

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2319

1 AN ACT TO AMEND SECTION 71-3-75, MISSISSIPPI CODE OF 1972, TO
2 REVISE REQUIREMENTS FOR SELF-INSURED GROUPS UNDER THE MISSISSIPPI
3 WORKERS' COMPENSATION SELF-INSURER GUARANTY ASSOCIATION; AND FOR
4 RELATED PURPOSES.

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

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

8 71-3-75. (1) **Insurance of liability:** An employer liable
9 under this chapter to pay compensation shall insure payment of
10 such compensation by a carrier authorized to insure such liability
11 in this state unless such employer shall be exempted from doing so
12 by the commission.

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

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

50 (3) **Pooling of liabilities:** The commission may, under such
51 rules and regulations as it prescribes, permit two (2) or more
52 employers engaged in a common type of business activity or
53 pursuit, or having other reasons to associate, to enter into
54 agreements to pool their liabilities under this section for the
55 purpose of qualifying as group self-insurers, and each employer
56 member of such approved group shall be classified as a
57 self-insurer. A self-insured group under this section shall be
58 comprised of employer members of the same bona fide trade
59 association or trade group. Such trade association or trade group
60 shall be domiciled in the State of Mississippi, shall have been in
61 existence for five (5) or more consecutive years as of the date of

62 application for an approved group and shall not be comprised
63 solely of employer members who are affiliates of a person
64 possessing controlling interest in such affiliates.

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