

## House Amendments to Senate Bill No. 2181

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7           **SECTION 1.** Section 71-3-5, Mississippi Code of 1972, is  
8 amended as follows:

9           71-3-5. The following shall constitute employers subject to  
10 the provisions of this chapter:

11           Every person, firm and private corporation, including any  
12 public service corporation but excluding, however, all nonprofit  
13 charitable, fraternal, cultural, or religious corporations or  
14 associations, that have in service five (5) or more workmen or  
15 operatives regularly in the same business or in or about the same  
16 establishment under any contract of hire, express or implied.

17           Any state agency, state institution, state department, or  
18 subdivision thereof, including counties, municipalities and school  
19 districts, or the singular thereof, not heretofore included under  
20 the Workers' Compensation Law, may elect, by proper action of its  
21 officers or department head, to come within its provisions and, in  
22 such case, shall notify the commission of such action by filing  
23 notice of compensation insurance with the commission. Payment for  
24 compensation insurance policies so taken may be made from any  
25 appropriation or funds available to such agency, department or  
26 subdivision thereof, or from the general fund of any county or  
27 municipality.

28           From and after July 1, 1990, all offices, departments,  
29 agencies, bureaus, commissions, boards, institutions, hospitals,  
30 colleges, universities, airport authorities or other  
31 instrumentalities of the "state" as such term is defined in  
32 Section 11-46-1, Mississippi Code of 1972, shall come under the

33 provisions of the Workers' Compensation Law. Payment for  
34 compensation insurance policies so taken may be made from any  
35 appropriation or funds available to such office, department,  
36 agency, bureau, commission, board, institution, hospital, college,  
37 university, airport authority or other instrumentality of the  
38 state.

39 From and after October 1, 1990, counties and municipalities  
40 shall come under the provisions of the Workers' Compensation Law.  
41 Payment for compensation insurance policies so taken may be made  
42 from any funds available to such counties and municipalities.

43 From and after October 1, 1993, all "political subdivisions,"  
44 as such term is defined in Section 11-46-1, Mississippi Code of  
45 1972, except counties and municipalities shall come under the  
46 provisions of the Workers' Compensation Law. Payment for  
47 compensation insurance policies so taken may be made from any  
48 funds available to such political subdivisions.

49 From and after July 1, 1988, the "state" as such term is  
50 defined in Section 11-46-1, Mississippi Code of 1972, may elect to  
51 become a self-insurer under the provisions elsewhere set out by  
52 law, by notifying the commission of its intent to become a  
53 self-insurer. The cost of being such a self-insurer, as provided  
54 otherwise by law, may be paid from funds available to the offices,  
55 departments, agencies, bureaus, commissions, boards, institutions,  
56 hospitals, colleges, universities, airport authorities or other  
57 instrumentalities of the state.

58 The Mississippi Transportation Commission, the Department of  
59 Public Safety and the Mississippi Industries for the Blind may  
60 elect to become self-insurers under the provisions elsewhere set  
61 out by law by notifying the commission of their intention of  
62 becoming such a self-insurer. The cost of being such a  
63 self-insurer, as provided elsewhere by law, may be paid from funds  
64 available to the Mississippi Transportation Commission, the  
65 Department of Public Safety or the Mississippi Industries for the  
66 Blind.

67           The Mississippi State Senate and the Mississippi House of  
68 Representatives may elect to become self-insurers under provisions  
69 elsewhere set out by law by notifying the commission of their  
70 intention of becoming such self-insurers. The cost of being such  
71 self-insurers, as provided elsewhere by law, may be paid from  
72 funds available to the Mississippi State Senate and the  
73 Mississippi House of Representatives. The Mississippi State  
74 Senate and the Mississippi House of Representatives are authorized  
75 and empowered to provide workers' compensation benefits for  
76 employees after January 1, 1970.

77           Any municipality of the State of Mississippi having forty  
78 thousand (40,000) population or more desiring to do so may elect  
79 to become a self-insurer under provisions elsewhere set out by law  
80 by notifying the commission of its intention of becoming such an  
81 insurer. The cost of being such a self-insurer, as provided  
82 elsewhere by law, may be provided from any funds available to such  
83 municipality.

84           The commission may, under such rules and regulations as it  
85 prescribes, permit two (2) or more "political subdivisions," as  
86 such term is defined in Section 11-46-1, Mississippi Code of 1972,  
87 to pool their liabilities to participate in a group workers'  
88 compensation self-insurance program. The governing authorities of  
89 any political subdivision may authorize the organization and  
90 operation of, or the participation in such a group self-insurance  
91 program with other political subdivisions, provided such program  
92 is approved by the commission. The cost of participating in a  
93 group self-insurance program may be provided from any funds  
94 available to a political subdivision.

95           Domestic servants, farmers and farm labor are not included  
96 under the provisions of this chapter, but this exemption does not  
97 apply to the processing of agricultural products when carried on  
98 commercially. Any purchaser of timber products shall not be  
99 liable for workers' compensation for any person who harvests and  
100 delivers timber to such purchaser if such purchaser is not liable  
101 for unemployment tax on the person harvesting and delivering the

102 timber as provided by United States Code Annotated, Title 26,  
103 Section 3306, as amended. Provided, however, nothing in this  
104 section shall be construed to exempt an employer who would  
105 otherwise be covered under Section 71-3-5 from providing workers'  
106 compensation coverage on those employees for whom he is liable for  
107 unemployment tax.

108       Employers exempted by this section may assume, with respect  
109 to any employee or classification of employees, the liability for  
110 compensation imposed upon employers by this chapter with respect  
111 to employees within the coverage of this chapter. The purchase  
112 and acceptance by such employer of valid workers' compensation  
113 insurance applicable to such employee or classification of  
114 employees shall constitute, as to such employer, an assumption by  
115 him of such liability under this chapter without any further act  
116 on his part notwithstanding any other provisions of this chapter,  
117 but only with respect to such employee or such classification of  
118 employees as are within the coverage of the state fund. Such  
119 assumption of liability shall take effect and continue from the  
120 effective date of such workers' compensation insurance and as long  
121 only as such coverage shall remain in force, in which case the  
122 employer shall be subject with respect to such employee or  
123 classification of employees to no other liability than the  
124 compensation as provided for in this chapter.

125       An owner/operator, and his drivers, must provide a  
126 certificate of insurance of workers' compensation coverage to the  
127 motor carrier or proof of coverage under a self-insured plan or an  
128 occupational accident policy. Any such occupational accident  
129 policy shall provide a minimum of One Million Dollars  
130 (\$1,000,000.00) of coverage. Should the owner/operator fail to  
131 provide written proof of coverage to the motor carrier, then the  
132 owner/operator, and his drivers, shall be covered under the motor  
133 carrier's workers' compensation insurance program and the motor  
134 carrier is authorized to collect payment of the premium from the  
135 owner/operator. In the event that coverage is obtained by the  
136 owner/operator under a workers' compensation policy or through a

137 self-insured or occupational accident policy, then the  
138 owner/operator, and his drivers, shall not be entitled to benefits  
139 under the motor carrier's workers' compensation insurance program  
140 unless the owner/operator has elected in writing to be covered  
141 under the carrier's workers' compensation program or policy or if  
142 the owner/operator is covered by the carrier's plan because he  
143 failed to obtain coverage. Coverage under the motor carrier's  
144 workers' compensation insurance program does not terminate the  
145 independent contractor status of the owner/operator under the  
146 written contract or lease agreement. Nothing shall prohibit or  
147 prevent an owner/operator from having or securing an occupational  
148 accident policy in addition to any workers' compensation coverage  
149 authorized by this section. Other than the amendments to this  
150 section by Senate Bill No. 2181, 2006 Regular Session, the  
151 provisions of this section shall not be construed to have any  
152 effect on any other provision of law, judicial decision or any  
153 applicable common law.

154       This chapter shall not apply to transportation and maritime  
155 employments for which a rule of liability is provided by the laws  
156 of the United States.

157       This chapter shall not be applicable to a mere direct  
158 buyer-seller or vendor-vendee relationship where there is no  
159 employer-employee relationship as defined by Section 71-3-3, and  
160 any insurance carrier is hereby prohibited from charging a premium  
161 for any person who is a seller or vendor rather than an employee.

162       Any employer may elect, by proper and written action of its  
163 own governing authority, to be exempt from the provisions of the  
164 Workers' Compensation Law as to its sole proprietor, its partner  
165 in a partnership or to its employee who is the owner of fifteen  
166 percent (15%) or more of its stock in a corporation, if such sole  
167 proprietor, partner or employee also voluntarily agrees thereto in  
168 writing. Any sole proprietor, partner or employee owning fifteen  
169 percent (15%) or more of the stock of his/her corporate employer  
170 who becomes exempt from coverage under the Workers' Compensation  
171 Law shall be excluded from the total number of workers or

172 operatives toward reaching the mandatory coverage threshold level  
173 of five (5).

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1         AN ACT TO AMEND SECTION 71-3-5, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE AN OWNER/OPERATOR TO PROVIDE THE MOTOR CARRIER PROOF OF  
3 INSURANCE COVERAGE UNDER A WORKERS' COMPENSATION POLICY, A  
4 SELF-INSURED PLAN OR AN OCCUPATIONAL ACCIDENT POLICY; AND FOR  
5 RELATED PURPOSES.

HR03\SB2181PH.J

Don Richardson  
Clerk of the House of Representatives