

HOUSE BILL 508

Introduced by Darko, et al.

1/31	Introduced
2/01	Referred to Labor & Employment Relations
2/07	Hearing
2/17	Committee Report--Bill Passed as Amended
2/20	2nd Reading Passed as Amended
2/21	3rd Reading Passed

Transmitted to Senate

2/28	Referred to Labor & Employment Relations (House requested return of bill for purpose of correctly printing 3rd reading copy.)
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(Bill Returned to House)

3/04	3rd Reading Passed
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Transmitted to Senate

3/06	Referred to Labor & Employment Relations
3/09	Hearing
3/22	Minority Committee Report--Bill Concurred
3/22	Majority Committee Report--Bill Not Concurred
3/22	Majority (Adverse) Committee Report Adopted

1 HOUSE BILL NO. 508
 2 INTRODUCED BY Marko S. Smith
 3 Nolan
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LEGAL
 5 OBLIGATIONS OF AN EMPLOYER TOWARD AN INJURED WORKER UNDER
 6 THE WORKERS' COMPENSATION ACT; TO PROHIBIT AN EMPLOYER FROM
 7 TERMINATING OR LAYING OFF AN INJURED WORKER BECAUSE HE HAS
 8 FILED A CLAIM FOR BENEFITS EXCEPT UNDER CERTAIN
 9 CIRCUMSTANCES; TO REQUIRE AN EMPLOYER TO REHIRE AN INJURED
 10 WORKER WHEN HE IS CAPABLE OF RETURNING TO WORK; TO REQUIRE
 11 THAT ALL SENIORITY AND BENEFITS ACCRUING TO THE WORKER MUST
 12 BE REINSTATED TO THE WORKER UPON HIS RETURN TO EMPLOYMENT;
 13 AMENDING SECTION 39-71-317, MCA; AND PROVIDING AN EFFECTIVE
 14 DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 39-71-317, MCA, is amended to read:

18 "39-71-317. Employer--not--to--terminate--worker---for
 19 filing-claim---preference Obligation of the employer toward
 20 an injured worker -- jurisdiction over dispute. (1) An
 21 employer may not use-as-grounds-for-terminating terminate or
 22 lay off a an injured worker the-filing--of because he has
 23 filed a claim under this chapter or chapter 72 of this title
 24 unless one of the following conditions exists:

25 (a) the worker has received from his treating

1 physician a medical release to return to work and the worker
 2 refuses to go back to work for the employer; or

3 (b) it appears that, as determined by his treating
 4 physician, the worker's injury is of a nature that the
 5 worker may never be able to return to his job.

6 (2) When an injured worker is capable of returning to
 7 work within-2-years-from-the-date-of-injury and has received
 8 a medical release to return to work, the worker must be
 9 given a-preference-over-other-applicants--for--a--comparable
 10 position--that--becomes-vacant-if-the-position-is-consistent
 11 with--the--worker's--physical---condition---and---vocational
 12 abilities his former job upon his return to work.

13 (3) This--preference--applies--only-to-employment-with
 14 the-employer-for-whom-the-employee-was-working-at--the--time
 15 the--injury--occurred. All seniority and employment benefits
 16 accruing to the worker prior to the date of his injury must
 17 be reinstated to the worker upon his return to employment.
 18 The employer shall continue any health insurance benefits
 19 provided to the worker during times of employment, whether
 20 or not the health insurance benefits are dependent on the
 21 injured worker working a required number of hours or days in
 22 any period of time.

23 (4) The division, department, and workers'
 24 compensation court do not have jurisdiction to administer or
 25 resolve a dispute under this section. Exclusive jurisdiction

LC 0804/01

1 is with the district court."

2 NEW SECTION. **Section 2.** Extension of authority. Any
3 existing authority to make rules on the subject of the
4 provisions of [this act] is extended to the provisions of
5 [this act].

6 NEW SECTION. **Section 3.** Effective date. [Section 2
7 and this section] are effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 508

INTRODUCED BY DARKO, DRISCOLL, ADDY, HARPER, RUSSELL

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LEGAL OBLIGATIONS OF AN EMPLOYER TOWARD AN INJURED WORKER UNDER THE WORKERS' COMPENSATION ACT; TO PROHIBIT AN EMPLOYER FROM TERMINATING OR LAYING OFF AN INJURED WORKER BECAUSE HE HAS FILED A CLAIM FOR BENEFITS EXCEPT UNDER CERTAIN CIRCUMSTANCES; TO ~~REQUIRE AN EMPLOYER TO REHIRE AN INJURED WORKER WHEN HE IS CAPABLE OF RETURNING TO WORK~~ PROVIDE A WORKER AN ABSOLUTE PREFERENCE TO A POSITION PROVIDING WAGES COMPARABLE TO THOSE EARNED IN HIS FORMER POSITION; TO REQUIRE THAT ALL SENIORITY AND BENEFITS ACCRUING TO THE WORKER MUST BE REINSTATED TO THE WORKER UPON HIS RETURN TO EMPLOYMENT; TO RELEASE THE EMPLOYER FROM CONTINUED HEALTH INSURANCE BENEFIT RESPONSIBILITIES UPON TERMINATION OF AN EMPLOYEE; AMENDING SECTION 39-71-317, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-71-317, MCA, is amended to read:

"39-71-317. ~~Employer not to terminate worker for filing claim preference~~ Obligation of the employer toward an injured worker -- jurisdiction over dispute. (1) An employer may not use as grounds for terminating terminate or

lay off a an injured worker the filing of because he has filed a claim under this chapter or chapter 72 of this title unless one of the following conditions exists:

(a) the worker has received from his treating physician a medical release to return to work and the worker refuses to go back to work for the employer; or

(b) it appears that, as determined by his treating physician, the worker's injury is of a nature that the worker may never be able to return to his job.

(2) When an injured worker is capable of returning to work within 2 years from the date of injury WITHIN 2 YEARS FROM THE DATE OF INJURY and has received a medical release to return to work, the worker must be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities his former job upon his return to work AN ABSOLUTE PREFERENCE TO A POSITION THAT PROVIDES WAGES COMPARABLE TO THOSE EARNED IN HIS FORMER POSITION.

(3) This preference applies only to employment with the employer for whom the employee was working at the time the injury occurred. THIS PREFERENCE APPLIES ONLY TO EMPLOYMENT WITH THE EMPLOYER FOR WHOM THE EMPLOYEE WAS WORKING AT THE TIME THE INJURY OCCURRED. All seniority and employment benefits accruing to the worker prior to the date

1 of his injury must be reinstated to the worker upon his
2 return to employment. The employer shall continue, DURING
3 THE PERIOD OF INJURY, any health insurance benefits provided
4 to the worker during times of employment, whether or not the
5 health insurance benefits are dependent on the injured
6 worker working a required number of hours or days in any
7 period of time. THE EMPLOYER IS RELEASED FROM THE PROVISIONS
8 OF THIS SUBSECTION IN THE EVENT THE EMPLOYEE IS TERMINATED
9 PURSUANT TO SUBSECTION (1)(A) OR (1)(B).

10 (4) The division, department, and workers'
11 compensation court do not have jurisdiction to administer or
12 resolve a dispute under this section. Exclusive jurisdiction
13 is with the district court."

14 NEW SECTION. Section 2. Extension of authority. Any
15 existing authority to make rules on the subject of the
16 provisions of [this act] is extended to the provisions of
17 [this act].

18 NEW SECTION. Section 3. Effective date. [Section 2
19 and this section] are effective on passage and approval.

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lay off a an injured worker the filing of because he has filed a claim under this chapter or chapter 72 of this title unless one of the following conditions exists:

(a) the worker has received from his treating physician a medical release to return to work and the worker refuses to go back to work for the employer; or

(b) it appears that, as determined by his treating physician, the worker's injury is of a nature that the worker may never be able to return to his job.

(2) When an injured worker is capable of returning to work within 2 years from the date of injury WITHIN 2 YEARS FROM THE DATE OF INJURY and has received a medical release to return to work, the worker must be given a preference over other applicants for a comparable position that becomes vacant if the position is consistent with the worker's physical condition and vocational abilities his former job upon his return to work AN ABSOLUTE PREFERENCE TO A POSITION THAT PROVIDES WAGES COMPARABLE TO THOSE EARNED IN HIS FORMER POSITION.

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1 of his injury must be reinstated to the worker upon his
2 return to employment. The employer shall continue, DURING
3 THE PERIOD OF INJURY, any health insurance benefits provided
4 to the worker during times of employment, whether or not the
5 health insurance benefits are dependent on the injured
6 worker working a required number of hours or days in any
7 period of time. THE EMPLOYER IS RELEASED FROM THE PROVISIONS
8 OF THIS SUBSECTION IN THE EVENT THE EMPLOYEE IS TERMINATED
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10 (4) The division, department, and workers'
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(b) it appears that, as determined by his treating physician, the worker's injury is of a nature that the worker may never be able to return to his job.

(2) When an injured worker is capable of returning to work within--2-years-from-the-date-of-injury WITHIN 2 YEARS FROM THE DATE OF INJURY and has received a medical release to return to work, the worker must be given a-preference over-other-applicants-for-a-comparable-position-that-becomes vacant-if-the--position--is--consistent--with--the--worker's physical--condition--and-vocational-abilities his-former-job upon-his-return-to-work AN-ABSOLUTE-PREFERENCE-TO-A-POSITION THAT-PROVIDES-WAGES-COMPARABLE-TO-THOSE-EARNED-IN-HIS-FORMER POSITION; AN ABSOLUTE PREFERENCE OVER OTHER APPLICANTS FOR A POSITION THAT BECOMES VACANT IF THE POSITION IS CONSISTENT WITH THE WORKER'S PHYSICAL CONDITION AND VOCATIONAL ABILITIES.

(3) This-preference-applies-only--to--employment--with the--employer--for-whom-the-employee-was-working-at-the-time the--injury--occurred; THIS PREFERENCE APPLIES ONLY TO

1 EMPLOYMENT WITH THE EMPLOYER FOR WHOM THE EMPLOYEE WAS
 2 WORKING AT THE TIME THE INJURY OCCURRED. All seniority and
 3 employment benefits accruing to the worker prior to the date
 4 of his injury must be reinstated to the worker upon his
 5 return to employment. ~~The employer--shall--continue,--DURING~~
 6 ~~THE--PERIOD--OF--INJURY;~~ DURING THE PERIOD OF INJURY, THE
 7 EMPLOYER SHALL ALLOW THE INJURED WORKER THE OPTION OF PAYING
 8 FOR any health insurance benefits provided to the worker
 9 during times of employment, whether or not the health
 10 insurance benefits are dependent on the injured worker
 11 working a required number of hours or days in any period of
 12 time. THE EMPLOYER IS RELEASED FROM THE PROVISIONS OF THIS
 13 SUBSECTION IN THE EVENT THE EMPLOYEE IS TERMINATED PURSUANT
 14 TO SUBSECTION (1)(A) OR (1)(B).

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