

HOUSE BILL NO. 410  
INTRODUCED BY YOUNKIN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN EMPLOYEE WHO IS INJURED OR DIES WHILE TRAVELING IN THE COURSE OF EMPLOYMENT IS ENTITLED TO COMPENSATION IF THE EMPLOYER FURNISHES ~~ALL OF THE EMPLOYEE'S TRANSPORTATION OR IF THE EMPLOYER FULLY REIMBURSES THE EMPLOYEE~~ RECEIVES ACTUAL REIMBURSEMENT FOR COSTS OF TRAVEL, GAS, OIL, OR LODGING AS A PART OF THE EMPLOYEE'S BENEFITS OR EMPLOYMENT AGREEMENT; AMENDING SECTION 39-71-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 39-71-407, MCA, is amended to read:

**"39-71-407. Liability of insurers -- limitations.** (1) Each insurer is liable for the payment of compensation, in the manner and to the extent provided in this section, to an employee of an employer that it insures who receives an injury arising out of and in the course of employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

(2) (a) An insurer is liable for an injury, as defined in 39-71-119, if the injury is established by objective medical findings and if the claimant establishes that it is more probable than not that:

- (i) a claimed injury has occurred; or
- (ii) a claimed injury aggravated a preexisting condition.

(b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury aggravated a preexisting condition is not sufficient to establish liability.

(3) (A) An employee who suffers an injury or dies while traveling is not covered by this chapter unless:

~~(a)~~(i) the employer furnishes all of the transportation or the employee receives full ACTUAL reimbursement from the employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement; and

~~(ii)~~ the travel is necessitated by and on behalf of the employer as an integral part or condition of the employment; or

~~(b)~~(ii) the travel is required by the employer as part of the employee's job duties.

(B) AS USED IN THIS SUBSECTION (3), "ACTUAL REIMBURSEMENT" DOES NOT INCLUDE PAYMENTS OR COMPENSATION MADE AS AN INCENTIVE TO THE EMPLOYEE TO TRAVEL TO AND FROM A JOB SITE.

(4) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major contributing cause of the accident. However, if the employer had knowledge of and failed to attempt to stop the employee's use of alcohol or drugs, this subsection does not apply.

(5) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to the same part of the body, the workers' compensation insurer is not liable for any compensation or medical benefits caused by the subsequent nonwork-related injury.

(6) An employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is established by objective medical findings that contain sufficient factual and historical information concerning the relationship of the worker's condition to the original injury.

(7) As used in this section, "major contributing cause" means a cause that is the leading cause contributing to the result when compared to all other contributing causes."

NEW SECTION. **Section 2. Effective date -- applicability.** [This act] is effective on passage and approval and applies to claims for compensation filed on or after [the effective date of this act].

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