

FIRST REGULAR SESSION

HOUSE BILL NO. 401

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHAAF (Sponsor) AND COOPER (Co-sponsor).

1226L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 135, 197, and 287, RSMo, by adding thereto three new sections relating to hospital patient safety.

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

Section A. Chapters 135, 197, and 287, RSMo, are amended by adding thereto three new sections, to be known as sections 135.620, 197.625, and 287.055, to read as follows:

2 **135.620. 1. In computing the tax imposed under chapter 143, RSMo, a hospital**
3 **may take a credit for the cost of purchasing mechanical lifting devices and other equipment**
4 **that are primarily used to minimize patient handling by health care providers, consistent**
5 **with a safe handling program developed and implemented by the hospital in compliance**
6 **with section 197.625, RSMo. The credit shall equal up to fifty percent of the cost of the**
7 **mechanical lift devices or other equipment.**

8 **2. To claim the tax credit allowed under this section, the hospital shall submit to the**
9 **department of health and senior services an application for the tax credit on a form**
10 **provided by the department and any application fee imposed by the department. The**
11 **application shall be filed with the department by October thirty-first in any calendar year**
12 **in which a qualified purchase was made and for which a tax credit is claimed under this**
13 **section. The application shall include any certified documentation and information**
14 **required by the department. Tax credit certificates issued under this section may be**
15 **assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit**
16 **certificate shall have the same rights in the tax credit as the original taxpayer. Whenever**
a tax credit certificate is assigned, transferred, sold or otherwise conveyed, a notarized

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 endorsement shall be filed with the department specifying the name and address of the new
18 owner of the tax credit certificate or the value of the tax credit.

19 **3. The tax credit shall be claimed in the taxable year in which the qualifying**
20 **purchase occurred, but any amount of credit that the taxpayer is prohibited by this section**
21 **from claiming in a taxable year may be carried forward to any of the taxpayer's three**
22 **subsequent taxable years. No refunds shall be granted for credits under this section.**

23 **4. The maximum credit that may be earned under this section for each hospital is**
24 **limited to one thousand dollars for each acute care available inpatient bed.**

25 **5. Credits are available on an aggregate basis. The department shall disallow any**
26 **credits, or portions thereof, that would cause the aggregate amount of credits claimed**
27 **statewide under this section to exceed ten million dollars. If the ten million dollar**
28 **limitation is reached, the department shall notify hospitals that the annual statewide limit**
29 **has been met and any reduction in the amount of tax credit which can be claimed due to**
30 **the cap being exceeded. In addition, the department shall provide written notice to any**
31 **hospital that has claimed tax credits after the ten million dollar limitation in this subsection**
32 **has been met. The notice shall indicate the amount of tax due based on the reduction of**
33 **the credit and shall provide that the tax be paid within thirty days from the date of such**
34 **notice. The department shall not assess penalties and interest on the amount due in the**
35 **initial notice if the amount due is paid by the due date specified in the notice, or any**
36 **extension thereof.**

37 **6. Credits shall not be claimed under this section for the acquisition of mechanical**
38 **lifting devices and other equipment if the acquisition occurred before the effective date of**
39 **this section.**

40 **7. Credits shall not be claimed under this section for any acquisition of mechanical**
41 **lifting devices and other equipment that occurs after December 30, 2014.**

42 **8. The department of health and senior services may promulgate rules to implement**
43 **the provisions of this section. Any rule or portion of a rule, as that term is defined in**
44 **section 536.010, RSMo, that is created under the authority delegated in this section shall**
45 **become effective only if it complies with and is subject to all of the provisions of chapter**
46 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
47 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
48 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
49 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
50 **authority and any rule proposed or adopted after August 28, 2009, shall be invalid and**
51 **void.**

52 **9. The department shall issue an annual report on the amount of credits claimed**
53 **by hospitals under this section, with the first report due on July 1, 2012.**

197.625. 1. As used in this section, the following terms shall mean:

2 **(1) "Lift team", hospital employees specially trained to conduct patient lifts,**
3 **transfers, and repositioning using lifting equipment when appropriate;**

4 **(2) "Musculoskeletal disorders", conditions that involve the nerves, tendons,**
5 **muscles, and supporting structures of the body;**

6 **(3) "Safe patient handling", the use of engineering controls, lifting and transfer**
7 **aids, or assistive devices, by lift teams or other staff instead of manual lifting, to perform**
8 **the acts of lifting, transferring, and repositioning health care patients and residents.**

9 **2. By January 1, 2010, each hospital shall establish a safe patient handling**
10 **committee either by creating a new committee or assigning the functions of a safe patient**
11 **handling committee to an existing committee. The purpose of the committee is to design**
12 **and recommend the process for implementing a safe patient handling program. At least**
13 **half of the members of the safe patient handling committee shall be frontline**
14 **nonmanagerial employees who provide direct care to patients unless doing so would**
15 **adversely affect patient care.**

16 **3. By July 1, 2010, each hospital shall establish a safe patient handling program.**
17 **As part of the program, each hospital shall:**

18 **(1) Implement a safe patient handling policy for all shifts and units of the hospital.**
19 **Implementation of the safe patient handling policy may be phased-in with the acquisition**
20 **of equipment under subsection 4 of this section;**

21 **(2) Conduct a patient handling hazard assessment. Such assessment shall be**
22 **considered with such variables as patient-handling tasks, types of nursing units, patient**
23 **populations, and the physical environment of patient care areas;**

24 **(3) Develop a process to identify the appropriate use of the safe patient handling**
25 **policy based on the patient's physical and medical condition and the availability of lifting**
26 **equipment or lift teams. The policy shall include a means to address circumstances under**
27 **which it would be medically contraindicated to use lifting or transfer aids or assistive**
28 **devices for particular patients;**

29 **(4) Conduct an annual performance evaluation of the program to determine its**
30 **effectiveness, with the results of the evaluation reported to the safe patient handling**
31 **committee. The evaluation shall determine the extent to which implementation of the**
32 **program has resulted in a reduction in musculoskeletal disorder caused by patient**
33 **handling, and include recommendations to increase the program's effectiveness; and**

34 **(5) When developing architectural plans for constructing or remodeling a hospital**
35 **or a unit of a hospital in which patient handling and movement occurs, consider the**
36 **feasibility of incorporating patient handling equipment or the physical space and**
37 **construction design needed to incorporate such equipment at a later date.**

38 **4. By January 1, 2013, each hospital shall complete, at a minimum, acquisition of**
39 **their choice of:**

40 **(1) One readily available lift per acute care unit on the same floor unless the safe**
41 **patient handling committee determines a lift is unnecessary in the unit;**

42 **(2) One lift for every ten acute care available patient beds; or**

43 **(3) Equipment for use by lift teams.**

44

45 **Hospitals shall train staff on policies, equipment, and devices at least annually.**

46 **5. Nothing in this section shall preclude lift team members from performing other**
47 **duties as assigned during their shift.**

48 **6. Each hospital shall develop procedures for hospital employees to refuse to**
49 **perform or be involved in patient handling or movement that the hospital employee**
50 **believes in good faith will expose a patient or hospital employee to an unacceptable risk of**
51 **injury. A hospital employee who in good faith follows the procedure developed by the**
52 **hospital in accordance with this subsection shall not be the subject of disciplinary action**
53 **by the hospital for the refusal to perform or be involved in patient handling or movement.**

287.055. 1. By January 1, 2011, the division of workers' compensation shall develop
2 **rules to provide a reduced workers' compensation premium for hospitals that implement**
3 **a safe patient handing program in accordance with section 197.625, RSMo. The rules shall**
4 **include any requirements for obtaining the reduced premium that shall be met by**
5 **hospitals.**

6 **2. The division shall complete an evaluation of the results of the reduced premium,**
7 **including changes in claim frequency and costs, and shall report to the appropriate**
8 **committees of the general assembly by December 1, 2014, and 2016.**

9 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
10 **that is created under the authority delegated in this section shall become effective only if**
11 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
12 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
13 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
14 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
15 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
16 **adopted after August 28, 2009, shall be invalid and void.**

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