AN ACT TO AMEND SECTION 71-7-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT EMPLOYERS COMPLIANCE WITH THE DRUG AND ALCOHOL TESTING STATUTES IS VOLUNTARY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-7-3, Mississippi Code of 1972, is amended as follows:

(1) For the purposes of this chapter, the election of a public or private employer to conduct drug and alcohol testing is voluntary. If an employer elects voluntarily to follow this chapter, the employer must follow all the terms of this chapter without exception.

(2) Any employee who may be required by an employer to submit to a drug and alcohol test shall be provided, at least thirty (30) days prior to the implementation of a drug and alcohol testing program, a written policy statement from the employer which contains:

(a) A general statement of the employer's policy on employee drug use which shall include identifying both the grounds on which an employee may be required to submit to a drug and alcohol test and the actions the employer may take against an employee on the basis of a positive confirmed drug and alcohol test result, or other violation of the employer's drug use policy;

(b) A statement advising the employee of the existence of this chapter;

(c) A general statement concerning confidentiality;
(d) Procedures for how employees can confidentially report the use of prescription or nonprescription medications prior to being tested;

(e) Circumstances under which drug and alcohol testing may occur, and a description of which positions will be subject to testing on a reasonable suspicion, neutral selection or other basis;

(f) The consequences of refusing to submit to a drug and alcohol test;

(g) Information on opportunities for assessment and rehabilitation if an employee has a positive confirmed test result and the employer determines that discipline or discharge are not necessary or appropriate;

(h) A statement that an employee who receives a positive confirmed drug and alcohol test result may contest the accuracy of that result or explain it;

(i) A list of all drugs for which the employer might test. Each drug shall be described by its brand name, common name, or its chemical name;

(j) A statement regarding any applicable collective bargaining agreement or contract.

(3) An employer shall post the notice in an appropriate and conspicuous location on the employer’s premises and copies of the policy shall be made available for inspection during regular business hours by employees in the employer’s personnel office or other suitable locations.

(4) The State Board of Health shall develop standard language for those sections of drug and alcohol testing notices described in paragraphs (b), (c) and (d) of subsection (1) of this section.

(5) An employer who conducts job applicant drug and alcohol testing shall notify the applicant, in writing, upon application and prior to the collection of the specimen for the drug and
alcohol test, that the applicant may be tested for the presence of drugs or their metabolites.

(6) An employee or job applicant required to submit to a drug and alcohol test may be requested by an employer to sign a statement indicating that he has read and understands the employer's drug and alcohol testing policy and/or notice. An employee's or job applicant's refusal to sign such a statement shall not invalidate the results of any drug and alcohol test, or bar the employer from administering the drug and alcohol test or from taking action consistent with the terms of an applicable collective bargaining agreement or the employer's drug and alcohol testing policy, or from refusing to hire the job applicant.

(7) If the employer is a government employer, the decision of whether to require employees and/or applicants for employment to submit to drug and alcohol tests in accordance with the provisions of this chapter shall be made by the executive head or governing body of the department, agency, institution or political subdivision authorized to employ. However, in the case of any elected public official of the State of Mississippi or of any department, agency, institution or political subdivision thereof, the decision of whether any person who such official is authorized to employ, or any person who any governing board, commission or body upon which or as a member of which such public official has been elected by the people to serve is authorized to employ, shall be required to submit to a drug and alcohol test in accordance with the provisions of this chapter shall be made:

(a) By the governing board, commission or body upon which or as a member of which such public official has been elected to serve; or

(b) If the elected public official has not been elected to serve upon or as a member of a governing board, commission or body, by the elected official himself.
SECTION 2. This act shall take effect and be in force from and after July 1, 2003.