

26. (a) Written notice shall be given to the employer of an occupational disease by the employee or someone in his behalf within [ten (10)] *thirty (30)* days after the [first distinct manifestation] *employee has actual knowledge* thereof, and in the case of death from such an occupational disease, written notice of such death shall also be given to the employer within thirty (30) days thereafter. THE FAILURE TO GIVE SUCH NOTICE, UNLESS EXCUSED BY THE COMMISSION EITHER ON THE GROUND THAT NOTICE FOR SOME SUFFICIENT REASON COULD NOT HAVE BEEN GIVEN, OR ON THE GROUND THAT THE STATE ACCIDENT FUND, INSURANCE COMPANY, OR EMPLOYER, AS THE CASE MAY BE, HAS NOT BEEN PREJUDICED THEREBY, SHALL BE A BAR TO ANY CLAIM UNDER THIS ARTICLE, PROVIDED, HOWEVER, THAT THE BURDEN OF PROVING THAT IT OR HE HAS BEEN PREJUDICED BY SUCH FAILURE ON THE PART OF THE EMPLOYEE OR BY DELAY IN GIVING SUCH NOTICE SHALL BE UPON THE STATE ACCIDENT FUND, INSURANCE COMPANY, OR EMPLOYER, AS THE CASE MAY BE. ~~Failure~~ PROVIDED, ALSO, FAILURE to give either of such notices shall be deemed waived unless objection is made at a hearing on the claim prior to any award or decision thereon. Actual knowledge of an occupational disease and of exposure to the conditions causing it, by the employer in whose employment the employee was last injuriously exposed, or by the responsible superintendent in charge of the work, shall be deemed notice of its contraction. If no claim for disability or death from an occupational disease be filed with the State Industrial Accident Commission within one (1) year from the date of disablement or death, as the case may be, the right to compensation for such disease shall be forever barred; provided, however, that the failure to file a claim within the time limited herein shall be deemed waived unless objection to such failure be made at a hearing on such claim before any award or decision thereon. Notice or claim shall be deemed waived in case of disability or death where the employer or insurance carrier makes compensation payments therefor, or within the time above limited, the employer or his insurance carrier by his or its conduct leads the employee or claimant reasonably to believe that notice or claim has been waived by his or its affirmative conduct.

(b) Whenever a disability from an occupational disease occurs to any employee it shall be the duty of the employer