HOUSE BILL NO. 1361

AN ACT TO AMEND SECTION 71-3-121, MISSISSIPPI CODE OF 1972, TO ESTABLISH CRITERIA FOR DRUG AND ALCOHOL TESTING UNDER WORKERS' COMPENSATION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-3-121, Mississippi Code of 1972, is amended as follows:

71-3-121. The Commissioner of Insurance shall promulgate rules and regulations to require each insurer to establish a safety program for the health and benefit of the employees of the insured employer. The safety program shall include language to explain the rights of workers under the Workers' Compensation Law. The safety program shall require that all insured employers implement a written policy for drug and alcohol testing to ensure that the workplace is a drug and alcohol free environment and to deter the use of drugs and alcohol at the workplace.

If an employer has a reasonable suspicion that an injured employee is under the influence of alcohol or an illegal drug, the employer may request the employee asserting injury to undergo drug and alcohol testing. If the employee has a positive initial test and a positive confirmation test indicating the presence, at the time of injury, of any illegal drug or ten one-hundredths percent (.10%) or more by weight volume of alcohol in the person's blood, it shall be presumed that the proximate cause of the injury was the intoxication of the employee or the use of an illegal drug. If the employee refuses testing, it shall be presumed that the proximate cause of injury was the intoxication of the employee,
unless the commission determines and sets forth a written finding

that the refusal is excused for a specific reason or specific

reasons constituting just cause for the refusal.

The results of the employer-administered tests shall be

considered admissible evidence solely on the issue of causation in

the determination of intoxication of an employee at the time of

injury for workers' compensation purposes under Section 71-3-7.

SECTION 2. This act shall take effect and be in force from

and after July 1, 2001.