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HOUSE BILL 840

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

INTRODUCED BY

Al Park

AN ACT

RELATING TO WORKERS' COMPENSATION; REMOVING SILICOSIS AND  
ASBESTOSIS EXEMPTIONS IN THE NEW MEXICO OCCUPATIONAL DISEASE  
DISABLEMENT LAW.

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

Section 1. Section 52-3-10 NMSA 1978 (being Laws 1945,  
Chapter 135, Section 10, as amended) is amended to read:

"52-3-10. EMPLOYER LIABILITY FOR COMPENSATION-- CONDITIONS  
WHEN NO PAYMENT TO BE MADE. --

A. There is imposed upon every employer a liability  
for the payment of compensation to every employee of ~~[such]~~ the  
employer who suffers total disablement by reason of an  
occupational disease arising out of his employment; ~~[subject to~~  
~~the following conditions (1) no]~~ provided that compensation  
shall not be paid when the last day of injurious exposure of

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1 the employee to the hazards resulting in an occupational  
2 disease occurred prior to the passage of the New Mexico  
3 Occupational Disease Disablement Law [and

4 ~~(2) no compensation shall be paid in case of~~  
5 ~~silicosis or asbestosis unless during the ten years immediately~~  
6 ~~preceding the disablement the injured employee was exposed to~~  
7 ~~harmful quantities of silicon dioxide dust or asbestos dust for~~  
8 ~~a total period of no less than twelve hundred fifty work shifts~~  
9 ~~in employment in this state and unless disablement results~~  
10 ~~within two years from the last day upon which the employee~~  
11 ~~actually worked for the employer against whom compensation is~~  
12 ~~claimed. For the purpose of computing work shifts under this~~  
13 ~~section, employment for less than one-half of a normal shift~~  
14 ~~shall be disregarded, and employment for one-half or more of a~~  
15 ~~normal shift shall be deemed a full shift].~~

16 B. There is imposed upon every employer a liability  
17 for the payment of compensation to the dependents of every  
18 employee in cases where death results from an occupational  
19 disease arising out of his employment, subject to the following  
20 conditions:

21 (1) [no] compensation shall not be paid when  
22 the last day of exposure of the employee to the hazards  
23 resulting in death from occupational disease occurred prior to  
24 the passage of the New Mexico Occupational Disease [Disablement]  
25 Disablement Law; and

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1                   ~~[(2) no compensation shall be paid for death~~  
2 ~~from silicosis or asbestosis unless during the ten years~~  
3 ~~immediately preceding the disablement the deceased employee was~~  
4 ~~exposed to harmful quantities of silicon dioxide dust or~~  
5 ~~asbestos dust for a period of not less than twelve hundred~~  
6 ~~fifty work shifts in this state;~~

7                   ~~(3) no compensation shall be paid for death~~  
8 ~~from silicosis or asbestosis unless the death results within~~  
9 ~~two years from the last day upon which the employee actually~~  
10 ~~worked for the employer against whom compensation is claimed,~~  
11 ~~except in those cases where death results during a period of~~  
12 ~~continuous disablement from silicosis or asbestosis for which~~  
13 ~~compensation has been paid or awarded or for which a claim,~~  
14 ~~compensable but for such death, is on file with the director,~~  
15 ~~and in these cases compensation shall be paid if death results~~  
16 ~~within five years from the last day upon which the employee~~  
17 ~~actually worked for the employer against whom compensation is~~  
18 ~~claimed; and~~

19                   ~~(4) no~~ (2) compensation shall not be paid  
20 for death from an occupational disease [~~other than silicosis or~~  
21 ~~asbestosis~~] unless death results within one year from the last  
22 day upon which the employee actually worked for the employer  
23 against whom compensation is claimed, except in those cases  
24 where death results during a period of continuous disablement  
25 from an occupational disease [~~other than silicosis or~~

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1 ~~asbestosis~~] for which compensation has been paid or awarded or  
2 for which a claim, compensable but for such death, is on file  
3 with the director, and in these cases compensation shall be  
4 paid if death results within three years from the last day upon  
5 which the employee actually worked for the employer against  
6 whom compensation is claimed.

7 C. The time limits prescribed by this section shall  
8 not apply in the case of an employee whose disablement or death  
9 is due to occupational exposure to radioactive or fissionable  
10 materials, provided [~~no~~] that compensation shall not be paid in  
11 such a case unless [~~such~~] the disablement or death occurs  
12 within ten years from the last day upon which the employee  
13 actually worked for the employer against whom compensation is  
14 claimed. "

15 Section 2. Section 52-3-11 NMSA 1978 (being Laws 1945,  
16 Chapter 135, Section 11) is amended to read:

17 "52-3-11. LAST EMPLOYER LIABLE [~~EXCEPTION~~]. -- Where  
18 compensation is payable for an occupational disease, the only  
19 employer liable shall be the employer in whose employment the  
20 employee was last injuriously exposed to the hazards of  
21 employment resulting in [~~such~~] the disease [~~provided that in~~  
22 ~~the case of silicosis or asbestosis, the only employer liable~~  
23 ~~shall be the employer in whose employment the employee was last~~  
24 ~~exposed to harmful quantities of silicon dioxide (SiO2) dust or~~  
25 ~~asbestos dust during a period of sixty days or more]. "~~

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