

1 SENATE BILL NO. 369

2 INTRODUCED BY J. TREBAS, C. FRIEDEL, J. ELLSWORTH

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING COVERAGE UNDER WORKERS' COMPENSATION
5 FOR EMPLOYEES EXPERIENCING SERIOUS ADVERSE EVENTS AFTER RECEIVING EMPLOYER-
6 MANDATED VACCINES; PROVIDING A DEFINITION; AMENDING SECTION 39-71-119, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 39-71-119, MCA, is amended to read:

12 **"39-71-119. Injury and accident defined.** (1) (a) "Injury" or "injured" means:

13 ~~(a)~~(i) internal or external physical harm to the body that is established by objective medical findings;

14 ~~(b)~~(ii) damage to prosthetic devices;

15 ~~(c)~~(iii) damage to appliances, except for damage to eyeglasses, contact lenses, dentures, or hearing
16 aids; or

17 ~~(d)~~(iv) death.

18 (b) (i) The term includes a serious adverse event experienced by an employee after receiving a
19 vaccine mandated by an employer.

20 (ii) For the purposes of subsection (1)(b), "serious adverse event" means:

21 (A) death or a life-threatening illness;

22 (B) hospitalization or the prolongation of an existing hospitalization;

23 (C) a persistent or significant incapacity or substantial disruption of the ability to conduct normal life
24 functions; OR

25 ~~(D)~~ a congenital anomaly or a birth defect; or

26 ~~(E)~~(D) a medical event that, based on appropriate medical judgment, may jeopardize the individual
27 and may require medical or surgical intervention to prevent an outcome described in subsections (1)(b)(ii)(A)

28 through ~~(1)(b)(ii)(D)~~ (1)(B)(II)(C).

- 1 (2) An injury is caused by an accident. An accident is:
- 2 (a) an unexpected traumatic incident or unusual strain;
- 3 (b) identifiable by time and place of occurrence;
- 4 (c) identifiable by member or part of the body affected; and
- 5 (d) caused by a specific event on a single day or during a single work shift.
- 6 (3) "Injury" or "injured" does not mean a physical or mental condition arising from:
- 7 (a) emotional or mental stress; or
- 8 (b) a nonphysical stimulus or activity.
- 9 (4) "Injury" or "injured" does not include a disease that is not caused by an accident.
- 10 (5) (a) A cardiovascular, pulmonary, respiratory, or other disease, cerebrovascular accident, or
- 11 myocardial infarction suffered by a worker is an injury only if the accident is the primary cause of the physical
- 12 condition in relation to other factors contributing to the physical condition.
- 13 (b) "Primary cause", as used in subsection (5)(a), means a cause that, with a reasonable degree of
- 14 medical certainty, is responsible for more than 50% of the physical condition."

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16 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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18 NEW SECTION. **Section 3. Applicability.** [This act] applies to injuries occurring on or after [the

19 effective date of this act].

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