

2002 SESSION

INTRODUCED

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SENATE BILL NO. 520

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend the Code of Virginia by adding a section numbered 8.01-424.1, relating to settlement of third-party actions; deemed consent by employer.

Patrons—Mims; Delegate: Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-424.1 as follows:

§ 8.01-424.1. Settlement of third-party action; deemed consent by employer.

In any action or claim for damages by an employee, his personal representative, or other person against any person other than the employer, in which the employer has an interest pursuant to § 65.2-309, where the employer fails to consent to an offer of settlement acceptable to the employee, his personal representative or other person, such person may petition the court where the action is pending for approval of the settlement. Where no action is pending, or the court before which the action is pending fails to convene all of the parties at interest, the petition may be filed in any circuit court. The petition shall state the compromise, its terms, and the reason therefor. The court in which such petition is filed shall require the convening of the parties in interest in person or by authorized representative. The parties in interest shall be deemed convened if the employer or his authorized representative endorses the order approving the compromise or is given reasonable notice of the hearing and proposed compromise.

If the court determines that the settlement is fair and just to the parties in interest, it shall approve such settlement. The court may reduce the amount of the employer's subrogation interest created by § 65.2-309 as the equities of the case may appear. Such approval shall be deemed consent to the settlement by the employer.

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