

By: Senator(s) Hill

To: Insurance;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2409

1 AN ACT TO CREATE NEW SECTION 71-3-131, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT VACCINE-RELATED ACCIDENTS OR INJURIES SHALL
3 BE COMPENSABLE UNDER THE WORKERS' COMPENSATION LAW; TO PROVIDE FOR
4 A PRESUMPTION IN FAVOR OF COMPENSATION; TO AMEND SECTION 71-5-513,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DISCHARGE FROM
6 EMPLOYMENT FOR FAILURE TO COMPLY WITH AN EMPLOYER-REQUIRED VACCINE
7 MANDATE SHALL BE GOOD CAUSE FOR PURPOSES OF DETERMINING
8 ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** The following shall be codified as Section
12 71-3-131, Mississippi Code of 1972:

13 71-3-131. (1) When an employer requires an employee to
14 receive a vaccination in the course of employment, or as a
15 condition of hiring or continued employment, any accident or
16 injury caused by the vaccination shall be compensable.

17 (2) In any claim for compensation where there is unrebutted
18 *prima facie* evidence that the employee received a vaccine in the
19 course of employment, or as a condition of hiring or continued
20 employment, and where such employee suffers an accident or injury
21 that is or may be related to the employee's receipt of the

22 vaccine, it shall be presumed, in the absence of substantial
23 evidence to the contrary, that such accident or injury arose in
24 the course of employment.

25 (3) The provisions of this title shall be construed in the
26 light most favorable to an employee with respect to a claim for
27 compensation for any accident or injury caused by a vaccination
28 received in the course of employment, or as a condition of hiring
29 or continued employment.

30 (4) The commission should, when feasible, adjust the
31 experience rating of an employer that requires employee
32 vaccinations if claims arise from the vaccinations.

33 **SECTION 2.** Section 71-5-513, Mississippi Code of 1972, is
34 amended as follows:

35 71-5-513. A. An individual shall be disqualified for
36 benefits:

37 (1) (a) For the week, or fraction thereof, which
38 immediately follows the day on which he left work voluntarily
39 without good cause, if so found by the department, and for each
40 week thereafter until he has earned remuneration for personal
41 services performed for an employer, as in this chapter defined,
42 equal to not less than eight (8) times his weekly benefit amount,
43 as determined in each case; however, marital, filial and domestic
44 circumstances and obligations shall not be deemed good cause
45 within the meaning of this subsection. Pregnancy shall not be
46 deemed to be a marital, filial or domestic circumstance for the



47 purpose of this subsection. Discharge from employment for failure
48 to comply with an employer-required vaccine mandate shall be good
49 cause for purposes of this subsection.

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

57 (c) The burden of proof of good cause for leaving
58 work shall be on the claimant, and the burden of proof of
59 misconduct shall be on the employer.

60 (2) For the week, or fraction thereof, with respect to
61 which he willfully makes a false statement, a false representation
62 of fact, or willfully fails to disclose a material fact for the
63 purpose of obtaining or increasing benefits under the provisions
64 of this law, if so found by the department, and such individual's
65 maximum benefit allowance shall be reduced by the amount of
66 benefits so paid to him during any such week of disqualification;
67 and additional disqualification shall be imposed for a period not
68 exceeding fifty-two (52) weeks, the length of such period of
69 disqualification and the time when such period begins to be
70 determined by the department, in its discretion, according to the
71 circumstances in each case.



72 (3) If the department finds that he has failed, without
73 good cause, either to apply for available suitable work when so
74 directed by the employment office or the department, to accept
75 suitable work when offered him, or to return to his customary
76 self-employment (if any) when so directed by the department, such
77 disqualification shall continue for the week in which such failure
78 occurred and for not more than the twelve (12) weeks which
79 immediately follow such week, as determined by the department
80 according to the circumstances in each case.

93 (b) Notwithstanding any other provisions of this
94 chapter, no work shall be deemed suitable and benefits shall not
95 be denied under this chapter to any otherwise eligible individual



96 for refusing to accept new work under any of the following
97 conditions:

98 (i) If the position offered is vacant due
99 directly to a strike, lockout or other labor dispute;
100 (ii) If the wages, hours or other conditions
101 of the work offered are substantially unfavorable or unreasonable
102 to the individual's work. The department shall have the sole
103 discretion to determine whether or not there has been an
104 unfavorable or unreasonable condition placed on the individual's
105 work. Moreover, the department may consider, but shall not be
106 limited to a consideration of, whether or not the unfavorable
107 condition was applied by the employer to all workers in the same
108 or similar class or merely to this individual;

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

112 (iv) If unsatisfactory or hazardous working
113 conditions exist that could result in a danger to the physical or
114 mental well-being of the worker. In any such determination the
115 department shall consider, but shall not be limited to, a
116 consideration of, the following: the safety measures used or the
117 lack thereof and the condition of equipment or lack of proper
118 equipment. No work shall be considered hazardous if the working
119 conditions surrounding a worker's employment are the same or
120 substantially the same as the working conditions generally



121 prevailing among workers performing the same or similar work for
122 other employers engaged in the same or similar type of activity.

123 (c) Pursuant to Section 303(1) of the Social
124 Security Act (42 USCS 503), the department may conduct drug tests
125 of applicants for unemployment compensation for the unlawful use
126 of controlled substances as a condition for receiving such
127 compensation, if such applicant:

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

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

135 The department may deny unemployment compensation to any
136 applicant based on the result of a drug test conducted by the
137 department in accordance with this subsection. A positive drug
138 test result shall be deemed by the department to be a failure to
139 accept suitable work, and shall subject the applicant to the
140 disqualification provisions set forth in this subsection A(3).

141 During the disqualification period imposed by the department under
142 this subsection, the individual may provide information to end the
143 disqualification period early by submitting acceptable proof to
144 the department of a negative test result from a testing facility
145 approved by the department.



146 (iii) Pursuant to the provisions set forth in
147 this subsection A(3)(c), the department shall have the authority
148 to institute a random drug testing program for all individuals who
149 meet the requirements set forth in this section. Moreover, the
150 department shall have the authority to create the necessary
151 regulations, policies, rules, guidelines and procedures to
152 implement such a program.

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

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

163 (a) He is unemployed due to a stoppage of work
164 occasioned by an unjustified lockout, if such lockout was not
165 occasioned or brought about by such individual acting alone or
166 with other workers in concert; or

167 (b) He is not participating in or directly
168 interested in the labor dispute which caused the stoppage of work;
169 and



170 (c) He does not belong to a grade or class of
171 workers of which, immediately before the commencement of stoppage,
172 there were members employed at the premises at which the stoppage
173 occurs, any of whom are participating in or directly interested in
174 the dispute.

175 If in any case separate branches of work which are commonly
176 conducted as separate businesses in separate premises are
177 conducted in separate departments of the same premises, each such
178 department shall, for the purposes of this subsection, be deemed
179 to be a separate factory, establishment or other premises.

180 (5) For any week with respect to which he has received
181 or is seeking unemployment compensation under an unemployment
182 compensation law of another state or of the United States.
183 However, if the appropriate agency of such other state or of the
184 United States finally determines that he is not entitled to such
185 unemployment compensation benefits, this disqualification shall
186 not apply. Nothing in this subsection contained shall be
187 construed to include within its terms any law of the United States
188 providing unemployment compensation or allowances for honorably
189 discharged members of the Armed Forces.

190 (6) For any week with respect to which he is receiving
191 or has received remuneration in the form of payments under any
192 governmental or private retirement or pension plan, system or
193 policy which a base-period employer is maintaining or contributing
194 to or has maintained or contributed to on behalf of the



195 individual; however, if the amount payable with respect to any
196 week is less than the benefits which would otherwise be due under
197 Section 71-5-501, he shall be entitled to receive for such week,
198 if otherwise eligible, benefits reduced by the amount of such
199 remuneration. However, on or after the first Sunday immediately
200 following July 1, 2001, no social security payments, to which the
201 employee has made contributions, shall be deducted from
202 unemployment benefits paid for any period of unemployment
203 beginning on or after the first Sunday following July 1, 2001.
204 This one hundred percent (100%) exclusion shall not apply to any
205 other governmental or private retirement or pension plan, system
206 or policy. If benefits payable under this section, after being
207 reduced by the amount of such remuneration, are not a multiple of
208 One Dollar (\$1.00), they shall be adjusted to the next lower
209 multiple of One Dollar (\$1.00).

210 (7) For any week with respect to which he is receiving
211 or has received remuneration in the form of a back pay award, or
212 other compensation allocable to any week, whether by settlement or
213 otherwise. Any benefits previously paid for weeks of unemployment
214 with respect to which back pay awards, or other such compensation,
215 are made shall constitute an overpayment and such amounts shall be
216 deducted from the award by the employer prior to payment to the
217 employee, and shall be transmitted promptly to the department by
218 the employer for application against the overpayment and credit to
219 the claimant's maximum benefit amount and prompt deposit into the



220 fund; however, the removal of any charges made against the
221 employer as a result of such previously paid benefits shall be
222 applied to the calendar year and the calendar quarter in which the
223 overpayment is transmitted to the department, and no attempt shall
224 be made to relate such a credit to the period to which the award
225 applies. Any amount of overpayment so deducted by the employer
226 and not transmitted to the department shall be subject to the same
227 procedures for collection as is provided for contributions by
228 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
229 deducted by the employer shall be established as an overpayment
230 against the claimant and collected as provided above. It is the
231 purpose of this paragraph to assure equity in the situations to
232 which it applies, and it shall be construed accordingly.

233 B. Notwithstanding any other provision in this chapter, no
234 otherwise eligible individual shall be denied benefits for any
235 week because he is in training with the approval of the
236 department; nor shall such individual be denied benefits with
237 respect to any week in which he is in training with the approval
238 of the department by reason of the application of provisions in
239 Section 71-5-511, subsection (c), relating to availability for
240 work, or the provisions of subsection A(3) of this section,
241 relating to failure to apply for, or a refusal to accept, suitable
242 work.

243 C. Notwithstanding any other provisions of this chapter, no
244 otherwise eligible individual shall be denied benefits for any



245 week because he or she is in training approved under Section
246 236(a)(1) of the Trade Act of 1974, nor shall such individual be
247 denied benefits by reason of leaving work to enter such training,
248 provided the work left is not suitable employment, or because of
249 the application to any such week in training of provisions in this
250 law (or any applicable federal unemployment compensation law),
251 relating to availability for work, active search for work or
252 refusal to accept work.

253 For purposes of this section, the term "suitable employment"
254 means with respect to an individual, work of a substantially equal
255 or higher skill level than the individual's past adversely
256 affected employment (as defined for purposes of the Trade Act of
257 1974), and wages for such work at not less than eighty percent
258 (80%) of the individual's average weekly wage as determined for
259 the purposes of the Trade Act of 1974.

260 D. Notwithstanding any other provisions of this chapter, no
261 otherwise eligible individual shall be denied benefits for any
262 week in which they are engaged in the Self-Employment Assistance
263 Program established in Section 71-5-545 by reason of the
264 application of Section 71-5-511(c), relating to availability for
265 work, or the provisions of subsection A(3) of this section,
266 relating to failure to apply for, or a refusal to accept, suitable
267 work.

268 E. Any individual who is receiving benefits may participate
269 in an approved training program under the Mississippi Employment



270 Security Law to gain skills that may lead to employment while
271 continuing to receive benefits. Authorization for participation
272 of a recipient of unemployment benefits in such a program must be
273 granted by the department and continuation of participation must
274 be certified weekly by the participant recipient. While
275 participating in such program approved by the department,
276 availability and work search requirements will be waived. No
277 individual will be allowed to participate in this program for more
278 than twelve (12) weeks in any benefit year. Such participation
279 shall not be considered employment for any purposes and shall not
280 accrue benefits or wage credits. Participation in this training
281 program shall meet the definition set forth in the U.S. Fair Labor
282 Standards Act.

283 **SECTION 3.** This act shall take effect and be in force from
284 and after July 1, 2025.

