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:

Section 1. Subdivision 1 of section 11 of the workers' compensation law, as amended by chapter 835 of the laws of 2022, is amended to read as follows:

1. The liability of an employer prescribed by the last preceding section shall be exclusive and in place of any other liability whatsoever, to such employee, [~~his or her~~] **such employee's** personal representatives, spouse, parents, dependents, distributees, or any person otherwise entitled to recover damages, contribution or indemnity, at common law or otherwise, on account of such injury or death or liability arising therefrom, except that if an employer fails to secure the payment of compensation for [~~his or her~~] **such employer's** injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or [~~his or her~~] **such employee's** legal representative in case of death results from the injury, may, at [~~his or her~~] **such employee's** option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; **provided, further, that if an injury or death or liability arises after the commissioner of labor fails to act within one hundred twenty days on a complaint filed pursuant to subdivision five of section twenty-seven-a of the labor law or paragraph b of subdivision six of section twenty-seven-b of the labor law against a public employer as defined by subparagraph (i) of paragraph (a) of subdivision six of section two hundred one of the civil service law, an injured employee, or such employee's legal representative in case of death resulting from the 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.

LBD13378-01-5

under this chapter, or to maintain an action in the courts for damages on account of such injury; and, provided, further, that if an injury or death or liability arises after the commissioner of labor fails to act within ninety days on a complaint filed pursuant to subdivision five-a of section twenty-seven-a of the labor law or paragraph h of subdivision six of section twenty-seven-b of the labor law against a public employer as defined by subparagraph (i) of paragraph (a) of subdivision six of section two hundred one of the civil service law, an injured employee, or such employee's legal representative in case of death resulting from the injury, may, at such employee's option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; provided, further, that if an injury or death or liability arises after an employer as defined by subparagraph (i) of paragraph (a) of subdivision six of section two hundred one of the civil service law fails to remediate the violations identified pursuant to subdivision six of section twenty-seven-a of the labor law within sixty days, an injured employee, or such employee's legal representative in case of death resulting from the injury, may, at such employee's option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of [~~his or her~~] such employee's employment, nor that the injury was due to the contributory negligence of the employee. The liability under this chapter of The New York Jockey Injury Compensation Fund, Inc. created under section two hundred twenty-one of the racing, pari-mutuel wagering and breeding law shall be limited to the provision of workers' compensation coverage to jockeys, apprentice jockeys, exercise persons, and at the election of the New York Jockey Injury Compensation Fund, Inc., with the approval of the New York state gaming commission, employees of licensed trainers or owners licensed under article two or four of the racing, pari-mutuel wagering and breeding law and any statutory penalties resulting from the failure to provide such coverage.

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