

ENROLLED ORIGINAL

A RESOLUTION

20-159

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

June 18, 2013

To declare the existence of an emergency with respect to the need to amend the District of Columbia Workers' Compensation Act of 1979 to match federal statute of limitations for negligence claims brought by private-sector employees who are injured at work.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Workers' Compensation Statute of Limitations Emergency Declaration Resolution of 2013".

Sec. 2. (a) Under District law, a private-sector employee who is injured on the job has only 6 months to file a lawsuit against the party responsible for the employee's injury. After 6 months, the injured worker's rights to recover damages are automatically assigned to the employee's employer and its insurance company.

(b) A 6-month time limit to file a lawsuit is often too short for District residents who are injured at work to address significant life issues following their accidents. Moreover, the injured worker's employer and the employer's insurance company may not take action or have the interests of the injured worker in mind when doing so.

(c) If an individual were injured in a District location other than a workplace, the individual would have 3 years to file a lawsuit against the party responsible for the injury, as the standard 3-year statute of limitations for negligence would apply.

(d) The District's private-sector workers compensation statute, which was enacted in 1979, was modeled on the federal Longshore and Harbor Workers' Compensation Act ("LHWCA").

(e) In 1984, Congress changed the corresponding section of the LHWCA. Under federal law, if an injured employee does not file a lawsuit within 6 months, the employee's right to do so is still automatically assigned to the employee's employer and its insurance company; however, if the employer and its insurance company do not take action within 90 days, the right to sue automatically reverts back to the injured employee.

(f) Although the District's private-sector workers compensation statute was modeled on the LHWCA, the District statute was never amended to reflect the 1984 amendment to the LHWCA. Because of this, District residents who are injured at work have only 6 months to file a lawsuit, while residents who are injured outside of the workplace have 3 years to commence legal action.

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(g) This legislation would amend the District's private-sector workers' compensation statute to match the federal law on which it was based. With this change, if an injured employee does not file a lawsuit against the party responsible for the employee's injury within 6 months, the right to sue will automatically transfer to the employee's employer and its insurance company; however, as under federal law, if the employer and its insurance company do not take action within 90 days, the right to sue will revert back to the injured employee, and the District's standard 3-year statute of limitations will apply.

(h) In addition to matching federal law, this legislation would make the District's statute of limitations for injured workers similar to laws in neighboring jurisdictions. In Maryland, the statute of limitations for injured workers to file suit is 3 years. In Virginia, the statute of limitations is 2 years.

(i) This emergency legislation is necessary to provide a fair opportunity for injured employees to recover damages for injuries that they have received.

Sec. 3. The Council of the District of Columbia determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Workers' Compensation Statute of Limitations Emergency Amendment Act of 2013 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.