ENGROSSED HOUSE
BILL NO. 2054 By: Jackson of the House

and

Johnson (Rob) of the Senate

An Act relating to workers' compensation; amending 85 O.S. 2011, Section 312, which relates to noncompensable injuries; modifying what constitutes a noncompensable injury; and providing an effective date.

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

SECTION 1. AMENDATORY 85 O.S. 2011, Section 312, is amended to read as follows:

Section 312. The following shall not constitute a compensable injury under the Workers' Compensation Code:

1. An injury occasioned by the willful intention of the injured employee to bring about injury to himself or herself, or another;

2. An injury resulting directly from the willful failure of the injured employee to use a guard or protection against accident furnished for use pursuant to any statute or by order of the Commissioner of Labor;

3. An injury which occurs when an employee's use of illegal drugs or chemicals or alcohol is the major cause of the injury or

accident. ~~The~~ To be eligible for workers' compensation the employee shall affirmatively prove by a preponderance of the evidence to the Workers' Compensation Court that the use of drugs, chemicals or alcohol was not the major cause of the injury or accident. For the purposes of this paragraph, post-accident alcohol or drug testing results shall be admissible as evidence. A public or private employer may require an employee to undergo drug or alcohol testing if the employee has sustained an injury while at work. For purposes of workers' compensation, no employee who tests positive for the presence of substances defined and consumed pursuant to Section 465.20 of Title 63 of the Oklahoma Statutes, alcohol, illegal drugs, or illegally used chemicals, or refuses to take a drug or alcohol test required by the employer, shall be eligible for such compensation;

4. Except for innocent victims, an injury caused by a prank, horseplay, or similar willful or intentional behavior;

5. An injury occurring at a time when employment services were not being performed before the employee was hired or after the employment relationship was terminated; and

6. An injury which occurs outside the course of employment. Employment shall be deemed to commence when an employee arrives at the employee's place of employment to report for work and shall terminate when the employee leaves the employee's place of employment, excluding areas not under the control of the employer or

areas where essential job functions are not performed; provided, however, when the employee is instructed by the employer to perform a work-related task away from the employee's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the performance of job duties directly related to the task as instructed by the employer, including travel time that is solely related and necessary to the employee's performance of the task. Travel by a policeman, fireman, or a member of a first aid or rescue squad, in responding to and returning from an emergency, shall be deemed to be in the course of employment.

SECTION 2. This act shall become effective November 1, 2013.

Passed the House of Representatives the 13th day of March, 2013.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2013.

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Presiding Officer of the Senate