
DIGEST

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HB 764 Original

2024 Regular Session

Taylor

Abstract: Provides relative to the defense of compensability or causation for medical treatments in workers' compensation claims.

With regard to workers' compensation, present law prohibits compensation to be allowed in cases for an injury caused for any of the following reasons:

- (1) By the injured employee's willful intention to injure himself or to injure another.
- (2) By the injured employee's intoxication at the time of the injury, unless the employee's intoxication resulted from activities which were in pursuit of the employer's interests or in which the employer procured the intoxicating beverage or substance and encouraged its use during the employee's work hours.
- (3) To the initial physical aggressor in an unprovoked physical altercation, unless excessive force was used in retaliation against the initial aggressor.

Proposed law retains present law.

Present law requires the burden of proof to be on an employer in order to determine whether or not the employer is exempt from paying compensation for an employee's injury that occurred for any cause or reason as provided for in present law.

Proposed law retains present law.

Present law provides the procedure and policy for proving that an employee was intoxicated at the time he sustained his injury and allows the employer the right to administer or require submission of drug and alcohol testing.

Proposed law retains present law.

Present law requires all sample and collection and testing for drugs to be performed in accordance with certain rules and regulations adopted by the assistant secretary of the office of workers' compensation administration. Present law further requires any information or other supporting documentation that the employer receives through its drug testing program to be considered confidential communications and to not be disclosed except for under certain circumstances.

Proposed law retains present law.

Proposed law prohibits an employer from asserting a lack of compensability or causation in an appeal filed pursuant to present law (R.S. 23:1203.1(K)) or in an answer to a disputed claim for compensation regarding a medical treatment approved pursuant to present law (R.S. 23:1203.1(J)), if he did not assert such defenses at the first opportunity as a basis for denial of authorization of a medical treatment.

(Adds R.S. 23:1081(14))