S T A T E  O F  N E W  Y O R K

1437

2011-2012 Regular Sessions

I N  A S S E M B L Y

January 10, 2011

Introduced by M. of A. DINOWITZ, GOTTFRIED, CLARK, MAISEL -- Multi-Sponsored by -- M. of A. GALEF, JAFFEE, MAYERSOHN, McDONOUGH, McENENY, SPANO, THIELE -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to occupational disease caused by tobacco smoke in the work place

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 28 of the workers' compensation law, as amended by chapter 659 of the laws of 1984, is amended to read as follows:

S 28. Limitation of right to compensation. The right to claim compensation under this chapter shall be barred, except as hereinafter provided, unless within two years after the accident, or if death results therefrom within two years after such death, a claim for compensation shall be filed with the chairman, but the employer and insurance carrier shall be deemed to have waived the bar of the statute unless the objection to the failure to file the claim within two years is raised on the first hearing on such claim at which all parties in interest are present. The right of an employee to claim compensation under this chapter for disablement caused by any occupational disease including but not limited to compressed air illness or its sequelae, silicosis or other dust disease, latent or delayed pathological bone, blood or lung changes or malignancies due to occupational exposure to or contact with arsenic, benzol, beryllium, zirconium, cadmium, chrome, lead or fluorine [or], to exposure to x-rays, radium, ionizing radiation, radio-active substances, or any other chemical compound *OR TO OCCUPATIONAL EXPOSURE TO TOBACCO SMOKE* shall not be barred by the failure of the employee to file a claim within such period of two years, provided such claim shall be filed after such period of two years and within two years after disablement and after the claimant knew or should have known that the disease is or was due to the nature of the employment. No case in which an advance payment is made to an employee or to his dependents in case

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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of death shall be barred by the failure of the employee or his dependents to file a claim, and the board may at any time order a hearing on any such case in the same manner as though a claim for compensation had been filed.

S 2. This act shall take effect immediately.