

By: Senator(s) Hewes

To: Insurance; Labor

SENATE BILL NO. 2809

1 AN ACT TO AMEND SECTION 71-3-35, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT WHEN AN EMPLOYEE IS TERMINATED, A COMPENSABLE
3 CLAIM MAY BE MAINTAINED ONLY IF THE EMPLOYER HAS RECEIVED NOTICE
4 OF THE INJURY PRIOR TO THE TERMINATION DATE; AND FOR RELATED
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 71-3-35, Mississippi Code of 1972, is
8 amended as follows:

9 71-3-35. (1) No claim for compensation shall be maintained
10 unless, within thirty (30) days after the occurrence of the
11 injury, actual notice was received by the employer or by an
12 officer, manager or designated representative of an employer. If
13 no representative has been designated by posters placed in one or
14 more conspicuous places, then notice received by any superior
15 shall be sufficient. Absence of notice shall not bar recovery if
16 it is found that the employer had knowledge of the injury and was
17 not prejudiced by the employee's failure to give notice.
18 Regardless of whether notice was received, if no payment of
19 compensation (other than medical treatment or burial expense) is
20 made and no application for benefits filed with the commission
21 within two (2) years from the date of the injury or death, the
22 right to compensation therefor shall be barred.

23 (2) If a person who is entitled to compensation under this
24 chapter is mentally incompetent or a minor, the limitation for
25 filing application for benefits shall not be applicable so long as
26 such person has no guardian or other authorized representative,
27 but shall be applicable in the case of a person who is mentally

28 incompetent or a minor from the date of appointment of such
29 guardian or other representative, or in the case of a minor, if no
30 guardian is appointed before he becomes of age, from the date he
31 becomes of age.

32 (3) Where recovery is denied to any person, in a suit
33 brought at law or admiralty to recover damages in respect of
34 injury or death, on the ground that such person was an employee
35 and that the defendant was an employer within the meaning of this
36 chapter and that such employer had secured compensation to such
37 employee under this chapter, the limitation upon filing
38 application for benefits shall begin to run only from the date of
39 termination of such suit.

40 (4) When an employee is terminated or laid off, no claim for
41 physical injury shall be maintained unless actual notice of the
42 injury was received by the employer on or before the date of
43 termination or layoff.

44 SECTION 2. This act shall take effect and be in force from
45 and after July 1, 1999.