

By: Representatives Sykes, Gibbs (72nd),
Clarke

To: Insurance; Judiciary A

HOUSE BILL NO. 78

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 AN EMPLOYEE MAY RECOVER UNDER THE WORKERS'
4 COMPENSATION LAW, AND TO PROVIDE THAT COMPENSATION FOR PERMANENT
5 TOTAL DISABILITY SHALL BE PAID TO THE EMPLOYEE UNTIL HIS DEATH;
6 AND FOR RELATED PURPOSES.

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

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

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

15 (2) Maximum recovery: The total recovery of compensation
16 hereunder, exclusive of medical payments under Section 71-3-15,
17 and compensation for permanent total disability under Section
18 71-3-17(a), arising from the injury to an employee or the death of
19 an employee, or any combination of such injury or death, shall not
20 exceed the multiple of * * * five hundred twenty (520) weeks times



21 sixty-six and two-thirds percent (66-2/3%) of the average weekly
22 wage for the state.

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

25 71-3-17. Compensation for disability shall be paid to the
26 employee as follows:

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

35 (b) Temporary total disability: In case of disability,
36 total in character but temporary in quality, sixty-six and
37 two-thirds percent (66-2/3%) of the average weekly wages of the
38 injured employee, subject to the maximum limitations as to weekly
39 benefits as set up in this chapter, shall be paid to the employee
40 during the continuance of such disability not to exceed four
41 hundred fifty (450) weeks or an amount greater than the multiple
42 of four hundred fifty (450) weeks times sixty-six and two-thirds
43 percent (66-2/3%) of the average weekly wage for the state.
44 Provided, however, if there arises a conflict in medical opinions
45 of whether or not the claimant has reached maximum medical



46 recovery and the claimant's benefits have been terminated by the
47 carrier, then the claimant may demand an immediate hearing before
48 the commissioner upon five (5) days' notice to the carrier for a
49 determination by the commission of whether or not in fact the
50 claimant has reached maximum recovery.

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

59	Member Lost	Number Weeks Compensation
60	(1) Arm	200
61	(2) Leg	175
62	(3) Hand	150
63	(4) Foot	125
64	(5) Eye	100
65	(6) Thumb	60
66	(7) First finger	35
67	(8) Great toe	30
68	(9) Second finger	30
69	(10) Third finger	20
70	(11) Toe other than great toe	10



71 (12) Fourth finger 15

72 (13) Testicle, one 50

73 (14) Testicle, both 150

74 (15) Breast, female, one 50

75 (16) Breast, female, both 150

76 (17) Loss of hearing: Compensation for loss of

77 hearing of one (1) ear, forty (40) weeks. Compensation for loss

78 of hearing of both ears, one hundred fifty (150) weeks.

79 (18) Phalanges: Compensation for loss of more

80 than one (1) phalange of a digit shall be the same as for loss of

81 the entire digit. Compensation for loss of the first phalange

82 shall be one-half (1/2) of the compensation for loss of the entire

83 digit.

84 (19) Amputated arm or leg: Compensation for an

85 arm or leg, if amputated at or above wrist or ankle, shall be for

86 the loss of the arm or leg.

87 (20) Binocular vision or percent of vision:

88 Compensation for loss of binocular vision or for eighty percent

89 (80%) or more of the vision of an eye shall be the same as for

90 loss of the eye.

91 (21) Two (2) or more digits: Compensation for

92 loss of two (2) or more digits, or one * * * or more phalanges of

93 two (2) or more digits, of a hand or foot may be proportioned to

94 the loss of the use of the hand or foot occasioned thereby, but

95 shall not exceed the compensation for loss of a hand or foot.



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

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

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

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

119 (26) In any case in which there shall be a loss
120 of, or loss of use of, more than one (1) member or parts of more



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

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

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

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



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

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

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

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



168 not be necessary, provided that if no legal guardian be appointed,
169 payment to the natural guardian shall be sufficient.

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

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



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

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

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

