

By: Moss, Cummings

To: Labor

HOUSE BILL NO. 1276

1 AN ACT TO AMEND SECTION 71-5-513, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT SOCIAL SECURITY PAYMENTS SHALL NOT BE DEDUCTED  
3 FROM UNEMPLOYMENT BENEFITS FOR CERTAIN RECIPIENTS; AND FOR RELATED  
4 PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 71-5-513, Mississippi Code of 1972, is  
7 amended as follows:

8 71-5-513. A. An individual shall be disqualified for  
9 benefits:

10 (1) (a) For the week, or fraction thereof, which  
11 immediately follows the day on which he left work voluntarily  
12 without good cause, if so found by the commission, and for each  
13 week thereafter until he has earned remuneration for personal  
14 services performed for an employer, as in this chapter defined,  
15 equal to not less than eight (8) times his weekly benefit amount,  
16 as determined in each case, provided that marital, filial and  
17 domestic circumstances and obligations shall not be deemed good  
18 cause within the meaning of this subsection. Pregnancy shall not  
19 be deemed to be a marital, filial or domestic circumstance for the  
20 purpose of this subsection.

21 (b) For the week, or fraction thereof, which  
22 immediately follows the day on which he was discharged for  
23 misconduct connected with his work, if so found by the commission,  
24 and for each week thereafter until he has earned remuneration for  
25 personal services performed for an employer, as in this chapter  
26 defined, equal to not less than eight (8) times his weekly benefit  
27 amount, as determined in each case.

28                   (c) The burden of proof of good cause for leaving  
29 work shall be on the claimant, and the burden of proof of  
30 misconduct shall be on the employer.

31                   (2) For the week, or fraction thereof, with respect to  
32 which he willfully makes a false statement, a false representation  
33 of fact, or willfully fails to disclose a material fact for the  
34 purpose of obtaining or increasing benefits under the provisions  
35 of this law, if so found by the commission, and such individual's  
36 maximum benefit allowance shall be reduced by the amount of  
37 benefits so paid to him during any such week of disqualification;  
38 and additional disqualification shall be imposed for a period not  
39 exceeding fifty-two (52) weeks, the length of such period of  
40 disqualification and the time when such period begins to be  
41 determined by the commission, in its discretion, according to the  
42 circumstances in each case.

43                   (3) If the commission finds that he has failed, without  
44 good cause, either to apply for available suitable work when so  
45 directed by the employment office or the commission, to accept  
46 suitable work when offered him, or to return to his customary  
47 self-employment (if any) when so directed by the commission, such  
48 disqualification shall continue for the week in which such failure  
49 occurred and for not more than the twelve (12) weeks which  
50 immediately follow such week, as determined by the commission  
51 according to the circumstances in each case.

52                   (a) In determining whether or not any work is  
53 suitable for an individual, the commission shall consider among  
54 other factors the degree of risk involved to his health, safety  
55 and morals, his physical fitness and prior training, his  
56 experience and prior earnings, his length of unemployment and  
57 prospects for securing local work in his customary occupation, and  
58 the distance of the available work from his residence; provided,  
59 however, that offered employment paying the minimum wage or  
60 higher, if such minimum or higher wage is that prevailing for his

61 customary occupation or similar work in the locality, shall be  
62 deemed to be suitable employment after benefits have been paid to  
63 the individual for a period of eight (8) weeks.

64 (b) Notwithstanding any other provisions of this  
65 chapter, no work shall be deemed suitable and benefits shall not  
66 be denied under this chapter to any otherwise eligible individual  
67 for refusing to accept new work under any of the following  
68 conditions:

69 (i) If the position offered is vacant due  
70 directly to a strike, lockout or other labor dispute;

71 (ii) If the wages, hours or other conditions  
72 of the work offered are substantially less favorable to the  
73 individual than those prevailing for similar work in the locality;

74 (iii) If as a condition of being employed the  
75 individual would be required to join a company union or to resign  
76 from or refrain from joining any bona fide labor organization.

77 (4) For any week with respect to which the commission  
78 finds that his total unemployment is due to a stoppage of work  
79 which exists because of a labor dispute at a factory,  
80 establishment or other premises at which he is or was last  
81 employed; provided, that this subsection shall not apply if it is  
82 shown to the satisfaction of the commission:

83 (a) He is unemployed due to a stoppage of work  
84 occasioned by an unjustified lockout, provided such lockout was  
85 not occasioned or brought about by such individual acting alone or  
86 with other workers in concert; or

87 (b) He is not participating in or directly  
88 interested in the labor dispute which caused the stoppage of work;  
89 and

90 (c) He does not belong to a grade or class of  
91 workers of which, immediately before the commencement of stoppage,  
92 there were members employed at the premises at which the stoppage  
93 occurs, any of whom are participating in or directly interested in

94 the dispute.

95         Provided, that if in any case separate branches of work which  
96 are commonly conducted as separate businesses in separate premises  
97 are conducted in separate departments of the same premises, each  
98 such department shall, for the purposes of this subsection, be  
99 deemed to be a separate factory, establishment or other premises.

100             (5) For any week with respect to which he has received  
101 or is seeking unemployment compensation under an unemployment  
102 compensation law of another state or of the United States.

103         Provided, that if the appropriate agency of such other state or of  
104 the United States finally determines that he is not entitled to  
105 such unemployment compensation benefits, this disqualification  
106 shall not apply. Nothing in this subsection contained shall be  
107 construed to include within its terms any law of the United States  
108 providing unemployment compensation or allowances for honorably  
109 discharged members of the Armed Forces.

110             (6) For any week with respect to which he is receiving  
111 or has received remuneration in the form of payments under any  
112 governmental or private retirement or pension plan, system or  
113 policy which a base-period employer is maintaining or contributing  
114 to or has maintained or contributed to on behalf of the  
115 individual; provided, that if the amount payable with respect to  
116 any week is less than the benefits which would otherwise be due  
117 under Section 71-5-501, he shall be entitled to receive for such  
118 week, if otherwise eligible, benefits reduced by the amount of  
119 such remuneration. \* \* \* However, on or after the first Sunday  
120 immediately following the effective date of this act, no social  
121 security payments, to which the employee has made contributions,  
122 shall be deducted from unemployment benefits paid for any period  
123 of unemployment beginning on or after the first Sunday following  
124 the effective date of this act. This one-hundred-percent  
125 exclusion shall not apply to any other governmental or private  
126 retirement or pension plan, system or policy. If benefits payable

127 under this section, after being reduced by the amount of such  
128 remuneration, are not a multiple of One Dollar (\$1.00), they shall  
129 be adjusted to the next lower multiple of One Dollar (\$1.00).

130 (7) For any week with respect to which he is receiving  
131 or has received remuneration in the form of a back pay award, or  
132 other compensation allocable to any week, whether by settlement or  
133 otherwise. Any benefits previously paid for weeks of unemployment  
134 with respect to which back pay awards, or other such compensation,  
135 are made shall constitute an overpayment and such amounts shall be  
136 deducted from the award by the employer prior to payment to the  
137 employee, and shall be transmitted promptly to the commission by  
138 the employer for application against the overpayment and credit to  
139 the claimant's maximum benefit amount and prompt deposit into the  
140 fund; provided, however, the removal of any charges made against  
141 the employer as a result of such previously paid benefits shall be  
142 applied to the calendar year and the calendar quarter in which the  
143 overpayment is transmitted to the commission, and no attempt shall  
144 be made to relate such a credit to the period to which the award  
145 applies. Any amount of overpayment so deducted by the employer  
146 and not transmitted to the commission shall be subject to the same  
147 procedures for collection as is provided for contributions by  
148 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
149 deducted by the employer shall be established as an overpayment  
150 against the claimant and collected as provided above.

151 It is the purpose of this paragraph to assure equity in the  
152 situations to which it applies, and it shall be construed  
153 accordingly.

154 B. Notwithstanding any other provision in this chapter, no  
155 otherwise eligible individual shall be denied benefits for any  
156 week because he is in training with the approval of the  
157 commission; nor shall such individual be denied benefits with  
158 respect to any week in which he is in training with the approval  
159 of the commission by reason of the application of provisions in

160 Section 71-5-511, subsection (c), relating to availability for  
161 work, or the provisions of subsection A(3) of this section,  
162 relating to failure to apply for, or a refusal to accept, suitable  
163 work.

164 C. Notwithstanding any other provisions of this chapter, no  
165 otherwise eligible individual shall be denied benefits for any  
166 week because he or she is in training approved under Section  
167 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
168 denied benefits by reason of leaving work to enter such training,  
169 provided the work left is not suitable employment, or because of  
170 the application to any such week in training of provisions in this  
171 law (or any applicable federal unemployment compensation law),  
172 relating to availability for work, active search for work or  
173 refusal to accept work.

174 For purposes of this section, the term "suitable employment"  
175 means with respect to an individual, work of a substantially equal  
176 or higher skill level than the individual's past adversely  
177 affected employment (as defined for purposes of the Trade Act of  
178 1974), and wages for such work at not less than eighty percent  
179 (80%) of the individual's average weekly wage as determined for  
180 the purposes of the Trade Act of 1974.

181 SECTION 2. This act shall take effect and be in force from  
182 and after July 1, 2000.