HOUSE BILL NO. 87

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

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

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

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

(2) If a person who is entitled to compensation under this chapter is mentally incompetent or a minor, the limitation for filing application for benefits shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such
guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.