

By: Senator(s) Hewes, Gollott, Kirby, Lee  
(35th), Brown, Doxey

To: Insurance

SENATE BILL NO. 2491

1 AN ACT TO AMEND SECTION 71-3-35, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT WHEN AN EMPLOYEE IS TERMINATED, A WORKERS  
3 COMPENSATION CLAIM MAY BE MAINTAINED ONLY IF THE EMPLOYER HAS  
4 RECEIVED NOTICE OF THE INJURY PRIOR TO THE TERMINATION DATE; AND  
5 FOR RELATED 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, 2006.