

By: Senator(s) Carter, Carmichael, Gollott,
Blount, Moran, Branning, Jackson (11th),
Seymour, Whaley, McDaniel, Blackwell

To: Insurance;
Appropriations

SENATE BILL NO. 2835
(As Sent to Governor)

1 AN ACT TO CREATE THE "MISSISSIPPI FIRST RESPONDERS HEALTH AND
2 SAFETY ACT"; TO PROVIDE THAT WHEN A FIRST RESPONDER WHO HAS
3 COMPLETED A CERTAIN NUMBER OF YEARS OF SERVICE IS UNABLE TO
4 PERFORM HIS OR HER REGULAR DUTIES BY REASON OF CANCER, THE
5 AFFECTED FIRST RESPONDER OR HIS BENEFICIARIES SHALL BE ENTITLED TO
6 ALL RIGHTS AND BENEFITS AS GRANTED BY THIS ACT; TO AMEND SECTION
7 71-3-9, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** This act shall be known and may be cited as the
11 "Mississippi First Responders Health and Safety Act" and may also
12 be referred to as the "Arson Investigator Danny Benton and Police
13 Chief Henry Manuel, Sr., Act."

14 **SECTION 2.** For purposes of this act, the following words
15 shall have the following meanings unless the context clearly
16 indicates otherwise:

17 (a) "Cancer" means a disease caused by an uncontrolled
18 division of abnormal cells in a part of the body or a malignant
19 growth or tumor resulting from the division of abnormal cells.

20 "Cancer" is limited to cancer affecting the bladder, brain, colon,
21 liver, pancreas, skin, kidney, gastrointestinal tract,



22 reproductive tract, leukemia, lymphoma, multiple myeloma,
23 prostate, testicles and breast.

24 (b) "Firefighter" means any firefighter who has ten
25 (10) or more years of service and is employed by the State of
26 Mississippi, or any political subdivision thereof, on a full-time
27 duty status, and any firefighter who has ten (10) or more years of
28 service and is registered with the State of Mississippi, or a
29 political subdivision thereof, on a volunteer firefighting status.

30 (c) "Law enforcement officer" means any officer who has
31 been certified by the Mississippi Board on Law Enforcement Officer
32 Standards and Training and has ten (10) or more years of service.

33 (d) "First responder" means any firefighter and law
34 enforcement officer as defined in paragraphs (b) and (c) of this
35 section.

36 **SECTION 3.** (1) As an alternative to pursuing workers'
37 compensation benefits, upon a diagnosis of cancer, a first
38 responder is entitled to the following benefits:

39 (a) Provided the diagnosis occurs on or after the first
40 responder's effective date of coverage, a lump-sum benefit of
41 Thirty-five Thousand Dollars (\$35,000.00) of coverage for each
42 diagnosis payable to the first responder upon acceptable proof to
43 the insurance carrier or other payor of a diagnosis by a
44 board-certified physician in the medical specialty appropriate for
45 the type of cancer diagnosed that the cancer was caused by an
46 occupational hazard and that there are one or more malignant



47 tumors characterized by the uncontrollable and abnormal growth and
48 spread of malignant cells with invasion of normal tissue and that
49 either:

50 (i) There is metastasis, and surgery, radiotherapy
51 or chemotherapy is medically necessary;

52 (ii) There is a tumor of the prostate, provided
53 that it is treated with radical prostatectomy or external beam
54 therapy; or

55 (iii) The first responder has terminal cancer, his
56 or her life expectancy is twenty-four (24) months or less from the
57 date of diagnosis, and will not benefit from, or has exhausted,
58 curative therapy.

59 (b) Provided the diagnosis occurs on or after the first
60 responder's effective date of coverage, a lump-sum benefit of Six
61 Thousand Two Hundred Fifty Dollars (\$6,250.00) for each diagnosis
62 payable to the first responder upon acceptable proof to the
63 insurance carrier or other payor of a diagnosis by a
64 board-certified physician in the medical specialty appropriate for
65 the type of cancer involved that:

66 (i) There is carcinoma in situ such that surgery,
67 radiotherapy or chemotherapy has been determined to be medically
68 necessary;

69 (ii) There are malignant tumors which are treated
70 by endoscopic procedures alone; or

71 (iii) There are malignant melanomas.



72 (c) The combined total of benefits received by any
73 first responder under paragraphs (a) and (b) of this subsection
74 (1) during his or her lifetime shall not exceed Fifty Thousand
75 Dollars (\$50,000.00).

76 (d) Provided the date of disability occurs on or after
77 the first responder's effective date of coverage, a disability
78 benefit payable as a result of a specific cancer to begin six (6)
79 months after the date of disability and submission to the
80 insurance carrier or other payor of acceptable proof of disability
81 caused by the specified disease or events such that the illness
82 precludes the first responder from serving as a first responder:

83 (i) For nonvolunteer first responders, a monthly
84 benefit equal to sixty percent (60%) of the first responder's
85 monthly salary as an employed first responder with a fire or
86 police department or a monthly benefit of Five Thousand Dollars
87 (\$5,000.00), whichever is less, of which the first payment shall
88 be made six (6) months after the total disability and shall
89 continue for thirty-six (36) consecutive monthly payments unless
90 the first responder regains the ability to perform his or her
91 duties as determined by reevaluation under subparagraph (iv) of
92 this paragraph, at which time the payments shall cease the last
93 day of the month of reevaluation;

94 (ii) For volunteer firefighters, a monthly benefit
95 of One Thousand Five Hundred Dollars (\$1,500.00) of which the
96 first payment shall be made six (6) months after the total



97 disability and shall continue for thirty-six (36) consecutive
98 monthly payments unless the first responder regains the ability to
99 perform his or her duties as determined by reevaluation under
100 subparagraph (iv) of this paragraph, at which time the payments
101 shall cease the last day of the month of reevaluation;

102 (iii) Such monthly benefit shall be subordinate to
103 any other benefit actually paid to the first responder solely for
104 such disability from any other source, not including private
105 insurance purchased solely by the first responder;

106 (iv) Any first responder receiving the monthly
107 benefits may be required to have his or her condition reevaluated.
108 In the event any such reevaluation reveals that such person has
109 regained the ability to perform duties as a first responder, then
110 his or her monthly benefits shall cease the last day of the month
111 of reevaluation; and

112 (v) In the event that there is a subsequent
113 recurrence of a disability caused by a specified cancer, which
114 precludes the first responder from serving as a first responder,
115 he or she shall be entitled to receive any remaining monthly
116 payments.

117 (e) An eligible first responder who dies as a result of
118 a compensable type of cancer, or circumstances arising out of the
119 treatment of a compensable type of cancer, but does not submit
120 sufficient proof of claim prior to the first responder's death, is
121 entitled to receive benefits specified in paragraphs (a) and (b)



122 of this subsection (1) and made available to the deceased first
123 responder's beneficiary or beneficiaries.

124 (f) Any first responder who was simultaneously a member
125 of more than one (1) fire or police department at the time of
126 diagnosis shall not be entitled to receive benefits from or on
127 behalf of more than one (1) fire or police department. The first
128 responder's primary place of employment shall maintain coverage
129 for the eligible first responder; and

130 (g) An otherwise eligible first responder shall be
131 precluded from the benefits listed under this section if he or she
132 has filed for workers' compensation for the same diagnosis of
133 cancer.

134 **SECTION 4.** The costs of purchasing an insurance policy that
135 provides for cancer coverage in compliance with this act, or the
136 costs of providing such benefits through a self-funded system in
137 compliance with this act, must be borne solely by the employer
138 that employs the eligible first responder and may not be funded
139 partially or wholly by individual first responders. In addition
140 to any other purpose authorized, county governing authorities and
141 municipal governing authorities may use proceeds from county and
142 municipal taxes for the purposes of providing insurance in
143 compliance with this act. The computation of premium amounts by
144 an insurer for the coverage under this act shall be subject to
145 generally accepted adjustments from insurance underwriting.



146 **SECTION 5.** (1) The state, municipality, county or fire
147 protection district shall, no later than January 1, 2022, show
148 proof of insurance coverage that meets the requirements of this
149 act to the Attorney General, or shall show satisfactory proof of
150 the ability to pay such compensation to ensure adequate coverage
151 for all eligible first responders.

152 (2) The Attorney General shall adopt such rules and
153 regulations as are reasonable and necessary to implement the
154 provisions of this act. Such regulations shall include the
155 process by which a first responder files a claim for cancer and
156 the process by which claimants can appeal a denial of benefits.

157 (3) The Attorney General shall adopt rules to establish
158 firefighter cancer prevention best practices as it relates to
159 personal protective equipment, decontamination, fire suppression,
160 apparatus and fire stations.

161 **SECTION 6.** Section 71-3-9, Mississippi Code of 1972, is
162 amended as follows:

163 71-3-9. (1) Except as provided under subsection (2) of this
164 section, the liability of an employer to pay compensation shall be
165 exclusive and in place of all other liability of such employer to
166 the employee, his legal representative, husband or wife, parents,
167 dependents, next of kin, and anyone otherwise entitled to recover
168 damages at common law or otherwise from such employer on account
169 of such injury or death, except that if an employer fails to
170 secure payment of compensation as required by this chapter, an



171 injured employee, or his legal representative in case death
172 results from the injury, may elect to claim compensation under
173 this chapter, or to maintain an action at law for damages on
174 account of such injury or death. In such action the defendant may
175 not plead as a defense that the injury was caused by the
176 negligence of a fellow servant, nor that the employee assumed the
177 risk of his employment, nor that the injury was due to the
178 contributory negligence of the employee.

179 (2) An employer shall not be liable under this chapter to a
180 first responder, as defined in Section 2 of this act, if such
181 first responder elects to receive benefits under the "Mississippi
182 First Responders Health and Safety Act."

183 **SECTION 7.** This act shall take effect and be in force from
184 and after July 1, 2021.

