

**Adopted
AMENDMENT NO 2 PROPOSED TO**

Senate Bill No. 2835

BY: Representative Hale

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

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

16 (a) "Cancer" means a disease caused by an uncontrolled
17 division of abnormal cells in a part of the body or a malignant



18 growth or tumor resulting from the division of abnormal cells.
19 "Cancer" is limited to cancer affecting the bladder, brain, colon,
20 liver, pancreas, skin, kidney, gastrointestinal tract,
21 reproductive tract, leukemia, lymphoma, multiple myeloma,
22 prostate, testicles and breast.

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

29 (c) "Police officer" means every officer, having ten
30 (10) or more years of service, and authorized to direct or
31 regulate traffic or to make arrests for violations of traffic
32 regulations in the State of Mississippi.

33 (d) "First responder" means every firefighter and
34 police 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 Twenty-five Thousand Dollars (\$25,000.00) 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 board
44 certified physician in the medical specialty appropriate for the
45 type of cancer diagnosed that there are one or more malignant
46 tumors characterized by the uncontrollable and abnormal growth and
47 spread of malignant cells with invasion of normal tissue and that
48 either:

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

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

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

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

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



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

70 (iii) There are malignant melanomas.

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

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

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



93 (ii) For volunteer firefighters, a monthly benefit
94 of One Thousand Five Hundred Dollars (\$1,500.00) of which the
95 first payment shall be made six (6) months after the total
96 disability and shall continue for thirty-six (36) consecutive
97 monthly payments unless the first responder regains the ability to
98 perform his or her duties as determined by reevaluation under
99 subparagraph (iv) of this paragraph, at which time the payments
100 shall cease the last day of the month of reevaluation;

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

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

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

116 (e) If a first responder who qualifies for benefits
117 under this section dies, and he or she shall be considered to have



118 been killed in the line of duty under Section 45-2-1, his or her
119 beneficiary or beneficiaries shall be eligible for the line of
120 duty death benefits as set forth in Section 45-2-1.

121 (f) An eligible first responder who dies as a result of
122 a compensable type of cancer, or circumstances arising out of the
123 treatment of a compensable type of cancer, but does not submit
124 sufficient proof of claim prior to the first responder's death, is
125 entitled to receive benefits specified in paragraphs (a) and (b)
126 of this subsection (1) and made available to the deceased first
127 responder's beneficiary or beneficiaries.

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

134 (h) An otherwise eligible first responder shall be
135 precluded from the benefits listed under this section if he or she
136 has filed for workers' compensation for the same diagnosis of
137 cancer.

138 **SECTION 4.** The costs of purchasing an insurance policy that
139 provides for cancer coverage in compliance with this act, or the
140 costs of providing such benefits through a self-funded system in
141 compliance with this act, must be borne solely by the employer
142 that employs the eligible first responder and may not be funded



143 partially or wholly by individual first responders. In addition to
144 any other purpose authorized, county governing authorities and
145 municipal governing authorities may use proceeds from county and
146 municipal taxes for the purposes of providing insurance in
147 compliance with this act. The computation of premium amounts by an
148 insurer for the coverage under this act shall be subject to
149 generally accepted adjustments from insurance underwriting.

150 **SECTION 5.** (1) The state, municipality, county or fire
151 protection district shall, no later than January 1, 2020, show
152 proof of insurance coverage to the Commissioner of Insurance that
153 meets the requirements of this act, or shall show satisfactory
154 proof of the ability to pay such compensation to ensure adequate
155 coverage for all eligible first responders. Such coverage shall
156 remain in effect until a fire or police department no longer has
157 any first responders who could qualify for these benefits.

158 (2) The Commissioner of Insurance shall adopt such rules and
159 regulations as are reasonable and necessary to implement the
160 provisions of this act. Such regulations shall include the
161 process by which a first responder files a claim for cancer and
162 the process by which claimants can appeal a denial of benefits.

163 (3) The Commissioner of Insurance shall adopt rules to
164 establish firefighter cancer prevention best practices as it
165 relates to personal protective equipment, decontamination, fire
166 suppression, apparatus and fire stations.



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

169 71-3-9. (1) * * * Except as provided under subsection (2)
170 of this section, the liability of an employer to pay compensation
171 shall be exclusive and in place of all other liability of such
172 employer to the employee, his legal representative, husband or
173 wife, parents, dependents, next-of-kin, and anyone otherwise
174 entitled to recover damages at common law or otherwise from such
175 employer on account of such injury or death, except that if an
176 employer fails to secure payment of compensation as required by
177 this chapter, an injured employee, or his legal representative in
178 case death results from the injury, may elect to claim
179 compensation under this chapter, or to maintain an action at law
180 for damages on account of such injury or death. In such action
181 the defendant may not plead as a defense that the injury was
182 caused by the negligence of a fellow servant, nor that the
183 employee assumed the risk of his employment, nor that the injury
184 was due to the contributory negligence of the employee.

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

189 **SECTION 7.** This act shall take effect and be in force from
190 and after January 1, 2020, and shall stand repealed from and after
191 December 31, 2019.



Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

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.

