

1-1 By: Duncan S.B. No. 1714
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on State Affairs;
1-4 March 28, 2011, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; March 28, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to certain actions against an employer by an employee who
1-9 is not covered by workers' compensation insurance.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a) and (d), Section 406.033, Labor
1-12 Code, are amended to read as follows:

1-13 (a) In an action against an employer by or on behalf of an
1-14 employee who is not covered by ~~[who does not have]~~ workers'
1-15 compensation insurance obtained in the manner authorized by Section
1-16 406.003 ~~[coverage]~~ to recover damages for personal injuries or
1-17 death sustained by an employee in the course and scope of the
1-18 employment, it is not a defense that:

1-19 (1) the employee was guilty of contributory
1-20 negligence;

1-21 (2) the employee assumed the risk of injury or death;
1-22 or

1-23 (3) the injury or death was caused by the negligence of
1-24 a fellow employee.

1-25 (d) In an action described by Subsection (a) against an
1-26 employer by or on behalf of an employee who is not covered by ~~[who~~
1-27 ~~does not have]~~ workers' compensation insurance obtained in the
1-28 manner authorized by Section 406.003 ~~[coverage]~~, the plaintiff must
1-29 prove negligence of the employer or of an agent or servant of the
1-30 employer acting within the general scope of the agent's or servant's
1-31 employment.

1-32 SECTION 2. The change in law made by this Act applies only
1-33 to a cause of action that accrues on or after the effective date of
1-34 this Act. A cause of action that accrued before the effective date
1-35 of this Act is governed by the law in effect on the date the cause of
1-36 action accrued, and the former law is continued in effect for that
1-37 purpose.

1-38 SECTION 3. This Act takes effect September 1, 2011.

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