

4786

2013-2014 Regular Sessions

I N A S S E M B L Y

February 8, 2013

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 ASSEM-
BLY, 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 aris-
8 ing 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 occa-
11 sioned 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 activ-
20 ity.
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-

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

LBD00121-01-3

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

19 S 2. This act shall take effect immediately.