

# MISSISSIPPI LABOR LAW POSTINGS



## NOTICE CONCERNING WORKERS' COMPENSATION LAW CHANGES

### MISSISSIPPI WORKERS' COMPENSATION COMMISSION

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#### NOTICE CONCERNING CHANGES TO THE WORKERS' COMPENSATION LAW, EFFECTIVE JULY 1, 2012

Pursuant to Senate Bill 2576, which was passed during the 2012 Regular Session of the Mississippi Legislature, the Mississippi Workers' Compensation Commission is required to promulgate a written statement specifying the changes being made to the Workers' Compensation Law by this Bill. This statement is to be made available to every employer in this State subject to the Workers' Compensation Law. This written statement is available at the Commission's website: <http://www.mwcc.state.ms.us/>, and the Commission will attempt to reach as many employers as possible by mailing written copies of this statement.

As provided in Senate Bill 2576, within ten (10) days of receipt of this written statement from the Commission, "every employer shall post the Commission's statement in a conspicuous place or places in and about his place or places of business and adjacent to the Notice of Coverage as required by Section 71-3-81." These changes shall take effect and be in force from and after July 1, 2012, and shall apply to injuries occurring on or after July 1, 2012.

A copy of this statement is being mailed to all known employers and/or their insurers. All insurers and third party administrators are asked to please notify their insureds of these requirements immediately upon receipt of this statement.

The following is a summary of the changes made to the Workers' Compensation Law by Senate Bill 2576. The changes themselves are underlined for easy reference.

##### **-Section 71-3-1 is amended as follows in relevant part:**

(1)...[T]his chapter shall be fairly and impartially construed and applied according to the law and the evidence in the record, and, notwithstanding any common law or case law to the contrary, this chapter shall not be presumed to favor one party over another and shall not be liberally construed in order to fulfill any beneficent purposes.

(3) The primary purposes of the Workers' Compensation Law are to pay timely temporary and permanent disability benefits to every worker who legitimately suffers a work-related injury or occupational disease arising out of and in the course of his employment, to pay reasonable and necessary medical expenses resulting from the work-related injury or occupational disease, and to encourage the return to work of the worker.

##### **-Section 71-3-7 is amended as follows in relevant part:**

(1)... In all claims in which no benefits, including disability, death and medical benefits, have been paid, the claimant shall file medical records in support of his claim for benefits when filing a petition to controvert. If the claimant is unable to file the medical records in support of his claim for benefits at the time of filing the petition to controvert because of a limitation of time established by Section 71-3-35 or Section 71-3-53, the claimant shall file medical records in support of his claim within sixty (60) days after filing the petition to controvert.

(2) Where a preexisting physical handicap, disease, or lesion is shown by medical findings to be a material contributing factor in the results following injury, the compensation which, but for this subsection, would be payable shall be reduced by that proportion which such preexisting physical handicap, disease, or lesion contributed to the production of the results following the injury. The preexisting condition does not have to be occupationally disabling for this apportionment to apply.

(4) No compensation shall be payable if the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or intoxication due to the use of alcohol of the employee was the proximate cause of the injury, or if it was the willful intention of the employee to injure or kill himself or another.

##### **-Section 71-3-15 is amended as follows in relevant part:**

(1) ...A physician to whom the employee is referred by his employer shall not constitute the employee's selection, unless the employee, in writing, accepts the employer's referral as his own selection. However, if the employee is treated for his alleged work-related injury or occupational disease by a physician for six (6) months or longer, or if the employee has surgery for the alleged work-related injury or occupational disease performed by a physician, then that physician shall be deemed the employee's selection.

##### **-Section 71-3-17 is amended as follows in relevant part:**

(c)(24) Disfigurement: The commission, in its discretion, is authorized to award proper and equitable compensation for serious facial or head disfigurements not to exceed Five Thousand Dollars (\$5,000.00). No such award shall be made until a lapse of one (1) year from the date of the injury resulting in such disfigurement.

##### **-Section 71-3-19 is amended as follows:**

An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the commission is being rendered fit to engage in a remunerative occupation may, in the discretion of the commission under regulations adopted by it, receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed Twenty-five Dollars (\$25.00) a week for not more than fifty-two (52) weeks.

##### **-Section 71-3-25 is amended as follows in relevant part:**

If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the following persons:

- (a) An immediate lump-sum payment of One Thousand Dollars (\$1,000.00) to the surviving spouse, in addition to other compensation benefits.  
(b) Reasonable funeral expenses not exceeding Five Thousand Dollars (\$5,000.00) exclusive of other burial insurance or benefits.

##### **-Section 71-3-63 is amended as follows in relevant part:**

(3)... Attorneys may not recover attorney's fees based upon benefits voluntarily paid to an injured employee for temporary or permanent disability. Any settlement negotiated by an attorney shall not be considered a voluntary payment.

##### **-Section 71-3-121 is amended as follows:**

(1) In the event that an employee sustains an injury at work or asserts a work-related injury, the employer shall have the right to administer drug and alcohol testing or require that the employee submit himself to drug and alcohol testing. If the employee has a positive test indicating the presence, at the time of injury, of any drug illegally used or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or eight one-hundredths percent (.08%) or more by weight volume of alcohol in the person's blood, it shall be presumed that the proximate cause of the injury was the use of a drug illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the intoxication due to the use of alcohol by the employee. If the employee refuses to submit himself to drug and alcohol testing immediately after the alleged work-related injury, then it shall be presumed that the employee was using a drug illegally, or was using a valid prescription medication(s) contrary to the prescriber's instructions and/or contrary to label warnings, or was intoxicated due to the use of alcohol at the time of the accident and that the proximate cause of the injury was the use of a drug illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the intoxication due to the use of alcohol of the employee. The burden of proof will then be placed upon the employee to prove that the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or intoxication due to the use of alcohol was not a contributing cause of the accident in order to defeat the defense of the employer provided under Section 71-3-7.

(2) The results of the drug and alcohol tests, employer-administered or otherwise, shall be considered admissible evidence solely on the issue of causation in the determination of the use of drugs illegally, or the use of a valid prescription medication(s) taken contrary to the prescriber's instructions and/or contrary to label warnings, or the intoxication due to the use of alcohol of an employee at the time of injury for workers' compensation purposes under Section 71-3-7.

(3) No cause of action for defamation of character, libel, slander or damage to reputation arises in favor of any person against an employer under the provisions of this section.

##### **-Section 71-7-5 is amended as follows in relevant part:**

(d) An employer may administer drug and alcohol testing or require that the employee submit himself to drug and alcohol testing as provided under Section 71-3-121 in the event that the employee sustains an injury at work or asserts a work-related injury.

##### **-A new section is created which states the following:**

-The Workers' Compensation Commission shall promulgate a written statement specifying the changes made to the Workers' Compensation Law by this act to every employer in this state subject to the Workers' Compensation Law. Within ten (10) days of receipt of this written statement from the Commission, every employer shall post the Commission's statement in a conspicuous place or places in and about his place or places of business and adjacent to the Notice of Coverage as required by Section 71-3-81.

-This act shall take effect and be in force from and after July 1, 2012, and shall apply to injuries occurring on or after July 1, 2012.

MWCC  
June 14, 2012

#### EMPLOYERS

Upon receipt of this summary, post in a conspicuous place or places in and about your places of business and adjacent to the Notice of Coverage as required by Section 71-3-81.

#### INSURERS

Upon receipt of this summary, immediately provide a copy to each of your Mississippi insureds so that the posting requirements for employers can be timely satisfied.

## UNEMPLOYMENT INSURANCE

# Unemployment Insurance for Employees

## I M P O R T A N T

This employer is registered with the Mississippi Department of Employment Security, and the employees are covered by Unemployment Insurance. This insurance is carried to protect you in case you become unemployed through no fault of your own.

*Nothing is deducted from  
your pay to cover its cost.*

# MDES

MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY

An equal opportunity employer and program. MDES has auxiliary aids and services available upon request to those with disabilities.  
Those needing TTY assistance may call 800-582-2233.

Funded by the U.S. Department of Labor through the Mississippi Department of Employment Security.

*Employer: Please Post in a Conspicuous Place Extra Copies on Request*

### NOTICE TO EMPLOYEES

*Availability of Unemployment Compensation*

Unemployment Insurance (UI) benefits are available to workers who are unemployed and who meet the requirements of UI eligibility laws for the state of Mississippi.

You may file a UI claim with the Mississippi Department of Employment Security (MDES) in the first week that employment stops or work hours are reduced.

#### **TO FILE AN UNEMPLOYMENT CLAIM:**

- Visit our website at **MDES.MS.GOV**
- Call MDES at 1-888-844-3577 from 7:00 am to 10:00 pm seven days a week. Call wait time may be longer during peak hours and seasons
- Email questions to **BenefitPay@mdes.ms.gov**

#### **THE FOLLOWING INFORMATION WILL BE NEEDED TO COMPLETE YOUR CLAIM BY PHONE:**

- Full legal name;
- Social Security Number;
- Driver's License Number or State Issued Identification number;
- Alien Registration Number or Visa Number if you are not a U.S. citizen;
- Names and addresses of employers you worked for in the last eighteen (18) months
- The dates you worked and the reason you are no longer working for each employer

If you experience issues or need more information about filing a UI claim, you can quickly find the answers to most questions on our website under **FREQUENTLY ASKED QUESTIONS**.

To file a UI claim online visit: **MDES.MS.GOV**

To file a UI claim by phone call: 1-888-844-3577

MDES Communications 033120

## WORKERS' COMPENSATION

### MISSISSIPPI WORKERS' COMPENSATION

## NOTICE OF COVERAGE

**I.** Please take notice that your Employer is in compliance with the requirements of the Mississippi Workers' Compensation Law, and **[select one]** [has been approved by the Mississippi Workers' Compensation Commission to act as a self-insurer], or [maintains workers' compensation insurance coverage with the following:]

\_\_\_\_\_  
(Name of insurance carrier or self-insurance group)

\_\_\_\_\_  
(address & telephone number)

**II.** Individual workers' compensation claims will be submitted to and processed by:

\_\_\_\_\_  
(Name of third party claims administrator or claims office)

\_\_\_\_\_  
(address & phone number)

**III.** This workers' compensation coverage is effective for the following period:

\_\_\_\_\_ to \_\_\_\_\_.

**IV.** All job related injuries or illnesses should be reported as soon as possible to your immediate supervisor, or to the person listed below:

\_\_\_\_\_  
(Name of employer contact person)

\_\_\_\_\_  
(Title & Department/Division)

**V.** Please be advised that any person who willfully makes any false or misleading statement or representation for the purpose of obtaining or wrongfully withholding any benefit or payment under the Mississippi Workers' Compensation Law may be charged with violation of Miss. Code Ann. Sec. 71-3-69 (Rev. 2000) and upon conviction be subjected to the penalties therein provided.

2001 M.W.C.C. Notice Of Coverage Form