

By: Mettetal

To: Labor

SENATE BILL NO. 2907

1 AN ACT TO AMEND SECTION 71-5-513, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT AN INDIVIDUAL SHALL BE DISQUALIFIED FOR  
3 UNEMPLOYMENT BENEFITS IF THE CLAIMANT IS RECEIVING PENSION  
4 BENEFITS TO WHICH THE BASE PERIOD EMPLOYER HAS CONTRIBUTED WITH  
5 THE EXCEPTION OF SOCIAL SECURITY BENEFITS; AND FOR RELATED  
6 PURPOSES.

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

8 SECTION 1. Section 71-5-513, Mississippi Code of 1972, is  
9 amended as follows:[CRG1]

10 71-5-513. A. An individual shall be disqualified for  
11 benefits:

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

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

29 amount, as determined in each case.

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

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

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

54 (a) In determining whether or not any work is  
55 suitable for an individual, the commission shall consider among  
56 other factors the degree of risk involved to his health, safety  
57 and morals, his physical fitness and prior training, his  
58 experience and prior earnings, his length of unemployment and  
59 prospects for securing local work in his customary occupation, and  
60 the distance of the available work from his residence; provided,  
61 however, that offered employment paying the minimum wage or  
62 higher, if such minimum or higher wage is that prevailing for his  
63 customary occupation or similar work in the locality, shall be  
64 deemed to be suitable employment after benefits have been paid to  
65 the individual for a period of eight (8) weeks.

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

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

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

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

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

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

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

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

97                   Provided, that if in any case separate branches of work  
98 which are commonly conducted as separate businesses in separate

99 premises are conducted in separate departments of the same  
100 premises, each such department shall, for the purposes of this  
101 subsection, be deemed to be a separate factory, establishment or  
102 other premises.

103 (5) For any week with respect to which he has received  
104 or is seeking unemployment compensation under an unemployment  
105 compensation law of another state or of the United States.  
106 Provided, that if the appropriate agency of such other state or of  
107 the United States finally determines that he is not entitled to  
108 such unemployment compensation benefits, this disqualification  
109 shall not apply. Nothing in this subsection contained shall be  
110 construed to include within its terms any law of the United States  
111 providing unemployment compensation or allowances for honorably  
112 discharged members of the armed forces.

113 (6) For any week with respect to which he is receiving  
114 or has received remuneration in the form of payments under any  
115 governmental or private retirement or pension plan, system or  
116 policy which a base-period employer is maintaining or contributing  
117 to or has maintained or contributed to on behalf of the  
118 individual; provided, that if the amount payable with respect to  
119 any week is less than the benefits which would otherwise be due  
120 under Section 71-5-501, he shall be entitled to receive for such  
121 week, if otherwise eligible, benefits reduced by the amount of  
122 such remuneration. Provided, however, on or after the first  
123 Sunday immediately following passage of this Senate Bill No. 2907,  
124 2000 Regular Session, no social security payments, to which the  
125 employee has made contributions, will be deducted from  
126 unemployment benefits paid for any period of unemployment  
127 commencing on or after the first Sunday following passage of this  
128 Senate Bill No. 2907, 2000 Regular Session. This one hundred  
129 percent (100%) exclusion does not apply to any other governmental  
130 or private retirement or pension plan, system or policy. \* \* \* If  
131 benefits payable under this subsection, after being reduced by the

132 amount of such remuneration, are not a multiple of One Dollar  
133 (\$1.00), they shall be adjusted to the next higher multiple of One  
134 Dollar (\$1.00); and for a benefit year effective on or after  
135 October 1, 1983, if benefits payable under this section, after  
136 being reduced by the amount of such remuneration, are not a  
137 multiple of One Dollar (\$1.00), they shall be adjusted to the next  
138 lower multiple of One Dollar (\$1.00).

139           (7) For any week with respect to which he is receiving  
140 or has received remuneration in the form of a back pay award, or  
141 other compensation allocable to any week, whether by settlement or  
142 otherwise. Any benefits previously paid for weeks of unemployment  
143 with respect to which back pay awards, or other such compensation,  
144 are made shall constitute an overpayment and such amounts shall be  
145 deducted from the award by the employer prior to payment to the  
146 employee, and shall be transmitted promptly to the commission by  
147 the employer for application against the overpayment and credit to  
148 the claimant's maximum benefit amount and prompt deposit into the  
149 fund; provided, however, the removal of any charges made against  
150 the employer as a result of such previously paid benefits shall be  
151 applied to the calendar year and the calendar quarter in which the  
152 overpayment is transmitted to the commission, and no attempt shall  
153 be made to relate such a credit to the period to which the award  
154 applies. Any amount of overpayment so deducted by the employer  
155 and not transmitted to the commission shall be subject to the same  
156 procedures for collection as is provided for contributions by  
157 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
158 deducted by the employer shall be established as an overpayment  
159 against the claimant and collected as provided above. It is the  
160 purpose of this paragraph to assure equity in the situations to  
161 which it applies, and it shall be construed accordingly.

162           B. Notwithstanding any other provision in this chapter, no  
163 otherwise eligible individual shall be denied benefits for any  
164 week because he is in training with the approval of the

165 commission; nor shall such individual be denied benefits with  
166 respect to any week in which he is in training with the approval  
167 of the commission by reason of the application of provisions in  
168 Section 71-5-511, subsection (c), relating to availability for  
169 work, or the provisions of subsection A(3) of this section,  
170 relating to failure to apply for, or a refusal to accept, suitable  
171 work.

172 C. Notwithstanding any other provisions of this chapter, no  
173 otherwise eligible individual shall be denied benefits for any  
174 week because he or she is in training approved under Section  
175 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
176 denied benefits by reason of leaving work to enter such training,  
177 provided the work left is not suitable employment, or because of  
178 the application to any such week in training of provisions in this  
179 law (or any applicable federal unemployment compensation law),  
180 relating to availability for work, active search for work or  
181 refusal to accept work.

182 For purposes of this section, the term "suitable employment"  
183 means with respect to an individual, work of a substantially equal  
184 or higher skill level than the individual's past adversely  
185 affected employment (as defined for purposes of the Trade Act of  
186 1974), and wages for such work at not less than eighty percent  
187 (80%) of the individual's average weekly wage as determined for  
188 the purposes of the Trade Act of 1974.

189 SECTION 2. This act shall take effect and be in force from  
190 and after its passage.