

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 551
94TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industrial Relations, April 26, 2007, with recommendation that the Senate Committee Substitute do pass.

1504S.05C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 287, RSMo, by adding thereto two new sections relating to compensation for public safety workers killed in the line of duty.

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

Section A. Chapter 287, RSMo, is amended by adding thereto two new sections, to be known as sections 287.243 and 287.245, to read as follows:

287.243. 1. Sections 287.243 and 287.245 shall be known and may be cited as the "Line of Duty Compensation Act".

2. As used in sections 287.243 and 287.245, unless otherwise provided, the following words shall mean:

(1) "Aviation medical crew member", a person serving as a flight paramedic, a flight nurse, or as a pilot in command;

(2) "Department of corrections employee" or "juvenile justice employee", supervisors, wardens, superintendents and their assistants, guards and keepers, correctional officers, youth supervisors, parole agents, school teachers, correctional counselors, or any employee having daily contact with inmates in any facility of either the department of corrections or within the juvenile justice system;

(3) "Emergency medical technician", a person licensed in emergency medical care in accordance with standards prescribed by sections 190.001 to 190.245, RSMo, and by rules adopted by the department of health and senior services under sections 190.001 to 190.245, RSMo;

(4) "Firefighter", any person, including a volunteer firefighter, employed by the state or a local governmental entity as, or otherwise

20 serving as, a member or officer of a fire department either for the
21 purpose of the prevention or control of fire or the underwater recovery
22 of drowning victims;

23 (5) "Killed in the line of duty", when any individual defined in
24 this section loses one's life as a result of injury received in the active
25 performance of duties in his or her respective profession, if the death
26 occurs within one year from the date the injury was received and if
27 that injury arose from violence of another or accidental cause subject
28 to the provisions of paragraph (a) and (b) of this subdivision. The term
29 excludes death resulting from the willful misconduct or intoxication of
30 the officer, emergency medical technician, paramedic, firefighter,
31 aviation medical crew member, juvenile justice employee, or
32 department of corrections employee. The division of workers'
33 compensation shall have the burden of proving such willful misconduct
34 or intoxication;

35 (a) For juvenile justice employees and department of corrections
36 employees, the death shall be caused by the direct or indirect willful
37 act of an inmate, work releasee, parolee, parole violator, person under
38 conditional release, or any person sentenced or committed, or
39 otherwise subject to confinement by the department of corrections or
40 juvenile justice employees while the individual is within the facilities
41 under the control of the department of corrections or the juvenile
42 justice system, the individual is in the act of transporting inmates from
43 one location to another, or the individual is performing any other
44 official duty;

45 (b) For firefighters, law enforcement officers, emergency medical
46 technicians, aviation medical crew members, and paramedics, the death
47 shall be caused as a result of a willful act of violence committed by a
48 person other than the officer, firefighter, emergency medical
49 technician, aviation medical crew member, or paramedic, and a
50 relationship exists between the commission of such act and the
51 individual's performance of his or her duties as a law enforcement
52 officer, firefighter, emergency medical technician, aviation medical
53 crew member, or paramedic, regardless of whether the injury is
54 received while the individual is on duty; the injury is received by a law
55 enforcement officer while he or she is attempting to prevent the
56 commission of a criminal act of another person or attempting to

57 apprehend an individual suspected of committing a crime, regardless
58 of whether the injury is received while the individual is on duty as a
59 law enforcement officer; or the injury is received by the individual
60 while traveling to or from his or her employment or during any meal
61 break, or other break, which takes place during the period in which the
62 law enforcement officer, firefighter, emergency medical technician,
63 aviation medical crew member, or paramedic is on duty;

64 (6) "Law enforcement officer" or "officer", any person employed
65 by the state or a local governmental entity as a policeman, peace
66 officer, auxiliary policeman or in some like position involving the
67 enforcement of the law and protection of the public interest at the risk
68 of that person's life;

69 (7) "Local governmental entity", includes counties, municipalities,
70 fire protection districts, and municipal corporations;

71 (8) "Paramedic", an emergency medical technician paramedic
72 certified by the department of health and senior services of the state;

73 (9) "State", the state of Missouri and its departments, divisions,
74 boards, bureaus, commissions, authorities, and colleges and
75 universities;

76 (10) "Volunteer firefighter", a person having principal
77 employment other than as a firefighter, but who is carried on the rolls
78 of a regularly constituted fire department either for the purpose of the
79 prevention or control of fire or the underwater recovery of drowning
80 victims, the members of which are under the jurisdiction of the
81 corporate authorities of a city, village, incorporated town, or fire
82 protection district. Volunteer firefighter shall not mean an individual
83 who volunteers assistance without being regularly enrolled as a
84 firefighter.

85 3. (1) A claim for compensation under this section shall be filed
86 with the division of workers' compensation not later than one year
87 from the date of death of a law enforcement officer, emergency medical
88 technician, paramedic, aviation medical crew member, firefighter,
89 juvenile justice employee, or department of corrections employee killed
90 in the line of duty. A claim may be filed by a dependent or spouse of
91 the deceased, or if such person is an incapacitated or disabled person,
92 or a minor, by the person's parent, conservator, or guardian on behalf
93 of the eligible claimant. If a claim is made within one year of the date

94 of death of a law enforcement officer, emergency medical technician,
95 paramedic, aviation medical crew member, firefighter, juvenile justice
96 employee, or department of corrections employee killed in the line of
97 duty, compensation shall be paid, if the claim is found to be valid, by
98 the division of workers' compensation from the line of duty
99 compensation fund established in section 287.245 to the person
100 designated by the law enforcement officer, emergency medical
101 technician, paramedic, aviation medical crew member, firefighter,
102 juvenile justice employee, or department of corrections employee.

103 (2) The amount of compensation paid to the spouse or dependent
104 shall be one hundred thousand dollars, subject to appropriations, paid
105 from the line of duty compensation fund established in section 287.245
106 for death occurring on or after January 1, 2009.

107 4. A burial benefit of up to a maximum of ten thousand dollars,
108 subject to appropriations paid from the line of duty compensation fund
109 established under section 287.245, shall be payable to the surviving
110 spouse, dependent, or estate of a law enforcement officer, firefighter,
111 emergency medical technician, paramedic, aviation medical crew
112 member, juvenile justice employee, or department of corrections
113 employee, who is killed in the line of duty on or after the effective date
114 of this section.

115 5. Notwithstanding subsection 3 of this section, no compensation
116 is payable under this section unless a claim is filed within the time
117 specified under this section setting forth:

118 (1) The name, address, and title or designation of the position in
119 which the officer, emergency medical technician, paramedic, aviation
120 medical crew member, firefighter, juvenile justice employee, or
121 department of corrections employee was serving at the time of his or
122 her death;

123 (2) The names and addresses of the dependents or spouse making
124 a claim to receive the compensation, or if there has been no such
125 designation, the name and address of the personal representative of the
126 deceased;

127 (3) A full, factual account of the circumstances resulting in or the
128 course of events causing the death at issue; and

129 (4) Such other information that is reasonably required by the
130 division.

131 When a claim is filed, the division of workers' compensation shall make
132 an investigation for substantiation of matters set forth in the
133 application.

134 6. The compensation provided for under this section is in
135 addition to, and not exclusive of, any pension rights, death benefits, or
136 other compensation the claimant may otherwise be entitled to by law.

137 7. Any person seeking compensation under the provisions of
138 sections 287.243 and 287.245, who is aggrieved by the decision of the
139 division of workers' compensation regarding his or her compensation
140 claim, may make application for a hearing as provided in section
141 287.450. The procedures applicable to the processing of such hearings
142 and determinations shall be those established by this
143 chapter. Decisions of the administrative law judge under this section
144 shall be binding, subject to review by either party under the provisions
145 of section 287.480.

146 8. Under section 23.253, RSMo, of the Missouri Sunset Act:

147 (1) The provisions of the new program authorized under this
148 section shall automatically sunset six years after the effective date of
149 this section unless reauthorized by an act of the general assembly; and

150 (2) If such program is reauthorized, the program authorized
151 under this section shall automatically sunset twelve years after the
152 effective date of the reauthorization of this section; and

153 (3) This section shall terminate on September first of the
154 calendar year immediately following the calendar year in which the
155 program authorized under this section is sunset.

287.245. 1. There is hereby established in the state treasury, the
2 "Line of Duty Compensation Fund". Funds transferred to the line of
3 duty compensation fund shall be made from general revenue and
4 appropriated solely for the purpose set out in section 287.243. The state
5 treasurer shall be custodian of the fund and may approve
6 disbursements from the fund in accordance with sections 30.170 and
7 30.180, RSMo. The state treasurer shall invest moneys in the fund in
8 the same manner as other funds are invested. Any interest and moneys
9 earned on such investments shall be credited to the fund.

10 2. The division of workers' compensation shall annually submit
11 to the governor and members of the general assembly by February first
12 of each year, a report containing a full and complete account of

13 compensation payments made from the line of duty compensation fund.

14 3. All compensation paid under sections 287.243 and 287.245 and
15 all appropriations for administration of sections 287.243 and 287.245
16 shall be made from the line of duty compensation fund. Any
17 unexpended balance remaining in the line of duty compensation fund
18 at the end of each biennium shall not be subject to the provisions of
19 section 33.080, RSMo, requiring the transfer of such unexpended
20 balance to the general revenue fund of the state, but shall remain in the
21 line of duty compensation fund. In the event that there are insufficient
22 funds in the line of duty compensation fund to pay all claims in full, all
23 claims shall be paid on a pro rata basis. If there are no funds in the
24 line of duty compensation fund, then no claim shall be paid until funds
25 have again accumulated in the line of duty compensation fund. When
26 sufficient funds become available from the fund, compensation which
27 has not been paid shall be paid in chronological order with the oldest
28 paid first. In the event compensation was to be paid in installments
29 and some remaining installments have not been paid due to a lack of
30 funds, then when funds do become available, that compensation shall
31 be paid in full. All such compensation on which installments remain
32 due shall be paid in full in chronological order before any other
33 postdated compensation shall be paid. Any compensation pursuant to
34 this subsection is specifically not a claim against the state if it cannot
35 be paid due to a lack of funds in the line of duty compensation fund.

36 4. Any gifts, contributions, grants, or federal funds specifically
37 given to the division of workers' compensation for the benefit of
38 claimants under sections 287.243 and 287.245 shall be credited to the
39 line of duty compensation fund.

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