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HOUSE BILL 320

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Raymond M Ruiz

AN ACT

RELATING TO WORKERS' COMPENSATION; REMOVING SILICOSIS AND
ASBESTOSIS EXEMPTIONS IN THE NEW MEXICO OCCUPATIONAL DISEASE
DISABLEMENT LAW; PROVIDING FOR RETROACTIVE APPLICABILITY OF THE
NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW.

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

Section 1. Section 52-3-10 NMSA 1978 (being Laws 1945,
Chapter 135, Section 10, as amended) is amended to read:

"52-3-10. EMPLOYER LIABILITY FOR COMPENSATION-- CONDITIONS
WHEN NO PAYMENT TO BE MADE. --

A. There is imposed upon every employer a liability
for the payment of compensation to every employee of ~~[such]~~ the
employer who suffers total disablement by reason of an
occupational disease arising out of his employment; ~~[subject to~~
~~the following conditions: (1) no]~~ provided that compensation

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1 shall not be paid when the last day of injurious exposure of
2 the employee to the hazards resulting in an occupational
3 disease occurred prior to the passage of the New Mexico
4 Occupational Disease Disablement Law [~~and~~

5 ~~(2) no compensation shall be paid in case of~~
6 ~~silicosis or asbestosis unless during the ten years immediately~~
7 ~~preceding the disablement the injured employee was exposed to~~
8 ~~harmful quantities of silicon dioxide dust or asbestos dust for~~
9 ~~a total period of no less than twelve hundred fifty work shifts~~
10 ~~in employment in this state and unless disablement results~~
11 ~~within two years from the last day upon which the employee~~
12 ~~actually worked for the employer against whom compensation is~~
13 ~~claimed. For the purpose of computing work shifts under this~~
14 ~~section, employment for less than one-half of a normal shift~~
15 ~~shall be disregarded, and employment for one-half or more of a~~
16 ~~normal shift shall be deemed a full shift].~~

17 B. There is imposed upon every employer a liability
18 for the payment of compensation to the dependents of every
19 employee in cases where death results from an occupational
20 disease arising out of his employment; [~~subject to the~~
21 ~~following conditions:~~

22 ~~(1) no compensation shall be paid when the~~
23 ~~last day of exposure of the employee to the hazards resulting~~
24 ~~in death from occupational disease occurred prior to the~~
25 ~~passage of the New Mexico Occupational Disease Disablement Law;~~

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1 ~~(2) no compensation shall be paid for death~~
2 ~~from silicosis or asbestosis unless during the ten years~~
3 ~~immediately preceding the disablement the deceased employee was~~
4 ~~exposed to harmful quantities of silicon dioxide dust or~~
5 ~~asbestos dust for a period of not less than twelve hundred~~
6 ~~fifty work shifts in this state;~~

7 ~~(3) no compensation shall be paid for death~~
8 ~~from silicosis or asbestosis unless the death results within~~
9 ~~two years from the last day upon which the employee actually~~
10 ~~worked for the employer against whom compensation is claimed,~~
11 ~~except in those cases where death results during a period of~~
12 ~~continuous disablement from silicosis or asbestosis for which~~
13 ~~compensation has been paid or awarded or for which a claim,~~
14 ~~compensable but for such death, is on file with the director,~~
15 ~~and in these cases compensation shall be paid if death results~~
16 ~~within five years from the last day upon which the employee~~
17 ~~actually worked for the employer against whom compensation is~~
18 ~~claimed; and~~

19 ~~(4) no compensation shall be paid for death~~
20 ~~from an occupational disease other than silicosis or asbestosis~~
21 ~~unless death results within one year from the last day upon~~
22 ~~which the employee actually worked for the employer against~~
23 ~~whom compensation is claimed, except in those cases where death~~
24 ~~results during a period of continuous disablement from an~~
25 ~~occupational disease other than silicosis or asbestosis for~~

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1 ~~which compensation has been paid or awarded or for which a~~
2 ~~claim, compensable but for such death, is on file with the~~
3 ~~director, and in these cases compensation shall be paid if~~
4 ~~death results within three years from the last day upon which~~
5 ~~the employee actually worked for the employer against whom~~
6 ~~compensation is claimed]~~ provided that compensation shall not
7 be paid when the last day of injurious exposure of the employee
8 to the hazards resulting in an occupational disease occurred
9 prior to the passage of the New Mexico Occupational Disease
10 Disablement Law.

11 C. The time limits prescribed by this section shall
12 not apply in the case of an employee whose disablement or death
13 is due to occupational exposure to radioactive or fissionable
14 materials, provided [no] that compensation shall not be paid in
15 such a case unless [such] the disablement or death occurs
16 within ten years from the last day upon which the employee
17 actually worked for the employer against whom compensation is
18 claimed.

19 D. The provisions of this section shall apply to
20 all occupational diseases when the last day of injurious
21 exposure occurred after the passage of the New Mexico
22 Occupational Disease Disablement Law."

23 Section 2. EFFECTIVE DATE. --The effective date of the
24 provisions of this act is July 1, 2004.