

By: Hewes

To: Insurance; Labor

SENATE BILL NO. 2324

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

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

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

8 71-3-35. (1) No claim for compensation shall be maintained  
9 unless, within thirty (30) days after the occurrence of the  
10 injury, actual notice was received by the employer or by an  
11 officer, manager or designated representative of an employer. If  
12 no representative has been designated by posters placed in one or  
13 more conspicuous places, then notice received by any superior  
14 shall be sufficient. Absence of notice shall not bar recovery if  
15 it is found that the employer had knowledge of the injury and was  
16 not prejudiced by the employee's failure to give notice.  
17 Regardless of whether notice was received, if no payment of  
18 compensation (other than medical treatment or burial expense) is  
19 made and no application for benefits filed with the commission  
20 within two (2) years from the date of the injury or death, the  
21 right to compensation therefor shall be barred.

22 (2) If a person who is entitled to compensation under this

23 chapter is mentally incompetent or a minor, the limitation for  
24 filing application for benefits shall not be applicable so long as  
25 such person has no guardian or other authorized representative,  
26 but shall be applicable in the case of a person who is mentally  
27 incompetent or a minor from the date of appointment of such  
28 guardian or other representative, or in the case of a minor, if no  
29 guardian is appointed before he becomes of age, from the date he  
30 becomes of age.

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

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

43 SECTION 2. This act shall take effect and be in force from  
44 and after July 1, 2000.