

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2849
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 71-3-75, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE WORKERS' COMPENSATION COMMISSION, UNDER SUCH RULES
3 AND REGULATIONS AS IT PRESCRIBES, TO ALLOW CERTAIN EMPLOYERS
4 POOLING THEIR LIABILITIES TO ENTER INTO AGREEMENTS TO POOL ANY
5 OTHER LIABILITIES TO THEIR EMPLOYEES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-3-75, Mississippi Code of 1972, is
8 amended as follows:

9 71-3-75. (1) **Insurance of liability:** An employer liable
10 under this chapter to pay compensation shall insure payment of
11 such compensation by a carrier authorized to insure such liability
12 in this state unless such employer shall be exempted from doing so
13 by the commission.

14 (2) **Exemption from insuring:** An employer desiring to be
15 exempt from insuring its liability for compensation shall make
16 application to the commission, showing its financial ability to
17 pay such compensation and agreeing as a condition for the granting
18 of the exemption to faithfully report all injuries under
19 compensation according to law and the requirement of the
20 commission, and to comply with the provisions of this chapter and
21 the rules of the commission pertaining to the administration
22 thereof; whereupon the commission by written order may make such
23 exemption. The commission may from time to time require further
24 statement of financial ability of such employer to pay
25 compensation and may, upon ten (10) days' notice in writing, for
26 financial reasons or for failure of the employer to faithfully
27 discharge its obligations according to the agreements contained in
28 its application for exemption, revoke the order granting such

29 exemption, in which case such employer shall immediately insure
30 its liability as otherwise required under this chapter. As a
31 condition for the granting of an exemption, the commission shall
32 have authority to require the employer to furnish such security as
33 the commission may consider sufficient to insure payment of all
34 claims of such employer under compensation. State agencies
35 qualified as self-insured status shall not be required to furnish
36 any security to insure or guarantee payment of claims or expenses
37 and shall not be required to establish and maintain reserves for
38 claims incurred but not reported and expenses associated
39 therewith, as a condition for the granting or continuation of an
40 exemption as herein provided. Where the security is in the form
41 of a bond or other personal guaranty, the commission may, at any
42 time either before or after the entry of an award upon at least
43 ten (10) days' notice and opportunity to be heard, require the
44 sureties to pay the amount of the award, the same to be enforced
45 in like manner as the award itself may be enforced. Where an
46 employer procures an exemption as herein provided and thereafter
47 enters into any form of agreement for insurance coverage with an
48 insurance company or interinsurer not licensed to operate in this
49 state, its conduct shall automatically operate as a revocation of
50 such exemption. An order exempting an employer from insuring its
51 liability for compensation shall be null and void if the
52 application contains a financial statement which is false in any
53 material respect. The commission shall revoke the self-insurance
54 permit if the employer is found to have directly or indirectly
55 induced an employee to forego his right to workers' compensation
56 benefits.

57 (3) **Pooling of liabilities:** The commission may, under such
58 rules and regulations as it prescribes, permit two (2) or more
59 employers engaged in a common type of business activity or
60 pursuit, or having other reasons to associate, to enter into
61 agreements to pool their liabilities under this section for the

62 purpose of qualifying as group self-insurers, and, in conjunction
63 therewith, to enter into agreements to pool any other liabilities
64 to their employees, and each employer member of such approved
65 group shall be classified as a self-insurer. A self-insured group
66 under this section shall be comprised of employer members of the
67 same bona fide trade association or trade group. Such trade
68 association or trade group shall be domiciled in the State of
69 Mississippi, shall have been in existence for five (5) or more
70 consecutive years as of the date of application for an approved
71 group and shall not be comprised solely of employer members who
72 are affiliates of a person possessing controlling interest in such
73 affiliates.

74 **SECTION 2.** This act shall take effect and be in force from
75 and after its passage.