

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 642

By: Paxton

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5
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending
8 85A O.S. 2021, Section 5, which relates to exclusive
9 liability; clarifying applicability of certain
10 remedies and rights to certain persons; stating
11 effect of provisions to certain contracts; making
12 language gender neutral; updating statutory
13 references; updating statutory language; and
14 declaring an emergency.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 85A O.S. 2021, Section 5, is
17 amended to read as follows:

18 Section 5. A. The rights and remedies granted to an employee
19 subject to the provisions of the Administrative Workers'
20 Compensation Act shall be exclusive of all other rights and remedies
21 of the employee, his or her legal representative, dependents, next
22 of kin, or anyone else claiming rights to recovery on behalf of the
23 employee against the employer, or any principal, officer, director,
24 employee, stockholder, partner, or prime contractor of the employer
on account of injury, illness, or death. Negligent acts of a co-
employee may not be imputed to the employer. No role, capacity, or

1 persona of any employer, principal, officer, director, employee, or
2 stockholder other than that existing in the role of employer of the
3 employee shall be relevant for consideration for purposes of ~~this~~
4 ~~act~~ the Administrative Workers' Compensation Act, and the remedies
5 and rights provided by ~~this act~~ the Administrative Workers'
6 Compensation Act to an employee or other person claiming rights to
7 recovery on behalf of the employee shall be exclusive regardless of
8 the multiple roles, capacities, or personas the employer may be
9 deemed to have.

10 B. Notwithstanding the date of the injury, illness, or death of
11 an employee, nothing in subsection A of this section shall affect
12 any provision in an executed contract that requires the employer, or
13 any principal, officer, director, stockholder, partner, or prime
14 contractor of the employer, to indemnify, defend, or hold harmless
15 another person or entity against liability for an injury, illness,
16 or death of an employee, including, but not limited to, the ability
17 or requirement to insure for such claims.

18 C. Exclusive remedy shall not apply if:

19 1. An employer fails to secure the payment of compensation due
20 to the employee as required by ~~this act~~ the Administrative Workers'
21 Compensation Act. An injured employee, or his or her legal
22 representative in case death results from the injury, may, at his or
23 her option, elect to claim compensation under ~~this act~~ the
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1 Administrative Workers' Compensation Act or to maintain a legal
2 action in court for damages on account of the injury or death; or

3 2. The injury was caused by an intentional tort committed by
4 the employer. An intentional tort shall exist only when the
5 employee is injured as a result of willful, deliberate, specific
6 intent of the employer to cause such injury. Allegations or proof
7 that the employer had knowledge that the injury was substantially
8 certain to result from the employer's conduct shall not constitute
9 an intentional tort. The employee shall plead facts that show it is
10 at least as likely as it is not that the employer acted with the
11 purpose of injuring the employee. The issue of whether an act is an
12 intentional tort shall be a question of law.

13 ~~C.~~ D. The immunity from civil liability described in subsection
14 A of this section shall apply regardless of whether the injured
15 employee is denied compensation or deemed ineligible to receive
16 compensation under ~~this act~~ the Administrative Workers' Compensation
17 Act.

18 ~~D.~~ E. If an employer has failed to secure the payment of
19 compensation for his or her injured employee as provided for in ~~this~~
20 ~~act~~ the Administrative Workers' Compensation Act, an injured
21 employee, or his or her legal representative if death results from
22 the injury, may maintain an action in the district court for damages
23 on account of such injury.

1 ~~E.~~ F. The immunity created by the provisions of this section
2 shall not extend to action against another employer, or its
3 employees, on the same job as the injured or deceased worker where
4 such other employer does not stand in the position of an
5 intermediate or principal employer to the immediate employer of the
6 injured or deceased worker.

7 ~~F.~~ G. The immunity created by the provisions of this section
8 shall not extend to action against another employer, or its
9 employees, on the same job as the injured or deceased worker even
10 though such other employer may be considered as standing in the
11 position of a special master of a loaned servant where such special
12 master neither is the immediate employer of the injured or deceased
13 worker nor stands in the position of an intermediate or principal
14 employer to the immediate employer of the injured or deceased
15 worker.

16 ~~G.~~ H. This section shall not be construed to abrogate the
17 loaned servant doctrine in any respect other than that described in
18 subsection ~~F~~ G of this section. Nothing in ~~this act~~ the
19 Administrative Workers' Compensation Act shall be construed to
20 relieve the employer from any other penalty provided for in ~~this act~~
21 the Administrative Workers' Compensation Act for failure to secure
22 the payment of compensation under ~~this act~~ the Administrative
23 Workers' Compensation Act.

1 ~~H.~~ I. For the purpose of extending the immunity of this
2 section, any architect, professional engineer, or land surveyor
3 shall be deemed an intermediate or principal employer for services
4 performed at or on the site of a construction project, but this
5 immunity shall not extend to the negligent preparation of design
6 plans and specifications.

7 ~~F.~~ J. If the employer has failed to secure the payment of
8 compensation as provided in ~~this act~~ the Administrative Workers'
9 Compensation Act or in the case of an intentional tort, the injured
10 employee or his or her legal representative may maintain an action
11 either before the Oklahoma Workers' Compensation Commission or in
12 the district court, but not both.

13 SECTION 2. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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