

By: Representative Howell

To: Public Health and
Welfare

HOUSE BILL NO. 1306

1 AN ACT TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT FROM REGULATION OF THE STATE DEPARTMENT OF HEALTH PERSONS
3 WHO SELL PASTRIES OR DESSERTS THAT WERE BAKED IN A KITCHEN IN THE
4 PERSON'S OWN PRIVATE PLACE OF RESIDENCE AND ARE NOT INTENDED FOR
5 FURTHER RESALE OR COMMERCIAL DISTRIBUTION; AND FOR RELATED
6 PURPOSES.

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

8 SECTION 1. Section 41-3-15, Mississippi Code of 1972, is
9 amended as follows:

10 41-3-15. (1) There shall be a State Department of Health
11 which shall be organized into such bureaus and divisions as are
12 considered necessary by the executive officer, and shall be
13 assigned appropriate functions as are required of the State Board
14 of Health by law, subject to the approval of the board.

15 (2) The State Board of Health shall have the authority to
16 establish an Office of Rural Health within the department. The
17 duties and responsibilities of this office shall include the
18 following:

19 (a) To collect and evaluate data on rural health
20 conditions and needs;

21 (b) To engage in policy analysis, policy development
22 and economic impact studies with regard to rural health issues;

23 (c) To develop and implement plans and provide
24 technical assistance to enable community health systems to respond
25 to various changes in their circumstances;

26 (d) To plan and assist in professional recruitment and
27 retention of medical professionals and assistants; and

28 (e) To establish information clearinghouses to improve

29 access to and sharing of rural health care information.

30 (3) The State Board of Health shall have general supervision
31 of the health interests of the people of the state and to exercise
32 the rights, powers and duties of those acts which it is authorized
33 by law to enforce.

34 (4) The State Board of Health shall have authority:

35 (a) To make investigations and inquiries with respect
36 to the causes of disease and death, and to investigate the effect
37 of environment, including conditions of employment and other
38 conditions which may affect health, and to make such other
39 investigations as it may deem necessary for the preservation and
40 improvement of health.

41 (b) To make such sanitary investigations as it may,
42 from time to time, deem necessary for the protection and
43 improvement of health and to investigate nuisance questions which
44 affect the security of life and health within the state.

45 (c) To direct and control sanitary and quarantine
46 measures for dealing with all diseases within the state possible
47 to suppress same and prevent their spread.

48 (d) To obtain, collect and preserve such information
49 relative to mortality, morbidity, disease and health as may be
50 useful in the discharge of its duties or may contribute to the
51 prevention of disease or the promotion of health in this state.

52 (e) To enter into contracts or agreements with any
53 other state or federal agency, or with any private person,
54 organization or group capable of contracting, if it finds such
55 action to be in the public interest.

56 (f) To charge and collect reasonable fees for health
57 services, including immunizations, inspections and related
58 activities, and the board shall charge fees for such services;
59 provided, however, if it is determined that a person receiving
60 services is unable to pay the total fee, the board shall collect
61 any amount such person is able to pay.

62 (g) To accept gifts, trusts, bequests, grants,
63 endowments or transfers of property of any kind.

64 (h) To receive monies coming to it by way of fees for
65 services or by appropriations.

66 (i) (i) To establish standards for, issue permits and
67 exercise control over, any cafes, restaurants, food or drink
68 stands, sandwich manufacturing establishments, and all other
69 establishments where food or drink is regularly prepared, handled
70 and served for pay, except for the following:

71 1. Churches;

72 2. Church-related and private schools;

73 3. Other nonprofit or charitable

74 organizations; and

75 4. Persons who sell baked cakes, cookies,

76 pies, candies or other pastries or desserts that do not contain

77 meat or other potentially hazardous foods, if the pastries or

78 desserts were baked in a kitchen in the person's own private place

79 of residence and are not intended for further resale or commercial

80 distribution.

81 (ii) To require that a permit be obtained from the
82 Department of Health before such persons begin operation.

83 (j) To promulgate rules and regulations and exercise
84 control over the production and sale of milk pursuant to the
85 provisions of Sections 75-31-41 through 75-31-49.

86 (k) On presentation of proper authority, to enter into
87 and inspect any public place or building where the State Health
88 Officer or his representative deems it necessary and proper to
89 enter for the discovery and suppression of disease and for the
90 enforcement of any health or sanitary laws and regulations in the
91 state.

92 (l) To conduct investigations, inquiries and hearings,
93 and to issue subpoenas for the attendance of witnesses and the
94 production of books and records at any hearing when authorized and

95 required by statute to be conducted by the State Health Officer or
96 the State Board of Health.

97 (m) To employ, subject to the regulations of the State
98 Personnel Board, qualified professional personnel in the subject
99 matter or fields of each bureau, and such other technical and
100 clerical staff as may be required for the operation of the
101 department. The executive officer shall be the appointing
102 authority for the department, and shall have the power to delegate
103 the authority to appoint or dismiss employees to appropriate
104 subordinates, subject to the rules and regulations of the State
105 Personnel Board.

106 (n) To promulgate rules and regulations, and to collect
107 data and information, on (i) the delivery of services through the
108 practice of telemedicine; and (ii) the use of electronic records
109 for the delivery of telemedicine services.

110 (5) (a) The State Board of Health shall have the authority,
111 in its discretion, to establish programs to promote the public
112 health, to be administered by the State Department of Health.
113 Specifically, such programs may include, but shall not be limited
114 to, programs in the following areas:

- 115 (i) Maternal and child health;
- 116 (ii) Family planning;
- 117 (iii) Pediatric services;
- 118 (iv) Services to crippled and disabled children;
- 119 (v) Control of communicable and noncommunicable
120 disease;
- 121 (vi) Child care licensure;
- 122 (vii) Radiological health;
- 123 (viii) Dental health;
- 124 (ix) Milk sanitation;
- 125 (x) Occupational safety and health;
- 126 (xi) Food, vector control and general sanitation;
- 127 (xii) Protection of drinking water;

128 (xiii) Sanitation in food handling establishments
129 open to the public;

130 (xiv) Registration of births and deaths and other
131 vital events;

132 (xv) Such public health programs and services as
133 may be assigned to the State Board of Health by the Legislature or
134 by executive order.

135 (b) The State Board of Health and State Department of
136 Health shall not be authorized to sell, transfer, alienate or
137 otherwise dispose of any of the home health agencies owned and
138 operated by the department on January 1, 1995, and shall not be
139 authorized to sell, transfer, assign, alienate or otherwise
140 dispose of the license of any of those home health agencies,
141 except upon the specific authorization of the Legislature by an
142 amendment to this section. However, this paragraph (b) shall not
143 prevent the board or the department from closing or terminating
144 the operation of any home health agency owned and operated by the
145 department, or closing or terminating any office, branch office or
146 clinic of any such home health agency, or otherwise discontinuing
147 the providing of home health services through any such home health
148 agency, office, branch office or clinic, if the board first
149 demonstrates that there are other providers of home health
150 services in the area being served by the department's home health
151 agency, office, branch office or clinic that will be able to
152 provide adequate home health services to the residents of the area
153 if the department's home health agency, office, branch office or
154 clinic is closed or otherwise discontinues the providing of home
155 health services. This demonstration by the board that there are
156 other providers of adequate home health services in the area shall
157 be spread at length upon the minutes of the board at a regular or
158 special meeting of the board at least thirty (30) days before a
159 home health agency, office, branch office or clinic is proposed to
160 be closed or otherwise discontinue the providing of home health

161 services.

162 (c) The State Department of Health may undertake such
163 technical programs and activities as may be required for the
164 support and operation of such programs, including maintaining
165 physical, chemical, bacteriological and radiological laboratories,
166 and may make such diagnostic tests for diseases and tests for the
167 evaluation of health hazards as may be deemed necessary for the
168 protection of the people of the state.

169 (6) (a) The State Board of Health shall administer the
170 local governments and rural water systems improvements loan
171 program in accordance with the provisions of Section 41-3-16.

172 (b) The State Board of Health shall have authority:

173 (i) To enter into capitalization grant agreements
174 with the United States Environmental Protection Agency, or any
175 successor agency thereto;

176 (ii) To accept capitalization grant awards made
177 under the federal Safe Drinking Water Act, as amended;

178 (iii) To provide annual reports and audits to the
179 United States Environmental Protection Agency, as may be required
180 by federal capitalization grant agreements; and

181 (iv) To establish and collect fees to defray the
182 reasonable costs of administering the revolving fund or emergency
183 fund if the State Board of Health determines that such costs will
184 exceed the limitations established in the federal Safe Drinking
185 Water Act, as amended. The administration fees may be included in
186 loan amounts to loan recipients for the purpose of facilitating
187 payment to the board; however, such fees may not exceed five
188 percent (5%) of the loan amount.

189 SECTION 2. This act shall take effect and be in force from
190 and after July 1, 1999.