

By: Senator(s) Seymour

To: Economic and Workforce
Development; Appropriations

SENATE BILL NO. 2736

1 AN ACT TO AMEND SECTION 71-5-513, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT DISCHARGE FROM EMPLOYMENT FOR FAILURE TO COMPLY
 3 WITH AN EMPLOYER-REQUIRED VACCINE MANDATE SHALL BE GOOD CAUSE FOR
 4 PURPOSES OF DETERMINING ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION;
 5 TO AMEND SECTION 71-5-507, MISSISSIPPI CODE OF 1972, TO PROVIDE
 6 THAT AN INDIVIDUAL WHO WAS DISCHARGED FROM EMPLOYMENT FOR FAILURE
 7 TO COMPLY WITH AN EMPLOYER-REQUIRED VACCINE MANDATE SHALL BE
 8 ENTITLED DURING ANY BENEFIT YEAR TO THE ENTIRE AMOUNT OF HIS TOTAL
 9 WAGES FOR INSURED WORK PAID DURING HIS BASE PERIOD; TO CREATE A
 10 NEW CODE SECTION TO PROVIDE THAT AN EMPLOYER SHALL REIMBURSE THE
 11 MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY FOR THE TOTAL AMOUNT
 12 OF CLAIMS PAID TO INDIVIDUALS WHO WERE DISCHARGED FROM THE
 13 EMPLOYER'S EMPLOYMENT FOR FAILURE TO COMPLY WITH AN
 14 EMPLOYER-REQUIRED VACCINE MANDATE; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 71-5-513, Mississippi Code of 1972, is
 17 amended as follows:

18 71-5-513. A. An individual shall be disqualified for
 19 benefits:

20 (1) (a) For the week, or fraction thereof, which
 21 immediately follows the day on which he left work voluntarily
 22 without good cause, if so found by the department, and for each
 23 week thereafter until he has earned remuneration for personal
 24 services performed for an employer, as in this chapter defined,



25 equal to not less than eight (8) times his weekly benefit amount,
26 as determined in each case; however, marital, filial and domestic
27 circumstances and obligations shall not be deemed good cause
28 within the meaning of this subsection. Pregnancy shall not be
29 deemed to be a marital, filial or domestic circumstance for the
30 purpose of this subsection. Discharge from employment for failure
31 to comply with an employer-required vaccine mandate shall be good
32 cause for purposes of this subsection.

33 (b) For the week, or fraction thereof, which
34 immediately follows the day on which he was discharged for
35 misconduct connected with his work, if so found by the department,
36 and for each week thereafter until he has earned remuneration for
37 personal services performed for an employer, as in this chapter
38 defined, equal to not less than eight (8) times his weekly benefit
39 amount, as determined in each case.

40 (c) The burden of proof of good cause for leaving
41 work shall be on the claimant, and the burden of proof of
42 misconduct shall be on the employer.

43 (2) For the week, or fraction thereof, with respect to
44 which he willfully makes a false statement, a false representation
45 of fact, or willfully fails to disclose a material fact for the
46 purpose of obtaining or increasing benefits under the provisions
47 of this law, if so found by the department, and such individual's
48 maximum benefit allowance shall be reduced by the amount of
49 benefits so paid to him during any such week of disqualification;



50 and additional disqualification shall be imposed for a period not
51 exceeding fifty-two (52) weeks, the length of such period of
52 disqualification and the time when such period begins to be
53 determined by the department, in its discretion, according to the
54 circumstances in each case.

55 (3) If the department finds that he has failed, without
56 good cause, either to apply for available suitable work when so
57 directed by the employment office or the department, to accept
58 suitable work when offered him, or to return to his customary
59 self-employment (if any) when so directed by the department, such
60 disqualification shall continue for the week in which such failure
61 occurred and for not more than the twelve (12) weeks which
62 immediately follow such week, as determined by the department
63 according to the circumstances in each case.

64 (a) In determining whether or not any work is
65 suitable for an individual, the department shall consider among
66 other factors the degree of risk involved to his health, safety
67 and morals, his physical fitness and prior training, his
68 experience and prior earnings, his length of unemployment and
69 prospects for securing local work in his customary occupation, and
70 the distance of the available work from his residence; however,
71 offered employment paying the minimum wage or higher, if such
72 minimum or higher wage is that prevailing for his customary
73 occupation or similar work in the locality, shall be deemed to be



74 suitable employment after benefits have been paid to the
75 individual for a period of eight (8) weeks.

76 (b) Notwithstanding any other provisions of this
77 chapter, no work shall be deemed suitable and benefits shall not
78 be denied under this chapter to any otherwise eligible individual
79 for refusing to accept new work under any of the following
80 conditions:

81 (i) If the position offered is vacant due
82 directly to a strike, lockout or other labor dispute;

83 (ii) If the wages, hours or other conditions
84 of the work offered are substantially unfavorable or unreasonable
85 to the individual's work. The department shall have the sole
86 discretion to determine whether or not there has been an
87 unfavorable or unreasonable condition placed on the individual's
88 work. Moreover, the department may consider, but shall not be
89 limited to a consideration of, whether or not the unfavorable
90 condition was applied by the employer to all workers in the same
91 or similar class or merely to this individual;

92 (iii) If as a condition of being employed the
93 individual would be required to join a company union or to resign
94 from or refrain from joining any bona fide labor organization;

95 (iv) If unsatisfactory or hazardous working
96 conditions exist that could result in a danger to the physical or
97 mental well-being of the worker. In any such determination the
98 department shall consider, but shall not be limited to a



99 consideration of, the following: the safety measures used or the
100 lack thereof and the condition of equipment or lack of proper
101 equipment. No work shall be considered hazardous if the working
102 conditions surrounding a worker's employment are the same or
103 substantially the same as the working conditions generally
104 prevailing among workers performing the same or similar work for
105 other employers engaged in the same or similar type of activity.

106 (c) Pursuant to Section 303(1) of the Social
107 Security Act (42 USCS 503), the department may conduct drug tests
108 of applicants for unemployment compensation for the unlawful use
109 of controlled substances as a condition for receiving such
110 compensation, if such applicant:

111 (i) Was terminated from employment with the
112 claimant's most recent employer, as defined by Mississippi law,
113 because of the unlawful use of controlled substances; or

114 (ii) Is an individual for whom suitable work,
115 as defined by Mississippi law, is only available in an occupation
116 (as determined under regulations issued by the U.S. Secretary of
117 Labor) that requires drug testing.

118 The department may deny unemployment compensation to any
119 applicant based on the result of a drug test conducted by the
120 department in accordance with this subsection. A positive drug
121 test result shall be deemed by the department to be a failure to
122 accept suitable work, and shall subject the applicant to the
123 disqualification provisions set forth in this subsection A(3).



124 During the disqualification period imposed by the department under
125 this subsection, the individual may provide information to end the
126 disqualification period early by submitting acceptable proof to
127 the department of a negative test result from a testing facility
128 approved by the department.

129 (iii) Pursuant to the provisions set forth in
130 this subsection A(3)(c), the department shall have the authority
131 to institute a random drug testing program for all individuals who
132 meet the requirements set forth in this section. Moreover, the
133 department shall have the authority to create the necessary
134 regulations, policies rules, guidelines and procedures to
135 implement such a program.

136 Any term or provision set forth in this subsection A(3)(c)
137 that otherwise conflicts with federal or state law shall be
138 disregarded but shall not, in any way, affect the remaining
139 provisions.

140 (4) For any week with respect to which the department
141 finds that his total unemployment is due to a stoppage of work
142 which exists because of a labor dispute at a factory,
143 establishment or other premises at which he is or was last
144 employed; however, this subsection shall not apply if it is shown
145 to the satisfaction of the department:

146 (a) He is unemployed due to a stoppage of work
147 occasioned by an unjustified lockout, if such lockout was not



148 occasioned or brought about by such individual acting alone or
149 with other workers in concert; or

150 (b) He is not participating in or directly
151 interested in the labor dispute which caused the stoppage of work;
152 and

153 (c) He does not belong to a grade or class of
154 workers of which, immediately before the commencement of stoppage,
155 there were members employed at the premises at which the stoppage
156 occurs, any of whom are participating in or directly interested in
157 the dispute.

158 If in any case separate branches of work which are commonly
159 conducted as separate businesses in separate premises are
160 conducted in separate departments of the same premises, each such
161 department shall, for the purposes of this subsection, be deemed
162 to be a separate factory, establishment or other premises.

163 (5) For any week with respect to which he has received
164 or is seeking unemployment compensation under an unemployment
165 compensation law of another state or of the United States.
166 However, if the appropriate agency of such other state or of the
167 United States finally determines that he is not entitled to such
168 unemployment compensation benefits, this disqualification shall
169 not apply. Nothing in this subsection contained shall be
170 construed to include within its terms any law of the United States
171 providing unemployment compensation or allowances for honorably
172 discharged members of the Armed Forces.



173 (6) For any week with respect to which he is receiving
174 or has received remuneration in the form of payments under any
175 governmental or private retirement or pension plan, system or
176 policy which a base-period employer is maintaining or contributing
177 to or has maintained or contributed to on behalf of the
178 individual; however, if the amount payable with respect to any
179 week is less than the benefits which would otherwise be due under
180 Section 71-5-501, he shall be entitled to receive for such week,
181 if otherwise eligible, benefits reduced by the amount of such
182 remuneration. However, on or after the first Sunday immediately
183 following July 1, 2001, no social security payments, to which the
184 employee has made contributions, shall be deducted from
185 unemployment benefits paid for any period of unemployment
186 beginning on or after the first Sunday following July 1, 2001.
187 This one hundred percent (100%) exclusion shall not apply to any
188 other governmental or private retirement or pension plan, system
189 or policy. If benefits payable under this section, after being
190 reduced by the amount of such remuneration, are not a multiple of
191 One Dollar (\$1.00), they shall be adjusted to the next lower
192 multiple of One Dollar (\$1.00).

193 (7) For any week with respect to which he is receiving
194 or has received remuneration in the form of a back pay award, or
195 other compensation allocable to any week, whether by settlement or
196 otherwise. Any benefits previously paid for weeks of unemployment
197 with respect to which back pay awards, or other such compensation,



198 are made shall constitute an overpayment and such amounts shall be
199 deducted from the award by the employer prior to payment to the
200 employee, and shall be transmitted promptly to the department by
201 the employer for application against the overpayment and credit to
202 the claimant's maximum benefit amount and prompt deposit into the
203 fund; however, the removal of any charges made against the
204 employer as a result of such previously paid benefits shall be
205 applied to the calendar year and the calendar quarter in which the
206 overpayment is transmitted to the department, and no attempt shall
207 be made to relate such a credit to the period to which the award
208 applies. Any amount of overpayment so deducted by the employer
209 and not transmitted to the department shall be subject to the same
210 procedures for collection as is provided for contributions by
211 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
212 deducted by the employer shall be established as an overpayment
213 against the claimant and collected as provided above. It is the
214 purpose of this paragraph to assure equity in the situations to
215 which it applies, and it shall be construed accordingly.

216 B. Notwithstanding any other provision in this chapter, no
217 otherwise eligible individual shall be denied benefits for any
218 week because he is in training with the approval of the
219 department; nor shall such individual be denied benefits with
220 respect to any week in which he is in training with the approval
221 of the department by reason of the application of provisions in
222 Section 71-5-511, subsection (c), relating to availability for



223 work, or the provisions of subsection A(3) of this section,
224 relating to failure to apply for, or a refusal to accept, suitable
225 work.

226 C. Notwithstanding any other provisions of this chapter, no
227 otherwise eligible individual shall be denied benefits for any
228 week because he or she is in training approved under Section
229 236(a) (1) of the Trade Act of 1974, nor shall such individual be
230 denied benefits by reason of leaving work to enter such training,
231 provided the work left is not suitable employment, or because of
232 the application to any such week in training of provisions in this
233 law (or any applicable federal unemployment compensation law),
234 relating to availability for work, active search for work or
235 refusal to accept work.

236 For purposes of this section, the term "suitable employment"
237 means with respect to an individual, work of a substantially equal
238 or higher skill level than the individual's past adversely
239 affected employment (as defined for purposes of the Trade Act of
240 1974), and wages for such work at not less than eighty percent
241 (80%) of the individual's average weekly wage as determined for
242 the purposes of the Trade Act of 1974.

243 D. Notwithstanding any other provisions of this chapter, no
244 otherwise eligible individual shall be denied benefits for any
245 week in which they are engaged in the Self-Employment Assistance
246 Program established in Section 71-5-545 by reason of the
247 application of Section 71-5-511(c), relating to availability for



248 work, or the provisions of subsection A(3) of this section,
249 relating to failure to apply for, or a refusal to accept, suitable
250 work.

251 E. Any individual who is receiving benefits may participate
252 in an approved training program under the Mississippi Employment
253 Security Law to gain skills that may lead to employment while
254 continuing to receive benefits. Authorization for participation
255 of a recipient of unemployment benefits in such a program must be
256 granted by the department and continuation of participation must
257 be certified weekly by the participant recipient. While
258 participating in such program approved by the department,
259 availability and work search requirements will be waived. No
260 individual will be allowed to participate in this program for more
261 than twelve (12) weeks in any benefit year. Such participation
262 shall not be considered employment for any purposes and shall not
263 accrue benefits or wage credits. Participation in this training
264 program shall meet the definition set forth in the U.S. Fair Labor
265 Standards Act.

266 **SECTION 2.** Section 71-5-507, Mississippi Code of 1972, is
267 amended as follows:

268 71-5-507. (1) Any otherwise eligible individual shall be
269 entitled during any benefit year to a total amount of regular
270 benefits equal to twenty-six (26) times his weekly benefit amount
271 or one-third (1/3) of his total wages for insured work paid during
272 his base period, whichever is the lesser. Provided, that for a



273 benefit year effective prior to October 1, 1983, if such total
274 amount of benefits is not a multiple of One Dollar (\$1.00), it
275 shall be computed to the next higher multiple of One Dollar
276 (\$1.00); and for a benefit year effective on or after October 1,
277 1983, if such total amount of benefits is not a multiple of One
278 Dollar (\$1.00), it shall be computed to the next lower multiple of
279 One Dollar (\$1.00).

280 (2) An individual who was discharged from employment for
281 failure to comply with an employer-required vaccine mandate shall
282 be entitled during any benefit year to the entire amount of his
283 total wages for insured work paid during his base period.

284 (3) An individual's total amount of regular benefits as
285 determined at the beginning of his benefit year shall constitute
286 his total amount of regular benefits throughout such benefit year.

287 **SECTION 3.** In addition to the contributions required under
288 this article, an employer shall reimburse the department for the
289 total amount of claims paid to individuals who were discharged
290 from the employer's employment for failure to comply with an
291 employer-required vaccine mandate.

292 **SECTION 4.** Section 3 of this act shall be codified in Article
293 7, Chapter 5, Title 71, Mississippi Code of 1972.

294 **SECTION 5.** This act shall take effect and be in force from
295 and after July 1, 2022.

