following calendar year. The net premium equivalent for individual self-insured
31 employers [and any group of political subdivisions of this state qualified to
32 self-insure their liability pursuant to this chapter as authorized by section
33 537.620] shall be based on average rate classifications calculated by the
34 department of insurance, financial institutions and professional registration as
35 taken from premium rates filed by the twenty insurance companies providing the
36 greatest volume of workers' compensation insurance coverage in this state. For
37 employers qualified to self-insure their liability pursuant to this chapter, the
38 rates filed by such group of employers in accordance with subsection 4 of section
39 287.280 shall be the net premium equivalent. **Any group of political**
40 **subdivisions of this state qualified to self-insure their liability pursuant**
41 **to this chapter as authorized by section 537.620 may choose either the**
42 **average rate classification method or the filed rate method, provided**
43 **that the method used may only be changed once without receiving the**
44 **consent of the director of the division of workers' compensation.** The
45 director may advance funds from the workers' compensation fund to the second
46 injury fund if surcharge collections prove to be insufficient. Any funds advanced
47 from the workers' compensation fund to the second injury fund must be
48 reimbursed by the second injury fund no later than December thirty-first of the
49 year following the advance. The surcharge shall be collected from policyholders
50 by each insurer at the same time and in the same manner that the premium is
51 collected, but no insurer or its agent shall be entitled to any portion of the
52 surcharge as a fee or commission for its collection. The surcharge is not subject
53 to any taxes, licenses or fees.

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

56 4. Such surcharge amounts shall be paid quarterly by insurers and

57 self-insurers, and insurers shall pay the amounts not later than the thirtieth day
58 of the month following the end of the quarter in which the amount is received
59 from policyholders. If the director of the division of workers' compensation fails
60 to calculate the surcharge by the thirty-first day of October of any year for the
61 following year, any increase in the surcharge ultimately set by the director shall
62 not be effective for any calendar quarter beginning less than sixty days from the
63 date the director makes such determination.

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

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

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

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