

DIVISION OF WORKMEN'S  
COMPENSATION:  
STATUTORY CONSTRUCTION:

Under House Bill No. 286, passed by the 67th General Assembly, employees who, heretofore, filed a rejection of the provisions of Chapter 287, RSMo 1949, that has not been withdrawn, need only file a new rejection upon obtaining new employment.

XXXXXXXXXX

John M. Dalton



August 19, 1953

XXXXXXXXXX  
John C. Johnsen

Mr. Spencer H. Givens, Director  
Division of Workmen's Compensation  
Department of Labor and Industrial  
Relations,  
Jefferson City, Missouri

Dear Sir:

This will acknowledge receipt of your request for an official opinion which reads:

"An amendment to the Missouri Workmen's Compensation Law, changing Subsection 3 of Section 287.060, will become effective August 29, 1953, under the provisions of House Bill No. 286, signed by the Governor on June 8, 1953. For your convenience I enclose a printed copy of the bill.

"Subsection 3 formerly provided that an employee's rejection of law was effective for any and all employments then or thereafter engaged in, until withdrawn. The amendment makes an employee's rejection effective only on the employment at time of rejection or until withdrawn.

"In connection with this amendment, we would appreciate your opinion on the following:

"1. Absent a newly filed rejection of the law by an employee on August 29, 1953, or thereafter, would a rejection now on file and continuing on file August 29, 1953, and thereafter be effective on any and all employments?

"2. If an employee now has on file and continues to have on file August 29, 1953,

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and thereafter a rejection of law, would the filing of a rejection August 29, 1953, or thereafter affect his status under the law? In other words, would not the filing previous to August 29, 1953, continue to be effective for any and all employments - until withdrawn - irrespective of and in spite of a filing under the new provision of the law August 29, 1953, and thereafter?"

The provisions of said House Bill No. 286, passed by the Sixty-seventh General Assembly, do not specifically indicate whether or not employees shall be subject to the requirement of filing another rejection of provisions of said Chapter 287, RSMo 1949, when they, heretofore, filed such a rejection.

The principal difference in Section 287.060, RSMo 1949, repealed by said House Bill No. 286 and Section 287.060 of said House Bill can be found under Subsection 3 thereof, which formerly provided that notice given by the employee shall take effect upon all employment of which he may then and thereafter be employed until the rejection is withdrawn, while Subsection 3 of the new bill provides that such notice shall be given by the employee to take effect only upon the employment of it which he may then be employed until the rejection is withdrawn.

A well established rule of statutory construction is that acts of the Legislature must be held to operate prospectively only, unless a different legislative intent is clearly to be given from the terms. See *Lucas v. Murphy*, 156 S. W. (2d) 686, 384 Mo. 1078.

Ordinarily, the general rule that a statute will be construed to be prospective in operation does not apply to statutes affecting procedure or a legal remedy. See *Benas v. Maher*, 128 Fed. (2d) 247 and *Clark v. K. C. St. L. and C. R. Co.*, 118 S. W. 40, 219 Mo. 524.

There is no impairment of an individual's rights and interest in this instance merely by said House Bill repealing one statute and enacting a new one containing almost the same language with the one exception hereinabove mentioned. Furthermore, the said new bill does not impose any liability on any employee. Actually, it is more in the nature of a procedural and remedial statute, and under the foregoing rules of statutory construction hereinabove announced, such statutes when enacted, apply to all acts whether commenced before or after said enactment. See *Wentz v. Price Candy Co.*, 175 S. W. (2d) 852,

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352 Mo. 1, transferred 168 S. W. (2d) 462.

In view of the foregoing decisions, we are inclined to believe that no new rejection is required to be filed for the present employment under said House Bill, however, after the effective date of said bill, August 29, 1953, said employees will be required to file rejection of such chapter for any new employment.

CONCLUSION.

It is the opinion of this department that subsequent to August 29, 1953, the effective date of said House Bill No. 286, passed by the Sixty-seventh General Assembly, that employees that have heretofore filed a rejection of the provisions of Chapter 287, RSMo 1949, will only be required to file rejections of said chapter when obtaining new employment. Of course, if said employees choose to come within the provisions of said chapter, no rejection need be filed.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Yours truly,

JOHN M. DALTON  
Attorney General

ARH/mv