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SENATE BILL 357

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Roman M. Maes III

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING CRITERIA TO  
DETERMINE WHEN THE WORKERS' COMPENSATION ACT IS APPLIED TO  
CERTAIN EMPLOYERS; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-6 NMSA 1978 (being Laws 1990  
(2nd S.S.), Chapter 2, Section 4) is amended to read:

"52-1-6. APPLICATION OF PROVISIONS OF ACT. -

~~[A. The provisions of the Workers' Compensation  
Act shall apply to employers of three or more workers;  
provided that act shall apply to all employers engaged in  
activities required to be licensed under the provisions of the  
Construction Industries Licensing Act regardless of the number  
of employees. The provisions of the Workers' Compensation Act  
shall not apply to employers of private domestic servants and~~

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1 ~~farm and ranch laborers.]~~

2           A. The provisions of the Workers' Compensation  
3 Act:

4                   (1) apply to employers of three or more  
5 employees except as otherwise provided in this subsection;

6                   (2) apply to employers engaged in activities  
7 required to be licensed pursuant to the provisions of the  
8 Construction Industries Licensing Act regardless of the number  
9 of employees unless the employer employs only:

10                           (a) one employee who is a clerical  
11 worker who does not engage in employment activities on a  
12 construction work site and the employer is a sole  
13 proprietorship; or

14                           (b) two employees, one of whom is a  
15 clerical worker who does not engage in employment activities  
16 on a construction work site and the other of whom is an  
17 officer or principal of the business entity engaged in  
18 activities required to be licensed; and

19                   (3) do not apply to employers of private  
20 domestic servants and farm and ranch laborers.

21           B. An election to be subject to the Workers'  
22 Compensation Act by employers of private domestic servants or  
23 farm and ranch laborers, by persons for whom the services of  
24 qualified real estate salespersons are performed or by a  
25 partner or self-employed person may be made by filing, in the

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1 office of the director, either a sworn statement to the effect  
2 that the employer accepts the provisions of the Workers'  
3 Compensation Act or an insurance or security undertaking as  
4 required by Section 52-1-4 NMSA 1978.

5 C. Every worker shall be conclusively presumed to  
6 have accepted the provisions of the Workers' Compensation Act  
7 if his employer is subject to the provisions of that act and  
8 has complied with its requirements, including insurance.

9 D. [~~Such~~] Compliance with the provisions of the  
10 Workers' Compensation Act, including the provisions for  
11 insurance, shall be [~~and construed to be~~] a surrender by the  
12 employer and the worker of their rights to any other method,  
13 form or amount of compensation or determination thereof or to  
14 any cause of action at law, suit in equity or statutory or  
15 common-law right to remedy or proceeding whatever for or on  
16 account of personal injuries or death of the worker than as  
17 provided in the Workers' Compensation Act and shall be an  
18 acceptance of all of the provisions of the Workers'  
19 Compensation Act and shall bind the worker himself and, for  
20 compensation for his death, shall bind his personal  
21 representative, his surviving spouse and next of kin, as well  
22 as the employer and those conducting his business during  
23 bankruptcy or insolvency.

24 E. The Workers' Compensation Act provides exclusive  
25 remedies. No cause of action outside the Workers'

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1 Compensation Act shall be brought by an employee or dependent  
2 against the employer or his representative, including the  
3 insurer, guarantor or surety of any employer, for any matter  
4 relating to the occurrence of or payment for any injury or  
5 death covered by the Workers' Compensation Act. Nothing in  
6 the Workers' Compensation Act, however, shall affect [~~or be~~  
7 ~~construed to affect~~] in any way, the existence of or the mode  
8 of trial of any claim or cause of action that the worker has  
9 against any person other than his employer or another employee  
10 of his employer, including a management or supervisory  
11 employee, or the insurer, guarantor or surety of his  
12 employer. "

13 Section 2. EFFECTIVE DATE. -- The effective date of the  
14 provisions of this act is July 1, 2002.

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