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HOUSE BILL 290

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO WORKERS' COMPENSATION; CLARIFYING WHEN A WORKER'S
INTOXICATION RESULTS IN NO WORKERS' COMPENSATION BENEFITS OR
RESULTS IN WORKERS' COMPENSATION BENEFITS BEING REDUCED.

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

SECTION 1. Section 52-1-11 NMSA 1978 (being Laws 1929,
Chapter 113, Section 8, as amended) is amended to read:

"52-1-11. INJURIES DUE TO ~~[INTOXICATION]~~ WILLFULNESS OR
INTENTION OF WORKER ARE NONCOMPENSABLE.--No compensation shall
become due or payable from any employer under the terms of the
Workers' Compensation Act in the event ~~[such]~~ an injury was
~~[occasioned by the intoxication of such worker or]~~ willfully
suffered by ~~[him]~~ the worker or intentionally ~~[inflicted by~~
~~himself]~~ self-inflicted by the worker."

SECTION 2. Section 52-1-12 NMSA 1978 (being Laws 1971,

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1 Chapter 55, Section 1, as amended) is amended to read:

2 "52-1-12. COMPENSATION PROHIBITED WHEN WORKER [~~UNDER~~
3 ~~INFLUENCE OF CERTAIN DRUGS~~] INTOXICATED.--No compensation is
4 payable from any employer under the provisions of the Workers'
5 Compensation Act if the injury to the [~~person~~] worker claiming
6 compensation was occasioned solely by the [~~person~~] worker being
7 [~~under the influence of a depressant, stimulant or~~
8 ~~hallucinogenic drug as defined in the New Mexico Drug, Device~~
9 ~~and Cosmetic Act or under the influence of a narcotic drug as~~
10 ~~defined in the Controlled Substances Act, unless the drug~~
11 intoxicated as determined by test results for intoxication of
12 the worker being in excess of the department of
13 transportation's test cutoff concentrations for intoxicating
14 substances, unless the intoxicating substance was dispensed to
15 the [~~person~~] worker upon the prescription of a practitioner
16 licensed by law to prescribe the [~~drug~~] intoxicating substance
17 or administered to the [~~person~~] worker by any person authorized
18 by a licensed practitioner to administer the [~~drug~~]
19 intoxicating substance."

20 SECTION 3. Section 52-1-12.1 NMSA 1978 (being Laws 2001,
21 Chapter 87, Section 1) is amended to read:

22 "52-1-12.1. REDUCTION IN COMPENSATION WHEN [~~ALCOHOL OR~~
23 ~~DRUGS CONTRIBUTE~~] WORKER INTOXICATION CONTRIBUTES TO INJURY OR
24 DEATH.--The compensation otherwise payable a worker pursuant to
25 the Workers' Compensation Act shall be reduced ten percent in

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1 cases in which the injury to or death of a worker is not
2 occasioned solely by the intoxication of the worker, [~~as stated~~
3 ~~in Section 52-1-11 NMSA 1978 or occasioned solely by drug~~
4 ~~influence as described in Section 52-1-12 NMSA 1978, but~~
5 ~~voluntary intoxication or being under the influence of a~~
6 ~~depressant, stimulant or hallucinogenic drug as defined in the~~
7 ~~New Mexico Drug, Device and Cosmetic Act or under the influence~~
8 ~~of a narcotic drug as defined in the Controlled Substances Act,~~
9 ~~unless the drug was dispensed to the person upon the~~
10 ~~prescription of a practitioner licensed by law to prescribe the~~
11 ~~drug or administered to the person by any person authorized by~~
12 ~~a licensed practitioner to administer the drug] where
13 intoxication is determined by test results for intoxication
14 being in excess of the department of transportation's test
15 cutoff concentrations for intoxicating substances, but the
16 intoxication of the worker is a contributing cause to the
17 injury or death, unless the intoxicating substance was
18 dispensed to the worker upon the prescription of a practitioner
19 licensed by law to prescribe the substance or administered to
20 the worker by any person authorized by a licensed practitioner
21 to administer the substance. Test results used as evidence of
22 intoxication [~~or drug influence~~] shall not be considered in
23 making a determination of intoxication [~~or drug influence~~]
24 unless the test and testing procedures conform to the federal
25 department of transportation "procedures for transportation~~

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1 workplace drug and alcohol testing programs" and the test is
2 performed by a laboratory certified to do the testing by the
3 federal department of transportation."

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