

By: Representative Formby

To: Insurance; Judiciary A

HOUSE BILL NO. 1294

1 AN ACT TO AMEND SECTION 71-3-75, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE WORKERS' COMPENSATION COMMISSION, UNDER SUCH RULES
3 AND REGULATIONS AS IT PRESCRIBES, TO ALLOW CERTAIN EMPLOYERS
4 POOLING THEIR LIABILITIES TO ENTER INTO AGREEMENTS TO POOL ANY
5 OTHER LIABILITIES TO THEIR EMPLOYEES; AND FOR RELATED PURPOSES.

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

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

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

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

29 exemption, in which case such employer shall immediately insure
30 its liability as otherwise required under this chapter. As a
31 condition for the granting of an exemption, the commission shall
32 have authority to require the employer to furnish such security as
33 the commission may consider sufficient to insure payment of all
34 claims of such employer 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, its conduct shall automatically operate as
44 a revocation of such exemption. An order exempting an employer
45 from insuring its 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 group self-insurers, and, in conjunction
57 therewith, to enter into agreements to pool any other liabilities
58 to their employees, and each employer member of such approved
59 group shall be classified as a self-insurer. A self-insured group
60 under this section shall be comprised of employer members of the
61 same bona fide trade association or trade group. Such trade

62 association or trade group shall be domiciled in the State of
63 Mississippi, shall have been in existence for five (5) or more
64 consecutive years as of the date of application for an approved
65 group and shall not be comprised solely of employer members who
66 are affiliates of a person possessing controlling interest in such
67 affiliates.

68 **SECTION 2.** This act shall take effect and be in force from
69 and after its passage.