

A Word on Company Picnics and Recreational Activities

BY: Chris Archer, 2020

287.120 (7) Where the employee's participation in a recreational activity or program is the proximate cause of the injury, benefits or compensation otherwise payable under this chapter for death or disability shall be forfeited regardless that the employer may have promoted, sponsored or supported the recreational activity or program, expressly or impliedly, in whole or in part. The forfeiture of benefits or compensation shall not apply when:

- (a) The employee was directly ordered by the employer to participate in such recreational activity or program:
- (b) The employee was paid wages or travel expenses while participating in such recreational activity or program; or
- (c) The injury from such recreational activity or program occurs on the employer's premises due to an unsafe condition and the employer had actual knowledge of the employee's participation in the recreational activity or program and of the unsafe condition of the premises and failed to either curtail the recreational activity or program or cure the unsafe condition.

Notes:

- The above limitations on company picnic type of accidents has been strictly construed and applied. Before the changes to this section in 1993, any type of suggestion or encouragement by management to participate was used to find an accident compensable.
- The word "voluntary" was deleted in SB1 and 130 that is effective for accidents after 8-28-05.
- **Jones v TWA Inc WD 2002**
During an unpaid lunch break, the claimant decided to take a walk. Before leaving his building, the claimant changed into tennis shoes and was making his way to a walking path when he tripped sustaining injuries. The court of appeals found that Section 287.120.7 (RsMo 1990) limits an employer's liability for injuries sustained by an employee during a recreational activity that otherwise would have been incidental to the employment. Here, the recreational activity was the proximate cause of the injury and therefore was not compensable.