

1 SENATE BILL 244

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Steven P. Neville

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10 AN ACT

11 RELATING TO LABORERS; PROVIDING A RATIONAL BASIS FOR THE "FARM
12 AND RANCH LABORERS" EXEMPTION FROM THE WORKERS' COMPENSATION
13 ACT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "52-1-6. APPLICATION OF PROVISIONS OF ACT.--

19 A. Except as provided in Subsection B of this
20 section, the provisions of the Workers' Compensation Act shall
21 apply to employers of three or more workers; provided that act
22 shall apply to all employers engaged in activities required to
23 be licensed under the provisions of the Construction Industries
24 Licensing Act regardless of the number of employees.

25 B. The provisions of the Workers' Compensation Act

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1 shall not apply to:

2 (1) employers of private domestic servants;

3 and

4 (2) farm and ranch laborers. For the purposes
5 of this paragraph, the legislature finds that farm and ranch
6 work is seasonal, that many farm and ranch laborers work
7 temporarily at a farm or ranch and migrate from farm to farm
8 and ranch to ranch and that there is a high rate of turnover in
9 farm and ranch laborers, thus making it difficult to track
10 workers and substantiate the source and cause of an illness or
11 injury. The legislature further finds that farming and
12 ranching work is subject to the vagaries of weather and to the
13 limitations of federal commodities pricing laws that make it
14 difficult or impossible for farm and ranch employers to
15 reasonably assess on a seasonal basis their farm and ranch
16 costs, income, laborer needs and insurance needs. Therefore,
17 this exemption represents a balancing of interests that
18 protects these employers from unreasonable costs of providing
19 insurance in an unpredictable market.

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

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1 that the employer accepts the provisions of the Workers'
2 Compensation Act or an insurance or security undertaking as
3 required by Section 52-1-4 NMSA 1978.

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

9 ~~[D.—Such]~~ E. 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~~] the worker's death, shall bind [~~his~~] the
21 worker's personal representative, [~~his~~] surviving spouse and
22 next of kin, as well as the employer and those conducting [~~his~~]
23 the employer's business during bankruptcy or insolvency.

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

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