

By: Eiland

H.B. No. 2788

A BILL TO BE ENTITLED

AN ACT

relating to certain third-party claims against an employer by an injured employee.

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

SECTION 1. Chapter 417, Labor Code, is amended by adding Section 417.0015 to read as follows:

Sec. 417.0015. THIRD-PARTY CLAIM AGAINST EMPLOYER. (a) Notwithstanding Section 408.001, an employee or legal beneficiary may seek damages from the employee's employer who is or becomes liable to pay damages for an injury or death that is compensable under this subtitle and may also pursue a claim for workers' compensation under this subtitle.

(b) In a claim under this section, the issue of the employer's negligence may be submitted to the jury. The jury may assign a percentage of negligence to the employer.

(c) If the jury finds that the employee's injury or death was the result of an intentional act by the employer or the result of the employer's gross negligence, the employer shall be liable to the employee. Notwithstanding Section 406.031, if the employer has workers' compensation insurance coverage, the insurance carrier is not liable for compensation for the employee's injury or death.

(d) In submitting the issue of the employer's negligence to the jury under Subsection (b), the parties to the proceeding shall

1 inform the jury of the existence of any subrogation claim or
2 collateral benefits available to any party, including workers'
3 compensation and health insurance benefits for which the employee
4 may be required to pay reimbursement.

5 SECTION 2. (a) This Act takes effect September 1, 2003.

6 (b) The change in law made by this Act applies only to an
7 action filed on or after the effective date of this Act. An action
8 filed before the effective date of this Act is governed by the law
9 in effect on the date the action was filed, and the former law is
10 continued in effect for that purpose.