

3 Senate Bill No. 1554

4 SENATE BILL NO. 1554 - By: LASTER of the Senate and DUNCAN of the
5 House.

6 An Act relating to workers' compensation; amending 85 O.S.
7 2001, Section 12, as amended by Section 14, Chapter 1, 1st
8 Extraordinary Session, O.S.L. 2005 (85 O.S. Supp. 2005,
9 Section 12), which relates to exclusive liability; providing
10 for application of certain defense under certain
11 circumstances; and providing an effective date.

12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 85 O.S. 2001, Section 12, as
14 amended by Section 14, Chapter 1, 1st Extraordinary Session, O.S.L.
15 2005 (85 O.S. Supp. 2005, Section 12), is amended to read as
16 follows:

17 Section 12. The liability prescribed in Section 11 of this
18 title shall be exclusive and in place of all other liability of the
19 employer and any ~~of his~~ employees, any architect, professional
20 engineer, or land surveyor retained to perform professional services
21 on a construction project, at common law or otherwise, for such
22 injury, loss of services, or death, to the employee, or the spouse,
23 personal representative, parents, or dependents of the employee, or
24 any other person. If an employer has failed to secure the payment
25 of compensation for ~~his~~ the injured employee, as provided for in
26 this title, an injured employee, or ~~his~~ the employee's legal

1 representatives if death results from the injury, may maintain an
2 action in the courts for damages on account of such injury, and in
3 such action the defendant may not plead or prove as a defense that
4 the injury was caused by the negligence of a fellow servant, or that
5 the employee assumed the risk of his or her employment, or that the
6 injury was due to the contributory negligence of the employee;
7 however, if the employee was at the time of the injury or accident
8 under the influence of substances defined and consumed, pursuant to
9 Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol,
10 illegal drugs, or a controlled dangerous substance not obtained
11 pursuant to a valid prescription, an employer may plead and prove as
12 a defense that the injury was due to the contributory negligence of
13 the employee, provided:

14 ~~(i)~~ 1. The immunity created by the provisions of this section
15 shall not extend to action by an employee, or the spouse, personal
16 representative, parents, or dependents of the employee, or any other
17 person against another employer, or its employees, on the same job
18 as the injured or deceased worker where such other employer does not
19 stand in the position of an intermediate or principal employer to
20 the immediate employer of the injured or deceased worker;

21 ~~(ii)~~ 2. The immunity created by the provisions of this section
22 shall not extend to action against another employer, or its
23 employees, on the same job as the injured or deceased worker even

1 though such other employer may be considered as standing in the
2 position of a special master of a loaned servant where such special
3 master neither is the immediate employer of the injured or deceased
4 worker nor stands in the position of an intermediate or principal
5 employer to the immediate employer of the injured or deceased
6 worker; and

7 ~~(iii)~~ 3. This provision shall not be construed to abrogate the
8 loaned servant doctrine in any respect other than that described in
9 paragraph ~~(ii)~~ 2 of this section. This section shall not be
10 construed to relieve the employer from any other penalty provided
11 for in this title for failure to secure the payment of compensation
12 provided for in this title;i

13 ~~(iv)~~ 4. For the purpose of extending the immunity of this
14 section, any architect, professional engineer, or land surveyor
15 shall be deemed an intermediate or principal employer for services
16 performed at or on the site of a construction project, but this
17 immunity shall not extend to the negligent preparation of design
18 plans and specifications;r; and

19 ~~(v)~~ 5. Nothing contained herein shall abrogate any rights
20 arising under the Oklahoma Constitution.

21 SECTION 2. This act shall become effective November 1, 2006.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-7-06 - DO PASS,
23 As Coauthored.