

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SCS/House Bill No. 604, Page 1, Section A, Line 6,

2 by inserting after all of said line the following:

3 "287.170. 1. For temporary total disability the  
4 employer shall pay compensation for not more than four  
5 hundred weeks during the continuance of such disability at  
6 the weekly rate of compensation in effect under this section  
7 on the date of the injury for which compensation is being  
8 made. The amount of such compensation shall be computed as  
9 follows:

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

20 (2) For all injuries occurring on or after September  
21 28, 1986, but before August 28, 1990, the weekly  
22 compensation shall be an amount equal to sixty-six and two-  
23 thirds percent of the injured employee's average weekly  
24 earnings as of the date of the injury; provided that the  
25 weekly compensation paid under this subdivision shall not  
26 exceed an amount equal to seventy-five percent of the state

27 average weekly wage, as such wage is determined by the  
28 division of employment security, as of the July first  
29 immediately preceding the date of injury;

30 (3) For all injuries occurring on or after August 28,  
31 1990, but before August 28, 1991, the weekly compensation  
32 shall be an amount equal to sixty-six and two-thirds percent  
33 of the injured employee's average weekly earnings as of the  
34 date of the injury; provided that the weekly compensation  
35 paid under this subdivision shall not exceed an amount equal  
36 to one hundred percent of the state average weekly wage;

37 (4) For all injuries occurring on or after August 28,  
38 1991, the weekly compensation shall be an amount equal to  
39 sixty-six and two-thirds percent of the injured employee's  
40 average weekly earnings as of the date of the injury;  
41 provided that the weekly compensation paid under this  
42 subdivision shall not exceed an amount equal to one hundred  
43 five percent of the state average weekly wage;

44 (5) For all injuries occurring on or after September  
45 28, 1981, the weekly compensation shall in no event be less  
46 than forty dollars per week.

47 2. Temporary total disability payments shall be made  
48 to the claimant by check or other negotiable [instruments  
49 approved by the director which will not result in delay in  
50 payment] instrument, or by electronic transfer or other  
51 manner authorized by the claimant, and shall be forwarded  
52 directly to the claimant without intervention, or, when  
53 requested, to claimant's attorney if represented, except as  
54 provided in section 454.517, by any other party except by  
55 order of the division of workers' compensation.

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

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

68           5. If an employee voluntarily separates from  
69 employment with an employer at a time when the employer had  
70 work available for the employee that was in compliance with  
71 any medical restriction imposed upon the employee within a  
72 reasonable degree of medical certainty as a result of the  
73 injury that is the subject of a claim for benefits under  
74 this chapter, neither temporary total disability nor  
75 temporary partial disability benefits available under this  
76 section or section 287.180 shall be payable.

77           287.180. 1. For temporary partial disability,  
78 compensation shall be paid during such disability but not  
79 for more than one hundred weeks, and shall be sixty-six and  
80 two-thirds percent of the difference between the average  
81 earnings prior to the accident and the amount which the  
82 employee, in the exercise of reasonable diligence, will be  
83 able to earn during the disability, to be determined in view  
84 of the nature and extent of the injury and the ability of  
85 the employee to compete in an open labor market. The amount  
86 of such compensation shall be computed as follows:

87           (1) For all injuries occurring on or after September  
88 28, 1983, but before September 28, 1986, the weekly  
89 compensation shall be an amount equal to sixty-six and two-  
90 thirds percent of the injured employee's average weekly  
91 earnings as of the date of injury; provided that the weekly  
92 compensation paid under this subdivision shall not exceed an

93 amount equal to seventy percent of the state average weekly  
94 wage, as such wages are determined by the division of  
95 employment security, as of the July first immediately  
96 preceding the date of injury;

97 (2) For all injuries occurring on or after September  
98 28, 1986, but before August 28, 1990, the weekly  
99 compensation shall be an amount equal to sixty-six and two-  
100 thirds percent of the injured employee's average weekly  
101 earnings as of the date of the injury; provided that the  
102 weekly compensation paid under this subdivision shall not  
103 exceed an amount equal to seventy-five percent of the state  
104 average weekly wage, as such wage is determined by the  
105 division of employment security, as of the July first  
106 immediately preceding the date of injury;

107 (3) For all injuries occurring on or after August 28,  
108 1990, but before August 28, 1991, the weekly compensation  
109 shall be an amount equal to sixty-six and two-thirds percent  
110 of the injured employee's average weekly earnings as of the  
111 date of the injury; provided that the weekly compensation  
112 paid under this subdivision shall not exceed an amount equal  
113 to one hundred percent of the state average weekly wage;

114 (4) For all injuries occurring on or after August 28,  
115 1991, the weekly compensation shall be an amount equal to  
116 sixty-six and two-thirds percent of the injured employee's  
117 average weekly earnings as of the date of the injury;  
118 provided that the weekly compensation paid under this  
119 subdivision shall not exceed an amount equal to one hundred  
120 five percent of the state average weekly wage.

121 2. Temporary partial disability payments shall be made  
122 to the claimant by check, or other negotiable instrument  
123 [approved by the director which will not result in delay in  
124 payment], or by electronic transfer or other manner  
125 authorized by the claimant.

126           287.715. 1. For the purpose of providing for revenue  
127 for the second injury fund, every authorized self-insurer,  
128 and every workers' compensation policyholder insured  
129 pursuant to the provisions of this chapter, shall be liable  
130 for payment of an annual surcharge in accordance with the  
131 provisions of this section. The annual surcharge imposed  
132 under this section shall apply to all workers' compensation  
133 insurance policies and self-insurance coverages which are  
134 written or renewed on or after April 26, 1988, including the  
135 state of Missouri, including any of its departments,  
136 divisions, agencies, commissions, and boards or any  
137 political subdivisions of the state who self-insure or hold  
138 themselves out to be any part self-insured. Notwithstanding  
139 any law to the contrary, the surcharge imposed pursuant to  
140 this section shall not apply to any reinsurance or  
141 retrocessional transaction.

142           2. Beginning October 31, 2005, and each year  
143 thereafter, the director of the division of workers'  
144 compensation shall estimate the amount of benefits payable  
145 from the second injury fund during the following calendar  
146 year and shall calculate the total amount of the annual  
147 surcharge to be imposed during the following calendar year  
148 upon all workers' compensation policyholders and authorized  
149 self-insurers. The amount of the annual surcharge  
150 percentage to be imposed upon each policyholder and self-  
151 insured for the following calendar year commencing with the  
152 calendar year beginning on January 1, 2006, shall be set at  
153 and calculated against a percentage, not to exceed three  
154 percent, of the policyholder's or self-insured's workers'  
155 compensation net deposits, net premiums, or net assessments  
156 for the previous policy year, rounded up to the nearest one-  
157 half of a percentage point, that shall generate, as nearly  
158 as possible, one hundred ten percent of the moneys to be

159 paid from the second injury fund in the following calendar  
160 year, less any moneys contained in the fund at the end of  
161 the previous calendar year. All policyholders and self-  
162 insurers shall be notified by the division of workers'  
163 compensation within ten calendar days of the determination  
164 of the surcharge percent to be imposed for, and paid in, the  
165 following calendar year. The net premium equivalent for  
166 individual self-insured employers shall be based on average  
167 rate classifications calculated by the department of  
168 commerce and insurance as taken from premium rates filed by  
169 the twenty insurance companies providing the greatest volume  
170 of workers' compensation insurance coverage in this state.  
171 For employers qualified to self-insure their liability  
172 pursuant to this chapter, the rates filed by such group of  
173 employers in accordance with subsection 4 of section 287.280  
174 shall be the net premium equivalent. Any group of political  
175 subdivisions of this state qualified to self-insure their  
176 liability pursuant to this chapter as authorized by section  
177 537.620 may choose either the average rate classification  
178 method or the filed rate method, provided that the method  
179 used may only be changed once without receiving the consent  
180 of the director of the division of workers' compensation.  
181 The director may advance funds from the workers'  
182 compensation fund to the second injury fund if surcharge  
183 collections prove to be insufficient. Any funds advanced  
184 from the workers' compensation fund to the second injury  
185 fund must be reimbursed by the second injury fund no later  
186 than December thirty-first of the year following the  
187 advance. The surcharge shall be collected from  
188 policyholders by each insurer at the same time and in the  
189 same manner that the premium is collected, but no insurer or  
190 its agent shall be entitled to any portion of the surcharge

191 as a fee or commission for its collection. The surcharge is  
192 not subject to any taxes, licenses or fees.

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

195 4. Such surcharge amounts shall be paid quarterly by  
196 insurers and self-insurers, and insurers shall pay the  
197 amounts not later than the thirtieth day of the month  
198 following the end of the quarter in which the amount is  
199 received from policyholders. If the director of the  
200 division of workers' compensation fails to calculate the  
201 surcharge by the thirty-first day of October of any year for  
202 the following year, any increase in the surcharge ultimately  
203 set by the director shall not be effective for any calendar  
204 quarter beginning less than sixty days from the date the  
205 director makes such determination.

206 5. If a policyholder or self-insured fails to make  
207 payment of the surcharge or an insurer fails to make timely  
208 transfer to the division of surcharges actually collected  
209 from policyholders, as required by this section, a penalty  
210 of one-half of one percent of the surcharge unpaid, or  
211 untransferred, shall be assessed against the liable  
212 policyholder, self-insured or insurer. Penalties assessed  
213 under this subsection shall be collected in a civil action  
214 by a summary proceeding brought by the director of the  
215 division of workers' compensation.

216 6. Notwithstanding subsection 2 of this section to the  
217 contrary, the director of the division of workers'  
218 compensation shall collect a supplemental surcharge not to  
219 exceed three percent for calendar years 2014 to ~~2021~~ 2022  
220 of the policyholder's or self-insured's workers'  
221 compensation net deposits, net premiums, or net assessments  
222 for the previous policy year, rounded up to the nearest one-  
223 half of a percentage point. For calendar year 2023, the

224 director of the division of workers' compensation shall  
225 collect a supplemental surcharge not to exceed two and one-  
226 half percent of the policyholder's or self-insured's  
227 workers' compensation net deposits, net premiums, or net  
228 assessments for the previous policy year, rounded up to the  
229 nearest one-half of a percentage point. All policyholders  
230 and self-insurers shall be notified by the division of the  
231 supplemental surcharge percentage to be imposed for such  
232 period of time as part of the notice provided in subsection  
233 2 of this section. The provisions of this subsection shall  
234 expire on December 31, ~~[2021]~~ 2023.

235         7. Funds collected under the provisions of this  
236 chapter shall be the sole funding source of the second  
237 injury fund."; and

238         Further amend the title and enacting clause accordingly.