

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2972

By: Hoskin

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5  
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending 85  
8 O.S. 2001, Section 43, as amended by Section 24,  
9 Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (85  
10 O.S. Supp. 2007, Section 43), which relates to  
11 statute of limitations; expanding list of conditions  
12 for exception to statute of limitations; and  
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 85 O.S. 2001, Section 43, as  
16 amended by Section 24, Chapter 1, 1st Extraordinary Session, O.S.L.  
17 2005 (85 O.S. Supp. 2007, Section 43), is amended to read as  
18 follows:

19 Section 43. A. The right to claim compensation under the  
20 Workers' Compensation Act shall be forever barred unless, within two  
21 (2) years after the date of accidental injury or death, a claim for  
22 compensation is filed with the Workers' Compensation Court.

23 Provided however, a claim may be filed within two (2) years of the  
24 last medical treatment which was authorized by the employer or the  
insurance carrier or payment of any compensation or remuneration

1 paid in lieu of compensation. Provided further however, with  
2 respect to disease or injury caused by repeated trauma causally  
3 connected with employment, a claim may be filed within two (2) years  
4 of the date of last trauma or hazardous exposure. Provided, further  
5 however, in the case of asbestosis, silicosis ~~or~~, exposure to  
6 nuclear radiation, or other conditions that are the result of  
7 exposure to asbestos, including but not limited to mesothelioma,  
8 causally connected with employment, a claim may be filed within two  
9 (2) years of the date of last hazardous exposure or within two (2)  
10 years from the date said condition first becomes manifest by a  
11 symptom or condition from which one learned in medicine could, with  
12 reasonable accuracy, diagnose such specific condition, whichever  
13 last occurs. The filing of any form or report by the employer or  
14 insurance carrier shall not toll the above limitations.  
15 Posttermination injury claims shall be filed within six (6) months  
16 of termination of employment, provided that nothing herein shall  
17 extend any limitation period set forth in this section.

18 B. When a claim for compensation has been filed with the  
19 Administrator as herein provided, unless the claimant shall in good  
20 faith request a hearing and final determination thereon within three  
21 (3) years from the date of filing thereof or within three (3) years  
22 from the date of last payment of compensation or wages in lieu  
23 thereof, same shall be barred as the basis of any claim for  
24 compensation under the Workers' Compensation Act and shall be

1 dismissed by the Court for want of prosecution, which action shall  
2 operate as a final adjudication of the right to claim compensation  
3 thereunder. If represented by counsel, the claimant may, upon the  
4 payment of the Court's filing fee, dismiss any claim brought by the  
5 claimant at any time before final submission of the case to the  
6 Court for decision. Any claimant not represented by counsel may,  
7 upon the payment of the Court's filing fee and with an order of the  
8 Court, dismiss any claim brought by the claimant at any time before  
9 final submission of the case to the Court for decision. Such  
10 dismissal shall be without prejudice unless the words "with  
11 prejudice" are included in the order. If any claim that is filed  
12 within the statutory time permitted by this section is dismissed  
13 without prejudice, a new claim may be filed within one (1) year  
14 after the entry of the order dismissing the first claim even if the  
15 statutory time for filing has expired.

16 C. The jurisdiction of the Court to reopen any cause upon an  
17 application based upon a change in condition for the worse shall  
18 extend for three (3) years from the date of the last order, and  
19 unless filed within said period of time, shall be forever barred.  
20 An order denying an application to reopen a claim shall not extend  
21 the period of the time set out herein for reopening the case.

22 D. Each employer shall post a notice advising employees that  
23 they are covered by the Workers' Compensation Act and that workers'  
24 compensation counselor services are available at the Workers'

1 Compensation Court. The form of the notice shall be prescribed by  
2 the rules of the Court. No other notice to the employee shall be  
3 required other than said poster required by this section; provided  
4 that nothing in this subsection shall be construed to toll the  
5 statute of limitations provided above.

6 SECTION 2. This act shall become effective November 1, 2008.

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8 51-2-9012 MMP 12/31/07

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