

FIRST REGULAR SESSION

# HOUSE BILL NO. 353

101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HENDERSON.

0820H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 287.170 and 287.180, RSMo, and to enact in lieu thereof two new sections relating to the electronic transfer of workers' compensation benefits.

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

Section A. Sections 287.170 and 287.180, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 287.170 and 287.180, to read as follows:

287.170. 1. For temporary total disability the employer shall pay compensation for not more than four hundred weeks during the continuance of such disability at the weekly rate of compensation in effect under this section on the date of the injury for which compensation is being made. The amount of such compensation shall be computed as follows:

(1) For all injuries occurring on or after September 28, 1983, but before September 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

(2) For all injuries occurring on or after September 28, 1986, but before August 28, 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly earnings as of the date of the injury; provided that the weekly compensation paid under this subdivision shall not exceed an amount equal to seventy-five percent of the state average weekly wage, as such wage is determined by the division of employment security, as of the July first immediately preceding the date of injury;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991,  
18 the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the  
19 injured employee's average weekly earnings as of the date of the injury; provided that the weekly  
20 compensation paid under this subdivision shall not exceed an amount equal to one hundred  
21 percent of the state average weekly wage;

22 (4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall  
23 be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
24 earnings as of the date of the injury; provided that the weekly compensation paid under this  
25 subdivision shall not exceed an amount equal to one hundred five percent of the state average  
26 weekly wage;

27 (5) For all injuries occurring on or after September 28, 1981, the weekly compensation  
28 shall in no event be less than forty dollars per week.

29 2. Temporary total disability payments shall be made to the claimant by check or other  
30 negotiable instruments [~~approved by the director which will not result in delay in payment~~], **or**  
31 **by electronic transfer or other manner authorized by the claimant**, and shall be forwarded  
32 directly to the claimant without intervention, or, when requested, to claimant's attorney if  
33 represented, except as provided in section 454.517, by any other party except by order of the  
34 division of workers' compensation.

35 3. An employee is disqualified from receiving temporary total disability during any  
36 period of time in which the claimant applies and receives unemployment compensation.

37 4. If the employee is terminated from post-injury employment based upon the employee's  
38 post-injury misconduct, neither temporary total disability nor temporary partial disability benefits  
39 under this section or section 287.180 are payable. As used in this section, the phrase "post-injury  
40 misconduct" shall not include absence from the workplace due to an injury unless the employee  
41 is capable of working with restrictions, as certified by a physician.

42 5. If an employee voluntarily separates from employment with an employer at a time  
43 when the employer had work available for the employee that was in compliance with any  
44 medical restriction imposed upon the employee within a reasonable degree of medical certainty  
45 as a result of the injury that is the subject of a claim for benefits under this chapter, neither  
46 temporary total disability nor temporary partial disability benefits available under this section  
47 or section 287.180 shall be payable.

287.180. 1. For temporary partial disability, compensation shall be paid during such  
2 disability but not for more than one hundred weeks, and shall be sixty-six and two-thirds percent  
3 of the difference between the average earnings prior to the accident and the amount which the  
4 employee, in the exercise of reasonable diligence, will be able to earn during the disability, to  
5 be determined in view of the nature and extent of the injury and the ability of the employee to

6 compete in an open labor market. The amount of such compensation shall be computed as  
7 follows:

8 (1) For all injuries occurring on or after September 28, 1983, but before September 28,  
9 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of  
10 the injured employee's average weekly earnings as of the date of injury; provided that the weekly  
11 compensation paid under this subdivision shall not exceed an amount equal to seventy percent  
12 of the state average weekly wage, as such wages are determined by the division of employment  
13 security, as of the July first immediately preceding the date of injury;

14 (2) For all injuries occurring on or after September 28, 1986, but before August 28,  
15 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of  
16 the injured employee's average weekly earnings as of the date of the injury; provided that the  
17 weekly compensation paid under this subdivision shall not exceed an amount equal to  
18 seventy-five percent of the state average weekly wage, as such wage is determined by the  
19 division of employment security, as of the July first immediately preceding the date of injury;

20 (3) For all injuries occurring on or after August 28, 1990, but before August 28, 1991,  
21 the weekly compensation shall be an amount equal to sixty-six and two-thirds percent of the  
22 injured employee's average weekly earnings as of the date of the injury; provided that the weekly  
23 compensation paid under this subdivision shall not exceed an amount equal to one hundred  
24 percent of the state average weekly wage;

25 (4) For all injuries occurring on or after August 28, 1991, the weekly compensation shall  
26 be an amount equal to sixty-six and two-thirds percent of the injured employee's average weekly  
27 earnings as of the date of the injury; provided that the weekly compensation paid under this  
28 subdivision shall not exceed an amount equal to one hundred five percent of the state average  
29 weekly wage.

30 2. Temporary partial disability payments shall be made to the claimant by check, or other  
31 negotiable instrument [~~approved by the director which will not result in delay in payment~~], or  
32 **by electronic transfer or other manner authorized by the claimant.**

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