

1 **WORKERS COMPENSATION STATUTE OF**
2 **LIMITATIONS AND BURDEN OF PROOF**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: John E. Swallow**

6 AN ACT RELATING TO LABOR; ADDRESSING TIME LIMITS ON FILING WORKERS
7 COMPENSATION CLAIMS; AND MAKING TECHNICAL CHANGES.

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **34A-2-417**, as renumbered and amended by Chapter 375, Laws of Utah 1997

11 **34A-3-109**, as renumbered and amended by Chapter 375, Laws of Utah 1997

12 *Be it enacted by the Legislature of the state of Utah:*

13 Section 1. Section **34A-2-417** is amended to read:

14 **34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.**

15 (1) Except with respect to prosthetic devices, in nonpermanent total disability cases an
16 employee's medical benefit entitlement ceases if for a period of three consecutive years the
17 employee does not:

18 (a) incur medical expenses reasonably related to the industrial accident; and

19 (b) submit the medical expenses incurred to the employee's employer or insurance carrier
20 for payment.

21 (2) (a) A claim [~~for compensation for temporary total disability benefits, temporary partial~~
22 ~~disability benefits, permanent partial disability benefits, or permanent total disability benefits]~~
23 described in Subsection (2)(b) is barred, unless the employee:

24 (i) files an application for hearing [is filed] with the Division of Adjudication [within] no
25 later than six years [after] from the date of the accident[-]; and

26 (ii) by no later than eight years from the date of the accident, is able to meet the employee's
27 burden of proving that the employee is due the compensation claimed under this chapter.

28 (b) Subsection (2)(a) applies to a claim for compensation for:

29 (i) temporary total disability benefits;

30 (ii) temporary partial disability benefits;

31 (iii) permanent partial disability benefits; or

32 (iv) permanent total disability benefits.

33 (3) A claim for death benefits is barred unless an application for hearing is filed within one
34 year of the date of death of the employee.

35 (4) After an employee files an application for hearing within six years after the date of the
36 accident, the Division of Adjudication, on its own motion or on the motion of the employee's
37 employer or insurance carrier, may enter an order to show cause why the employee's claim should
38 not be dismissed with prejudice because the employee has failed to meet the employee's burden
39 of proof to establish an entitlement to compensation under this chapter.

40 Section 2. Section **34A-3-109** is amended to read:

41 **34A-3-109. Limitations -- Rights barred if not filed within limits -- Burden of proof.**

42 (1) The limitation of rights regarding medical benefits provided in Subsection
43 34A-2-417(1) does not apply to compensable occupational diseases under the terms of this chapter.

44 (2) (a) A claim [for compensation for temporary total disability benefits, temporary partial
45 disability benefits, permanent partial disability benefits, or permanent total disability benefits]
46 described in Subsection (2)(b) is barred, unless the employee:

47 (i) files an application for hearing [is filed] with the Division of Adjudication [within] no
48 later than six years [after] from the date the employee's cause of action arose[-]; and

49 (ii) by no later than eight years from the date the employee's cause of action arose, is able
50 to meet the employee's burden of proving that the employee is due the compensation claimed under
51 this chapter.

52 (b) Subsection (2)(a) applies to a claim for compensation for:

53 (i) temporary total disability benefits;

54 (ii) temporary partial disability benefits;

55 (iii) permanent partial disability benefits; or

56 (iv) permanent total disability benefits.

57 (3) (a) [A] Subject to Subsection (3)(b), a claim for death benefits is barred unless an
58 application for hearing is filed within one year of the date the deceased employee's dependents

59 knew, or in the exercise of reasonable diligence should have known, that the employee's death was
60 caused by an occupational disease. [~~But in no case shall the]~~

61 (b) A dependents' claim for death benefits may not be actionable more than six years after
62 the employee's cause of action arises.

63 (4) After an employee files an application for hearing within six years after the date the
64 cause of action arose, the Division of Adjudication, on its own motion or on the motion of the
65 employee's employer or insurance carrier, may enter an order to show cause why the employee's
66 claim should not be dismissed with prejudice because the employee has failed to meet the
67 employee's burden of proof to establish an entitlement to compensation under this chapter.

Legislative Review Note

as of 2-16-99 10:53 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel