

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1266
(Representative Berg)
(Senator Mutch)

AN ACT to amend and reenact section 65-05-01 of the North Dakota Century Code, relating to the filing of workers' compensation claims; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-01 of the North Dakota Century Code is amended and reenacted as follows:

65-05-01. Claims for ~~compensation~~ benefits - When and where filed. All original claims for ~~compensation~~ benefits must be filed by the injured employee, or someone on the injured employee's behalf, within one year after the injury or within two years after the death. The date of injury for purposes of this section is the ~~actual date of injury when that date can be determined with certainty by the claimant and bureau. When the actual date of injury cannot be determined with certainty, the date of injury is the first date that a reasonable person knew or should have known that the employee suffered a compensable work-related injury and the employee was informed by the employee's treating health care provider that the employee's work activities are a substantial contributing factor in the development of the employee's injury or condition. No compensation or benefits~~ has either lost wages because of a resulting disability or received medical treatment. Notwithstanding a statute of limitations assertion, the claimant bears the burden of proving any entitlement to benefits. If the bureau is estopped from applying the statute of limitations in this section because an employer's willful conduct prevented an injured employee from filing a claim in a timely manner, that employer shall reimburse the bureau for the full amount of all benefits paid during the first five years of that claim. Benefits may not be allowed under this title to any person, except as provided in section 65-05-04, unless that person, or someone on that person's behalf, files a written claim for ~~compensation or~~ benefits within the time specified in this section. A claim must be filed by:

1. Delivering it at the office of the bureau or to any person ~~whom~~ the bureau designates by ~~regulation may designate rule~~; or
2. Depositing it in the mail properly stamped and addressed to the bureau or to any person ~~whom~~ the bureau designates by ~~regulation may designate rule~~.

SECTION 2. EFFECTIVE DATE. This section applies to all claims for benefits filed after July 31, 1997, regardless of date of injury.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1266.

House Vote: Yeas 93 Nays 0 Absent 4

Senate Vote: Yeas 44 Nays 0 Absent 5

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State