

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 5

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST EXTRAORDINARY SESSION, 2002

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR EXEMPTION OF
CERTAIN NATIONAL GUARD MEMBERS FROM LIMITATION ON TIME FOR
FILING A WORKERS' COMPENSATION CLAIM

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

Section 1. Section 52-1-29 NMSA 1978 (being Laws 1959,
Chapter 67, Section 8, as amended) is amended to read:

"52-1-29. NOTICE OF ACCIDENT TO EMPLOYER--EMPLOYER TO
POST CLEAR NOTICE OF REQUIREMENT.--

A. ~~[Any]~~ A worker claiming to be entitled to
compensation from ~~[any]~~ an employer shall give notice in
writing to his employer of the accident, except as provided in
Subsection B of this section, within fifteen days after the
worker knew, or should have known, of its occurrence, unless,
by reason of his injury or some other cause beyond his

underscored material = new
[bracketed material] = delete

1 control, the worker is prevented from giving notice within
2 that time, in which case he shall give notice as soon as may
3 reasonably be done and at all events not later than sixty days
4 after the occurrence of the accident. [~~No~~] Written notice is
5 not required to be given where the employer or any
6 superintendent or foreman or other agent in charge of the work
7 in connection with which the accident occurred had actual
8 knowledge of its occurrence.

9 B. A member of the national guard whose injury
10 occurred while on state-ordered duty and who has received
11 federal veterans' disability benefits as a result of that
12 injury is not required to give notice to his employer as
13 required by Subsection A of this section.

14 [~~B.-~~] C. Each employer shall post, and keep posted
15 in conspicuous places upon his premises where notices to
16 employees and applicants for employment are customarily
17 posted, a notice that advises workers of the requirement
18 specified in Subsection A of this section to give the employer
19 notice in writing of an accident within fifteen days of its
20 occurrence. The notice shall be prepared or approved by the
21 director. The failure of an employer to post the notice
22 required in this subsection shall toll the time a worker has
23 to give the notice in writing specified in Subsection A of
24 this section up to but no longer than the maximum sixty-day
25 period.

. 141886. 1

underscored material = new
[bracketed material] = delete

1 ~~[C-]~~ D. The notice required in Subsection ~~[B]~~ C of
2 this section shall include as an attachment to it a preprinted
3 form, which shall be approved by the director, that allows the
4 worker to note and briefly describe ~~[the]~~ an accident and sign
5 his name. The employer, ~~[any]~~ a superintendent or foreman, or
6 ~~[any]~~ an agent of the employer in charge of the work where the
7 accident occurred shall also sign the preprinted form that
8 describes the accident. That signature shall not be a
9 concession by the employer of any rights or defenses. It
10 merely acknowledges receipt by the employer or his agent of
11 the form signed by the worker. The preprinted form shall be
12 prepared in duplicate so that both the worker and the employer
13 can retain copies. "

14 Section 2. Section 52-1-31 NMSA 1978 (being Laws 1959,
15 Chapter 67, Section 10, as amended) is amended to read:

16 "52-1-31. CLAIM TO BE FILED FOR WORKERS' COMPENSATION--
17 EFFECT OF FAILURE TO GIVE REQUIRED NOTICE OR TO FILE CLAIM
18 WITHIN TIME ALLOWED. --

19 A. If an employer or his insurer fails or refuses
20 to pay a worker any installment of compensation to which the
21 worker is entitled under the Workers' Compensation Act, after
22 notice has been given as required by Section 52-1-29 NMSA
23 1978, it is the duty of the worker insisting on the payment of
24 compensation, except as provided in Subsection B of this
25 section, to file a claim ~~[therefor]~~ as provided in the

underscored material = new
[bracketed material] = delete

1 Workers' Compensation Act not later than one year after the
2 failure or refusal of the employer or insurer to pay
3 compensation. This one-year period of limitations shall be
4 tolled during the time a worker remains employed by the
5 employer by whom he was employed at the time of ~~[such]~~ the
6 accidental injury, not to exceed a period of one year. If the
7 worker fails to give notice in the manner and within the time
8 required by Section 52-1-29 NMSA 1978 or if the worker fails
9 to file a claim for compensation within the time required by
10 this section, his claim for compensation, all his right to the
11 recovery of compensation and the bringing of any proceeding
12 for the recovery of compensation are forever barred.

13 B. A member of the national guard whose injury
14 occurred while on state-ordered duty and who has received
15 federal veterans' disability benefits as a result of that
16 injury is not subject to the one-year period of limitation on
17 filing a claim required by Subsection A of this section.

18 ~~[B.]~~ C. In case of the death of a worker who would
19 have been entitled to receive compensation if death had not
20 occurred, claim for compensation may be filed on behalf of his
21 eligible dependents to recover compensation from the employer
22 or his insurer. Payment may be received or claim filed by any
23 person whom the director or the court may authorize or permit
24 on behalf of the eligible beneficiaries. ~~[No]~~ A claim shall
25 not be filed, however, to recover compensation benefits for

. 141886. 1

underscored material = new
[bracketed material] = delete

1 the death of the worker unless he or someone on his behalf or
2 on behalf of his eligible dependents has given notice in the
3 manner and within the time required by Section 52-1-29 NMSA
4 1978 and unless the claim is filed within one year from the
5 date of the worker's death. "

6 - 5 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25