

Changes in Missouri Workers Compensation Law

The recent enactment of Senate Bills 1 and 130 have resulted in significant changes in Missouri Workers Compensation law. The following table provides an overview of the changes that most directly affect Workers Compensation practitioners. These excerpts were taken from a publication of the Department of Labor and Industrial Relations, "How the Changes in the Workers Compensation Law Affect You." They are provided for informational purposes only and you will need to make your own decision on their interpretation and applicability based on your consideration of the advice of legal counsel. You may access detailed information at www.dolir.mo.gov/wc.

All provisions listed below are effective August 28, 2005. According to the Missouri Department of Labor and Industrial Relations/Workers Compensation Division, each Workers' Compensation case will be considered fact-specific. The interpretation of the law and changes there to will be determined by the Administrative Law Judges, Labor and Industrial Relations Commission or the Appellate Courts of Missouri based upon the evidence presented.

Section	New Provision
287.800	<p>Liberal Construction Provision Repealed Workers Compensation law must be <i>strictly</i> construed (as opposed to <i>liberally construed</i>) by Administrative Law Judges, the Commission, the Division and any reviewing court.</p>
287.020 287.063 287.067	<p>New Definitions of Injury and Accident Injured employee must show that work was the <i>prevailing factor</i> (as opposed to a <i>substantial factor</i>) in causing the resulting medical condition and disability.</p> <p>An <i>accident</i> is defined as an unexpected "traumatic event or unusual strain identifiable by the time and place of occurrence caused by a specific event during a single work shift." The <i>prevailing factor</i> is defined as the primary factor in relation to any other factor, causing both the medical condition and disability.</p> <p><i>Occupational disease</i> is compensable only if the occupational exposure was the prevailing factor. Aging or normal day-to-day living cannot be considered when determining the compensability of occupational disease.</p> <p>The same standards apply to <i>repetitive motion injury</i>.</p>
287.020	<p>Excluded Injuries Injury resulting directly or indirectly from <i>idiopathic causes</i> is not compensable. Idiopathic injury is innate or a weakness specific to the employee, unrelated to employment.</p>
287.120.6	<p>Benefit Reduction for Drug/Alcohol Related Injuries Compensation is <i>reduced by fifty percent</i> for any employee who fails to obey workplace rules or policies adopted by the employer relating to non-prescribed controlled drugs or alcohol, and sustains an injury while using such substances.</p> <p>Compensation is <i>forfeited</i> if the employee's use of such substances in violation of the employer's rule or policy is the <i>proximate cause</i> of the injury.</p> <p>There is rebuttal presumption that alcohol is the proximate cause of injury if the voluntary use of alcohol to the percentage of blood alcohol in the employee's system meets the legal intoxication standard under Missouri law.</p> <p>An employer can request that an employee be tested for alcohol or controlled substances if the employer suspects usage or if the employer's policy clearly authorized such post-injury testing. Compensation is <i>forfeited</i> if the employee refuses to take the test upon request of the employer.</p>
287.957	<p>Total Medical Costs for Non-Experience Modification Cases An employer may pay up to one thousand dollars (\$1,000.00) out-of-pocket for injury-related medical costs <i>only if</i> there is no lost time greater than three days and no claim for compensation is filed by the employee.</p>

Section	New Provision	Effective
287.190	<p>Permanent Partial Disability Benefits The percentage of disability is conclusively presumed to continue undiminished when payments are made as follows: (i) a settlement approved by either the Administrative Law Judge or Commission; (ii) <i>a rating established by a medical finding certified by a physician</i> (new language) and approved by an Administrative Law Judge; or (iii) an award by the Administrative Law Judge or Commission.</p>	8/28/05
287.170	<p>Post-Injury Misconduct If the injured employee returns to work and is terminated from employment due to <i>post-injury misconduct</i>, the employee is not eligible to receive temporary partial or temporary total disability benefits. The phrase <i>post-injury misconduct</i> does not include absence from the workplace due to an injury unless the employee is capable of working with restrictions, as certified by a physician.</p>	8/28/05
287.197	<p>New Standards for Hearing Loss The change in measurement equipment and in the understanding of hearing loss has brought about new, increased decibel levels. The new language adopts the most current decibel standards developed by the American National Standards Institute (ANSI) for measuring hearing loss.</p>	8/28/05

For more information, please visit the Missouri Department of Labor and Industrial Relations web site, www.dolir.mo.gov/wc.