

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]

# SENATE BILL NO. 981

99TH GENERAL ASSEMBLY

2018

6259S.01T

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## 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.

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*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Section A. Sections 287.127, 287.690, and 287.715, RSMo, are repealed  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  
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;

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

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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