

By: Senator(s) Sojourner

To: Judiciary, Division A

SENATE BILL NO. 2863

1 AN ACT TO AMEND SECTION 71-3-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE EXCLUSIVE REMEDY PROVISION UNDER THE WORKERS'
3 COMPENSATION LAW TO EXEMPT GROSS NEGLIGENT CLAIMS WHERE THE INJURY
4 WAS SUBSTANTIALLY CERTAIN TO OCCUR; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** This act shall be known and may be cited as the
7 "Wells Middleton Law."

8 **SECTION 2.** Section 71-3-9, Mississippi Code of 1972, is
9 amended as follows:

10 71-3-9. (1) Except as provided under subsection (2) of this
11 section, the liability of an employer to pay compensation shall be
12 exclusive and in place of all other liability of such employer to
13 the employee, his legal representative, husband or wife, parents,
14 dependents, next of kin, and anyone otherwise entitled to recover
15 damages at common law or otherwise from such employer on account
16 of such injury or death, except * * * as follows:

17 (a) If an employer fails to secure payment of
18 compensation as required by this chapter, an injured employee, or
19 his legal representative in case death results from the injury,



20 may elect to claim compensation under this chapter, or to maintain
21 an action at law for damages on account of such injury or death.
22 In such action the defendant may not plead as a defense that the
23 injury was caused by the negligence of a fellow servant, nor that
24 the employee assumed the risk of his employment, nor that the
25 injury was due to the contributory negligence of the
26 employee * * *; or

27 (b) When an injured employee, or his legal
28 representative in case death results from the injury, can
29 demonstrate that the employee's injury or death on the job was
30 caused by the employer's gross negligence where injury was
31 substantially certain to occur.

32 (2) An employer shall not be liable under this chapter to a
33 first responder, as defined in Section 25-15-403, if such first
34 responder elects to receive benefits under the "Mississippi First
35 Responders Health and Safety Act."

36 **SECTION 3.** This act shall take effect and be in force from
37 and after July 1, 2023.

