

SENATE BILL NO. 369

INTRODUCED BY J. TREBAS, C. FRIEDEL, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING COVERAGE UNDER WORKERS' COMPENSATION FOR EMPLOYEES EXPERIENCING SERIOUS ADVERSE EVENTS AFTER RECEIVING EMPLOYER-MANDATED VACCINES; PROVIDING A DEFINITION; AMENDING SECTION 39-71-119, 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 39-71-119, MCA, is amended to read:

**"39-71-119. Injury and accident defined.** (1) (a) "Injury" or "injured" means:

- ~~(a)~~(i) internal or external physical harm to the body that is established by objective medical findings;
- ~~(b)~~(ii) damage to prosthetic devices;
- ~~(c)~~(iii) damage to appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing aids; or
- ~~(d)~~(iv) death.

(b) (i) The term includes a serious adverse event experienced by an employee after receiving a vaccine mandated by an employer.

(ii) For the purposes of subsection (1)(b), "serious adverse event" means:

- (A) death or a life-threatening illness;
- (B) hospitalization or the prolongation of an existing hospitalization;
- (C) a persistent or significant incapacity or substantial disruption of the ability to conduct normal life functions;
- (D) a congenital anomaly or a birth defect; or
- (E) a medical event that, based on appropriate medical judgment, may jeopardize the individual

and may require medical or surgical intervention to prevent an outcome described in subsections (1)(b)(ii)(A) through (1)(b)(ii)(D).

- 1           (2)     An injury is caused by an accident. An accident is:
- 2           (a)     an unexpected traumatic incident or unusual strain;
- 3           (b)     identifiable by time and place of occurrence;
- 4           (c)     identifiable by member or part of the body affected; and
- 5           (d)     caused by a specific event on a single day or during a single work shift.
- 6           (3)     "Injury" or "injured" does not mean a physical or mental condition arising from:
- 7           (a)     emotional or mental stress; or
- 8           (b)     a nonphysical stimulus or activity.
- 9           (4)     "Injury" or "injured" does not include a disease that is not caused by an accident.
- 10          (5)     (a) A cardiovascular, pulmonary, respiratory, or other disease, cerebrovascular accident, or
- 11 myocardial infarction suffered by a worker is an injury only if the accident is the primary cause of the physical
- 12 condition in relation to other factors contributing to the physical condition.
- 13          (b)     "Primary cause", as used in subsection (5)(a), means a cause that, with a reasonable degree of
- 14 medical certainty, is responsible for more than 50% of the physical condition."

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16           NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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18           NEW SECTION. **Section 3. Applicability.** [This act] applies to injuries occurring on or after [the

19 effective date of this act].

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