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SENATE BILL 814

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

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR EXEMPTION OF CERTAIN NATIONAL GUARD MEMBERS FROM LIMITATION ON TIME FOR FILING A WORKERS' COMPENSATION CLAIM

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

Section 1. Section 52-1-29 NMSA 1978 (being Laws 1959, Chapter 67, Section 8, as amended) is amended to read:

"52-1-29. NOTICE OF ACCIDENT TO EMPLOYER--EMPLOYER TO POST CLEAR NOTICE OF REQUIREMENT. --

A. ~~Any~~ A worker claiming to be entitled to compensation from ~~any~~ an employer shall give notice in writing to his employer of the accident, except as provided in Subsection B of this section, within fifteen days after the worker knew, or should have known, of its occurrence, unless, by reason of his injury or some other cause beyond his control,

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1 the worker is prevented from giving notice within that time, in  
2 which case he shall give notice as soon as may reasonably be  
3 done and at all events not later than sixty days after the  
4 occurrence of the accident. [~~No~~] Written notice is not  
5 required to be given where the employer or [~~any~~] a  
6 superintendent or foreman or other agent in charge of the work  
7 in connection with which the accident occurred had actual  
8 knowledge of its occurrence.

9 B. A member of the national guard whose injury  
10 occurred while on state-ordered duty and who has received  
11 federal veterans' disability benefits as a result of that  
12 injury is not required to give notice to his employer as  
13 required by Subsection A of this section.

14 [~~B.—Each~~] C. An employer shall post, and keep  
15 posted in conspicuous places upon his premises where notices to  
16 employees and applicants for employment are customarily posted,  
17 a notice that advises workers of the requirement specified in  
18 Subsection A of this section to give the employer notice in  
19 writing of an accident within fifteen days of its occurrence.  
20 The notice shall be prepared or approved by the director. The  
21 failure of an employer to post the notice required in this  
22 subsection shall toll the time a worker has to give the notice  
23 in writing specified in Subsection A of this section up to but  
24 no longer than the maximum sixty-day period.

25 [~~C.—~~] D. The notice required in Subsection [~~B~~] C of

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1 this section shall include as an attachment to it a preprinted  
2 form, which shall be approved by the director, that allows the  
3 worker to note and briefly describe ~~the~~ an accident and sign  
4 his name. The employer, ~~any~~ a superintendent or foreman, or  
5 ~~any~~ an agent of the employer in charge of the work where the  
6 accident occurred shall also sign the preprinted form that  
7 describes the accident. That signature shall not be a  
8 concession by the employer of any rights or defenses. It  
9 merely acknowledges receipt by the employer or his agent of the  
10 form signed by the worker. The preprinted form shall be  
11 prepared in duplicate so that both the worker and the employer  
12 can retain copies. "

13 Section 2. Section 52-1-31 NMSA 1978 (being Laws 1959,  
14 Chapter 67, Section 10, as amended) is amended to read:

15 "52-1-31. CLAIM TO BE FILED FOR WORKERS' COMPENSATION--  
16 EFFECT OF FAILURE TO GIVE REQUIRED NOTICE OR TO FILE CLAIM  
17 WITHIN TIME ALLOWED. --

18 A. If an employer or his insurer fails or refuses  
19 to pay a worker any installment of compensation to which the  
20 worker is entitled under the Workers' Compensation Act, after  
21 notice has been given as required by Section 52-1-29 NMSA 1978,  
22 it is the duty of the worker insisting on the payment of  
23 compensation, except as provided in Section B of this section,  
24 to file a claim ~~therefor~~ as provided in the Workers'  
25 Compensation Act not later than one year after the failure or

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1 refusal of the employer or insurer to pay compensation. This  
2 one-year period of limitations shall be tolled during the time  
3 a worker remains employed by the employer by whom he was  
4 employed at the time of ~~[such]~~ the accidental injury, not to  
5 exceed a period of one year. If the worker fails to give  
6 notice in the manner and within the time required by Section  
7 52-1-29 NMSA 1978 or if the worker fails to file a claim for  
8 compensation within the time required by this section, his  
9 claim for compensation, all his right to the recovery of  
10 compensation and the bringing of any proceeding for the  
11 recovery of compensation are forever barred.

12 B. A member of the national guard whose injury  
13 occurred while on state-ordered duty and who has received  
14 federal veterans' disability benefits as a result of that  
15 injury is not subject to the one-year period of limitation on  
16 filing a claim required by Subsection A of this section.

17 ~~[B.]~~ C. In case of the death of a worker who would  
18 have been entitled to receive compensation if death had not  
19 occurred, claim for compensation may be filed on behalf of his  
20 eligible dependents to recover compensation from the employer  
21 or his insurer. Payment may be received or claim filed by any  
22 person whom the director or the court may authorize or permit  
23 on behalf of the eligible beneficiaries. ~~[No]~~ A claim shall  
24 not be filed, however, to recover compensation benefits for the  
25 death of the worker unless he or someone on his behalf or on

