

By: Representatives Evans, Banks,
Straughter, Wallace, Watson

To: Labor

HOUSE BILL NO. 1035

1 AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT UNTIL JULY 1, 2005, THE ONE-WEEK WAITING PERIOD
3 REQUIRED FOR ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION BENEFITS
4 SHALL BE ELIMINATED; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 71-5-511, Mississippi Code of 1972, is
7 amended as follows:

8 [Until July 1, 2005, this section shall read as follows:]

9 71-5-511. An unemployed individual shall be eligible to
10 receive benefits with respect to any week only if the commission
11 finds that:

12 (a) (i) He has registered for work at and thereafter
13 has continued to report to an employment office in accordance with
14 such regulations as the commission may prescribe; except that the
15 commission may, by regulation, waive or alter either or both of
16 the requirements of this subparagraph as to such types of cases or
17 situations with respect to which it finds that compliance with
18 such requirements would be oppressive or would be inconsistent
19 with the purposes of this chapter; and

20 (ii) He participates in reemployment services,
21 such as job search assistance services, if, in accordance with a
22 profiling system established by the commission, it has been
23 determined that he is likely to exhaust regular benefits and needs
24 reemployment services, unless the commission determines that:

25 1. The individual has completed such
26 services; or

27 2. There is justifiable cause for the
28 claimant's failure to participate in such services.



29 (b) He has made a claim for benefits in accordance with
30 the provisions of Section 71-5-515 and in accordance with such
31 regulations as the commission may prescribe thereunder.

32 (c) He is able to work and is available for work.

33 * * *

34 (d) For weeks beginning on or before July 1, 1982, he
35 has, during his base period, been paid wages for insured work
36 equal to not less than thirty-six (36) times his weekly benefit
37 amount; he has been paid wages for insured work during at least
38 two (2) quarters of his base period; and he has, during that
39 quarter of his base period in which his total wages were highest,
40 been paid wages for insured work equal to not less than sixteen
41 (16) times the minimum weekly benefit amount. For benefit years
42 beginning after July 1, 1982, he has, during his base period, been
43 paid wages for insured work equal to not less than forty (40)
44 times his weekly benefit amount; he has been paid wages for
45 insured work during at least two (2) quarters of his base period,
46 and he has, during that quarter of his base period in which his
47 total wages were highest, been paid wages for insured work equal
48 to not less than twenty-six (26) times the minimum weekly benefit
49 amount. For purposes of this subsection, wages shall be counted
50 as "wages for insured work" for benefit purposes with respect to
51 any benefit year only if such benefit year begins subsequent to
52 the date on which the employing unit by which such wages were paid
53 has satisfied the conditions of Section 71-5-11, subsection H, or
54 Section 71-5-361, subsection (3), with respect to becoming an
55 employer.

56 (e) No individual may receive benefits in a benefit
57 year unless, subsequent to the beginning of the next preceding
58 benefit year during which he received benefits, he performed
59 service in "employment" as defined in Section 71-5-11, subsection
60 I, and earned remuneration for such service in an amount equal to



61 not less than eight (8) times his weekly benefit amount applicable
62 to his said next preceding benefit year.

63 (f) Benefits based on service in employment defined in
64 Section 71-5-11, subsections I(3) and I(4), and Section 71-5-361,
65 subsection (4) shall be payable in the same amount, on the same
66 terms, and subject to the same conditions as compensation payable
67 on the basis of other service subject to this chapter, except that
68 benefits based on service in an instructional, research or
69 principal administrative capacity in an institution of higher
70 learning (as defined in Section 71-5-11, subsection M) with
71 respect to service performed prior to January 1, 1978, shall not
72 be paid to an individual for any week of unemployment which begins
73 during the period between two (2) successive academic years, or
74 during a similar period between two (2) regular terms, whether or
75 not successive, or during a period of paid sabbatical leave
76 provided for in the individual's contract, if the individual has a
77 contract or contracts to perform services in any such capacity for
78 any institution or institutions of higher learning for both such
79 academic years or both such terms.

80 (g) Benefits based on service in employment defined in
81 Section 71-5-11, subsections I(3) and (4), shall be payable in the
82 same amount, on the same terms and subject to the same conditions
83 as compensation payable on the basis of other service subject to
84 this chapter; except that:

85 (i) With respect to service performed in an
86 instructional, research or principal administrative capacity for
87 an educational institution, benefits shall not be paid based on
88 such services for any week of unemployment commencing during the
89 period between two (2) successive academic years, or during a
90 similar period between two (2) regular but not successive terms,
91 or during a period of paid sabbatical leave provided for in the
92 individual's contract, to any individual, if such individual
93 performs such services in the first of such academic years or



94 terms and if there is a contract or a reasonable assurance that
95 such individual will perform services in any such capacity for any
96 educational institution in the second of such academic years or
97 terms, and provided that Section 71-5-511, subsection (g), shall
98 apply with respect to such services prior to January 1, 1978. In
99 no event shall benefits be paid unless the individual employee was
100 terminated by the employer.

101 (ii) With respect to services performed in any
102 other capacity for an educational institution, benefits shall not
103 be paid on the basis of such services to any individual for any
104 week which commences during a period between two (2) successive
105 academic years or terms, if such individual performs such services
106 in the first of such academic years or terms and there is a
107 reasonable assurance that such individual will perform such
108 services in the second of such academic years or terms, except
109 that if compensation is denied to any individual under this
110 subparagraph and such individual was not offered an opportunity to
111 perform such services for the educational institution for the
112 second of such academic years or terms, such individual shall be
113 entitled to a retroactive payment of compensation for each week
114 for which the individual filed a timely claim for compensation and
115 for which compensation was denied solely by reason of this clause.
116 In no event shall benefits be paid unless the individual employee
117 was terminated by the employer.

118 (iii) With respect to services described in
119 subsections (g)(i) and (ii), benefits shall not be payable on the
120 basis of services in any such capacities to any individual for any
121 week which commences during an established and customary vacation
122 period or holiday recess if such individual performs such services
123 in the first of such academic years or terms, or in the period
124 immediately before such vacation period or holiday recess, and
125 there is a reasonable assurance that such individual will perform



126 such services in the period immediately following such vacation
127 period or holiday recess.

128 (iv) With respect to any services described in
129 subsections (g)(i) and (ii), benefits shall not be payable on the
130 basis of services in any such capacities as specified in
131 subsections (g)(i), (ii) and (iii) to any individual who performed
132 such services in an educational institution while in the employ of
133 an educational service agency. For purposes of this subsection,
134 the term "educational service agency" means a governmental agency
135 or governmental entity which is established and operated
136 exclusively for the purpose of providing such services to one or
137 more educational institutions.

138 (v) With respect to services to which Sections
139 71-5-357 and 71-5-359 apply, if such services are provided to or
140 on behalf of an educational institution, benefits shall not be
141 payable under the same circumstances and subject to the same terms
142 and conditions as described in subsections (g)(i), (ii), (iii) and
143 (iv).

144 (h) Subsequent to December 31, 1977, benefits shall not
145 be paid to any individual on the basis of any services
146 substantially all of which consist of participating in sports or
147 athletic events or training or preparing to so participate, for
148 any week which commences during the period between two (2)
149 successive sports seasons (or similar periods) if such individual
150 performs such services in the first of such seasons (or similar
151 periods) and there is a reasonable assurance that such individual
152 will perform such services in the later of such seasons (or
153 similar periods).

154 (i) (i) Subsequent to December 31, 1977, benefits
155 shall not be payable on the basis of services performed by an
156 alien, unless such alien is an individual who was lawfully
157 admitted for permanent residence at the time such services were
158 performed, was lawfully present for purposes of performing such



159 services, or was permanently residing in the United States under
160 color of law at the time such services were performed (including
161 an alien who was lawfully present in the United States as a result
162 of the application of the provisions of Section 203(a)(7) or
163 Section 212(d)(5) of the Immigration and Nationality Act).

164 (ii) Any data or information required of
165 individuals applying for benefits to determine whether benefits
166 are not payable to them because of their alien status shall be
167 uniformly required from all applicants for benefits.

168 (iii) In the case of an individual whose
169 application for benefits would otherwise be approved, no
170 determination that benefits to such individual are not payable
171 because of his alien status shall be made, except upon a
172 preponderance of the evidence.

173 (j) An individual shall be deemed prima facie
174 unavailable for work, and therefore ineligible to receive
175 benefits, during any period which, with respect to his employment
176 status, is found by the commission to be a holiday or vacation
177 period.

178 **[From and after July 1, 2005, this section shall read as**
179 **follows:]**

180 71-5-511. An unemployed individual shall be eligible to
181 receive benefits with respect to any week only if the commission
182 finds that:

183 (a) (i) He has registered for work at and thereafter
184 has continued to report to an employment office in accordance with
185 such regulations as the commission may prescribe; except that the
186 commission may, by regulation, waive or alter either or both of
187 the requirements of this subparagraph as to such types of cases or
188 situations with respect to which it finds that compliance with
189 such requirements would be oppressive or would be inconsistent
190 with the purposes of this chapter; and



191 (ii) He participates in reemployment services,
192 such as job search assistance services, if, in accordance with a
193 profiling system established by the commission, it has been
194 determined that he is likely to exhaust regular benefits and needs
195 reemployment services, unless the commission determines that:

196 1. The individual has completed such
197 services; or

198 2. There is justifiable cause for the
199 claimant's failure to participate in such services.

200 (b) He has made a claim for benefits in accordance with
201 the provisions of Section 71-5-515 and in accordance with such
202 regulations as the commission may prescribe thereunder.

203 (c) He is able to work and is available for work.

204 (d) He has been unemployed for a waiting period of one
205 (1) week. No week shall be counted as a week of unemployment for
206 the purposes of this subsection:

207 (i) Unless it occurs within the benefit year which
208 includes the week with respect to which he claims payment of
209 benefits;

210 (ii) If benefits have been paid with respect
211 thereto;

212 (iii) Unless the individual was eligible for
213 benefits with respect thereto, as provided in Sections 71-5-511
214 and 71-5-513, except for the requirements of this subsection.

215 (e) For weeks beginning on or before July 1, 1982, he
216 has, during his base period, been paid wages for insured work
217 equal to not less than thirty-six (36) times his weekly benefit
218 amount; he has been paid wages for insured work during at least
219 two (2) quarters of his base period; and he has, during that
220 quarter of his base period in which his total wages were highest,
221 been paid wages for insured work equal to not less than sixteen
222 (16) times the minimum weekly benefit amount. For benefit years
223 beginning after July 1, 1982, he has, during his base period, been



224 paid wages for insured work equal to not less than forty (40)
225 times his weekly benefit amount; he has been paid wages for
226 insured work during at least two (2) quarters of his base period,
227 and he has, during that quarter of his base period in which his
228 total wages were highest, been paid wages for insured work equal
229 to not less than twenty-six (26) times the minimum weekly benefit
230 amount. For purposes of this subsection, wages shall be counted
231 as "wages for insured work" for benefit purposes with respect to
232 any benefit year only if such benefit year begins subsequent to
233 the date on which the employing unit by which such wages were paid
234 has satisfied the conditions of Section 71-5-11, subsection H, or
235 Section 71-5-361, subsection (3), with respect to becoming an
236 employer.

237 (f) No individual may receive benefits in a benefit
238 year unless, subsequent to the beginning of the next preceding
239 benefit year during which he received benefits, he performed
240 service in "employment" as defined in Section 71-5-11, subsection
241 I, and earned remuneration for such service in an amount equal to
242 not less than eight (8) times his weekly benefit amount applicable
243 to his said next preceding benefit year.

244 (g) Benefits based on service in employment defined in
245 Section 71-5-11, subsections I(3) and I(4), and Section 71-5-361,
246 subsection (4) shall be payable in the same amount, on the same
247 terms, and subject to the same conditions as compensation payable
248 on the basis of other service subject to this chapter, except that
249 benefits based on service in an instructional, research or
250 principal administrative capacity in an institution of higher
251 learning (as defined in Section 71-5-11, subsection M) with
252 respect to service performed prior to January 1, 1978, shall not
253 be paid to an individual for any week of unemployment which begins
254 during the period between two (2) successive academic years, or
255 during a similar period between two (2) regular terms, whether or
256 not successive, or during a period of paid sabbatical leave



257 provided for in the individual's contract, if the individual has a
258 contract or contracts to perform services in any such capacity for
259 any institution or institutions of higher learning for both such
260 academic years or both such terms.

261 (h) Benefits based on service in employment defined in
262 Section 71-5-11, subsections I(3) and (4), shall be payable in the
263 same amount, on the same terms and subject to the same conditions
264 as compensation payable on the basis of other service subject to
265 this chapter; except that:

266 (i) With respect to service performed in an
267 instructional, research or principal administrative capacity for
268 an educational institution, benefits shall not be paid based on
269 such services for any week of unemployment commencing during the
270 period between two (2) successive academic years, or during a
271 similar period between two (2) regular but not successive terms,
272 or during a period of paid sabbatical leave provided for in the
273 individual's contract, to any individual, if such individual
274 performs such services in the first of such academic years or
275 terms and if there is a contract or a reasonable assurance that
276 such individual will perform services in any such capacity for any
277 educational institution in the second of such academic years or
278 terms, and provided that Section 71-5-511, subsection (g), shall
279 apply with respect to such services prior to January 1, 1978. In
280 no event shall benefits be paid unless the individual employee was
281 terminated by the employer.

282 (ii) With respect to services performed in any
283 other capacity for an educational institution, benefits shall not
284 be paid on the basis of such services to any individual for any
285 week which commences during a period between two (2) successive
286 academic years or terms, if such individual performs such services
287 in the first of such academic years or terms and there is a
288 reasonable assurance that such individual will perform such
289 services in the second of such academic years or terms, except



290 that if compensation is denied to any individual under this
291 subparagraph and such individual was not offered an opportunity to
292 perform such services for the educational institution for the
293 second of such academic years or terms, such individual shall be
294 entitled to a retroactive payment of compensation for each week
295 for which the individual filed a timely claim for compensation and
296 for which compensation was denied solely by reason of this clause.
297 In no event shall benefits be paid unless the individual employee
298 was terminated by the employer.

299 (iii) With respect to services described in
300 subsections (h)(i) and (ii), benefits shall not be payable on the
301 basis of services in any such capacities to any individual for any
302 week which commences during an established and customary vacation
303 period or holiday recess if such individual performs such services
304 in the first of such academic years or terms, or in the period
305 immediately before such vacation period or holiday recess, and
306 there is a reasonable assurance that such individual will perform
307 such services in the period immediately following such vacation
308 period or holiday recess.

309 (iv) With respect to any services described in
310 subsections (h)(i) and (ii), benefits shall not be payable on the
311 basis of services in any such capacities as specified in
312 subsections (h)(i), (ii) and (iii) to any individual who performed
313 such services in an educational institution while in the employ of
314 an educational service agency. For purposes of this subsection,
315 the term "educational service agency" means a governmental agency
316 or governmental entity which is established and operated
317 exclusively for the purpose of providing such services to one or
318 more educational institutions.

319 (v) With respect to services to which Sections
320 71-5-357 and 71-5-359 apply, if such services are provided to or
321 on behalf of an educational institution, benefits shall not be
322 payable under the same circumstances and subject to the same terms



323 and conditions as described in subsections (h)(i), (ii), (iii) and
324 (iv).

325 (i) Subsequent to December 31, 1977, benefits shall not
326 be paid to any individual on the basis of any services
327 substantially all of which consist of participating in sports or
328 athletic events or training or preparing to so participate, for
329 any week which commences during the period between two (2)
330 successive sports seasons (or similar periods) if such individual
331 performs such services in the first of such seasons (or similar
332 periods) and there is a reasonable assurance that such individual
333 will perform such services in the later of such seasons (or
334 similar periods).

335 (j) (i) Subsequent to December 31, 1977, benefits
336 shall not be payable on the basis of services performed by an
337 alien, unless such alien is an individual who was lawfully
338 admitted for permanent residence at the time such services were
339 performed, was lawfully present for purposes of performing such
340 services, or was permanently residing in the United States under
341 color of law at the time such services were performed (including
342 an alien who was lawfully present in the United States as a result
343 of the application of the provisions of Section 203(a)(7) or
344 Section 212(d)(5) of the Immigration and Nationality Act).

345 (ii) Any data or information required of
346 individuals applying for benefits to determine whether benefits
347 are not payable to them because of their alien status shall be
348 uniformly required from all applicants for benefits.

349 (iii) In the case of an individual whose
350 application for benefits would otherwise be approved, no
351 determination that benefits to such individual are not payable
352 because of his alien status shall be made, except upon a
353 preponderance of the evidence.

354 (k) An individual shall be deemed prima facie
355 unavailable for work, and therefore ineligible to receive



356 benefits, during any period which, with respect to his employment
357 status, is found by the commission to be a holiday or vacation
358 period.

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

