

By: Senator(s) Harden

To: Insurance

SENATE BILL NO. 2194

1 AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT UNTIL JULY 1, 2006, THE ONE-WEEK WAITING PERIOD  
3 REQUIRED FOR ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION BENEFITS  
4 SHALL BE ELIMINATED; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 71-5-511, Mississippi Code of 1972, is  
7 amended as follows:

8 [Until July 1, 2006, this section shall read as follows:]

9 71-5-511. An unemployed individual shall be eligible to  
10 receive benefits with respect to any week only if the commission  
11 finds that:

12 (a) (i) He has registered for work at and thereafter  
13 has continued to report to an employment office in accordance with  
14 such regulations as the commission may prescribe; except that the  
15 commission may, by regulation, waive or alter either or both of  
16 the requirements of this subparagraph as to such types of cases or  
17 situations with respect to which it finds that compliance with  
18 such requirements would be oppressive or would be inconsistent  
19 with the purposes of this chapter; and

20 (ii) He participates in reemployment services,  
21 such as job search assistance services, if, in accordance with a  
22 profiling system established by the commission, it has been  
23 determined that he is likely to exhaust regular benefits and needs  
24 reemployment services, unless the commission determines that:

25 1. The individual has completed such  
26 services; or

27 2. There is justifiable cause for the  
28 claimant's failure to participate in such services.

29           (b) He has made a claim for benefits in accordance with  
30 the provisions of Section 71-5-515 and in accordance with such  
31 regulations as the commission may prescribe thereunder.

32           (c) He is able to work and is available for work.

33       \* \* \*

34           (d) For weeks beginning on or before July 1, 1982, he  
35 has, during his base period, been paid wages for insured work  
36 equal to not less than thirty-six (36) times his weekly benefit  
37 amount; he has been paid wages for insured work during at least  
38 two (2) quarters of his base period; and he has, during that  
39 quarter of his base period in which his total wages were highest,  
40 been paid wages for insured work equal to not less than sixteen  
41 (16) times the minimum weekly benefit amount. For benefit years  
42 beginning after July 1, 1982, he has, during his base period, been  
43 paid wages for insured work equal to not less than forty (40)  
44 times his weekly benefit amount; he has been paid wages for  
45 insured work during at least two (2) quarters of his base period,  
46 and he has, during that quarter of his base period in which his  
47 total wages were highest, been paid wages for insured work equal  
48 to not less than twenty-six (26) times the minimum weekly benefit  
49 amount. For purposes of this subsection, wages shall be counted  
50 as "wages for insured work" for benefit purposes with respect to  
51 any benefit year only if such benefit year begins subsequent to  
52 the date on which the employing unit by which such wages were paid  
53 has satisfied the conditions of Section 71-5-11, subsection H, or  
54 Section 71-5-361, subsection (3), with respect to becoming an  
55 employer.

56           (e) No individual may receive benefits in a benefit  
57 year unless, subsequent to the beginning of the next preceding  
58 benefit year during which he received benefits, he performed  
59 service in "employment" as defined in Section 71-5-11, subsection  
60 I, and earned remuneration for such service in an amount equal to

61 not less than eight (8) times his weekly benefit amount applicable  
62 to his said next preceding benefit year.

63           (f) Benefits based on service in employment defined in  
64 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,  
65 subsection (4) shall be payable in the same amount, on the same  
66 terms, and subject to the same conditions as compensation payable  
67 on the basis of other service subject to this chapter, except that  
68 benefits based on service in an instructional, research or  
69 principal administrative capacity in an institution of higher  
70 learning (as defined in Section 71-5-11, subsection M) with  
71 respect to service performed prior to January 1, 1978, shall not  
72 be paid to an individual for any week of unemployment which begins  
73 during the period between two (2) successive academic years, or  
74 during a similar period between two (2) regular terms, whether or  
75 not successive, or during a period of paid sabbatical leave  
76 provided for in the individual's contract, if the individual has a  
77 contract or contracts to perform services in any such capacity for  
78 any institution or institutions of higher learning for both such  
79 academic years or both such terms.

80           (g) Benefits based on service in employment defined in  
81 Section 71-5-11, subsection I(3) and (4), shall be payable in the  
82 same amount, on the same terms and subject to the same conditions  
83 as compensation payable on the basis of other service subject to  
84 this chapter; except that:

85                   (i) With respect to service performed in an  
86 instructional, research or principal administrative capacity for  
87 an educational institution, benefits shall not be paid based on  
88 such services for any week of unemployment commencing during the  
89 period between two (2) successive academic years, or during a  
90 similar period between two (2) regular but not successive terms,  
91 or during a period of paid sabbatical leave provided for in the  
92 individual's contract, to any individual, if such individual  
93 performs such services in the first of such academic years or

94 terms and if there is a contract or a reasonable assurance that  
95 such individual will perform services in any such capacity for any  
96 educational institution in the second of such academic years or  
97 terms, and provided that Section 71-5-511, subsection (f), shall  
98 apply with respect to such services prior to January 1, 1978. In  
99 no event shall benefits be paid unless the individual employee was  
100 terminated by the employer.

101 (ii) With respect to services performed in any  
102 other capacity for an educational institution, benefits shall not  
103 be paid on the basis of such services to any individual for any  
104 week which commences during a period between two (2) successive  
105 academic years or terms, if such individual performs such services  
106 in the first of such academic years or terms and there is a  
107 reasonable assurance that such individual will perform such  
108 services in the second of such academic years or terms, except  
109 that if compensation is denied to any individual under this  
110 subparagraph and such individual was not offered an opportunity to  
111 perform such services for the educational institution for the  
112 second of such academic years or terms, such individual shall be  
113 entitled to a retroactive payment of compensation for each week  
114 for which the individual filed a timely claim for compensation and  
115 for which compensation was denied solely by reason of this clause.  
116 In no event shall benefits be paid unless the individual employee  
117 was terminated by the employer.

118 (iii) With respect to services described in  
119 subsection (g)(i) and (ii), benefits shall not be payable on the  
120 basis of services in any such capacities to any individual for any  
121 week which commences during an established and customary vacation  
122 period or holiday recess if such individual performs such services  
123 in the first of such academic years or terms, or in the period  
124 immediately before such vacation period or holiday recess, and  
125 there is a reasonable assurance that such individual will perform

126 such services in the period immediately following such vacation  
127 period or holiday recess.

128 (iv) With respect to any services described in  
129 subsection (g)(i) and (ii), benefits shall not be payable on the  
130 basis of services in any such capacities as specified in  
131 subsection (g)(i), (ii) and (iii) to any individual who performed  
132 such services in an educational institution while in the employ of  
133 an educational service agency. For purposes of this subsection,  
134 the term "educational service agency" means a governmental agency  
135 or governmental entity which is established and operated  
136 exclusively for the purpose of providing such services to one or  
137 more educational institutions.

138 (v) With respect to services to which Sections  
139 71-5-357 and 71-5-359 apply, if such services are provided to or  
140 on behalf of an educational institution, benefits shall not be  
141 payable under the same circumstances and subject to the same terms  
142 and conditions as described in subsection (g)(i), (ii), (iii) and  
143 (iv).

144 (h) Subsequent to December 31, 1977, benefits shall not  
145 be paid to any individual on the basis of any services  
146 substantially all of which consist of participating in sports or  
147 athletic events or training or preparing to so participate, for  
148 any week which commences during the period between two (2)  
149 successive sports seasons (or similar periods) if such individual  
150 performs such services in the first of such seasons (or similar  
151 periods) and there is a reasonable assurance that such individual  
152 will perform such services in the later of such seasons (or  
153 similar periods).

154 (i) (i) Subsequent to December 31, 1977, benefits  
155 shall not be payable on the basis of services performed by an  
156 alien, unless such alien is an individual who was lawfully  
157 admitted for permanent residence at the time such services were  
158 performed, was lawfully present for purposes of performing such

159 services, or was permanently residing in the United States under  
160 color of law at the time such services were performed (including  
161 an alien who was lawfully present in the United States as a result  
162 of the application of the provisions of Section 203(a)(7) or  
163 Section 212(d)(5) of the Immigration and Nationality Act).

164 (ii) Any data or information required of  
165 individuals applying for benefits to determine whether benefits  
166 are not payable to them because of their alien status shall be  
167 uniformly required from all applicants for benefits.

168 (iii) In the case of an individual whose  
169 application for benefits would otherwise be approved, no  
170 determination that benefits to such individual are not payable  
171 because of his alien status shall be made, except upon a  
172 preponderance of the evidence.

173 (j) An individual shall be deemed prima facie  
174 unavailable for work, and therefore ineligible to receive  
175 benefits, during any period which, with respect to his employment  
176 status, is found by the commission to be a holiday or vacation  
177 period.

178 **[From and after July 1, 2006, this section shall read as**  
179 **follows:]**

180 71-5-511. An unemployed individual shall be eligible to  
181 receive benefits with respect to any week only if the commission  
182 finds that:

183 (a) (i) He has registered for work at and thereafter  
184 has continued to report to an employment office in accordance with  
185 such regulations as the commission may prescribe; except that the  
186 commission may, by regulation, waive or alter either or both of  
187 the requirements of this subparagraph as to such types of cases or  
188 situations with respect to which it finds that compliance with  
189 such requirements would be oppressive or would be inconsistent  
190 with the purposes of this chapter; and

191                   (ii) He participates in reemployment services,  
192 such as job search assistance services, if, in accordance with a  
193 profiling system established by the commission, it has been  
194 determined that he is likely to exhaust regular benefits and needs  
195 reemployment services, unless the commission determines that:

196                   1. The individual has completed such  
197 services; or

198                   2. There is justifiable cause for the  
199 claimant's failure to participate in such services.

200                   (b) He has made a claim for benefits in accordance with  
201 the provisions of Section 71-5-515 and in accordance with such  
202 regulations as the commission may prescribe thereunder.

203                   (c) He is able to work and is available for work.

204                   (d) He has been unemployed for a waiting period of one  
205 (1) week. No week shall be counted as a week of unemployment for  
206 the purposes of this subsection:

207                   (i) Unless it occurs within the benefit year which  
208 includes the week with respect to which he claims payment of  
209 benefits;

210                   (ii) If benefits have been paid with respect  
211 thereto;

212                   (iii) Unless the individual was eligible for  
213 benefits with respect thereto, as provided in Sections 71-5-511  
214 and 71-5-513, except for the requirements of this subsection.

215                   (e) For weeks beginning on or before July 1, 1982, he  
216 has, during his base period, been paid wages for insured work  
217 equal to not less than thirty-six (36) times his weekly benefit  
218 amount; he has been paid wages for insured work during at least  
219 two (2) quarters of his base period; and he has, during that  
220 quarter of his base period in which his total wages were highest,  
221 been paid wages for insured work equal to not less than sixteen  
222 (16) times the minimum weekly benefit amount. For benefit years  
223 beginning after July 1, 1982, he has, during his base period, been

224 paid wages for insured work equal to not less than forty (40)  
225 times his weekly benefit amount; he has been paid wages for  
226 insured work during at least two (2) quarters of his base period,  
227 and he has, during that quarter of his base period in which his  
228 total wages were highest, been paid wages for insured work equal  
229 to not less than twenty-six (26) times the minimum weekly benefit  
230 amount. For purposes of this subsection, wages shall be counted  
231 as "wages for insured work" for benefit purposes with respect to  
232 any benefit year only if such benefit year begins subsequent to  
233 the date on which the employing unit by which such wages were paid  
234 has satisfied the conditions of Section 71-5-11, subsection H, or  
235 Section 71-5-361, subsection (3), with respect to becoming an  
236 employer.

237       (f) No individual may receive benefits in a benefit  
238 year unless, subsequent to the beginning of the next preceding  
239 benefit year during which he received benefits, he performed  
240 service in "employment" as defined in Section 71-5-11, subsection  
241 I, and earned remuneration for such service in an amount equal to  
242 not less than eight (8) times his weekly benefit amount applicable  
243 to his said next preceding benefit year.

244       (g) Benefits based on service in employment defined in  
245 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,  
246 subsection (4), shall be payable in the same amount, on the same  
247 terms, and subject to the same conditions as compensation payable  
248 on the basis of other service subject to this chapter, except that  
249 benefits based on service in an instructional, research or  
250 principal administrative capacity in an institution of higher  
251 learning (as defined in Section 71-5-11, subsection M) with  
252 respect to service performed prior to January 1, 1978, shall not  
253 be paid to an individual for any week of unemployment which begins  
254 during the period between two (2) successive academic years, or  
255 during a similar period between two (2) regular terms, whether or  
256 not successive, or during a period of paid sabbatical leave



257 provided for in the individual's contract, if the individual has a  
258 contract or contracts to perform services in any such capacity for  
259 any institution or institutions of higher learning for both such  
260 academic years or both such terms.

261 (h) Benefits based on service in employment defined in  
262 Section 71-5-11, subsection I(3) and (4), shall be payable in the  
263 same amount, on the same terms and subject to the same conditions  
264 as compensation payable on the basis of other service subject to  
265 this chapter; except that:

266 (i) With respect to service performed in an  
267 instructional, research or principal administrative capacity for  
268 an educational institution, benefits shall not be paid based on  
269 such services for any week of unemployment commencing during the  
270 period between two (2) successive academic years, or during a  
271 similar period between two (2) regular but not successive terms,  
272 or during a period of paid sabbatical leave provided for in the  
273 individual's contract, to any individual, if such individual  
274 performs such services in the first of such academic years or  
275 terms and if there is a contract or a reasonable assurance that  
276 such individual will perform services in any such capacity for any  
277 educational institution in the second of such academic years or  
278 terms, and provided that Section 71-5-511, subsection (g), shall  
279 apply with respect to such services prior to January 1, 1978. In  
280 no event shall benefits be paid unless the individual employee was  
281 terminated by the employer.

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285 week which commences during a period between two (2) successive  
286 academic years or terms, if such individual performs such services  
287 in the first of such academic years or terms and there is a  
288 reasonable assurance that such individual will perform such  
289 services in the second of such academic years or terms, except

290 that if compensation is denied to any individual under this  
291 subparagraph and such individual was not offered an opportunity to  
292 perform such services for the educational institution for the  
293 second of such academic years or terms, such individual shall be  
294 entitled to a retroactive payment of compensation for each week  
295 for which the individual filed a timely claim for compensation and  
296 for which compensation was denied solely by reason of this clause.  
297 In no event shall benefits be paid unless the individual employee  
298 was terminated by the employer.

299 (iii) With respect to services described in  
300 subsection (h)(i) and (ii), benefits shall not be payable on the  
301 basis of services in any such capacities to any individual for any  
302 week which commences during an established and customary vacation  
303 period or holiday recess if such individual performs such services  
304 in the first of such academic years or terms, or in the period  
305 immediately before such vacation period or holiday recess, and  
306 there is a reasonable assurance that such individual will perform  
307 such services in the period immediately following such vacation  
308 period or holiday recess.

309 (iv) With respect to any services described in  
310 subsection (h)(i) and (ii), benefits shall not be payable on the  
311 basis of services in any such capacities as specified in  
312 subsection (h)(i), (ii) and (iii) to any individual who performed  
313 such services in an educational institution while in the employ of  
314 an educational service agency. For purposes of this subsection,  
315 the term "educational service agency" means a governmental agency  
316 or governmental entity which is established and operated  
317 exclusively for the purpose of providing such services to one or  
318 more educational institutions.

319 (v) With respect to services to which Sections  
320 71-5-357 and 71-5-359 apply, if such services are provided to or  
321 on behalf of an educational institution, benefits shall not be  
322 payable under the same circumstances and subject to the same terms

323 and conditions as described in subsection (h)(i), (ii), (iii) and  
324 (iv).

325 (i) Subsequent to December 31, 1977, benefits shall not  
326 be paid to any individual on the basis of any services  
327 substantially all of which consist of participating in sports or  
328 athletic events or training or preparing to so participate, for  
329 any week which commences during the period between two (2)  
330 successive sports seasons (or similar periods) if such individual  
331 performs such services in the first of such seasons (or similar  
332 periods) and there is a reasonable assurance that such individual  
333 will perform such services in the later of such seasons (or  
334 similar periods).

335 (j) (i) Subsequent to December 31, 1977, benefits  
336 shall not be payable on the basis of services performed by an  
337 alien, unless such alien is an individual who was lawfully  
338 admitted for permanent residence at the time such services were  
339 performed, was lawfully present for purposes of performing such  
340 services, or was permanently residing in the United States under  
341 color of law at the time such services were performed (including  
342 an alien who was lawfully present in the United States as a result  
343 of the application of the provisions of Section 203(a)(7) or  
344 Section 212(d)(5) of the Immigration and Nationality Act).

345 (ii) Any data or information required of  
346 individuals applying for benefits to determine whether benefits  
347 are not payable to them because of their alien status shall be  
348 uniformly required from all applicants for benefits.

349 (iii) In the case of an individual whose  
350 application for benefits would otherwise be approved, no  
351 determination that benefits to such individual are not payable  
352 because of his alien status shall be made, except upon a  
353 preponderance of the evidence.

354 (k) An individual shall be deemed prima facie  
355 unavailable for work, and therefore ineligible to receive

356 benefits, during any period which, with respect to his employment  
357 status, is found by the commission to be a holiday or vacation  
358 period.

359       **SECTION 2.** This act shall take effect and be in force from  
360 and after July 1, 2004.