

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



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

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

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

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

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

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



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

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

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

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

81           (a) In determining whether or not any work is  
82 suitable for an individual, the department shall consider among  
83 other factors the degree of risk involved to his health, safety  
84 and morals, his physical fitness and prior training, his  
85 experience and prior earnings, his length of unemployment and  
86 prospects for securing local work in his customary occupation, and  
87 the distance of the available work from his residence; however,  
88 offered employment paying the minimum wage or higher, if such  
89 minimum or higher wage is that prevailing for his customary  
90 occupation or similar work in the locality, shall be deemed to be  
91 suitable employment after benefits have been paid to the  
92 individual for a period of eight (8) weeks.

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



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

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

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

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

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



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

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

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

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

The department may deny unemployment compensation to any applicant based on the result of a drug test conducted by the department in accordance with this subsection. A positive drug test result shall be deemed by the department to be a failure to accept suitable work, and shall subject the applicant to the disqualification provisions set forth in this subsection A(3). During the disqualification period imposed by the department under this subsection, the individual may provide information to end the disqualification period early by submitting acceptable proof to the department of a negative test result from a testing facility approved by the department.



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

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

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

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

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





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

(7) For any week with respect to which he is receiving or has received remuneration in the form of a back pay award, or other compensation allocable to any week, whether by settlement or otherwise. Any benefits previously paid for weeks of unemployment with respect to which back pay awards, or other such compensation, are made shall constitute an overpayment and such amounts shall be deducted from the award by the employer prior to payment to the employee, and shall be transmitted promptly to the department by the employer for application against the overpayment and credit to 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.

