



General Assembly

February Session, 2000

Raised Bill No. 5539

LCO No. 1301

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

An Act Concerning Notice Of Workers' Compensation Liens.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-293 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (a) (1) When any injury for which compensation is payable under
4 the provisions of this chapter has been sustained under circumstances
5 creating in a person other than an employer who has complied with
6 the requirements of subsection (b) of section 31-284, a legal liability to
7 pay damages for the injury, the injured employee may claim
8 compensation under the provisions of this chapter, but the payment or
9 award of compensation shall not affect the claim or right of action of
10 the injured employee against such person, but the injured employee
11 may proceed at law against such person to recover damages for the
12 injury; and any employer or the custodian of the Second Injury Fund,
13 having paid, or having become obligated to pay, compensation under
14 the provisions of this chapter may bring an action against such person
15 to recover any amount that [he] such employer or custodian has paid
16 or has become obligated to pay as compensation to the injured
17 employee.

18 (2) If the employee, the employer or the custodian of the Second
19 Injury Fund brings an action against such person, [he] such employee,
20 employer or custodian shall immediately notify the others, in writing,
21 by personal presentation or by registered or certified mail, of the action
22 and of the name of the court to which the writ is returnable, and the
23 others may join as parties plaintiff in the action within thirty days after
24 such notification, and, if the others fail to join as parties plaintiff, their
25 right of action against such person shall abate. An employee of the
26 state shall send a copy of the notice to the Commissioner of
27 Administrative Services.

28 (3) In any case in which an employee brings an action against a
29 party other than an employer who failed to comply with the
30 requirements of subsection (b) of section 31-284, in accordance with the
31 provisions of this section, and the employer is a party defendant in the
32 action, the employer may join as a party plaintiff in the action. The
33 bringing of any action against an employer shall not constitute notice
34 to the employer within the meaning of this section. If the employer and
35 the employee join as parties plaintiff in the action and any damages are
36 recovered, the damages shall be so apportioned that the claim of the
37 employer, as defined in this section, shall take precedence over that of
38 the injured employee in the proceeds of the recovery, after the
39 deduction of reasonable and necessary expenditures, including
40 attorneys' fees, incurred by the employee in effecting the recovery. The
41 rendition of a judgment in favor of the employee or the employer
42 against the party shall not terminate the employer's obligation to make
43 further compensation which the commissioner thereafter deems
44 payable to the injured employee. If the damages, after deducting the
45 employee's expenses as provided in this subsection, are more than
46 sufficient to reimburse the employer, damages shall be assessed in
47 [his] the employer's favor in a sum sufficient to reimburse [him] the
48 employer for [his] the employer's claim, and the excess shall be
49 assessed in favor of the injured employee. No compromise with the
50 person by either the employer or the employee shall be binding upon
51 or affect the rights of the other, unless assented to by [him] such other.

52 For the purposes of this section, the claim of the employer shall consist
53 of [(1)] (A) the amount of any compensation which [he] the employer
54 has paid on account of the injury which is the subject of the suit, and
55 [(2)] (B) an amount equal to the present worth of any probable future
56 payments which [he] the employer has by award become obligated to
57 pay on account of the injury.

58 (4) The word "compensation", as used in this section, shall be
59 construed to include incapacity payments to an injured employee,
60 payments to the dependents of a deceased employee, sums paid out
61 for surgical, medical and hospital services to an injured employee, the
62 burial fee provided by subdivision (1) of subsection (a) of section 31-
63 306, payments made under the provisions of sections 31-312 and 31-
64 313, and payments made under the provisions of section 31-284b in the
65 case of an action brought under this section by the employer or an
66 action brought under this section by the employee in which the
67 employee has alleged and been awarded such payments as damages.

68 (5) Each employee who brings an action against a party in
69 accordance with the provisions of this subsection shall include in [his]
70 the complaint (A) the amount of any compensation paid by the
71 employer or the Second Injury Fund on account of the injury which is
72 the subject of the suit and (B) the amount equal to the present worth of
73 any probable future payments which the employer or the Second
74 Injury Fund has, by award, become obligated to pay on account of the
75 injury.

76 (6) Notwithstanding the provisions of this subsection, when any
77 injury for which compensation is payable under the provisions of this
78 chapter has been sustained under circumstances creating in a person
79 other than an employer who has complied with the requirements of
80 subsection (b) of section 31-284, a legal liability to pay damages for the
81 injury and the injured employee has received compensation for the
82 injury from such employer, its workers' compensation insurance
83 carrier or the Second Injury Fund pursuant to the provisions of this

84 chapter, the employer, insurance carrier or Second Injury Fund shall
85 have a lien upon any judgment received by the employee against the
86 party or any settlement received by the employee from the party,
87 provided the employer, insurance carrier or Second Injury Fund shall
88 give written notice of the lien to the party and the injured employee
89 prior to such judgment or settlement.

90 Sec. 2. Subsection (a) of section 31-301 of the general statutes is
91 repealed and the following is substituted in lieu thereof:

92 (a) At any time within [ten] twenty days after entry of an award by
93 the commissioner, after a decision of the commissioner upon a motion
94 or after an order by the commissioner according to the provisions of
95 section 31-299b, either party may appeal therefrom to the
96 Compensation Review Board by filing in the office of the
97 commissioner from which the award or the decision on a motion
98 originated an appeal petition and five copies thereof. The
99 commissioner within three days thereafter shall mail the petition and
100 three copies thereof to the chief of the Compensation Review Board
101 and a copy thereof to the adverse party or parties.

102 Sec. 3. Section 31-321 of the general statutes is repealed and the
103 following is substituted in lieu thereof:

104 (a) Unless otherwise specifically provided, or unless the
105 circumstances of the case or the rules of the commission direct
106 otherwise, any notice required under this chapter to be served upon an
107 employer, employee or commissioner shall be by written or printed
108 notice, [service] served personally or by registered or certified mail
109 addressed to the person upon whom it is to be served at [his] the
110 person's last-known residence or place of business.

111 (b) Notices [in] on behalf of a minor shall be given by or to [his] the
112 minor's parent or guardian or, if there is no parent or guardian, then
113 by or to such minor.

114 (c) If any attorney has filed an appearance on behalf of any person
115 to whom a notice is required to be served under this chapter, such
116 notice shall be served upon the attorney.

117 Sec. 4. This act shall take effect from its passage.

Statement of Purpose:

To require that state employees file with the Department of Administrative Services a copy of a notice to bring action against a third party for injuries which resulted in the payment of workers' compensation benefits to such state employee.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]