

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1963

By: Hastings

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 43, as amended by Section 33, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 43), which relates to the Workers' Compensation Act; modifying the time limit for dismissal of certain cases; deleting obsolete language; authorizing voluntary dismissal of certain claims; authorizing refiling within a certain time after dismissal of certain claims; modifying the time period for reopening a case; prohibiting the reopening of a case unless certain circumstances exist; disallowing the extension of time to reopen a case under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 43, as amended by Section 33, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 43), is amended to read as follows:

Section 43. A. The right to claim compensation under the Workers' Compensation Act shall be forever barred unless, within two (2) years after the date of accidental injury or death, a claim for compensation is filed with the Workers' Compensation Court. Provided however, a claim may be filed within two (2) years of the last payment of any compensation or remuneration paid in lieu of compensation or medical treatment which was authorized by the employer or the insurance carrier. Provided further however, with respect to disease or injury caused by repeated trauma causally connected with employment, a claim may be filed within two (2) years of the date of last trauma or hazardous exposure. Provided further however, in the case of asbestosis, silicosis or exposure to nuclear radiation causally connected with employment, a claim may be filed within two (2) years of the date of last hazardous exposure or within two (2) years from the date said condition first becomes manifest by a symptom or condition from which one learned in medicine could, with reasonable accuracy, diagnose such specific condition, whichever last occurs. The filing of any form or report by the employer or insurance carrier shall not toll the above limitations.

B. When a claim for compensation has been filed with the Administrator as herein provided, unless the claimant shall in good faith request a hearing and final determination thereon within ~~five~~ two (2) years from the date of filing thereof or within ~~five (5)~~ two (2) years from the date of last payment of compensation or wages in lieu thereof, same shall be barred as the basis of any claim for compensation under the Workers' Compensation Act and shall be dismissed by the Court for want of prosecution, which action shall operate as a final adjudication of the right to claim compensation thereunder. ~~Provided, that any claims heretofore filed and pending on the effective date of the Workers' Compensation Act before the State Industrial Court shall likewise be barred after the expiration~~

~~of five (5) years from the filing date or within five (5) years from the date of last payment of compensation or wages in lieu thereof~~  
The claimant may, on the payment of the Court's filing fee and with an order of the Court, dismiss any claim brought by the claimant at any time before final submission of the case to the Court for decision. All parties to a claim may at any time before trial, with an order of the Court and on payment of the filing fee, by agreement dismiss the claim. Such dismissal shall be without prejudice unless the words "with prejudice" are included in the order. If any claim that is filed within the statutory time permitted by this section is dismissed without prejudice, a new claim may be filed within one (1) year after the entry of the order dismissing the first claim even if the statutory time for filing has expired.

C. The jurisdiction of the Court to reopen any cause upon an application based upon a change in condition shall extend for that period of time measured by the maximum number of weeks that could be awarded for the particular scheduled member where the change of condition occurred, or for three hundred (300) weeks in the case of injuries to the body or injuries not otherwise scheduled under the provisions of Section 22 of this title, and unless filed within said period of time after the date of the last permanent partial disability order, shall be forever barred. No case shall be reopened by the Court unless permanent partial disability was awarded. A case shall not be reopened on any body part unless permanent partial disability was awarded to that body part. An order denying an application to reopen a claim shall not extend the period of time set out herein for reopening the case.

D. Each employer shall post a notice advising employees that they are covered by the Workers' Compensation Act and that workers' compensation counselor services are available at the Workers' Compensation Court. The form of the notice shall be prescribed by the rules of the Court. No other notice to the employee shall be

required other than said poster required by this section; provided that nothing in this subsection shall be construed to toll the Statute of Limitations provided above.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5756

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