

By: Senator(s) Hewes

To: Insurance

SENATE BILL NO. 2019

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, 2004.