



General Assembly

January Session, 2009

**Raised Bill No. 712**

LCO No. 767

\*00767 \_\_\_\_\_ LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**AN ACT CONCERNING TIMELY NOTICE OF WORKERS'  
COMPENSATION CLAIMS TO THE DEPARTMENT OF  
ADMINISTRATIVE SERVICES.**

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

1 Section 1. Section 31-294c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) No proceedings for compensation under the provisions of this  
4 chapter shall be maintained unless a written notice of claim for  
5 compensation is given within one year from the date of the accident or  
6 within three years from the first manifestation of a symptom of the  
7 occupational disease, as the case may be, which caused the personal  
8 injury, provided, if death has resulted within two years from the date  
9 of the accident or first manifestation of a symptom of the occupational  
10 disease, a dependent or dependents, or the legal representative of the  
11 deceased employee, may make claim for compensation within the two-  
12 year period or within one year from the date of death, whichever is  
13 later. Notice of a claim for compensation [may be given to the  
14 employer or any commissioner and] shall state, in simple language, the  
15 date and place of the accident and the nature of the injury resulting

16 from the accident, or the date of the first manifestation of a symptom  
17 of the occupational disease and the nature of the disease, as the case  
18 may be, and the name and address of the employee and of the person  
19 in whose interest compensation is claimed. [An employee of the state  
20 shall send a copy of the notice] Notice of a claim for compensation  
21 shall be given to the employer or any commissioner and, if the  
22 employee is employed by the state, to the Commissioner of  
23 Administrative Services. As used in this section, "manifestation of a  
24 symptom" means manifestation to an employee claiming  
25 compensation, or to some other person standing in such relation to  
26 him that the knowledge of the person would be imputed to him, in a  
27 manner that is or should be recognized by him as symptomatic of the  
28 occupational disease for which compensation is claimed.

29 (b) Whenever liability to pay compensation is contested by the  
30 employer, he shall file with the commissioner, on or before the twenty-  
31 eighth day after he has received a written notice of claim, a notice in  
32 accord with a form prescribed by the chairman of the Workers'  
33 Compensation Commission stating that the right to compensation is  
34 contested, the name of the claimant, the name of the employer, the  
35 date of the alleged injury or death and the specific grounds on which  
36 the right to compensation is contested. The employer shall send a copy  
37 of the notice to the employee in accordance with section 31-321, as  
38 amended by this act. If the employer or his legal representative fails to  
39 file the notice contesting liability on or before the twenty-eighth day  
40 after he has received the written notice of claim, the employer shall  
41 commence payment of compensation for such injury or death on or  
42 before the twenty-eighth day after he has received the written notice of  
43 claim, but the employer may contest the employee's right to receive  
44 compensation on any grounds or the extent of his disability within one  
45 year from the receipt of the written notice of claim, provided the  
46 employer shall not be required to commence payment of compensation  
47 when the written notice of claim has not been properly served in  
48 accordance with section 31-321, as amended by this act, or when the  
49 written notice of claim fails to include a warning that (1) the employer,

50 if he has commenced payment for the alleged injury or death on or  
51 before the twenty-eighth day after receiving a written notice of claim,  
52 shall be precluded from contesting liability unless a notice contesting  
53 liability is filed within one year from the receipt of the written notice of  
54 claim, and (2) the employer shall be conclusively presumed to have  
55 accepted the compensability of the alleged injury or death unless the  
56 employer either files a notice contesting liability on or before the  
57 twenty-eighth day after receiving a written notice of claim or  
58 commences payment for the alleged injury or death on or before such  
59 twenty-eighth day. An employer shall be entitled, if he prevails, to  
60 reimbursement from the claimant of any compensation paid by the  
61 employer on and after the date the commissioner receives written  
62 notice from the employer or his legal representative, in accordance  
63 with the form prescribed by the chairman of the Workers'  
64 Compensation Commission, stating that the right to compensation is  
65 contested. Notwithstanding the provisions of this subsection, an  
66 employer who fails to contest liability for an alleged injury or death on  
67 or before the twenty-eighth day after receiving a written notice of  
68 claim and who fails to commence payment for the alleged injury or  
69 death on or before such twenty-eighth day, shall be conclusively  
70 presumed to have accepted the compensability of the alleged injury or  
71 death unless the employee is employed by the state and the employee  
72 has failed to give written notice of claim to the Department of  
73 Administrative Services, in accordance with subsection (a) of this  
74 section. If a state employee fails to give written notice of claim to the  
75 Department of Administrative Services, the state shall not be  
76 conclusively presumed to have accepted the compensability of the  
77 alleged injury or death.

78 (c) Failure to provide a notice of claim under subsection (a) of this  
79 section shall not bar maintenance of the proceedings if there has been a  
80 hearing or a written request for a hearing or an assignment for a  
81 hearing within a one-year period from the date of the accident or  
82 within a three-year period from the first manifestation of a symptom of  
83 the occupational disease, as the case may be, or if a voluntary

84 agreement has been submitted within the applicable period, or if  
85 within the applicable period an employee has been furnished, for the  
86 injury with respect to which compensation is claimed, with medical or  
87 surgical care as provided in section 31-294d. No defect or inaccuracy of  
88 notice of claim shall bar maintenance of proceedings unless the  
89 employer shows that he was ignorant of the facts concerning the  
90 personal injury and was prejudiced by the defect or inaccuracy of the  
91 notice. Upon satisfactory showing of ignorance and prejudice, the  
92 employer shall receive allowance to the extent of the prejudice.

93 (d) Notwithstanding the provisions of subsection (a) of this section,  
94 a dependent or dependents of a deceased employee seeking  
95 compensation under section 31-306 who was barred by a final  
96 judgment in a court of law from filing a claim arising out of the death  
97 of the deceased employee, whose date of injury was between June 1,  
98 1991, and June 30, 1991, and whose date of death was between  
99 November 1, 1992, and November 30, 1992, because of the failure of  
100 the dependent to timely file a separate death benefits claim, shall be  
101 allowed to file a written notice of claim for compensation not later than  
102 one year after July 8, 2005, and the commissioner shall have  
103 jurisdiction to determine such dependent's claim.

104 Sec. 2. Section 31-321 of the general statutes is repealed and the  
105 following is substituted in lieu thereof (*Effective from passage*):

106 Unless otherwise specifically provided, or unless the circumstances  
107 of the case or the rules of the commission direct otherwise, any notice  
108 required under this chapter to be served upon an employer, employee,  
109 [or] commissioner or the Department of Administrative Services shall  
110 be by written or printed notice, service personally or by registered or  
111 certified mail addressed to the person upon whom it is to be served at  
112 his last-known residence or place of business. Notices in behalf of a  
113 minor shall be given by or to his parent or guardian or, if there is no  
114 parent or guardian, then by or to such minor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-294c
Sec. 2	<i>from passage</i>	31-321

**Statement of Purpose:**

To provide the Department of Administrative Services timely notice of workers' compensation claims against the state and allowing for the state to contest claims when necessary.

*[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.]*