

HOUSE BILL NO. 232

INTRODUCED BY A. KNUDSEN

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A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFYING THE HIGHEST STANDARD OF PROOF FOR CLAIMS AGAINST AN EMPLOYER OR FELLOW EMPLOYEE FOR INTENTIONAL AND DELIBERATE ACTS OUTSIDE THE EXCLUSIVE REMEDY OF THE WORKERS' COMPENSATION ACT; AMENDING SECTION 39-71-413, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-413, MCA, is amended to read:

"39-71-413. Liability of employer or fellow employee for intentional and deliberate acts -- additional cause of action -- intentional injury defined. (1) (a) If an employee is intentionally injured by an intentional and deliberate act of the employee's employer or by the intentional and deliberate act of a fellow employee while performing the duties of employment, the employee or in case of death the employee's heirs or personal representatives, in addition to the right to receive compensation under the Workers' Compensation Act, have a cause of action for damages against the person whose intentional and deliberate act caused the intentional injury.

(b) For the purposes of this section, the standard of proof for an act to be determined to be intentional and deliberate is proof beyond a reasonable doubt.

(2) An employer is not vicariously liable under this section for the intentional and deliberate acts of an employee.

(3) As used in this section, "intentional injury" means an injury caused by an intentional and deliberate act that is specifically and actually intended to cause injury to the employee injured and there is actual knowledge that an injury is certain to occur."

NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2013.

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