

By: Representative Formby

To: Insurance

HOUSE BILL NO. 466

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

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

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

7 71-3-121. The Commissioner of Insurance shall
8 promulgate * * * rules and regulations * * * to require each
9 insurer to establish a safety program for the health and benefit
10 of the employees of the insured employer. The safety program
11 shall include language to explain the rights of workers under the
12 Workers' Compensation Law. The safety program shall require that
13 all insured employers implement a written policy for drug and
14 alcohol testing * * * to ensure that the workplace is a drug and
15 alcohol free environment and to deter the use of drugs and alcohol
16 at the workplace. * * *

17 If an employer has a reasonable suspicion that an injured
18 employee is under the influence of alcohol or an illegal drug, the
19 employer may request the employee asserting injury to undergo drug
20 and alcohol testing. If the employee has a positive initial test
21 and a positive confirmation test indicating the presence, at the
22 time of injury, of any illegal drug or ten one-hundredths percent
23 (.10%) or more by weight volume of alcohol in the person's blood,
24 it shall be presumed that the proximate cause of the injury was
25 the intoxication of the employee or the use of an illegal drug.
26 If the employee refuses testing, it shall be presumed that the
27 proximate cause of injury was the intoxication of the employee,



28 unless the commission determines and sets forth a written finding
29 that the refusal is excused for a specific reason or specific
30 reasons constituting just cause for the refusal.

31 The results of the employer-administered tests shall be
32 considered admissible evidence solely on the issue of causation in
33 the determination of intoxication of an employee at the time of
34 injury for workers' compensation purposes under Section 71-3-7.

35 **SECTION 2.** This act shall take effect and be in force from
36 and after July 1, 2003.

