

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 470

*An Act to amend and reenact § 65.2-602 of the Code of Virginia, relating to workers' compensation; tolling of statute of limitations.*

[H 2022]

Approved March 18, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-602 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-602. Tolling of statute of limitations.**

In any case where an employer has received notice of an accident resulting in compensable injury to an employee as required by § 65.2-600, and, whether or not an award has been entered, ~~such the~~ employer ~~nevertheless~~ has paid compensation or wages to such employee during incapacity for work, as defined in § 65.2-500 or § 65.2-502, resulting from such injury or the employer has failed to file the report of said accident with the Virginia Workers' Compensation Commission as required by § 65.2-900, and such conduct of the employer has operated to prejudice the rights of such employee with respect to the filing of a claim prior to expiration of a statute of limitations otherwise applicable, such statute shall be tolled for the duration of such payment or, as the case may be, until the employer files the first report of accident required by ~~§ 65.2-900~~ or otherwise has under a workers' compensation plan or insurance policy furnished or caused to be furnished medical service to such employee as required by § 65.2-603, the statute of limitations applicable to the filing of a claim shall be tolled until the last day for which such payment of compensation or wages or furnishment of medical services as described above is provided and that occurs more than six months after the date of accident. However, no such payment of wages or workers' compensation benefits or furnishment of medical service as described above occurring after the expiration of the statute of limitations shall apply to this provision. In the case where the employer has failed to file a first report, the statute of limitations shall be tolled during the duration thereof until the employer filed the first report of accident as required by § 65.2-900. In the event that more than one of the above tolling provisions applies, whichever of those causes the longer period of tolling shall apply. For purposes of this section, such rights of an employee shall be deemed not prejudiced if his employer has filed the first report of accident as required by ~~§ 65.2-900~~ or he has received after the accident a workers' compensation guide described in ~~§ 65.2-201~~ or a notice in substantially the following form:

**NOTICE TO EMPLOYEE.**

**BECAUSE OF THE ACCIDENT OR INJURY YOU HAVE REPORTED, YOU MAY HAVE A WORKERS' COMPENSATION CLAIM. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION WITHIN THE TIME LIMIT PROVIDED BY LAW. YOU MAY FIND OUT WHAT TIME LIMIT APPLIES TO YOUR INJURY BY CONTACTING THE COMMISSION. THE FACT THAT YOUR EMPLOYER MAY BE COVERING YOUR MEDICAL EXPENSES OR CONTINUING TO PAY YOUR SALARY OR WAGES DOES NOT STOP THE TIME FROM RUNNING.**

Such notice shall also include the address and telephone number which the employee may use to contact the Commission.

**2. That the provisions of this act shall apply with respect to any claim under the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia) that arises with respect to an injury as defined in § 65.2-101 of the Code of Virginia occurring on or after July 1, 2019.**