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HOUSE BILL 502

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO WORKERS' COMPENSATION; CHANGING REQUIREMENTS ON
REHIRING OF INJURED WORKERS.

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

Section 1. Section 52-1-50.1 NMSA 1978 (being Laws 1990
(2nd S.S.), Chapter 2, Section 21) is amended to read:

"52-1-50.1. REHIRING OF INJURED WORKERS. --

A. [~~If an employer is hiring~~] Once the injured
worker reaches maximum medical improvement, the employer shall
offer to rehire [~~the employer's~~], at comparable wages, his
worker who has stopped working due to an injury for which the
worker has received, or is due to receive, benefits under the
Workers' Compensation Act [~~and who applies for his pre-injury
job or modified job similar to the pre-injury job~~], subject to
the following conditions:

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (1) the worker's treating health care provider
2 certifies that the worker is fit to carry out the [~~pre-injury~~
3 ~~job or modified work similar to the pre-injury~~] job without
4 significant risk of reinjury; and

5 (2) the employer has the [~~pre-injury~~] job [~~or~~
6 ~~modified work~~] available.

7 [~~B. If an employer is hiring, that employer shall~~
8 ~~offer to rehire a worker who applies for any job that pays less~~
9 ~~than the pre-injury job and who has stopped working due to an~~
10 ~~injury for which he has received, or is due, benefits under the~~
11 ~~Workers' Compensation Act, provided that the worker is~~
12 ~~qualified for the job and provided that the worker's treating~~
13 ~~health care provider certifies that the worker is fit to carry~~
14 ~~out the job offered. Compensation benefits of a worker rehired~~
15 ~~prior to maximum medical improvement and pursuant to this~~
16 ~~subsection shall be reduced as provided in Section 52-1-25.1~~
17 ~~NMSA 1978.~~

18 ~~C.]~~ B. As used in this section, "rehire" includes
19 putting the injured worker back to active work, regardless of
20 whether he was carried on the employer's payroll during the
21 period of his inability to work.

22 [~~D. The exclusive remedy for a violation of the~~
23 ~~section shall be a fine as specified in Section 52-1-61 NMSA~~
24 ~~1978.]~~

25 C. If the employer does not offer the injured

1 worker a job pursuant to Subsection A of this section, the
2 employer shall provide and the worker is entitled to receive
3 continued temporary total disability benefits for a period of
4 up to six months, or until the worker returns to work for
5 another employer earning at least eighty percent of his
6 preinjury wage, whichever is sooner.

7 D. If the employer does not offer the injured
8 worker a job pursuant to Subsection A of this section, the
9 employer shall provide and the worker is entitled to receive
10 vocational rehabilitation services designed to return the
11 worker to gainful employment in a job related to the former
12 employment or suitable employment in a nonrelated work field."

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