

9143

I N A S S E M B L Y

January 27, 2012

Introduced by M. of A. PERRY -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to limiting liability for compensation in cases when the claim is made by an employee who sustained his or her injury during the commission of certain felonies

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

1 Section 1. Subdivision 1 of section 10 of the workers' compensation
2 law, as amended by chapter 924 of the laws of 1990, is amended and a new
3 subdivision 5 is added to read as follows:
4 1. Every employer subject to this chapter shall in accordance with
5 this chapter, except as otherwise provided in section twenty-five-a
6 [hereof] OF THIS ARTICLE, secure compensation to his employees and pay
7 or provide compensation for their disability or death from injury arising
8 out of and in the course of the employment without regard to fault
9 as a cause of the injury, except that there shall be no liability for
10 compensation under this chapter when the injury has been solely occasioned
11 by intoxication from alcohol or a controlled substance of the
12 injured employee while on duty; or by wilful intention of the injured
13 employee to bring about the injury or death of himself or another; OR BY
14 THE COMMISSION OF AN OFFENSE SPECIFIED IN SUBDIVISION FIVE OF THIS
15 SECTION; or where the injury was sustained in or caused by voluntary
16 participation in an off-duty athletic activity not constituting part of
17 the employee's work related duties unless the employer (a) requires the
18 employee to participate in such activity, (b) compensates the employee
19 for participating in such activity or (c) otherwise sponsors the activity.
20
21 5. THERE SHALL BE NO LIABILITY FOR COMPENSATION UNDER THIS CHAPTER
22 WHEN THE INJURY HAS BEEN SOLELY OCCASIONED THROUGH THE COMMISSION BY THE
23 INJURED EMPLOYEE OF AN OFFENSE SPECIFIED IN SECTION ELEVEN HUNDRED NINE-
24 TY-TWO OR ELEVEN HUNDRED NINETY-TWO-A OF THE VEHICLE AND TRAFFIC LAW OR
25 AN OFFENSE SPECIFIED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-
26 ONE, ONE HUNDRED THIRTY OR ONE HUNDRED THIRTY-FIVE OF THE PENAL LAW OR

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

LBD13479-02-1

1 AN OFFENSE SPECIFIED IN SECTION 125.10 (CRIMINALLY NEGLIGENT HOMICIDE),
2 125.11 (AGGRAVATED CRIMINALLY NEGLIGENT HOMICIDE), 125.12 (VEHICULAR
3 MANSLAUGHTER IN THE SECOND DEGREE), 125.13 (VEHICULAR MANSLAUGHTER IN
4 THE FIRST DEGREE), 125.14 (AGGRAVATED VEHICULAR HOMICIDE), 125.15
5 (MANSLAUGHTER IN THE SECOND DEGREE), 125.20 (MANSLAUGHTER IN THE FIRST
6 DEGREE), 125.21 (AGGRAVATED MANSLAUGHTER IN THE SECOND DEGREE), 125.22
7 (AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE), 125.25 (MURDER IN THE
8 SECOND DEGREE), 125.26 (AGGRAVATED MURDER) OR 125.27 (MURDER IN THE
9 FIRST DEGREE) OF THE PENAL LAW AND THE EMPLOYEE HAS BEEN CONVICTED OF
10 SUCH OFFENSE. ACQUITTAL OR DISMISSAL OF CHARGES RELATING TO THE OFFENSE
11 SHALL NOT GIVE RISE TO A PRESUMPTION THAT THE EMPLOYEE IS ELIGIBLE FOR
12 COMPENSATION UNDER THIS CHAPTER. AN EMPLOYER WHO TERMINATES OR REFUSES
13 TO PAY COMPENSATION TO AN EMPLOYEE UNTIL THE TERMINATION OF ANY PENDING
14 CRIMINAL PROCEEDINGS SHALL NOT BE LIABLE FOR ANY PENALTY UNDER THIS
15 CHAPTER FOR NON-PAYMENT OF COMPENSATION.
16 S 2. This act shall take effect immediately.