

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 360
AN ACT

To repeal section 287.715, RSMo, and to enact in lieu thereof one new section relating to supplemental surcharges collected by the division of workers' compensation.

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

Section A. Section 287.715, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 287.715,
3 to read as follows:

287.715. 1. For the purpose of providing for revenue
2 for the second injury fund, every authorized self-insurer,
3 and every workers' compensation policyholder insured
4 pursuant to the provisions of this chapter, shall be liable
5 for payment of an annual surcharge in accordance with the
6 provisions of this section. The annual surcharge imposed
7 under this section shall apply to all workers' compensation
8 insurance policies and self-insurance coverages which are
9 written or renewed on or after April 26, 1988, including the
10 state of Missouri, including any of its departments,
11 divisions, agencies, commissions, and boards or any
12 political subdivisions of the state who self-insure or hold
13 themselves out to be any part self-insured. Notwithstanding
14 any law to the contrary, the surcharge imposed pursuant to
15 this section shall not apply to any reinsurance or
16 retrocessional transaction.

17 2. Beginning October 31, 2005, and each year
18 thereafter, the director of the division of workers'

19 compensation shall estimate the amount of benefits payable
20 from the second injury fund during the following calendar
21 year and shall calculate the total amount of the annual
22 surcharge to be imposed during the following calendar year
23 upon all workers' compensation policyholders and authorized
24 self-insurers. The amount of the annual surcharge
25 percentage to be imposed upon each policyholder and self-
26 insured for the following calendar year commencing with the
27 calendar year beginning on January 1, 2006, shall be set at
28 and calculated against a percentage, not to exceed three
29 percent, of the policyholder's or self-insured's workers'
30 compensation net deposits, net premiums, or net assessments
31 for the previous policy year, rounded up to the nearest one-
32 half of a percentage point, that shall generate, as nearly
33 as possible, one hundred ten percent of the moneys to be
34 paid from the second injury fund in the following calendar
35 year, less any moneys contained in the fund at the end of
36 the previous calendar year. All policyholders and self-
37 insurers shall be notified by the division of workers'
38 compensation within ten calendar days of the determination
39 of the surcharge percent to be imposed for, and paid in, the
40 following calendar year. The net premium equivalent for
41 individual self-insured employers shall be based on average
42 rate classifications calculated by the department of
43 commerce and insurance as taken from premium rates filed by
44 the twenty insurance companies providing the greatest volume
45 of workers' compensation insurance coverage in this state.
46 For employers qualified to self-insure their liability
47 pursuant to this chapter, the rates filed by such group of
48 employers in accordance with subsection 4 of section 287.280
49 shall be the net premium equivalent. Any group of political
50 subdivisions of this state qualified to self-insure their
51 liability pursuant to this chapter as authorized by section

52 537.620 may choose either the average rate classification
53 method or the filed rate method, provided that the method
54 used may only be changed once without receiving the consent
55 of the director of the division of workers' compensation.
56 The director may advance funds from the workers'
57 compensation fund to the second injury fund if surcharge
58 collections prove to be insufficient. Any funds advanced
59 from the workers' compensation fund to the second injury
60 fund must be reimbursed by the second injury fund no later
61 than December thirty-first of the year following the
62 advance. The surcharge shall be collected from
63 policyholders by each insurer at the same time and in the
64 same manner that the premium is collected, but no insurer or
65 its agent shall be entitled to any portion of the surcharge
66 as a fee or commission for its collection. The surcharge is
67 not subject to any taxes, licenses or fees.

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

70 4. Such surcharge amounts shall be paid quarterly by
71 insurers and self-insurers, and insurers shall pay the
72 amounts not later than the thirtieth day of the month
73 following the end of the quarter in which the amount is
74 received from policyholders. If the director of the
75 division of workers' compensation fails to calculate the
76 surcharge by the thirty-first day of October of any year for
77 the following year, any increase in the surcharge ultimately
78 set by the director shall not be effective for any calendar
79 quarter beginning less than sixty days from the date the
80 director makes such determination.

81 5. If a policyholder or self-insured fails to make
82 payment of the surcharge or an insurer fails to make timely
83 transfer to the division of surcharges actually collected
84 from policyholders, as required by this section, a penalty

85 of one-half of one percent of the surcharge unpaid, or
86 untransferred, shall be assessed against the liable
87 policyholder, self-insured or insurer. Penalties assessed
88 under this subsection shall be collected in a civil action
89 by a summary proceeding brought by the director of the
90 division of workers' compensation.

91 6. Notwithstanding subsection 2 of this section to the
92 contrary, the director of the division of workers'
93 compensation shall collect a supplemental surcharge not to
94 exceed three percent for calendar years 2014 to ~~[2021]~~ 2022
95 of the policyholder's or self-insured's workers'
96 compensation net deposits, net premiums, or net assessments
97 for the previous policy year, rounded up to the nearest one-
98 half of a percentage point. For calendar year 2023, the
99 director of the division of workers' compensation shall
100 collect a supplemental surcharge not to exceed two and one-
101 half percent of the policyholder's or self-insured's
102 workers' compensation net deposits, net premiums, or net
103 assessments for the previous policy year, rounded up to the
104 nearest one-half of a percentage point. All policyholders
105 and self-insurers shall be notified by the division of the
106 supplemental surcharge percentage to be imposed for such
107 period of time as part of the notice provided in subsection
108 2 of this section. The provisions of this subsection shall
109 expire on December 31, ~~[2021]~~ 2023.

110 7. Funds collected under the provisions of this
111 chapter shall be the sole funding source of the second
112 injury fund.