

By: Representative Formby

To: Insurance

## HOUSE BILL NO. 1227

1 AN ACT TO AMEND SECTION 71-3-25, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE AN EMPLOYER THE RIGHT TO REQUIRE AN AUTOPSY IN DEATH  
3 CASES, AT THE EXPENSE OF THE EMPLOYER, UNDER THE WORKERS'  
4 COMPENSATION LAWS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 71-3-25, Mississippi Code of 1972, is  
7 amended as follows:

8 71-3-25. (1) If the injury causes death, the compensation  
9 shall be known as a death benefit and shall be payable in the  
10 amount and to or for the benefit of the persons following:

11 (a) An immediate lump sum payment of Two Hundred Fifty  
12 Dollars (\$250.00) to the surviving spouse, in addition to other  
13 compensation benefits.

14 (b) Reasonable funeral expenses not exceeding Two  
15 Thousand Dollars (\$2,000.00) exclusive of other burial insurance  
16 or benefits.

17 (c) If there be a surviving spouse and no child of the  
18 deceased, to such surviving spouse thirty-five percent (35%) of  
19 the average wages of the deceased during widowhood or dependent  
20 widowhood and, if there be a surviving child or children of the  
21 deceased, the additional amount of ten percent (10%) of such wages  
22 for each such child. In case of the death or remarriage of such  
23 surviving spouse, any surviving child of the deceased employee  
24 shall have his compensation increased to fifteen percent (15%) of  
25 such wages, provided that the total amount payable shall in no  
26 case exceed sixty-six and two-thirds percent (66-2/3%) of such  
27 wages, subject to the maximum limitations as to weekly benefits as  
28 set up in this chapter. The commission may, in its discretion,

29 require the appointment of a guardian for the purpose of receiving  
30 the compensation of a minor dependent. In the absence of such a  
31 requirement, the appointment of a guardian for such purposes shall  
32 not be necessary, provided that if no legal guardian be appointed,  
33 payment to the natural guardian shall be sufficient.

34 (d) If there be a surviving child or children of the  
35 deceased but no surviving spouse, then for the support of each  
36 such child twenty-five percent (25%) of the wages of the deceased,  
37 provided that the aggregate shall in no case exceed sixty-six and  
38 two-thirds percent ( $66\frac{2}{3}\%$ ) of such wages, subject to the maximum  
39 limitations as to weekly benefits as set up in this chapter.

40 (e) If there be no surviving spouse or child, or if the  
41 amount payable to a surviving spouse and to children shall be less  
42 in the aggregate than sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ )  
43 of the average wages of the deceased, subject to the maximum  
44 limitations as to weekly benefits as set up in this chapter, then  
45 for the support of grandchildren or brothers and sisters, if  
46 dependent upon the deceased at the time of the injury, fifteen  
47 percent (15%) of such wages for the support of each such person;  
48 and for the support of each parent or grandparent of the deceased,  
49 if dependent upon him at the time of injury, fifteen percent (15%)  
50 of such wages during such dependency. But in no case shall the  
51 aggregate amount payable under this subsection exceed the  
52 difference between sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of  
53 such wages and the amount payable as hereinbefore provided to  
54 surviving spouse and for the support of surviving child or  
55 children, subject to the maximum limitations as to weekly benefits  
56 as set up in this chapter.

57 (f) The total weekly compensation payments to any or  
58 all beneficiaries in death cases shall not exceed the weekly  
59 benefits as set up in this chapter and shall in no case be paid  
60 for a longer period than four hundred fifty (450) weeks or for a  
61 greater amount than the multiple of four hundred fifty (450) weeks

62 times sixty-six and two-thirds percent (66-2/3%) of the average  
63 weekly wage for the state.

64 (g) All questions of dependency shall be determined as  
65 of the time of the injury. A surviving spouse, child or children  
66 shall be presumed to be wholly dependent. All other dependents  
67 shall be considered on the basis of total or partial dependence as  
68 the facts may warrant.

69 (2) The employer shall have the right to require an autopsy  
70 at the expense of the employer.

71 **SECTION 2.** This act shall take effect and be in force from  
72 and after July 1, 2004.