

By: Huggins (By Request)

To: Public Health and
Welfare

SENATE BILL NO. 2437
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY CERTAIN EXEMPTIONS AND PROVIDE CERTAIN DEFINITIONS UNDER
3 THE CHILD CARE FACILITY LICENSURE LAW; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 43-20-5, Mississippi Code of 1972, is
6 amended as follows:

7 43-20-5. When used in this chapter, the following words
8 shall have the following meanings:

9 (a) "Child care facility" means a place which provides
10 shelter and personal care for six (6) or more children who are not
11 related within the third degree computed according to the civil
12 law to the operator and who are under thirteen (13) years of age,
13 for any part of the twenty-four-hour day, whether such place be
14 organized or operated for profit or not. The term "child care
15 facility" includes day nurseries, day care centers and any other
16 facility that falls within the scope of the definitions set forth
17 above, regardless of auspices. Exemptions from the provisions of
18 this chapter include:

19 (i) Child care facilities which operate for no
20 more than two (2) days a week, whose primary purpose is to provide
21 respite for the caregiver or temporary care during other scheduled
22 or related activities and organized programs which operate for
23 three (3) or less weeks per year such as, but not limited to,
24 vacation bible schools and scout day camps * * *.

25 (ii) * * * Any child residential home as defined
26 in, and in compliance with the provisions of, Section 43-16-3(b)

27 et seq.

28 (iii) * * * Any elementary, including
29 kindergarten, and/or secondary school system, accredited by the
30 Mississippi State Department of Education, the Southern
31 Association of Colleges and Schools, the Mississippi Private
32 School Education Association, the American Association of
33 Christian Schools, or the Association of Christian Schools
34 International.

35 (iv) Accreditation, for the purpose of exemption
36 from the provisions of this section, shall mean (1.) receipt by
37 any school or school system of full accreditation from an
38 accrediting entity listed within this paragraph, or (2.) proof of
39 application by the school or school system for accreditation
40 status from the accrediting entity. Proof of application for
41 accreditation status shall include, but not be limited to, a copy
42 of the applicant's completed application for accreditation filed
43 with the licensing agency and a letter or other authenticating
44 documentation from a signatory authority with the accrediting
45 entity that the application for accreditation has been received
46 and that the applicant is currently under consideration or review
47 for full accreditation status by the accrediting entity. An
48 exemption for a nonaccredited applicant under this subparagraph
49 (iv) shall be for a maximum of one (1) year from the receipt date
50 by the licensing agency of the completed documentation for proof
51 of application for accreditation status, except as otherwise
52 provided in this subparagraph. Failure to receive full
53 accreditation by the end of the one-year exemption period for a
54 nonaccredited applicant shall result in the nonaccredited
55 applicant no longer remaining exempt from the provisions of this
56 chapter at the end of the one-year period. However, if full
57 accreditation is not received by the end of the one-year exemption
58 period, the State Board of Health, in its discretion, may extend
59 the exemption period for any nonaccredited applicant for periods

60 of six (6) months, with the total extension not to exceed one (1)
61 year. During any such extension periods, the board shall have the
62 authority to enforce child care facility licensure provisions
63 relating to the health and safety of the children in the school or
64 school system. If a nonaccredited applicant fails to receive full
65 accreditation by the end of all extended exemption periods, the
66 applicant shall no longer remain exempt from the provisions of
67 this chapter at the end of the extended exemption periods. This
68 subparagraph (iv) shall stand repealed on July 1, 2002.

69 (v) * * * Any membership organization affiliated
70 with a national organization which charges only a nominal annual
71 membership fee, does not receive monthly, weekly or daily payments
72 for services, and is certified by its national association as
73 being in compliance with the association's minimum standards and
74 procedures, including, but not limited to, the Boys and Girls Club
75 of America, and the YMCA.

76 (vi) Any family child care home as defined in
77 Section 43-20-53(a) et seq.

78 All other preschool child care programs and/or extended day
79 school programs must meet requirements set forth in this chapter.

80 (b) "Health" means that condition of being sound in
81 mind and body and encompasses an individual's physical, mental and
82 emotional welfare.

83 (c) "Safety" means that condition of being protected
84 from hurt, injury or loss.

85 (d) "Person" means any person, firm, partnership,
86 corporation or association.

87 (e) "Operator" means any person, acting individually or
88 jointly with another person or persons, who shall establish, own,
89 operate, conduct or maintain a child care facility. The child
90 care facility license shall be issued in the name of the operator,
91 or, if there is more than one (1) operator, in the name of one (1)
92 of the operators. In the event that there is more than one (1)

93 operator, all statutory and regulatory provisions concerning the
94 background checks of operators shall be equally applied to all
95 operators of a facility, including, but not limited to, a spouse
96 who jointly owns, operates or maintains the child care facility
97 regardless of which particular person is named on the license.

98 (f) "Personal care" means assistance rendered by
99 personnel of the child care facility in performing one or more of
100 the activities of daily living, which includes, but is not limited
101 to, the feeding, personal grooming, supervising and dressing of
102 children placed in the child care facility.

103 (g) "Licensing agency" means the Mississippi State
104 Department of Health.

105 (h) "Caregiver" means any person who provides direct
106 care, supervision or guidance to children in a child care
107 facility, regardless of title or occupation.

108 SECTION 2. This act shall take effect and be in force from
109 and after July 1, 2000.