

Regular Session, 2012

HOUSE BILL NO. 747

BY REPRESENTATIVE EDWARDS

WORKERS COMPENSATION: Provides with respect to safeguards for employee protection

1 AN ACT

2 To enact R.S. 23:1032(D), relative to civil immunity; to provide for exceptions to civil
3 immunity under workers' compensation law; to provide that workers' compensation
4 exclusivity as a remedy shall not extend to injuries that could have been prevented
5 by safety devices that have knowingly and intentionally been removed by the
6 employer or principal; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1032(D) is hereby enacted to read as follows:

9 §1032. Exclusiveness of rights and remedies; employer's liability to prosecution
10 under other laws

11 * * *

12 D. There shall be no immunity from civil liability extended to the employer
13 or principal under this Section for any injury to an employee that could have been
14 prevented by an adequate guard or safety device that has been removed by the
15 employer or principal at his direction or with his knowledge and consent. An
16 employee injured as a result of the danger posed by the absent safeguard or safety
17 device shall not be allocated any fault that would serve to bar or diminish his
18 recovery.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Edwards

HB No. 747

Abstract: Prohibits the application of immunity from civil liability to an employer who intentionally removes safeguards or devices that could prevent injury.

Present law provides that compensation under the workers' compensation laws shall be exclusive rights and remedies to an injured employee.

Present law further provides that an employer may be liable for intentional acts.

Present law provides that civil liability does not extend to officers, directors, stockholders, or partners who are not engaged in the normal course and scope of employment at the time of the injury, or to any partner in a partnership which has been formed for the purpose of evading provisions of present law.

Proposed law adds that an employer who knowingly and intentionally removes, or directs to be removed, an adequate guard or safety device will not be immune from civil liability if the guard or device could have prevented injury.

Proposed law provides that if an employee is injured as a result of an absent safeguard, he shall not be allocated any fault that would serve to bar or diminish his recovery.

(Adds R.S. 23:1032(D))