



General Assembly

February Session, 2004

Raised Bill No. 5340

LCO No. 583

00583_____LAB

Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

AN ACT CONCERNING INFORMAL WORKERS' COMPENSATION HEARINGS AND AN ACCIDENTAL FAILURE OF CLAIM STATUTE FOR WORKERS' COMPENSATION CLAIMANTS.

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

1 Section 1. Section 31-278 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) Each commissioner shall, for the purposes of this chapter, have
4 power to summon and examine under oath such witnesses, and may
5 direct the production of, and examine or cause to be produced or
6 examined, such books, records, vouchers, memoranda, documents,
7 letters, contracts or other papers in relation to any matter at issue as
8 [he] the commissioner may find proper, and shall have the same
9 powers in reference thereto as are vested in magistrates taking
10 depositions and shall have the power to order depositions pursuant to
11 section 52-148. [He] Each commissioner shall have power to certify to
12 official acts and shall have all powers necessary to enable [him] the
13 commissioner to perform the duties imposed upon [him] the
14 commissioner by the provisions of this chapter.

15 **(b)** Each commissioner shall hear all claims and questions arising
16 under this chapter in the district to which the commissioner is assigned
17 and all such claims shall be filed in the district in which the claim
18 arises, provided, if it is uncertain in which district a claim arises, or if a
19 claim arises out of several injuries or occupational diseases [which]
20 that occurred in one or more districts, the commissioner to whom the
21 first request for hearing is made shall hear and determine such claim to
22 the same extent as if it arose solely within [his] the commissioner's
23 own district. Each commissioner shall explain to each employee
24 appearing before the commissioner, in informal and readily
25 understandable language, the rights, benefits and responsibilities of
26 employees under the provisions of this chapter, including the
27 employee's right to request an informal hearing for the evaluation of a
28 disability rating, disfigurement or scar. If a commissioner is
29 disqualified or temporarily incapacitated from hearing any matter, or
30 if the parties shall so request and the chairman of the Workers'
31 Compensation Commission finds that it will facilitate a speedier
32 disposition of the claim, [he] the commissioner shall designate some
33 other commissioner to hear and decide such matter. The Superior
34 Court, on application of a commissioner or the chairman or the
35 Attorney General, may enforce, by appropriate decree or process, any
36 provision of this chapter or any proper order of a commissioner or the
37 chairman rendered pursuant to any such provision.

38 **(c)** Any [compensation] commissioner, after ceasing to hold office as
39 such [compensation] commissioner, may settle and dispose of all
40 matters relating to appealed cases, including correcting findings and
41 certifying records, as well as any other unfinished matters pertaining
42 to causes theretofore tried by [him] the commissioner, to the same
43 extent as if [he] the commissioner were still such [compensation]
44 commissioner.

45 Sec. 2. Subsection (c) of section 31-294c of the general statutes is
46 repealed and the following is substituted in lieu thereof (*Effective*
47 *October 1, 2004*):

48 (c) Failure to provide a notice of claim under subsection (a) of this
49 section shall not bar maintenance of the proceedings if: [there]

50 (1) There has been a hearing or a written request for a hearing or an
51 assignment for a hearing within a one-year period from the date of the
52 accident or within a three-year period from the first manifestation of a
53 symptom of the occupational disease, as the case may be, or if a
54 voluntary agreement has been submitted within the applicable period,
55 or if within the applicable period an employee has been furnished, for
56 the injury with respect to which compensation is claimed, with
57 medical or surgical care as provided in section 31-294d; [No defect or
58 inaccuracy of notice of claim shall bar maintenance of proceedings
59 unless the employer shows that he was ignorant of the facts
60 concerning the personal injury and was prejudiced by the defect or
61 inaccuracy of the notice. Upon satisfactory showing of ignorance and
62 prejudice, the employer shall receive allowance to the extent of the
63 prejudice.]

64 (2) The employer or its insurer had knowledge of the facts
65 concerning the injury or death giving rise to such claim and the
66 commissioner determines that the employer or its insurer has not been
67 prejudiced by failure to provide a notice of such claim, provided upon
68 satisfactory showing of ignorance and prejudice on the part of the
69 employer, the employer shall receive allowance to the extent of the
70 prejudice;

71 (3) The commissioner excuses such failure on the grounds that (A)
72 such notice of claim, while not given to the employer or a person
73 representing the employer, was given to the employer's insurer or
74 some person whom the employee reasonably believed represented the
75 employer, and (B) the employer or insurer was not prejudiced due to
76 the failure to provide such notice of claim to a person representing the
77 employer;

78 (4) For other satisfactory reason, as determined by the
79 commissioner, such notice could not be given; or

80 (5) The employer does not object to the failure to provide such
81 notice at the first hearing of such claim in which all parties in interest
82 are given reasonable notice and opportunity to be heard.

83 Sec. 3. Section 31-294c of the general statutes is amended by adding
84 subsection (d) as follows (*Effective October 1, 2004*):

85 (NEW) (d) No defect or inaccuracy of notice of claim shall bar
86 maintenance of proceedings unless the employer shows that the
87 employer was ignorant of the facts concerning the injury and was
88 prejudiced by the defect or inaccuracy of notice. Upon satisfactory
89 showing of ignorance and prejudice, the employer shall receive
90 allowance to the extent of the prejudice.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

Statement of Purpose:

To expand the circumstances in which a workers' compensation claim can proceed despite the claimant's failure to provide timely notice of claim and to require workers' compensation commissioners to explain to employees appearing before them the rights, benefits and responsibilities of employees under the Workers' Compensation Act.

[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.]