

By: Representatives Fleming, Evans, Clarke

To: Insurance; Judiciary A

HOUSE BILL NO. 1423

1 AN ACT TO AMEND SECTIONS 71-3-13, 71-3-17, 71-3-21 AND
2 71-3-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM TOTAL
3 COMPENSATION THAT A PERSON MAY RECOVER UNDER THE WORKERS'
4 COMPENSATION LAW; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 71-3-13, Mississippi Code of 1972, is
7 amended as follows:

8 71-3-13. (1) Compensation for disability or in death cases
9 shall not exceed sixty-six and two-thirds percent (66-2/3%) of the
10 average weekly wage for the state per week, nor shall it be less
11 than Twenty-five Dollars (\$25.00) per week except in partial
12 dependency cases and in partial disability cases.

13 (2) Maximum recovery: The total recovery of compensation
14 hereunder, exclusive of medical payments under Section 71-3-15,
15 arising from the injury to an employee or the death of an
16 employee, or any combination of such injury or death, shall not
17 exceed the multiple of five hundred twenty (520) weeks times
18 sixty-six and two-thirds percent (66-2/3%) of the average weekly
19 wage for the state.

20 **SECTION 2.** Section 71-3-17, Mississippi Code of 1972, is
21 amended as follows:

22 71-3-17. Compensation for disability shall be paid to the
23 employee as follows:

24 (a) Permanent total disability: In case of total
25 disability adjudged to be permanent, sixty-six and two-thirds
26 percent (66-2/3%) of the average weekly wages of the injured
27 employee, subject to the maximum limitations as to weekly benefits
28 as set up in this chapter, shall be paid to the employee not to

29 exceed five hundred twenty (520) weeks or an amount greater than
30 the multiple of five hundred twenty (520) weeks times sixty-six
31 and two-thirds percent (66-2/3%) of the average weekly wage for
32 the state. Loss of both hands, or both arms, or both feet, or
33 both legs, or both eyes, or of any two (2) thereof shall
34 constitute permanent total disability. In all other cases
35 permanent total disability shall be determined in accordance with
36 the facts.

37 (b) Temporary total disability: In case of disability,
38 total in character but temporary in quality, sixty-six and
39 two-thirds percent (66-2/3%) of the average weekly wages of the
40 injured employee, subject to the maximum limitations as to weekly
41 benefits as set up in this chapter, shall be paid to the employee
42 during the continuance of such disability not to exceed five
43 hundred twenty (520) weeks or an amount greater than the multiple
44 of five hundred twenty (520) weeks times sixty-six and two-thirds
45 percent (66-2/3%) of the average weekly wage for the state.
46 Provided, however, if there arises a conflict in medical opinions
47 of whether or not the claimant has reached maximum medical
48 recovery and the claimant's benefits have terminated by the
49 carrier, then the claimant may demand an immediate hearing before
50 the commissioner upon five (5) days' notice to the carrier for a
51 determination by the commission of whether or not in fact the
52 claimant has reached maximum recovery.

53 (c) Permanent partial disability: In case of
54 disability partial in character but permanent in quality, the
55 compensation shall be sixty-six and two-thirds percent (66-2/3%)
56 of the average weekly wages of the injured employee, subject to
57 the maximum limitations as to weekly benefits as set up in this
58 chapter, which shall be paid following compensation for temporary
59 total disability paid in accordance with subsection (b) of this
60 section, and shall be paid to the employee as follows:

61 Member Lost Number Weeks Compensation

62	(1)	Arm	200
63	(2)	Leg	175
64	(3)	Hand	150
65	(4)	Foot	125
66	(5)	Eye	100
67	(6)	Thumb	60
68	(7)	First finger	35
69	(8)	Great toe	30
70	(9)	Second finger	30
71	(10)	Third finger	20
72	(11)	Toe other than great toe	10
73	(12)	Fourth finger	15
74	(13)	Testicle, one	50
75	(14)	Testicle, both	150
76	(15)	Breast, female, one	50
77	(16)	Breast, female, both	150
78	(17)	Loss of hearing: Compensation for loss of hearing of	
79		one (1) ear, forty (40) weeks. Compensation for loss of hearing	
80		of both ears, one hundred fifty (150) weeks.	
81	(18)	Phalanges: Compensation for loss of more than one (1)	
82		phalange of a digit shall be the same as for loss of the entire	
83		digit. Compensation for loss of the first phalange shall be	
84		one-half (1/2) of the compensation for loss of the entire digit.	
85	(19)	Amputated arm or leg: Compensation for an arm or leg,	
86		if amputated at or above wrist or ankle, shall be for the loss of	
87		the arm or leg.	
88	(20)	Binocular vision or percent of vision: Compensation	
89		for loss of binocular vision or for eighty percent (80%) or more	
90		of the vision of an eye shall be the same as for loss of the eye.	
91	(21)	Two (2) or more digits: Compensation for loss of two	
92		(2) or more digits, or one (1) or more phalanges of two (2) or	
93		more digits, of a hand or foot may be proportioned to the loss of	

94 the use of the hand or foot occasioned thereby, but shall not
95 exceed the compensation for loss of a hand or foot.

96 (22) Total loss of use: Compensation for permanent total
97 loss of use of a member shall be the same as for loss of the
98 member.

99 (23) Partial loss or partial loss of use: Compensation for
100 permanent partial loss or loss of use of a member may be for
101 proportionate loss or loss of use of the member.

102 (24) Disfigurement: The commission, in its discretion, is
103 authorized to award proper and equitable compensation for serious
104 facial or head disfigurements not to exceed Two Thousand Dollars
105 (\$2,000.00). No such award shall be made until a lapse of one (1)
106 year from the date of the injury resulting in such disfigurement.

107 (25) Other cases: In all other cases in this class of
108 disability, the compensation shall be sixty-six and two-thirds
109 percent (66-2/3%) of the difference between his average weekly
110 wages, subject to the maximum limitations as to weekly benefits as
111 set up in this chapter, and his wage-earning capacity thereafter
112 in the same employment or otherwise, payable during the
113 continuance of such partial disability, but subject to
114 reconsideration of the degree of such impairment by the commission
115 on its own motion or upon application of any party in interest.
116 Such payments shall in no case be made for a longer period than
117 five hundred twenty (520) weeks.

118 (26) In any case in which there shall be a loss of, or loss
119 of use of, more than one (1) member or parts of more than one (1)
120 member set forth in paragraphs (1) to (23) of this subsection, not
121 amounting to permanent total disability, the award of compensation
122 shall be for the loss of, or loss of use of, each such member or
123 parts thereof, which awards shall run consecutively, except that
124 where the injury affects only two (2) or more digits of the same
125 hand or foot, paragraph (21) of this subsection shall apply.

126 **SECTION 3.** Section 71-3-21, Mississippi Code of 1972, is
127 amended as follows:

128 71-3-21. In case of temporary partial disability resulting
129 in decrease of earning capacity, there shall be paid to the
130 injured employee sixty-six and two-thirds percent (66-2/3%) of the
131 difference between the injured employee's average weekly wages
132 before the injury and his wage-earning capacity after the injury
133 in the same or other employment, subject to the maximum
134 limitations as to weekly benefits as set up in this chapter,
135 payable during the continuance of such disability but in no case
136 exceeding five hundred twenty (520) weeks or an amount greater
137 than the multiple of five hundred twenty (520) weeks times
138 sixty-six and two-thirds percent (66-2/3%) of the average weekly
139 wage for the state.

140 **SECTION 4.** Section 71-3-25, Mississippi Code of 1972, is
141 amended as follows:

142 71-3-25. If the injury causes death, the compensation shall
143 be known as a death benefit and shall be payable in the amount and
144 to or for the benefit of the persons following:

145 (a) An immediate lump sum payment of Two Hundred Fifty
146 Dollars (\$250.00) to the surviving spouse, in addition to other
147 compensation benefits.

148 (b) Reasonable funeral expenses not exceeding Two
149 Thousand Dollars (\$2,000.00) exclusive of other burial insurance
150 or benefits.

151 (c) If there be a surviving spouse and no child of the
152 deceased, to such surviving spouse thirty-five percent (35%) of
153 the average wages of the deceased during widowhood or dependent
154 widowhood and, if there be a surviving child or children of the
155 deceased, the additional amount of ten percent (10%) of such wages
156 for each such child. In case of the death or remarriage of such
157 surviving spouse, any surviving child of the deceased employee
158 shall have his compensation increased to fifteen percent (15%) of

159 such wages, provided that the total amount payable shall in no
160 case exceed sixty-six and two-thirds percent (66-2/3%) of such
161 wages, subject to the maximum limitations as to weekly benefits as
162 set up in this chapter. The commission may, in its discretion,
163 require the appointment of a guardian for the purpose of receiving
164 the compensation of a minor dependent. In the absence of such a
165 requirement, the appointment of a guardian for such purposes shall
166 not be necessary, provided that if no legal guardian be appointed,
167 payment to the natural guardian shall be sufficient.

168 (d) If there be a surviving child or children of the
169 deceased but no surviving spouse, then for the support of each
170 such child twenty-five percent (25%) of the wages of the deceased,
171 provided that the aggregate shall in no case exceed sixty-six and
172 two-thirds percent (66-2/3%) of such wages, subject to the maximum
173 limitations as to weekly benefits as set up in this chapter.

174 (e) If there be no surviving spouse or child, or if the
175 amount payable to a surviving spouse and to children shall be less
176 in the aggregate than sixty-six and two-thirds percent (66-2/3%)
177 of the average wages of the deceased, subject to the maximum
178 limitations as to weekly benefits as set up in this chapter, then
179 for the support of grandchildren or brothers and sisters, if
180 dependent upon the deceased at the time of the injury, fifteen
181 percent (15%) of such wages for the support of each such person;
182 and for the support of each parent or grandparent of the deceased,
183 if dependent upon him at the time of injury, fifteen percent (15%)
184 of such wages during such dependency. But in no case shall the
185 aggregate amount payable under this subsection exceed the
186 difference between sixty-six and two-thirds percent (66-2/3%) of
187 such wages and the amount payable as hereinbefore provided to
188 surviving spouse and for the support of surviving child or
189 children, subject to the maximum limitations as to weekly benefits
190 as set up in this chapter.

191 (f) The total weekly compensation payments to any or
192 all beneficiaries in death cases shall not exceed the weekly
193 benefits as set up in this chapter and shall in no case be paid
194 for a longer period than five hundred twenty (520) weeks or for a
195 greater amount than the multiple of five hundred twenty (520)
196 weeks times sixty-six and two-thirds percent (66-2/3%) of the
197 average weekly wage for the state.

198 (g) All questions of dependency shall be determined as
199 of the time of the injury. A surviving spouse, child or children
200 shall be presumed to be wholly dependent. All other dependents
201 shall be considered on the basis of total or partial dependence as
202 the facts may warrant.

203 **SECTION 5.** This act shall take effect and be in force from
204 and after July 1, 2007.