

2015 SESSION

INTRODUCED

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HOUSE BILL NO. 1486

Offered January 14, 2015

Prefiled January 5, 2015

A BILL to amend and reenact § 65.2-307 of the Code of Virginia, relating to the Virginia Workers' Compensation Act; exclusivity of remedies.

Patron—Habeeb

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-307 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-307. Employee's rights under Act exclude all others; exception.**

A. The rights and remedies herein granted to an employee when his employer and he have accepted the provisions of this title respectively to pay and accept compensation on account of injury or death by accident shall exclude all other rights and remedies of such employee, his personal representative, parents, dependents or next of kin, at common law or otherwise, on account of such injury, loss of service or death. *However, if a court of the Commonwealth determines that the accident, disease, injury, or death is barred by the exclusivity provisions of the Act, then that finding shall be res judicata between those same parties and estop those same parties from arguing before the Commission that the accident, injury, or death did not arise out of and in the course and scope of the employee's employment. If the Commission or a court of the Commonwealth determines that the accident, injury, or death does not arise out of or in the course and scope of such employee's employment, then that finding shall be res judicata and estop those same parties from arguing before a court of the Commonwealth that the accident is barred by the exclusivity provisions of the Act.*

B. Notwithstanding this exclusion, nothing in the Act shall bar an employer from voluntarily agreeing to pay an employee compensation above and beyond those benefits provided for in the Act. Nothing herein, however, shall be deemed to affect or alter any existing right or remedy of the employer or employee under the Act.

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