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HOUSE BILL NO. 1292

Offered January 22, 1996

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

Patrons—Crittenden, Christian, Cooper, Grayson, Jones, D.C., Jones, J.C., Keating, McEachin, Robinson, Spruill, Stump and Van Yahres; Senators: Lambert, Lucas, Marsh and Maxwell

Referred to Committee on Labor and Commerce

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 employer nevertheless has (i) 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 (ii) 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. ~~For~~ Unless an employer otherwise engages in a course of conduct upon which an employee reasonably relies to his detriment, for purposes of this section, such rights of an employee shall be deemed not prejudiced if (i) his employer has filed the first report of accident as required by § 65.2-900 or (ii) 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.