

UNLESS NOTICE IS WAIVED UNDER SUBSECTION (D) OF THIS SECTION OR EXCUSED BY THE COMMISSION UNDER § 9-706 OF THIS SUBTITLE, FAILURE TO GIVE NOTICE BARS A CLAIM UNDER THIS TITLE.

(C) CONSTRUCTIVE NOTICE.

THE EMPLOYER IN WHOSE EMPLOYMENT THE COVERED EMPLOYEE WAS LAST INJURIOUSLY EXPOSED TO THE CONDITIONS THAT CAUSE AN OCCUPATIONAL DISEASE IS CONSIDERED TO HAVE NOTICE OF THE OCCUPATIONAL DISEASE IF THE EMPLOYER OR THE RESPONSIBLE SUPERINTENDENT IN CHARGE OF THE WORK OF THE COVERED EMPLOYEE HAS ACTUAL KNOWLEDGE THAT THE COVERED EMPLOYEE:

(1) WAS EXPOSED TO THE CONDITIONS THAT CAUSE THE OCCUPATIONAL DISEASE; AND

(2) HAS THE OCCUPATIONAL DISEASE.

(D) WAIVER.

THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS SECTION IS WAIVED IF THE EMPLOYER OR ITS INSURER:

(1) PAYS COMPENSATION FOR DISABILITY OR DEATH FROM AN OCCUPATIONAL DISEASE; OR

(2) BY ITS AFFIRMATIVE CONDUCT LEADS THE COVERED EMPLOYEE OR OTHER CLAIMANT TO REASONABLY BELIEVE THAT THE NOTICE HAS BEEN WAIVED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 101, § 26(a)(1), the first sentence of (2), and the first sentence and, as it related to waiver of notice, the third sentence of (4).

In subsection (a) of this section, the former phrase "by the employee or someone in his behalf" is deleted as unnecessary since the phrase did not limit who had to give the notice.

In subsection (c) of this section, the former word "responsible", which modified "superintendent" is deleted as unnecessary in light of the specific phrase "in charge of the work".

The third clause of former Art. 101, § 23(b), as it required notice of an occupational disease to be given to the employer, is deleted as unnecessary in light of this section.

Defined terms: "Commission" § 9-101

"Covered employee" § 9-101

"Occupational disease" § 9-101