

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 642 By: Paxton of the Senate
3 and
4 Hilbert of the House
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6

7 An Act relating to workers' compensation; amending
8 85A O.S. 2021, Section 5, which relates to exclusive
9 liability; expanding rights and remedies granted to
10 certain persons; stating effect of provisions to
11 certain contracts; making language gender neutral;
12 updating statutory references; defining terms;
13 authorizing agreement between contractors to provide
14 certain insurance coverage; providing for deduction
15 of premiums under certain agreements; clarifying
16 application of certain rights and remedies;
17 prohibiting coverage for certain contractors without
18 agreement; providing for codification; and declaring
19 an emergency.

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1 authorizing agreement between contractors to provide
2 certain insurance coverage; providing for deduction
3 of premiums under certain agreements; clarifying
4 application of certain rights and remedies;
5 prohibiting coverage for certain contractors without
6 agreement; amending 85A O.S. 2021, Section 45, which
7 relates to disability classification and
8 compensation; modifying compensation standard for
9 permanent partial disability; providing for
10 codification; and declaring an emergency.

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

12 SECTION 1. AMENDATORY 85A O.S. 2021, Section 5, is
13 amended to read as follows:

14 Section 5. A. The rights and remedies granted to an employee
15 subject to the provisions of the Administrative Workers'
16 Compensation Act shall be exclusive of all other rights and remedies
17 of the employee, his or her legal representative, dependents, next
18 of kin, or anyone else claiming rights to recovery on behalf of the
19 employee against the employer, as well as a general contractor that
20 provides workers' compensation insurance coverage to a subcontractor
21 pursuant to Section 2 of this act, or any principal, officer,
22 director, employee, stockholder, partner, or prime contractor of the
23 employer on account of injury, illness, or death. Negligent acts of
24 a co-employee may not be imputed to the employer. No role,
capacity, or persona of any employer, principal, officer, director,
employee, or stockholder other than that existing in the role of
employer of the employee shall be relevant for consideration for

1 purposes of ~~this act~~ the Administrative Workers' Compensation Act,
2 and the remedies and rights provided by ~~this act~~ the Administrative
3 Workers' Compensation Act to an employee or other person claiming
4 rights to recovery on behalf of the employee shall be exclusive
5 regardless of the multiple roles, capacities, or personas the
6 employer may be deemed to have.

7 B. Notwithstanding the date of the injury, illness, or death of
8 an employee, nothing in subsection A of this section shall affect
9 any provision in an executed contract that requires the employer, or
10 any principal, officer, director, stockholder, partner, or prime
11 contractor of the employer, to indemnify, defend, or hold harmless
12 another person or entity against liability for the injury, illness,
13 or death of an employee, including, but not limited to, the ability
14 or requirement to insure for such claims.

15 C. Exclusive remedy shall not apply if:

16 1. An employer fails to secure the payment of compensation due
17 to the employee as required by ~~this act~~ the Administrative Workers'
18 Compensation Act. An injured employee, or his or her legal
19 representative in case death results from the injury, may, at his or
20 her option, elect to claim compensation under ~~this act~~ the
21 Administrative Workers' Compensation Act or to maintain a legal
22 action in court for damages on account of the injury or death; or
23 2. The injury was caused by an intentional tort committed by
24 the employer. An intentional tort shall exist only when the

1 employee is injured as a result of willful, deliberate, specific
2 intent of the employer to cause such injury. Allegations or proof
3 that the employer had knowledge that the injury was substantially
4 certain to result from the employer's conduct shall not constitute
5 an intentional tort. The employee shall plead facts that show it is
6 at least as likely as it is not that the employer acted with the
7 purpose of injuring the employee. The issue of whether an act is an
8 intentional tort shall be a question of law.

9 ~~C.~~ D. The immunity from civil liability described in subsection
10 A of this section shall apply regardless of whether the injured
11 employee is denied compensation or deemed ineligible to receive
12 compensation under ~~this act~~ the Administrative Workers' Compensation
13 Act.

14 ~~D.~~ E. If an employer has failed to secure the payment of
15 compensation for his or her injured employee as provided for in ~~this~~
16 ~~act~~ the Administrative Workers' Compensation Act, an injured
17 employee, or his or her legal representative if death results from
18 the injury, may maintain an action in the district court for damages
19 on account of such injury.

20 ~~E.—The~~ F. Except as provided in Section 126 of Title 85A of
21 the Oklahoma Statutes, the immunity created by the provisions of
22 this section shall not extend to action against another employer, or
23 its employees, on the same job as the injured or deceased worker
24 where such other employer does not stand in the position of an

1 intermediate or principal employer to the immediate employer of the
2 injured or deceased worker.

3 ~~F.~~ G. Except as provided in Section 126 of Title 85A of
4 the Oklahoma Statutes, the immunity created by the provisions of
5 this section shall not extend to action against another employer, or
6 its employees, on the same job as the injured or deceased worker
7 even though such other employer may be considered as standing in the
8 position of a special master of a loaned servant where such special
9 master neither is the immediate employer of the injured or deceased
10 worker nor stands in the position of an intermediate or principal
11 employer to the immediate employer of the injured or deceased
12 worker.

13 ~~G.~~ H. This section shall not be construed to abrogate the
14 loaned servant doctrine in any respect other than that described in
15 subsection ~~F~~ G of this section. Nothing in ~~this act~~ the
16 Administrative Workers' Compensation Act shall be construed to
17 relieve the employer from any other penalty provided for in ~~this act~~
18 the Administrative Workers' Compensation Act for failure to secure
19 the payment of compensation under ~~this act~~ the Administrative
20 Workers' Compensation Act.

21 ~~H.~~ I. For the purpose of extending the immunity of this
22 section, any architect, professional engineer, or land surveyor
23 shall be deemed an intermediate or principal employer for services
24 performed at or on the site of a construction project, but this

1 immunity shall not extend to the negligent preparation of design
2 plans and specifications.

3 ~~±. J.~~ If the employer has failed to secure the payment of
4 compensation as provided in ~~this act~~ the Administrative Workers'
5 Compensation Act or in the case of an intentional tort, the injured
6 employee or his or her legal representative may maintain an action
7 either before the Oklahoma Workers' Compensation Commission or in
8 the district court, but not both.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 126 of Title 85A, unless there
11 is created a duplication in numbering, reads as follows:

12 A. For the purposes of this section:

13 1. "General contractor" means a person who undertakes to
14 procure the performance of work or a service, either separately or
15 through the use of subcontractors. General contractor shall
16 include, but is not limited to, a principal contractor, an original
17 contractor, a prime contractor or other analogous term, and one who
18 owns, occupies, possesses, or otherwise controls a premises who
19 contracts all or part of the work being performed on the premises;

20 2. "Provides workers' compensation insurance coverage" means to
21 make available workers' compensation insurance coverage. Workers'
22 compensation insurance coverage may be provided, even if it does not
23 ultimately cover an incident, so long as it was made available to
24 the subcontractor. The following does not constitute acceptable or

1 relevant evidence to suggest that workers' compensation insurance
2 made available to a subcontractor was not provided to the
3 subcontractor:

- 4 a. timing discrepancies between the issuance of workers'
5 compensation insurance policies and contracts between
6 and among general contractors and subcontractors,
- 7 b. factual discrepancies in secondary documentation such
8 as certificates of insurance or enrollment forms,
- 9 c. a general contractor's lack of notice of election of
10 coverage, or
- 11 d. payment of premiums, or lack thereof, by the general
12 contractor; and

13 3. "Subcontractor" means a person who performs all or part of
14 the work or services that the general contractor has undertaken to
15 perform. This includes a person with whom the general contractor
16 has contracted directly to perform the work as well as other persons
17 with whom a subcontractor contracts to perform the work.

18 B. A general contractor and a subcontractor may enter into a
19 written agreement under which the general contractor provides
20 workers' compensation insurance coverage to the subcontractor and
21 employees of the subcontractor.

22 C. If a general contractor has workers' compensation insurance
23 to protect the general contractor's employees and if, in the course
24 and scope of the general contractor's business, the general

1 contractor enters into a contract with a subcontractor who does not
2 have employees, the general contractor shall be treated as the
3 employer of the subcontractor for the purposes of the Administrative
4 Workers' Compensation Act and may enter into an agreement for the
5 deduction of premiums paid in accordance with subsection D of this
6 section. A premises owner who acts as a general contractor shall be
7 treated as the employer of all subcontractors for the purposes of
8 the Administrative Workers' Compensation Act and may enter into an
9 agreement for the deduction of premiums paid in accordance with
10 subsection D of this section.

11 D. If a general contractor elects to provide coverage, then the
12 actual premiums based on payroll that are paid or incurred by the
13 general contractor for the coverage may be deducted from the
14 contract price or other amount owed to the subcontractor by the
15 general contractor.

16 E. An agreement under this section makes the general contractor
17 the employer of the subcontractor and the subcontractor's employees
18 only for the purposes of this title. A subcontractor or
19 subcontractor's employee's rights and remedies against the general
20 contractor or any principal, officer, director, employee,
21 stockholder, partner, or prime contractor of the general contractor
22 shall be subject to the limitations pursuant to Section 5 of Title
23 85A of the Oklahoma Statutes. The limitations in this subsection
24 shall only apply to claims against the general contractor. To the

1 extent not otherwise precluded by Section 5 of Title 85A of the
2 Oklahoma Statutes, a subcontractor or subcontractor's employee
3 retains the right to recover from another subcontractor or
4 subcontractor's employee.

5 F. Notwithstanding subsection C of this section, a person who
6 performs work or provides a service for an oil or gas well operator
7 and who is an independent contractor that has no employees shall be
8 treated in the same manner as an independent contractor with
9 employees and is not entitled to coverage under the general
10 contractor's workers' compensation insurance policy unless the
11 independent subcontractor and the general contractor enter into an
12 agreement under this section.

13 SECTION 3. AMENDATORY 85A O.S. 2021, Section 45, is
14 amended to read as follows:

15 Section 45. Temporary Total Disability - Temporary Partial
16 Disability - Permanent Partial Disability - Permanent Total
17 Disability.

18 A. Temporary Total Disability.

19 1. If the injured employee is temporarily unable to perform his
20 or her job or any alternative work offered by the employer, he or
21 she shall be entitled to receive compensation equal to seventy
22 percent (70%) of the injured employee's average weekly wage, but not
23 to exceed the state average weekly wage, for one hundred fifty-six
24 (156) weeks. Provided, there shall be no payment for the first

1 three (3) days of the initial period of temporary total disability.
2 If an administrative law judge finds that a consequential injury has
3 occurred and that additional time is needed to reach maximum medical
4 improvement, temporary total disability may continue for a period of
5 not more than an additional fifty-two (52) weeks. Such finding
6 shall be based upon a showing of medical necessity by clear and
7 convincing evidence. An employer shall have the right to recover
8 any overpayment of temporary total disability payments from a
9 subsequent permanent partial disability award if the offset is
10 deemed justified by the Workers' Compensation Commission.

11 2. When the injured employee is released from active medical
12 treatment by the treating physician for all body parts found by the
13 Commission to be injured, or in the event that the employee, without
14 a valid excuse, misses three consecutive medical treatment
15 appointments, fails to comply with medical orders of the treating
16 physician, or otherwise abandons medical care, the employer shall be
17 entitled to terminate temporary total disability by notifying the
18 employee, or if represented, his or her counsel. If, however, an
19 objection to the termination is filed by the employee within ten
20 (10) days of termination, the Commission shall set the matter within
21 twenty (20) days for a determination if temporary total disability
22 compensation shall be reinstated. The temporary total disability
23 shall remain terminated until such time as the employee complies
24 with medical orders of the treating physician. Notwithstanding the

1 provisions of this paragraph, benefits under this subsection shall
2 be permanently terminated by order of the Commission if the employee
3 is noncompliant or abandons treatment for sixty (60) days, or if
4 benefits under this subsection have been suspended under this
5 paragraph at least two times. The administrative law judge may
6 appoint an independent medical examiner to determine if further
7 medical treatment is reasonable and necessary. The independent
8 medical examiner shall not provide treatment to the injured worker,
9 unless agreed upon by the parties.

10 B. Temporary Partial Disability.

11 1. If the injured employee is temporarily unable to perform his
12 or her job, but may perform alternative work offered by the
13 employer, he or she shall be entitled to receive compensation equal
14 to seventy percent (70%) of the difference between the injured
15 employee's average weekly wage before the injury and his or her
16 weekly wage for performing alternative work after the injury, but
17 only if his or her weekly wage for performing the alternative work
18 is less than the temporary total disability rate. The injured
19 employee's actual earnings plus temporary partial disability
20 compensation shall not exceed the temporary total disability rate.

21 2. Compensation under this subsection may not exceed fifty-two
22 (52) weeks.
23
24

1 3. If the employee refuses to perform the alternative work
2 offered by the employee, he or she shall not be entitled to benefits
3 under subsection A of this section or under this section.

4 C. Permanent Partial Disability.

5 1. A permanent partial disability award or combination of
6 awards granted an injured worker may not exceed a permanent partial
7 disability rating of one hundred percent (100%) to any body part or
8 to the body as a whole. The determination of permanent partial
9 disability shall be the responsibility of the Commission through its
10 administrative law judges. Any claim by an employee for
11 compensation for permanent partial disability must be supported by
12 competent medical testimony of a medical doctor, osteopathic
13 physician, or chiropractor, and shall be supported by objective
14 medical findings, as defined in this act. The opinion of the
15 physician shall include employee's percentage of permanent partial
16 disability and whether or not the disability is job-related and
17 caused by the accidental injury or occupational disease. A
18 physician's opinion of the nature and extent of permanent partial
19 disability to parts of the body other than scheduled members must be
20 based solely on criteria established by the Sixth Edition of the
21 American Medical Association's "Guides to the Evaluation of
22 Permanent Impairment". A copy of any written evaluation shall be
23 sent to both parties within seven (7) days of issuance. Medical
24 opinions addressing compensability and permanent disability must be

1 stated within a reasonable degree of medical certainty. Any party
2 may submit the report of an evaluating physician.

3 2. Permanent partial disability shall not be allowed to a part
4 of the body for which no medical treatment has been received. A
5 determination of permanent partial disability made by the Commission
6 or administrative law judge which is not supported by objective
7 medical findings provided by a treating physician who is a medical
8 doctor, doctor of osteopathy, chiropractor or a qualified
9 independent medical examiner shall be considered an abuse of
10 discretion.

11 3. The examining physician shall not deviate from the Guides
12 except as may be specifically provided for in the Guides.

13 4. In cases of permanent partial disability, the compensation
14 shall be seventy percent (70%) of the employee's average weekly
15 wage, not to exceed ~~Three Hundred Fifty Dollars (\$350.00)~~ Three
16 Hundred Sixty Dollars (\$360.00) per week which shall increase to
17 ~~Three Hundred Sixty Dollars (\$360.00) per week on July 1, 2021, for~~
18 ~~a term not to exceed a total of three hundred sixty (360) weeks for~~
19 ~~the body as a whole~~ Three Hundred Seventy-five Dollars (\$375.00) per
20 week on July 1, 2025.

21 5. Assessments pursuant to Sections 31, 98 and 122 of this
22 title shall be calculated based upon the amount of the permanent
23 partial disability award.

1 6. Previous Disability: The fact that an employee has suffered
2 previous disability or received compensation therefor shall not
3 preclude the employee from compensation for a later accidental
4 personal injury or occupational disease. In the event there exists
5 a previous permanent partial disability, including a previous non-
6 work-related injury or condition which produced permanent partial
7 disability and the same is aggravated or accelerated by an
8 accidental personal injury or occupational disease, compensation for
9 permanent partial disability shall be only for such amount as was
10 caused by such accidental personal injury or occupational disease
11 and no additional compensation shall be allowed for the preexisting
12 disability or impairment. Any such reduction shall not apply to
13 temporary total disability, nor shall it apply to compensation for
14 medical treatment. If workers' compensation benefits have
15 previously been awarded through settlement or judicial or
16 administrative determination in Oklahoma, the percentage basis of
17 the prior settlement or award shall conclusively establish the
18 amount of permanent partial disability determined to be preexisting.
19 If workers' compensation benefits have not previously been awarded
20 through settlement or judicial or administrative determination in
21 Oklahoma, the amount of preexisting permanent partial disability
22 shall be established by competent evidence and determined by the
23 Commission.

1 7. No payments on any permanent partial disability order shall
2 begin until payments on any preexisting permanent partial disability
3 orders have been completed.

4 8. The whole body shall represent a maximum of three hundred
5 sixty (360) weeks.

6 9. The permanent partial disability rate of compensation for
7 amputation or permanent total loss of use of a scheduled member
8 specified in Section 46 of this title shall be seventy percent (70%)
9 of the employee's average weekly wage, not to exceed Three Hundred
10 Fifty Dollars (\$350.00), with an increase to Three Hundred Sixty
11 Dollars (\$360.00) on July 1, 2021, multiplied by the number of weeks
12 set forth for the member in Section 46 of this title, regardless of
13 whether the injured employee is able to return to his or her pre-
14 injury or equivalent job.

15 10. An injured employee who is eligible for permanent partial
16 disability under this subsection shall be entitled to receive
17 vocational rehabilitation services provided by a technology center
18 or public secondary school offering vocational-technical education
19 courses, or a member institution of The Oklahoma State System of
20 Higher Education, which shall include retraining and job placement
21 to restore the employee to gainful employment. Vocational
22 rehabilitation services or training shall not extend for a period of
23 more than fifty-two (52) weeks.

24 D. Permanent Total Disability.

1 1. In case of total disability adjudged to be permanent,
2 seventy percent (70%) of the employee's average weekly wages, but
3 not in excess of the state's average weekly wage, shall be paid to
4 the employee during the continuance of the disability until such
5 time as the employee reaches the age of maximum Social Security
6 retirement benefits or for a period of fifteen (15) years, whichever
7 is longer. In the event the claimant dies of causes unrelated to
8 the injury or illness, benefits shall cease on the date of death.
9 Provided, however, any person entitled to revive the action shall
10 receive a one-time lump-sum payment equal to twenty-six (26) weeks
11 of weekly benefits for permanent total disability awarded the
12 claimant. If more than one person is entitled to revive the claim,
13 the lump-sum payment shall be evenly divided between or among such
14 persons. In the event the Commission awards both permanent partial
15 disability and permanent total disability benefits, the permanent
16 total disability award shall not be due until the permanent partial
17 disability award is paid in full. If otherwise qualified according
18 to the provisions of this act, permanent total disability benefits
19 may be awarded to an employee who has exhausted the maximum period
20 of temporary total disability even though the employee has not
21 reached maximum medical improvement.

22 2. The Workers' Compensation Commission shall annually review
23 the status of any employee receiving benefits for permanent total
24 disability against the last employer. The Commission shall require

1 the employee to annually file an affidavit under penalty of perjury
2 stating that he or she is not and has not been gainfully employed
3 and is not capable of gainful employment. Failure to file such
4 affidavit shall result in suspension of benefits; provided, however,
5 reinstatement of benefits may occur after proper hearing before the
6 Commission.

7 E. 1. The Workers' Compensation Commission may hire or
8 contract for a Vocational Rehabilitation Director to oversee the
9 vocational rehabilitation program of the Commission.

10 2. Upon the request of either party, an administrative law
11 judge shall determine if it is appropriate for a claimant to receive
12 vocational rehabilitation training or services. If appropriate, the
13 administrative law judge shall refer the employee to a qualified
14 expert for evaluation of the practicability of, need for and kind of
15 rehabilitation services or training necessary and appropriate in
16 order to restore the employee to gainful employment. The cost of
17 the evaluation shall be paid by the employer.

18 3. Upon receipt of such report, and after affording all parties
19 an opportunity to be heard, the administrative law judge shall order
20 that any rehabilitation services or training, recommended in the
21 report, or such other rehabilitation services or training as the
22 administrative law judge may deem necessary, provided the employee
23 elects to receive such services, shall be provided at the expense of
24 the employer. Except as otherwise provided in this subsection,

1 refusal to accept rehabilitation services by the employee shall in
2 no way diminish any benefits allowable to an employee.

3 4. The administrative law judge may order vocational
4 rehabilitation before the injured employee reaches maximum medical
5 improvement, if the treating physician believes that it is likely
6 that the employee's injury will prevent the employee from returning
7 to his or her former employment. In granting early benefits for
8 vocational rehabilitation, the Commission shall consider temporary
9 restrictions and the likelihood that such rehabilitation will return
10 the employee to gainful employment earlier than if such benefits are
11 granted after the permanent partial disability hearing in the claim.

12 5. Vocational rehabilitation services or training shall not
13 extend for a period of more than fifty-two (52) weeks. A request
14 for vocational rehabilitation services or training shall be filed
15 with the Commission by an interested party not later than sixty (60)
16 days from the date of receiving permanent disability that prevents
17 the injured employee from returning to his or her pre-injury or
18 equivalent position.

19 6. If rehabilitation requires residence at or near the facility
20 or institution which is away from the employee's customary
21 residence, reasonable cost of the employee's board, lodging, travel,
22 tuition, books and necessary equipment in training shall be paid for
23 by the insurer in addition to weekly compensation benefits to which
24

1 the employee is otherwise entitled under the Administrative Workers'
2 Compensation Act.

3 7. During the period when an employee is actively and in good
4 faith being evaluated or participating in a retraining or job
5 placement program for purposes of evaluating permanent total
6 disability status, the employee shall be entitled to receive
7 benefits at the same rate as the employee's temporary total
8 disability benefits for an additional fifty-two (52) weeks. All
9 tuition related to vocational rehabilitation services shall be paid
10 by the employer or the employer's insurer on a periodic basis
11 directly to the facility providing the vocational rehabilitation
12 services or training to the employee.

13 F. Disfigurement.

14 1. If an injured employee incurs serious and permanent
15 disfigurement to any part of the body, the Commission may award
16 compensation to the injured employee in an amount not to exceed
17 Fifty Thousand Dollars (\$50,000.00).

18 2. No award for disfigurement shall be entered until twelve
19 (12) months after the injury unless the treating physician deems the
20 wound or incision to be fully healed.

21 3. An injured employee shall not be entitled to compensation
22 under this subsection if he or she receives an award for permanent
23 partial disability to the same part of the body.

1 G. Benefits for a single-event injury shall be determined by
2 the law in effect at the time of injury. Benefits for a cumulative
3 trauma injury or occupational disease or illness shall be determined
4 by the law in effect at the time the employee knew or reasonably
5 should have known that the injury, occupational disease or illness
6 was related to work activity. Benefits for death shall be
7 determined by the law in effect at the time of death.

8 SECTION 4. The provisions of this act shall not become
9 effective as law unless either House Bill No. 2144 of the 1st
10 Session of the 60th Oklahoma Legislature is enacted as law or the
11 provisions of Engrossed House Bill No. 2144 of the 1st Session of
12 the 60th Oklahoma Legislature are enacted as law in another measure
13 using the provisions of the Senate Floor version of Engrossed House
14 Bill No. 2144 as such measure was reported from a Senate Committee
15 and ready for Third Reading and final passage in the Oklahoma State
16 Senate on May 8, 2025.

17 SECTION 5. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval."
21
22
23
24

1 Passed the House of Representatives the 8th day of May, 2025.

2
3
4 Presiding Officer of the House of
Representatives
5

6 Passed the Senate the ____ day of _____, 2025.
7

8
9 Presiding Officer of the Senate
10

1 ENGROSSED SENATE
2 BILL NO. 642

By: Paxton of the Senate

3 and

4 Hilbert of the House

5
6 An Act relating to workers' compensation; amending
7 85A O.S. 2021, Section 5, which relates to exclusive
8 liability; expanding rights and remedies granted to
9 certain persons; stating effect of provisions to
10 certain contracts; making language gender neutral;
11 updating statutory references; defining terms;
12 authorizing agreement between contractors to provide
13 certain insurance coverage; providing for deduction
14 of premiums under certain agreements; clarifying
15 application of certain rights and remedies;
16 prohibiting coverage for certain contractors without
17 agreement; providing for codification; and declaring
18 an emergency.

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

20 SECTION 6. AMENDATORY 85A O.S. 2021, Section 5, is
21 amended to read as follows:

22 Section 5. A. The rights and remedies granted to an employee
23 subject to the provisions of the Administrative Workers'
24 Compensation Act shall be exclusive of all other rights and remedies
of the employee, his or her legal representative, dependents, next
of kin, or anyone else claiming rights to recovery on behalf of the
employee against the employer, including a general contractor that
provides workers' compensation insurance coverage to a subcontractor

1 pursuant to Section 2 of this act, or any principal, officer,
2 director, employee, stockholder, partner, or prime contractor of the
3 employer on account of injury, illness, or death. Negligent acts of
4 a co-employee may not be imputed to the employer. No role,
5 capacity, or persona of any employer, principal, officer, director,
6 employee, or stockholder other than that existing in the role of
7 employer of the employee shall be relevant for consideration for
8 purposes of ~~this act~~ the Administrative Workers' Compensation Act,
9 and the remedies and rights provided by ~~this act~~ the Administrative
10 Workers' Compensation Act to an employee or other person claiming
11 rights to recovery on behalf of the employee shall be exclusive
12 regardless of the multiple roles, capacities, or personas the
13 employer may be deemed to have.

14 B. Notwithstanding the date of the injury, illness, or death of
15 an employee, nothing in subsection A of this section shall affect
16 any provision in an executed contract that requires the employer, or
17 any principal, officer, director, stockholder, partner, or prime
18 contractor of the employer, to indemnify, defend, or hold harmless
19 another person or entity against liability for the injury, illness,
20 or death of an employee, including, but not limited to, the ability
21 or requirement to insure for such claims.

22 C. Exclusive remedy shall not apply if:

23 1. An employer fails to secure the payment of compensation due
24 to the employee as required by ~~this act~~ the Administrative Workers'

1 Compensation Act. An injured employee, or his or her legal
2 representative in case death results from the injury, may, at his or
3 her option, elect to claim compensation under ~~this act~~ the
4 Administrative Workers' Compensation Act or to maintain a legal
5 action in court for damages on account of the injury or death; or

6 2. The injury was caused by an intentional tort committed by
7 the employer. An intentional tort shall exist only when the
8 employee is injured as a result of willful, deliberate, specific
9 intent of the employer to cause such injury. Allegations or proof
10 that the employer had knowledge that the injury was substantially
11 certain to result from the employer's conduct shall not constitute
12 an intentional tort. The employee shall plead facts that show it is
13 at least as likely as it is not that the employer acted with the
14 purpose of injuring the employee. The issue of whether an act is an
15 intentional tort shall be a question of law.

16 ~~C.~~ D. The immunity from civil liability described in subsection
17 A of this section shall apply regardless of whether the injured
18 employee is denied compensation or deemed ineligible to receive
19 compensation under ~~this act~~ the Administrative Workers' Compensation
20 Act.

21 ~~D.~~ E. If an employer has failed to secure the payment of
22 compensation for his or her injured employee as provided for in ~~this~~
23 ~~act~~ the Administrative Workers' Compensation Act, an injured
24 employee, or his or her legal representative if death results from

1 the injury, may maintain an action in the district court for damages
2 on account of such injury.

3 ~~F.~~ F. The immunity created by the provisions of this section
4 shall not extend to action against another employer, or its
5 employees, on the same job as the injured or deceased worker where
6 such other employer does not stand in the position of an
7 intermediate or principal employer to the immediate employer of the
8 injured or deceased worker.

9 ~~F.~~ G. The immunity created by the provisions of this section
10 shall not extend to action against another employer, or its
11 employees, on the same job as the injured or deceased worker even
12 though such other employer may be considered as standing in the
13 position of a special master of a loaned servant where such special
14 master neither is the immediate employer of the injured or deceased
15 worker nor stands in the position of an intermediate or principal
16 employer to the immediate employer of the injured or deceased
17 worker.

18 ~~G.~~ H. This section shall not be construed to abrogate the
19 loaned servant doctrine in any respect other than that described in
20 subsection ~~F~~ G of this section. Nothing in ~~this act~~ the
21 Administrative Workers' Compensation Act shall be construed to
22 relieve the employer from any other penalty provided for in ~~this act~~
23 the Administrative Workers' Compensation Act for failure to secure
24

1 the payment of compensation under ~~this act~~ the Administrative
2 Workers' Compensation Act.

3 ~~H.~~ I. For the purpose of extending the immunity of this
4 section, any architect, professional engineer, or land surveyor
5 shall be deemed an intermediate or principal employer for services
6 performed at or on the site of a construction project, but this
7 immunity shall not extend to the negligent preparation of design
8 plans and specifications.

9 ~~I.~~ J. If the employer has failed to secure the payment of
10 compensation as provided in ~~this act~~ the Administrative Workers'
11 Compensation Act or in the case of an intentional tort, the injured
12 employee or his or her legal representative may maintain an action
13 either before the Oklahoma Workers' Compensation Commission or in
14 the district court, but not both.

15 SECTION 7. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 126 of Title 85A, unless there
17 is created a duplication in numbering, reads as follows:

18 A. For the purposes of this section:

19 1. "General contractor" means a person who undertakes to
20 procure the performance of work or a service, either separately or
21 through the use of subcontractors. General contractor shall
22 include, but is not limited to, a principal contractor, an original
23 contractor, a prime contractor or other analogous term, and a
24

1 premises owner who contracts all or part of the work being performed
2 on the premises;

3 2. "Provides workers' compensation insurance coverage" means to
4 make available workers' compensation insurance coverage. Workers'
5 compensation insurance coverage may be provided, even if it does not
6 ultimately cover an incident, so long as it was made available to
7 the subcontractor. The following does not constitute acceptable or
8 relevant evidence to suggest that workers' compensation insurance
9 made available to a subcontractor was not provided to the
10 subcontractor:

- 11 a. timing discrepancies between the issuance of workers'
12 compensation insurance policies and contracts between
13 and among general contractors and subcontractors,
- 14 b. factual discrepancies in secondary documentation such
15 as certificates of insurance or enrollment forms,
- 16 c. a general contractor's lack of notice of election of
17 coverage, or
- 18 d. payment of premiums, or lack thereof, by the general
19 contractor; and

20 3. "Subcontractor" means a person who contracts with a general
21 contractor to perform all or part of the work or services that the
22 general contractor has undertaken to perform.

23 B. A general contractor and a subcontractor may enter into a
24 written agreement under which the general contractor provides

1 workers' compensation insurance coverage to the subcontractor and
2 employees of the subcontractor.

3 C. If a general contractor has workers' compensation insurance
4 to protect the general contractor's employees and if, in the course
5 and scope of the general contractor's business, the general
6 contractor enters into a contract with a subcontractor who does not
7 have employees, the general contractor shall be treated as the
8 employer of the subcontractor for the purposes of the Administrative
9 Workers' Compensation Act and may enter into an agreement for the
10 deduction of premiums paid in accordance with subsection D of this
11 section. A premises owner who acts as a general contractor shall be
12 treated as the employer of all subcontractors for the purposes of
13 the Administrative Workers' Compensation Act and may enter into an
14 agreement for the deduction of premiums paid in accordance with
15 subsection D of this section.

16 D. If a general contractor elects to provide coverage, then the
17 actual premiums based on payroll that are paid or incurred by the
18 general contractor for the coverage may be deducted from the
19 contract price or other amount owed to the subcontractor by the
20 general contractor.

21 E. An agreement under this section makes the general contractor
22 the employer of the subcontractor and the subcontractor's employees
23 only for the purposes of this title. A subcontractor or
24 subcontractor's employee's rights and remedies against the general

1 contractor or any principal, officer, director, employee,
2 stockholder, partner, or prime contractor of the general contractor
3 shall be subject to the limitations pursuant to Section 5 of Title
4 85A of the Oklahoma Statutes.

5 F. Notwithstanding subsection C of this section, a person who
6 performs work or provides a service for an oil or gas well operator
7 and who is an independent contractor that has no employees shall be
8 treated in the same manner as an independent contractor with
9 employees and is not entitled to coverage under the general
10 contractor's workers' compensation insurance policy unless the
11 independent subcontractor and the general contractor enter into an
12 agreement under this section.

13 SECTION 8. It being immediately necessary for the preservation
14 of the public peace, health or safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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1 Passed the Senate the 18th day of March, 2025.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2025.

7
8 _____
9 Presiding Officer of the House
10 of Representatives