

By: Representative Guice

To: Insurance

HOUSE BILL NO. 1044

1 AN ACT TO AMEND SECTION 71-3-121, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE DRUG AND ALCOHOL TESTING ON AN INJURED EMPLOYEE
3 FOLLOWING ANY ON-THE-JOB ACCIDENT; TO AMEND SECTION 71-7-5,
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
5 PURPOSES.

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

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

9 71-3-121. The Commissioner of Insurance shall
10 promulgate * * * rules and regulations * * * to require each
11 insurer to establish a safety program for the health and benefit
12 of the employees of the insured employer. The safety program
13 shall include language to explain the rights of workers under the
14 Workers' Compensation Law. The safety program shall require that
15 all insured employers implement a written policy for drug and
16 alcohol testing * * * to ensure that the workplace is a drug and
17 alcohol free environment and to deter the use of drugs and alcohol
18 at the workplace. Following any on-the-job injury, whether or not
19 the employer has cause to believe that the employee was under the
20 influence of alcohol or an illegal drug, the employer may require
21 the employee to submit to a test for the presence of any
22 controlled substances or alcohol in his system.

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

27 **SECTION 2.** Section 71-7-5, Mississippi Code of 1972, is
28 amended as follows:

29 71-7-5. (1) Except as otherwise provided in Section
30 71-7-27, all drug and alcohol testing conducted by employers shall
31 be in conformity with the standards established in this section,
32 other applicable provisions of this chapter, and all applicable
33 regulations promulgated pursuant to this chapter.

34 (2) An employer is authorized to conduct the following types
35 of drug and alcohol tests:

36 (a) Employers may require job applicants to submit to a
37 drug and alcohol test as a condition of the employment application
38 and may use a refusal to submit to a test or positive confirmed
39 test result as a basis for refusal to hire.

40 (b) An employer may require all employees to submit to
41 reasonable suspicion drug and alcohol testing. There is created a
42 rebuttable presumption that the employer had reasonable suspicion
43 to test for drugs if the specimen provided by the employee tested
44 positive for drugs in a confirmatory drug test.

45 (c) An employer may require all employees to submit to
46 neutral selection drug and alcohol testing pursuant to Section
47 71-7-9.

48 (d) Following any on-the-job injury, an employer may
49 require any employee involved in the accident to submit to a drug
50 and alcohol test whether or not the employer has cause to believe
51 that the employee was under the influence of alcohol or an illegal
52 drug.

53 **SECTION 3.** This act shall take effect and be in force from
54 and after July 1, 2006.