

By: Representative Hines

To: Insurance; Judiciary A

HOUSE BILL NO. 77

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 TO 520 WEEKS; 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
30 than the multiple of * * * five hundred twenty (520) weeks times
31 sixty-six and two-thirds percent (66-2/3%) of the average weekly
32 wage for the state. Loss of both hands, or both arms, or both
33 feet, or 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



45 two-thirds percent (66-2/3%) of the average weekly wage for the
46 state. Provided, however, if there arises a conflict in medical
47 opinions of whether or not the claimant has reached maximum
48 medical recovery and the claimant's benefits have been terminated
49 by the carrier, then the claimant may demand an immediate hearing
50 before the commissioner upon five (5) days' notice to the carrier
51 for a determination by the commission of whether or not in fact
52 the 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 paragraph (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	
79		hearing of one (1) ear, forty (40) weeks. Compensation for loss	
80		of hearing of both ears, one hundred fifty (150) weeks.	
81	(18)	Phalanges: Compensation for loss of more	
82		than one (1) phalange of a digit shall be the same as for loss of	
83		the entire digit. Compensation for loss of the first phalange	
84		shall be one-half (1/2) of the compensation for loss of the entire	
85		digit.	
86	(19)	Amputated arm or leg: Compensation for an	
87		arm or leg, if amputated at or above wrist or ankle, shall be for	
88		the loss of the arm or leg.	
89	(20)	Binocular vision or percent of vision:	
90		Compensation for loss of binocular vision or for eighty percent	
91		(80%) or more of the vision of an eye shall be the same as for	
92		loss of the eye.	
93	(21)	Two (2) or more digits: Compensation for	
94		loss of two (2) or more digits, or one * * * or more phalanges of	



95 two (2) or more digits, of a hand or foot may be proportioned to
96 the loss of the use of the hand or foot occasioned thereby, but
97 shall not exceed the compensation for loss of a hand or foot.

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

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

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

110 (25) Other cases: In all other cases in this
111 class of disability, the compensation shall be sixty-six and
112 two-thirds percent (66-2/3%) of the difference between his average
113 weekly wages, subject to the maximum limitations as to weekly
114 benefits as set up in this chapter, and his wage-earning capacity
115 thereafter in the same employment or otherwise, payable during the
116 continuance of such partial disability, but subject to
117 reconsideration of the degree of such impairment by the commission
118 on its own motion or upon application of any party in interest.



119 Such payments shall in no case be made for a longer period than
120 * * * five hundred twenty (520) weeks.

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

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

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



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

146 71-3-25. If the injury causes death, the compensation shall
147 be known as a death benefit and shall be payable in the amount and
148 to or for the benefit of the persons following:

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

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

155 (c) If there be a surviving spouse and no child of the
156 deceased, to such surviving spouse thirty-five percent (35%) of
157 the average wages of the deceased during widowhood or dependent
158 widowhood and, if there be a surviving child or children of the
159 deceased, the additional amount of ten percent (10%) of such wages
160 for each such child. In case of the death or remarriage of such
161 surviving spouse, any surviving child of the deceased employee
162 shall have his compensation increased to fifteen percent (15%) of
163 such wages, provided that the total amount payable shall in no
164 case exceed sixty-six and two-thirds percent (66-2/3%) of such
165 wages, subject to the maximum limitations as to weekly benefits as
166 set up in this chapter. The commission may, in its discretion,
167 require the appointment of a guardian for the purpose of receiving
168 the compensation of a minor dependent. In the absence of such a



169 requirement, the appointment of a guardian for such purposes shall
170 not be necessary, provided that if no legal guardian be appointed,
171 payment to the natural guardian shall be sufficient.

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

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



193 children, subject to the maximum limitations as to weekly benefits
194 as set up in this chapter.

195 (f) The total weekly compensation payments to any or
196 all beneficiaries in death cases shall not exceed the weekly
197 benefits as set up in this chapter and shall in no case be paid
198 for a longer period than * * * five hundred twenty (520) weeks or
199 for a greater amount than the multiple of * * * five hundred
200 twenty (520) weeks times sixty-six and two-thirds percent
201 (66-2/3%) of the average weekly wage for the state.

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

207 **SECTION 5.** This act shall take effect and be in force from
208 and after July 1, 2018.

