

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2734

1 AN ACT TO AMEND SECTION 71-3-75, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE WORKERS' COMPENSATION POOLS TO BE SPONSORED BY BONA FIDE
3 TRADE OR PROFESSIONAL ASSOCIATIONS WHICH HAVE BEEN IN EXISTENCE
4 FOR A CERTAIN PERIOD OF YEARS AND WHICH DO NOT HAVE AS THEIR
5 PRIMARY FUNCTION THE SPONSORSHIP OF A WORKERS' COMPENSATION POOL;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 71-3-75, Mississippi Code of 1972, is
9 amended as follows:

10 71-3-75. (1) **Insurance of liability:** An employer liable
11 under this chapter to pay compensation shall insure payment of
12 such compensation by a carrier authorized to insure such liability
13 in this state unless such employer shall be exempted from doing so
14 by the commission.

15 (2) **Exemption from insuring:** An employer desiring to be
16 exempt from insuring his liability for compensation shall make
17 application to the commission, showing his financial ability to
18 pay such compensation and agreeing as a condition for the granting
19 of the exemption to faithfully report all injuries under
20 compensation according to law and the requirement of the
21 commission, and to comply with the provisions of this chapter and
22 the rules of the commission pertaining to the administration
23 thereof; whereupon the commission by written order may make such
24 exemption. The commission may from time to time require further
25 statement of financial ability of such employer to pay
26 compensation and may, upon ten (10) days' notice in writing, for
27 financial reasons or for failure of the employer to faithfully
28 discharge his obligations according to the agreements contained in
29 his application for exemption, revoke its order granting such



30 exemption, in which case such employer shall immediately insure
31 his liability. As a condition for the granting of an exemption,
32 the commission shall have authority to require the employer to
33 furnish such security as it may consider sufficient to insure
34 payment of all claims under compensation. Where the security is
35 in the form of a bond or other personal guaranty, the commission
36 may, at any time either before or after the entry of an award upon
37 at least ten (10) days' notice and opportunity to be heard,
38 require the sureties to pay the amount of the award, the same to
39 be enforced in like manner as the award itself may be enforced.
40 Where an employer procures an exemption as herein provided and
41 thereafter enters into any form of agreement for insurance
42 coverage with an insurance company or interinsurer not licensed to
43 operate in this state, his conduct shall automatically operate as
44 a revocation of such exemption. An order exempting an employer
45 from insuring his liability for compensation shall be null and
46 void if the application contains a financial statement which is
47 false in any material respect. The commission shall revoke the
48 self-insurance permit if the employer is found to have directly or
49 indirectly induced an employee to forego his right to workers'
50 compensation benefits.

51 (3) **Pooling of liabilities:** The commission may, under such
52 rules and regulations as it prescribes, permit two (2) or more
53 employers engaged in a common type of business activity or
54 pursuit, or having other reasons to associate, to enter into
55 agreements to pool their liabilities under this section for the
56 purpose of qualifying as self-insurers, and each employer member
57 of such approved group shall be classified as a self-insurer.
58 Employers pooling liabilities under this subsection (a "workers'
59 compensation pool") shall be sponsored by a bona fide trade or
60 professional association which has been in existence for a period
61 of five (5) years or more and does not have as its primary



62 function the sponsorship, operation or management of a workers'
63 compensation pool under this subsection.

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

