

By: Representative Formby

To: Insurance

HOUSE BILL NO. 85

1 AN ACT TO AMEND SECTION 71-3-121, MISSISSIPPI CODE OF 1972,  
2 TO ESTABLISH CRITERIA FOR DRUG AND ALCOHOL TESTING UNDER WORKERS'  
3 COMPENSATION; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 71-3-121, Mississippi Code of 1972, is  
6 amended as follows:

7 71-3-121. The Commissioner of Insurance shall  
8 promulgate \* \* \* rules and regulations \* \* \* to require each  
9 insurer to establish a safety program for the health and benefit  
10 of the employees of the insured employer. The safety program  
11 shall include language to explain the rights of workers under the  
12 Workers' Compensation Law. The safety program shall require that  
13 all insured employers implement a written policy for drug and  
14 alcohol testing \* \* \* to ensure that the workplace is a drug and  
15 alcohol free environment and to deter the use of drugs and alcohol  
16 at the workplace. \* \* \*

17 If an employer has a reasonable suspicion that an injured  
18 employee is under the influence of alcohol or an illegal drug, the  
19 employer may request the employee asserting injury to undergo drug  
20 and alcohol testing. If the employee has a positive initial test  
21 and a positive confirmation test indicating the presence, at the  
22 time of injury, of any illegal drug or ten one-hundredths percent  
23 (.10%) or more by weight volume of alcohol in the person's blood,  
24 it shall be presumed that the proximate cause of the injury was  
25 the intoxication of the employee or the use of an illegal drug.  
26 If the employee refuses testing, it shall be presumed that the  
27 proximate cause of injury was the intoxication of the employee,



28 unless the commission determines and sets forth a written finding  
29 that the refusal is excused for a specific reason or specific  
30 reasons constituting just cause for the refusal.

31       The results of the employer-administered tests shall be  
32 considered admissible evidence solely on the issue of causation in  
33 the determination of intoxication of an employee at the time of  
34 injury for workers' compensation purposes under Section 71-3-7.

35       **SECTION 2.** This act shall take effect and be in force from  
36 and after July 1, 2002.

