

**Jurisdiction (287.110)**

1. Injuries and O.D. contracted in State
2. Contract of employment in State, or
3. Employment principally localized in State

**Limitations (287.430)**

1. File Claim within 2 years of injury or death or last payment on account of injury (additional year if Report of Injury not filed unless lack of filing due to failure of notice)

**Report of Injury (287.380)**

1. Must notify Division within 30 days of knowledge of accident and, within one month, file complete report of injury - if furnish medical aid or compensation. Failure to do so can result in criminal and monetary charges.

**Burden of Proof**

1. Accident/exposure must be the prevailing factor in causing the injury and resulting medical condition. (287.020(3)(2)(a)) and must be due to a work-related hazard
2. Repetitive Trauma - work must be the prevailing factor causing both resulting medical condition and disability - treated as occupational disease - if exposure is less than 3 months and repetitive motion with prior employer the prevailing factor, then prior employer liable (287.067)

**Reduction of Benefits**

1. Safety Rule or Device - failure to use or follow may result in 25-50% reduction in compensation (287.120(5))
2. Drugs & Alcohol - fail to obey rule or policy then 50% reduction in compensation if injury sustained in conjunction with use (287.120(6)(1)(a)) Total defense if non-prescribed drugs or alcohol was proximate cause (287.120(6)(2))
3. Penalties apply to all benefits – medical, TTD, PPD, PTD, and death

**Notice of Injury (287.127(2))**

1. Must be reported within 30 days or for O.D. reported within 30 days employee is reasonably aware of work relatedness

**AWW/Rate (287.250)**

1. AWW - 13 weeks preceding injury (most cases)
2. Rate 2/3 of AWW subject to max & min.

**Benefits**

1. Medical - reasonably required to cure and relieve the effects of the injury (287.140)
  - a. Treaters – Employer controls/directs medical care, but can forfeit same (287.140(10))
  - b. Mileage - if treatment outside local or metropolitan area from employee's principal place of employment
2. TTD
  - a. Up to 400 weeks (287.170)
  - b. Waiting period - 3 days during which employer is open for purpose of operating business - if disability lasts more than 14 days - first 3 days retroactive (287.160(1))
  - c. Basis for termination
    1. Return to work
    2. Reaches MMI
    3. Received unemployment comp (287.170 (2)(3))
    4. If terminated from employment due to post-injury misconduct (287.170 (2)(4))\*Must notify employee on termination of benefits (287.203)
3. TPD (297.180)
  - a. Up to 100 weeks, 2/3 difference between average earnings prior to accident and amount able to earn during disability (287.180)
  - b. Must notify employee on termination of benefits (287.203)
4. PPD (287.190)
  - a. Per scheduled injuries under 287.190 (1-4)

## Missouri Workers' Compensation At-A-Glance Continued

### 5. PTD (287.200)

- a. For lifetime of employee if unemployable in open labor market due to work injury
  - i. May owe benefits to dependents on death of employee "Schoemehl cases" (Schoemehl cases abrogated by statutory change in 2008)
  - ii. Second Injury Fund may be liable for PTD if disability due to combination of prior and current disabilities

### 6. Death (287.240) – as amended effective 08/28/2017

- a. Burial expense not to exceed \$5000.00
- b. Death benefits to dependents
- c. Dependents
  - i. Spouse who is actually dependent for support on employee's wages at time of injury – life or two year lump sum payment on remarriage
  - ii. Child – natural, posthumous, adopted, or claimable on Fed. Tax Return
  - iii. Paid until 18, or 22 in college or Service, unless physically or mentally incapable of wage earning

### 7. Enhanced benefits where injury is one of nine designated "ODs due to toxic exposure"

#### Subrogation (287.150)

1. Employer/carrier entitled to subrogation from 3rd party recovery minus proportionate share of expenses of recovery, including reasonable attorney fee "Ruediger" Formula -  $W.C. \text{ paid/gross } 3\text{rd party recovery} \times \text{net } 3\text{rd party recovery} = \text{subrogation amount due employer/insurer}$ . As of 01/01/2014 no subrogation where the injury is one of the nine "ODs due to toxic exposure"

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