

STATE OF NEW YORK

8441

2025-2026 Regular Sessions

IN SENATE

June 12, 2025

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the workers' compensation law, in relation to protecting the right of action for workers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 11 of the workers' compensation
2 law, as amended by chapter 835 of the laws of 2022, is amended to read
3 as follows:
4 1. The liability of an employer prescribed by the last preceding
5 section shall be exclusive and in place of any other liability whatsoever,
6 to such employee, [~~his or her~~] such employee's personal representa-
7 tives, spouse, parents, dependents, distributees, or any person other-
8 wise entitled to recover damages, contribution or indemnity, at common
9 law or otherwise, on account of such injury or death or liability arising
10 therefrom, except that if an employer fails to secure the payment of
11 compensation for [~~his or her~~] such employer's injured employees and
12 their dependents as provided in section fifty of this chapter, an
13 injured employee, or [~~his or her~~] such employee's legal representative
14 in case of death results from the injury, may, at [~~his or her~~] such
15 employee's option, elect to claim compensation under this chapter, or to
16 maintain an action in the courts for damages on account of such injury;
17 provided, further, that if an injury or death or liability arises after
18 the commissioner of labor fails to act within one hundred twenty days
19 on a complaint filed pursuant to subdivision five of section twenty-sev-
20 en-a of the labor law or paragraph b of subdivision six of section twen-
21 ty-seven-b of the labor law against a public employer as defined by
22 subparagraph (i) of paragraph (a) of subdivision six of section two
23 hundred one of the civil service law, an injured employee, or such
24 employee's legal representative in case of death resulting from the
25 injury, may, at such employee's option, elect to claim compensation

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

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1 under this chapter, or to maintain an action in the courts for damages
2 on account of such injury; and, provided, further, that if an injury or
3 death or liability arises after the commissioner of labor fails to act
4 within ninety days on a complaint filed pursuant to subdivision five-a
5 of section twenty-seven-a of the labor law or paragraph h of subdivision
6 six of section twenty-seven-b of the labor law against a public employer
7 as defined by subparagraph (i) of paragraph (a) of subdivision six of
8 section two hundred one of the civil service law, an injured employee,
9 or such employee's legal representative in case of death resulting from
10 the injury, may, at such employee's option, elect to claim compensation
11 under this chapter, or to maintain an action in the courts for damages
12 on account of such injury; provided, further, that if an injury or death
13 or liability arises after an employer as defined by subparagraph (i) of
14 paragraph (a) of subdivision six of section two hundred one of the civil
15 service law fails to remediate the violations identified pursuant to
16 subdivision six of section twenty-seven-a of the labor law within sixty
17 days, an injured employee, or such employee's legal representative in
18 case of death resulting from the injury, may, at such employee's option,
19 elect to claim compensation under this chapter, or to maintain an action
20 in the courts for damages on account of such injury and in such an
21 action it shall not be necessary to plead or prove freedom from contrib-
22 utory negligence nor may the defendant plead as a defense that the inju-
23 ry was caused by the negligence of a fellow servant nor that the employ-
24 ee assumed the risk of [~~his or her~~] such employee's employment, nor that
25 the injury was due to the contributory negligence of the employee. The
26 liability under this chapter of The New York Jockey Injury Compensation
27 Fund, Inc. created under section two hundred twenty-one of the racing,
28 pari-mutuel wagering and breeding law shall be limited to the provision
29 of workers' compensation coverage to jockeys, apprentice jockeys, exer-
30 cise persons, and at the election of the New York Jockey Injury Compen-
31 sation Fund, Inc., with the approval of the New York state gaming
32 commission, employees of licensed trainers or owners licensed under
33 article two or four of the racing, pari-mutuel wagering and breeding law
34 and any statutory penalties resulting from the failure to provide such
35 coverage.

36 § 2. This act shall take effect on the ninetieth day after it shall
37 have become a law.