STATE OF NEW YORK

2719

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

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:

Section 1. Subdivision 1 of section 10 of the workers' compensation law, as amended by chapter 924 of the laws of 1990, is amended and a new subdivision 5 is added to read as follows:

1. Every employer subject to this chapter shall in accordance with this chapter, except as otherwise provided in section twenty-five-a [~~hereof~~] **of this article**, secure compensation to his employees and pay or provide compensation for their disability or death from injury arising out of and in the course of the employment without regard to fault as a cause of the injury, except that there shall be no liability for compensation under this chapter when the injury has been solely occasioned by intoxication from alcohol or a controlled substance of the injured employee while on duty; or by wilful intention of the injured employee to bring about the injury or death of himself or another; **or by the commission of an offense specified in subdivision five of this section;** or where the injury was sustained in or caused by voluntary participation in an off-duty athletic activity not constituting part of the employee's work related duties unless the employer (a) requires the employee to participate in such activity, (b) compensates the employee for participating in such activity or (c) otherwise sponsors the activity.

5. There shall be no liability for compensation under this chapter when the injury has been solely occasioned through the commission by the 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.

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ty-two or eleven hundred ninety-two-a of the vehicle and traffic law or an offense specified in article one hundred twenty, one hundred twenty-one, one hundred thirty or one hundred thirty-five of the penal law or an offense specified in section 125.10 (criminally negligent homicide), 125.11 (aggravated criminally negligent homicide), 125.12 (vehicular manslaughter in the second degree), 125.13 (vehicular manslaughter in the first degree), 125.14 (aggravated vehicular homicide), 125.15 (manslaughter in the second degree), 125.20 (manslaughter in the first degree), 125.21 (aggravated manslaughter in the second degree), 125.22 (aggravated manslaughter in the first degree), 125.25 (murder in the second degree), 125.26 (aggravated murder) or 125.27 (murder in the first degree) of the penal law and the employee has been convicted of such offense. Acquittal or dismissal of charges relating to the offense shall not give rise to a presumption that the employee is eligible for compensation under this chapter. An employer who terminates or refuses to pay compensation to an employee until the termination of any pending criminal proceedings shall not be liable for any penalty under this chapter for non-payment of compensation.

§ 2. This act shall take effect immediately.