SENATE BILL NO. 2210

AN ACT TO AMEND SECTIONS 71-3-13, 71-3-17, 71-3-21 AND
71-3-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM TOTAL
COMPENSATION THAT AN EMPLOYEE MAY RECOVER UNDER THE WORKERS'
COMPENSATION LAW, AND TO PROVIDE THAT COMPENSATION FOR PERMANENT
TOTAL DISABILITY SHALL BE PAID TO THE EMPLOYEE UNTIL HIS DEATH;
AND FOR RELATED PURPOSES.

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

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

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

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

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

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

(a) Permanent total disability: In case of total disability adjudged to be permanent, sixty-six and two-thirds percent (66-2/3%) of the average weekly wages of the injured employee * * * shall be paid to the employee * * * until his death. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two (2) thereof shall constitute permanent total disability. In all other cases, permanent total disability shall be determined in accordance with the facts.

(b) Temporary total disability: In case of disability, total in character but temporary in quality, sixty-six and two-thirds percent (66-2/3%) of the average weekly wages of the injured employee, subject to the maximum limitations as to weekly benefits as set up in this chapter, shall be paid to the employee during the continuance of such disability not to exceed four hundred fifty (450) weeks or an amount greater than the multiple of four hundred fifty (450) weeks times sixty-six and two-thirds percent (66-2/3%) of the average weekly wage for the state. Provided, however, if there arises a conflict in medical opinions of whether or not the claimant has reached maximum medical
recovery and the claimant's benefits have been terminated by the carrier, then the claimant may demand an immediate hearing before the commissioner upon five (5) days' notice to the carrier for a determination by the commission of whether or not in fact the claimant has reached maximum recovery.

(c) Permanent partial disability: In case of disability partial in character but permanent in quality, the compensation shall be sixty-six and two-thirds percent \((66\frac{2}{3}\%)\) of the average weekly wages of the injured employee, subject to the maximum limitations as to weekly benefits as set up in this chapter, which shall be paid following compensation for temporary total disability paid in accordance with paragraph (b) of this section, and shall be paid to the employee as follows:

<table>
<thead>
<tr>
<th>Member Lost</th>
<th>Number Weeks</th>
<th>Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Arm</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>(2) Leg</td>
<td>175</td>
<td></td>
</tr>
<tr>
<td>(3) Hand</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>(4) Foot</td>
<td>125</td>
<td></td>
</tr>
<tr>
<td>(5) Eye</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>(6) Thumb</td>
<td>60</td>
<td></td>
</tr>
<tr>
<td>(7) First finger</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>(8) Great toe</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>(9) Second finger</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>(10) Third finger</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>(11) Toe other than great toe</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>
(12) Fourth finger 15
(13) Testicle, one 50
(14) Testicle, both 150
(15) Breast, female, one 50
(16) Breast, female, both 150
(17) Loss of hearing: Compensation for loss of hearing of one (1) ear, forty (40) weeks. Compensation for loss of hearing of both ears, one hundred fifty (150) weeks.
(18) Phalanges: Compensation for loss of more than one (1) phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half (1/2) of the compensation for loss of the entire digit.
(19) Amputated arm or leg: Compensation for an arm or leg, if amputated at or above wrist or ankle, shall be for the loss of the arm or leg.
(20) Binocular vision or percent of vision: Compensation for loss of binocular vision or for eighty percent (80%) or more of the vision of an eye shall be the same as for loss of the eye.
(21) Two (2) or more digits: Compensation for loss of two (2) or more digits, or one (1) or more phalanges of two (2) or more digits, of a hand or foot may be proportioned to the loss of the use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot.
Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

Disfigurement: The commission, in its discretion, is authorized to award proper and equitable compensation for serious facial or head disfigurements not to exceed Five Thousand Dollars ($5,000.00). No such award shall be made until a lapse of one (1) year from the date of the injury resulting in such disfigurement.

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

In any case in which there shall be a loss of, or loss of use of, more than one (1) member or parts of more
than one (1) member set forth in subparagraphs (1) through (23) of this paragraph (c), not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or parts thereof, which awards shall run consecutively, except that where the injury affects only two (2) or more digits of the same hand or foot, subparagraph (21) of this paragraph (c) shall apply.

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

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

**SECTION 4.** Section 71-3-25, Mississippi Code of 1972, is amended as follows:
71-3-25. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

(a) An immediate lump-sum payment of One Thousand Dollars ($1,000.00) to the surviving spouse, in addition to other compensation benefits.

(b) Reasonable funeral expenses not exceeding Five Thousand Dollars ($5,000.00) exclusive of other burial insurance or benefits.

(c) If there be a surviving spouse and no child of the deceased, to such surviving spouse thirty-five percent (35%) of the average wages of the deceased during widowhood or dependent widowhood and, if there be a surviving child or children of the deceased, the additional amount of ten percent (10%) of such wages for each such child. In case of the death or remarriage of such surviving spouse, any surviving child of the deceased employee shall have his compensation increased to fifteen percent (15%) of such wages, provided that the total amount payable shall in no case exceed sixty-six and two-thirds percent (66-2/3%) of such wages, subject to the maximum limitations as to weekly benefits as set up in this chapter. The commission may, in its discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor dependent. In the absence of such a requirement, the appointment of a guardian for such purposes shall
not be necessary, provided that if no legal guardian be appointed, payment to the natural guardian shall be sufficient.

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

(e) If there be no surviving spouse or child, or if the amount payable to a surviving spouse and to children shall be less in the aggregate than sixty-six and two-thirds percent (66-2/3%) of the average wages of the deceased, subject to the maximum limitations as to weekly benefits as set up in this chapter, then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, fifteen percent (15%) of such wages for the support of each such person; and for the support of each parent or grandparent of the deceased, if dependent upon him at the time of injury, fifteen percent (15%) of such wages during such dependency. But in no case shall the aggregate amount payable under this subsection exceed the difference between sixty-six and two-thirds percent (66-2/3%) of such wages and the amount payable as hereinbefore provided to surviving spouse and for the support of surviving child or children, subject to the maximum limitations as to weekly benefits as set up in this chapter.
(f) The total weekly compensation payments to any or all beneficiaries in death cases shall not exceed the weekly benefits as set up in this chapter and shall in no case be paid for a longer period than five hundred twenty (520) weeks or for a greater amount than the multiple of five hundred twenty (520) weeks times sixty-six and two-thirds percent (66-2/3%) of the average weekly wage for the state.

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

SECTION 5. This act shall take effect and be in force from and after July 1, 2014.