

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2429

98TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 21, 2016, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

6225S.02C

AN ACT

To repeal sections 287.090 and 287.955, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation.

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

Section A. Sections 287.090 and 287.955, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 287.090 and 287.955, to
3 read as follows:

287.090. 1. This chapter shall not apply to:

2 (1) Employment of farm labor, domestic servants in a private home,
3 including family chauffeurs, or occasional labor performed for and related to a
4 private household;

5 (2) Qualified real estate agents and direct sellers as those terms are
6 defined in Section 3508 of Title 26 United States Code;

7 (3) Employment where the person employed is an inmate confined in a
8 state prison, penitentiary or county or municipal jail, or a patient or resident in
9 a state mental health facility, and the labor or services of such inmate, patient,
10 or resident are exclusively on behalf of the state, county or municipality having
11 custody of said inmate, patient, or resident. Nothing in this subdivision is
12 intended to exempt employment where the inmate, patient or resident was hired
13 by a state, county or municipal government agency after direct competition with
14 persons who are not inmates, patients or residents and the compensation for the
15 position of employment is not contingent upon or affected by the worker's status
16 as an inmate, patient or resident;

17 (4) Except as provided in section 287.243, volunteers of a tax-exempt

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

18 organization which operates under the standards of Section 501(c)(3) or **Section**
19 **501(c)(19)** of the federal Internal Revenue Code, where such volunteers are not
20 paid wages, but provide services purely on a charitable and voluntary basis;

21 (5) Persons providing services as adjudicators, sports officials, or contest
22 workers for interscholastic activities programs or similar amateur youth programs
23 who are not otherwise employed by the sponsoring school, association of schools
24 or nonprofit tax-exempt organization sponsoring the amateur youth programs.

25 2. Any employer exempted from this chapter as to the employer or as to
26 any class of employees of the employer pursuant to the provisions of subdivision
27 (3) of subsection 1 of section 287.030 or pursuant to subsection 1 of this section
28 may elect coverage as to the employer or as to the class of employees of that
29 employer pursuant to this chapter by purchasing and accepting a valid workers'
30 compensation insurance policy or endorsement, or by written notice to the group
31 self-insurer of which the employer is a member. The election shall take effect on
32 the effective date of the workers' compensation insurance policy or endorsement,
33 or by written notice to the group self-insurer of which the employer is a member,
34 and continue while such policy or endorsement remains in effect or until further
35 written notice to the group self-insurer of which the employer is a member. Any
36 such exempt employer or employer with an exempt class of employees may
37 withdraw such election by the cancellation or nonrenewal of the workers'
38 compensation insurance policy or endorsement, or by written notice to the group
39 self-insurer of which the employer is a member. In the event the employer is
40 electing out of coverage as to the employer, the cancellation shall take effect on
41 the later date of the cancellation of the policy or the filing of notice pursuant to
42 subsection 3 of this section.

43 3. Any insurance company authorized to write insurance under the
44 provisions of this chapter in this state shall file with the division a memorandum
45 on a form prescribed by the division of any workers' compensation policy issued
46 to any employer and of any renewal or cancellation thereof.

47 4. The mandatory coverage sections of this chapter shall not apply to the
48 employment of any member of a family owning a family farm corporation as
49 defined in section 350.010 or to the employment of any salaried officer of a family
50 farm corporation organized pursuant to the laws of this state, but such family
51 members and officers of such family farm corporations may be covered under a
52 policy of workers' compensation insurance if approved by a resolution of the board
53 of directors. Nothing in this subsection shall be construed to apply to any other

54 type of corporation other than a family farm corporation.

55 5. A corporation may withdraw from the provisions of this chapter, when
56 there are no more than two owners of the corporation who are also the only
57 employees of the corporation, by filing with the division notice of election to be
58 withdrawn. The election shall take effect and continue from the date of filing
59 with the division by the corporation of the notice of withdrawal from liability
60 under this chapter. Any corporation making such an election may withdraw its
61 election by filing with the division a notice to withdraw the election, which shall
62 take effect thirty days after the date of the filing, or at such later date as may be
63 specified in the notice of withdrawal.

 287.955. 1. Every workers' compensation insurer shall adhere to a
2 uniform classification system and uniform experience rating plan filed with the
3 director by the advisory organization designated by the director and subject to his
4 disapproval.

5 2. An insurer may develop subclassifications of the uniform classification
6 system upon which a rate may be made, except that such subclassifications shall
7 be filed with the director thirty days prior to their use. The director shall
8 disapprove subclassifications if the insurer fails to demonstrate that the data
9 thereby produced can be reported consistent with the uniform statistical plan and
10 classification system.

11 3. The director shall designate an advisory organization to assist him in
12 gathering, compiling and reporting relevant statistical information. Every
13 workers' compensation insurer shall record and report its workers' compensation
14 experience to the designated advisory organization as set forth in the uniform
15 statistical plan approved by the director.

16 4. The designated advisory organization shall develop and file manual
17 rules, subject to the approval of the director, reasonably related to the recording
18 and reporting of data pursuant to the uniform statistical plan, uniform experience
19 rating plan, and the uniform classification system.

20 5. Every workers' compensation insurer shall adhere to the approved
21 manual rules and experience rating plan in writing and reporting its business.
22 No insurer shall agree with any other insurer or with the advisory organization
23 to adhere to manual rules which are not reasonably related to the recording and
24 reporting of data pursuant to the uniform classification system of the uniform
25 statistical plan.

26 6. (1) A workers' compensation insurer may develop an individual risk

27 premium modification rating plan which prospectively modifies premium based
28 upon individual risk characteristics which are predictive of future loss. Such
29 rating plan shall be filed thirty days prior to use and may be subject to
30 disapproval by the director.

31 **(2) Premium modifications under this subsection may be**
32 **determined by an underwriter assessing the individual risk**
33 **characteristics and applying premium credits and debits as specified**
34 **under a schedule rating plan. Alternatively, an insurer may utilize**
35 **software or a computer risk modeling system designed to identify and**
36 **assess individual risk characteristics and which systematically and**
37 **uniformly applies premium modifications to similarly situated**
38 **employers.** The rating plan shall establish objective standards for measuring
39 variations in individual risks for hazards or expense or both. [The rating plan
40 shall be actuarially justified and shall not result in premiums which are
41 excessive, inadequate, or unfairly discriminatory.] The rating plan shall not
42 utilize factors which are duplicative of factors otherwise utilized in the
43 development of rates or premiums, including the uniform classification system
44 and the uniform experience rating plan. [The premium modification factors
45 utilized under the rating plan shall be applied on a statewide basis, with no
46 premium modifications] **No premium modification factors shall be based**
47 solely upon the geographic location of the employer.

48 **(a) Premium modifications resulting from a schedule rating plan,**
49 **with an underwriter determining individual risk characteristics, shall**
50 **be limited to plus or minus twenty-five percent. Up to an additional ten**
51 **percent credit may be given for a reduction in the insurer's expenses.**

52 **(b) Premium modifications resulting from a risk modeling system**
53 **shall be limited to plus or minus fifty percent. Premium modifications**
54 **resulting from a risk modeling system shall be reported separately**
55 **under the uniform statistical plan from premium modifications**
56 **resulting from a schedule rating plan.**

57 **(c) Changes in premium modification factors may occur if there**
58 **is a change in the insurer, the insurer amends or withdraws the rating**
59 **plan, or if there is a change in the insured employer's operations or**
60 **risk characteristics underlying the premium modification factor.**

61 **(3) Within thirty days of a request, the insurer shall clearly disclose to the**
62 employer the individual risk characteristics which result in premium

63 modifications. However, this disclosure shall not in any way require the release
64 to the insured employer of any trade secret or proprietary information or data
65 used to derive the premium modification and that meets the definitions of, and
66 is protected by, the provisions of chapter 417.

67 [(4) (a) Premium modifications under this subsection may be determined
68 by an underwriter assessing the individual risk characteristics and applying
69 premium credits and debits as specified under a schedule rating
70 plan. Alternatively, an insurer may utilize software or a computer risk modeling
71 system designed to identify and assess individual risk characteristics and which
72 systematically and uniformly applies premium modifications to similarly situated
73 employers.

74 (b) Premium modifications resulting from a schedule rating plan, with an
75 underwriter determining individual risk characteristics, shall be limited to plus
76 or minus twenty-five percent. An additional ten percent credit may be given for
77 a reduction in the insurer's expenses.

78 (c) Premium modifications resulting from a risk modeling system shall be
79 limited to plus or minus fifty percent. Premium modifications resulting from a
80 risk modeling system shall be reported separately under the uniform statistical
81 plan from premium modifications resulting from a schedule rating plan.

82 (d) Premium credits or reductions shall not be removed or reduced unless
83 there is a change in the insurer, the insurer amends or withdraws the rating
84 plan, or unless there is a corresponding change in the insured employer's
85 operations or risk characteristics underlying the credit or reduction.]

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