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HOUSE BILL 60

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Joe Thompson

AN ACT

RELATING TO WORKERS' COMPENSATION; CLARIFYING THAT THE
WORKERS' COMPENSATION ACT IS THE EXCLUSIVE REMEDY FOR INJURED
EMPLOYEES; AMENDING SECTIONS OF THE WORKERS' COMPENSATION
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-2 NMSA 1978 (being Laws 1929,
Chapter 113, Section 2, as amended) is amended to read:

"52-1-2. EMPLOYERS WHO COME WITHIN ACT.--The state and
each county, municipality, school district, drainage,
irrigation or conservancy district, public institution and
administrative board thereof employing workers, every
charitable organization employing workers and every private
person, firm or corporation engaged in carrying on for the
purpose of business or trade within this state, and which
employs, directly or indirectly, four or more workers, except

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1 as provided in Section 52-1-6 NMSA 1978, shall become liable
2 to and shall pay to any such worker injured by accident
3 arising out of and in the course of his employment and, in
4 case of his death being occasioned thereby, to such person as
5 may be authorized by the director or appointed by a court to
6 receive the same for the benefit of his dependents,
7 compensation in the manner and amount at the times [~~herein~~]
8 required in the Workers' Compensation Act."

9 Section 2. Section 52-1-9 NMSA 1978 (being Laws 1937,
10 Chapter 92, Section 4, as amended) is amended to read:

11 "52-1-9. RIGHT TO COMPENSATION--EXCLUSIVE.--

12 A. The right to the compensation provided for in
13 [~~this~~] the Workers' Compensation Act, in lieu of any other
14 liability whatsoever, to any and all persons whomsoever, for
15 any personal injury accidentally sustained or death resulting
16 therefrom, shall obtain in all cases where the following
17 conditions occur:

18 [A.] (1) at the time of the accident, the
19 employer has complied with the provisions thereof regarding
20 insurance;

21 [B.] (2) at the time of the accident, the
22 employee is performing service arising out of and in the
23 course of his employment; and

24 [C.] (3) the injury or death is proximately
25 caused by accident arising out of and in the course of his
employment and is not intentionally self-inflicted.

B. The exclusive remedies provided for in the

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1 Workers' Compensation Act shall not be affected if there is
2 no compensation available pursuant to that act for an
3 employee who sustains an injury."

4 Section 3. Section 52-1-22 NMSA 1978 (being Laws 1965,
5 Chapter 295, Section 15, as amended) is amended to read:

6 "52-1-22. WORK NOT CASUAL EMPLOYMENT.--

7 A. As used in the Workers' Compensation Act,
8 unless the context otherwise requires, where any employer
9 procures any work to be done wholly or in part for him by a
10 contractor other than an independent contractor and the work
11 so procured to be done is a part or process in the trade or
12 business or undertaking of [~~such~~] the employer, then [~~such~~]
13 the employer shall be liable to pay all compensation under
14 the Workers' Compensation Act to the same extent as if the
15 work were done without the intervention of such contractor.
16 The work so procured to be done shall not be construed to be
17 "casual employment".

18 B. When a contractor has contracted directly with
19 an owner or owner's agent, and the contractor procures a
20 subcontractor to perform any part of that contract whether
21 wholly or in part:

22 (1) the contractor shall be considered an
23 employer of the subcontractor's employees;

24 (2) the contractor shall have the immunity
25 of an employer provided by the Workers' Compensation Act; and

(3) unless the subcontractor has provided
compensation to his employees, the contractor shall be liable

1 for payment of compensation to the employees of the
2 subcontractor for the work performed.

3 C. The contractor or his insurer may recover the
4 amount of the compensation and the cost of expenses incurred
5 in the recovery from the subcontractor."

6 Section 4. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2000.

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