SENATE BILL NO. 2298

AN ACT TO AMEND SECTION 73-25-38, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY FROM LIABILITY FOR RETIRED PHYSICIANS SERVING THE MISSISSIPPI LEGISLATURE AS "DOCTOR OF THE DAY"; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-25-38, Mississippi Code of 1972, is amended as follows:

(1) Any licensed physician or certified nurse practitioner who voluntarily provides needed medical or health services to any person without the expectation of payment due to the inability of such person to pay for said services shall be immune from liability for any civil action arising out of the provision of such medical or health services provided in good faith on a charitable basis. This section shall not extend immunity to acts of willful or gross negligence. Except in cases of rendering emergency care wherein the provisions of Section 73-25-37, Mississippi Code of 1972, apply, immunity under this section shall be extended only if the physician or certified nurse practitioner and patient execute a written waiver in advance of the rendering of such medical services specifying that such services are provided without the expectation of payment and that the licensed physician or certified nurse practitioner shall be immune as provided herein.

(2) Any physician who voluntarily renders any medical service under a special volunteer medical license authorized under Section 1 of this act without any payment or compensation or the expectation or promise of any payment or compensation shall be immune from liability for any civil action arising out of any act...
or omission resulting from the rendering of the medical service unless the act or omission was the result of the physician's gross negligence or willful misconduct. In order for the immunity under this subsection to apply, there must be a written or oral agreement for the physician to provide a voluntary noncompensated medical service before the rendering of the service by the physician.

(3) Any physician who is retired from active practice, and who has been previously issued an unrestricted license to practice medicine in any state of the United States or who has been issued a special volunteer medical license under Section 73-25-18, shall be immune from liability for any civil action arising out of any medical care or treatment provided while voluntarily serving as "doctor of the day" for members of the Mississippi State Legislature, legislative or other state employees, or any visitors to the State Capitol on the date of such service. This subsection shall not extend immunity to acts of willful or gross negligence or misconduct.

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