

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2765

1 AN ACT TO AMEND SECTION 41-3-15, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE STATE BOARD OF HEALTH TO LEVY AN ADMINISTRATIVE FINE  
3 ON RESTAURANT ESTABLISHMENTS OPERATING WITHOUT A PERMIT; AND FOR  
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-3-15, Mississippi Code of 1972, is  
7 amended as follows:

8 41-3-15. (1) There shall be a State Department of Health  
9 which shall be organized into such bureaus and divisions as are  
10 considered necessary by the executive officer, and shall be  
11 assigned appropriate functions as are required of the State Board  
12 of Health by law, subject to the approval of the board.

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

17 (a) To collect and evaluate data on rural health  
18 conditions and needs;

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

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

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

26 (e) To establish information clearinghouses to improve  
27 access to and sharing of rural health care information.

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

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

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

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

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

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

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

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

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

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

64 (i) (i) To establish standards for, issue permits and  
65 exercise control over, any cafes, restaurants, food or drink  
66 stands, sandwich manufacturing establishments, and all other  
67 establishments, other than churches, church-related and private  
68 schools, and other nonprofit or charitable organizations, where  
69 food or drink is regularly prepared, handled and served for pay;  
70 and

71 (ii) To require that a permit be obtained from the  
72 Department of Health before such persons begin operation. If any  
73 such person fails to obtain the permit required herein, the State  
74 Board of Health, after due notice and opportunity for a hearing,  
75 may impose a monetary penalty not to exceed One Thousand Dollars  
76 (\$1,000.00) for each violation. Money collected by the board  
77 under this item shall be deposited to the credit of the State  
78 General Fund of the State Treasury.

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

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

88 (l) To conduct investigations, inquiries and hearings,  
89 and to issue subpoenas for the attendance of witnesses and the  
90 production of books and records at any hearing when authorized and  
91 required by statute to be conducted by the State Health Officer or  
92 the State Board of Health.

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

102           (n) To promulgate rules and regulations, and to collect  
103 data and information, on (i) the delivery of services through the  
104 practice of telemedicine; and (ii) the use of electronic records  
105 for the delivery of telemedicine services.

106           (o) To enforce and regulate domestic and imported fish  
107 as authorized under Section 69-7-601 et seq.

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

113                   (i) Maternal and child health;

114                   (ii) Family planning;

115                   (iii) Pediatric services;

116                   (iv) Services to crippled and disabled children;

117                   (v) Control of communicable and noncommunicable  
118 disease;

119                   (vi) Child care licensure;

120                   (vii) Radiological health;

121                   (viii) Dental health;

122                   (ix) Milk sanitation;

123                   (x) Occupational safety and health;

124                   (xi) Food, vector control and general sanitation;

125                   (xii) Protection of drinking water;

126                   (xiii) Sanitation in food handling establishments  
127 open to the public;

128                   (xiv) Registration of births and deaths and other  
129 vital events;

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

133                   (xvi) Regulation of domestic and imported fish for  
134 human consumption.

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, 2004.