

By: Representative Flaggs

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1232

1 AN ACT TO AMEND SECTION 41-7-173, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT OFFICES OF PRIVATE PHYSICIANS OR DENTISTS THAT  
 3 SEEK MEDICARE CERTIFICATION OR MEDICAID REIMBURSEMENT AS AN  
 4 AMBULATORY SURGICAL FACILITY OR FOR AMBULATORY SURGICAL SERVICES  
 5 SHALL BE SUBJECT TO THE REQUIREMENT FOR A CERTIFICATE OF NEED; TO  
 6 AMEND SECTION 41-75-1, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
 7 OFFICES OF PRIVATE PHYSICIANS OR DENTISTS THAT SEEK MEDICARE  
 8 CERTIFICATION OR MEDICAID REIMBURSEMENT AS AN AMBULATORY SURGICAL  
 9 FACILITY OR FOR AMBULATORY SURGICAL SERVICES SHALL BE SUBJECT TO  
 10 THE AMBULATORY SURGICAL FACILITY LICENSURE LAW; TO EXTEND THE DATE  
 11 OF THE REPEALER ON THE SECTION; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 41-7-173, Mississippi Code of 1972, is  
 14 amended as follows:

15 41-7-173. For the purposes of Section 41-7-171 et seq., the  
 16 following words shall have the meanings ascribed herein, unless  
 17 the context otherwise requires:

18 (a) "Affected person" means (i) the applicant; (ii) a  
 19 person residing within the geographic area to be served by the  
 20 applicant's proposal; (iii) a person who regularly uses health  
 21 care facilities or HMO's located in the geographic area of the  
 22 proposal which provide similar service to that which is proposed;  
 23 (iv) health care facilities and HMO's which have, prior to receipt  
 24 of the application under review, formally indicated an intention  
 25 to provide service similar to that of the proposal being  
 26 considered at a future date; (v) third-party payers who reimburse  
 27 health care facilities located in the geographical area of the  
 28 proposal; or (vi) any agency that establishes rates for health  
 29 care services or HMO's located in the geographic area of the  
 30 proposal.

31           (b) "Certificate of need" means a written order of the  
32 State Department of Health setting forth the affirmative finding  
33 that a proposal in prescribed application form, sufficiently  
34 satisfies the plans, standards and criteria prescribed for such  
35 service or other project by Section 41-7-171 et seq., and by rules  
36 and regulations promulgated thereunder by the State Department of  
37 Health.

38           (c) (i) "Capital expenditure" when pertaining to  
39 defined major medical equipment, shall mean an expenditure which,  
40 under generally accepted accounting principles consistently  
41 applied, is not properly chargeable as an expense of operation and  
42 maintenance and which exceeds One Million Five Hundred Thousand  
43 Dollars (\$1,500,000.00).

44           (ii) "Capital expenditure," when pertaining to  
45 other than major medical equipment, shall mean any expenditure  
46 which under generally accepted accounting principles consistently  
47 applied is not properly chargeable as an expense of operation and  
48 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

49           (iii) A "capital expenditure" shall include the  
50 acquisition, whether by lease, sufferance, gift, devise, legacy,  
51 settlement of a trust or other means, of any facility or part  
52 thereof, or equipment for a facility, the expenditure for which  
53 would have been considered a capital expenditure if acquired by  
54 purchase. Transactions which are separated in time but are  
55 planned to be undertaken within twelve (12) months of each other  
56 and are components of an overall plan for meeting patient care  
57 objectives shall, for purposes of this definition, be viewed in  
58 their entirety without regard to their timing.

59           (iv) In those instances where a health care  
60 facility or other provider of health services proposes to provide  
61 a service in which the capital expenditure for major medical  
62 equipment or other than major medical equipment or a combination  
63 of the two (2) may have been split between separate parties, the

64 total capital expenditure required to provide the proposed service  
65 shall be considered in determining the necessity of certificate of  
66 need review and in determining the appropriate certificate of need  
67 review fee to be paid. The capital expenditure associated with  
68 facilities and equipment to provide services in Mississippi shall  
69 be considered regardless of where the capital expenditure was  
70 made, in state or out of state, and regardless of the domicile of  
71 the party making the capital expenditure, in state or out of  
72 state.

73 (d) "Change of ownership" includes, but is not limited  
74 to, inter vivos gifts, purchases, transfers, lease arrangements,  
75 cash and/or stock transactions or other comparable arrangements  
76 whenever any person or entity acquires or controls a majority  
77 interest of the facility or service. Changes of ownership from  
78 partnerships, single proprietorships or corporations to another  
79 form of ownership are specifically included. However, "change of  
80 ownership" shall not include any inherited interest acquired as a  
81 result of a testamentary instrument or under the laws of descent  
82 and distribution of the State of Mississippi.

83 (e) "Commencement of construction" means that all of  
84 the following have been completed with respect to a proposal or  
85 project proposing construction, renovating, remodeling or  
86 alteration:

87 (i) A legally binding written contract has been  
88 consummated by the proponent and a lawfully licensed contractor to  
89 construct and/or complete the intent of the proposal within a  
90 specified period of time in accordance with final architectural  
91 plans which have been approved by the licensing authority of the  
92 State Department of Health;

93 (ii) Any and all permits and/or approvals deemed  
94 lawfully necessary by all authorities with responsibility for such  
95 have been secured; and

96                   (iii) Actual bona fide undertaking of the subject  
97 proposal has commenced, and a progress payment of at least one  
98 percent (1%) of the total cost price of the contract has been paid  
99 to the contractor by the proponent, and the requirements of this  
100 paragraph (e) have been certified to in writing by the State  
101 Department of Health.

102           Force account expenditures, such as deposits, securities,  
103 bonds, et cetera, may, in the discretion of the State Department  
104 of Health, be excluded from any or all of the provisions of  
105 defined commencement of construction.

106           (f) "Consumer" means an individual who is not a  
107 provider of health care as defined in paragraph (q) of this  
108 section.

109           (g) "Develop," when used in connection with health  
110 services, means to undertake those activities which, on their  
111 completion, will result in the offering of a new institutional  
112 health service or the incurring of a financial obligation as  
113 defined under applicable state law in relation to the offering of  
114 such services.

115           (h) "Health care facility" includes hospitals,  
116 psychiatric hospitals, chemical dependency hospitals, skilled  
117 nursing facilities, end stage renal disease (ESRD) facilities,  
118 including freestanding hemodialysis units, intermediate care  
119 facilities, ambulatory surgical facilities, intermediate care  
120 facilities for the mentally retarded, home health agencies,  
121 psychiatric residential treatment facilities, pediatric skilled  
122 nursing facilities, long-term care hospitals, comprehensive  
123 medical rehabilitation facilities, including facilities owned or  
124 operated by the state or a political subdivision or  
125 instrumentality of the state, but does not include Christian  
126 Science sanatoriums operated or listed and certified by the First  
127 Church of Christ, Scientist, Boston, Massachusetts. This  
128 definition shall not apply to facilities for the private practice,

129 either independently or by incorporated medical groups, of  
130 physicians, dentists or health care professionals except where  
131 such facilities are an integral part of an institutional health  
132 service and/or meet one of the definitions in this paragraph (h).

133 The various health care facilities listed in this paragraph shall  
134 be defined as follows:

135 (i) "Hospital" means an institution which is  
136 primarily engaged in providing to inpatients, by or under the  
137 supervision of physicians, diagnostic services and therapeutic  
138 services for medical diagnosis, treatment and care of injured,  
139 disabled or sick persons, or rehabilitation services for the  
140 rehabilitation of injured, disabled or sick persons. Such term  
141 does not include psychiatric hospitals.

142 (ii) "Psychiatric hospital" means an institution  
143 which is primarily engaged in providing to inpatients, by or under  
144 the supervision of a physician, psychiatric services for the  
145 diagnosis and treatment of mentally ill persons.

146 (iii) "Chemical dependency hospital" means an  
147 institution which is primarily engaged in providing to inpatients,  
148 by or under the supervision of a physician, medical and related  
149 services for the diagnosis and treatment of chemical dependency  
150 such as alcohol and drug abuse.

151 (iv) "Skilled nursing facility" means an  
152 institution or a distinct part of an institution which is  
153 primarily engaged in providing to inpatients skilled nursing care  
154 and related services for patients who require medical or nursing  
155 care or rehabilitation services for the rehabilitation of injured,  
156 disabled or sick persons.

157 (v) "End stage renal disease (ESRD) facilities"  
158 means kidney disease treatment centers, which includes  
159 freestanding hemodialysis units and limited care facilities. The  
160 term "limited care facility" generally refers to an  
161 off-hospital-premises facility, regardless of whether it is

162 provider or nonprovider operated, which is engaged primarily in  
163 furnishing maintenance hemodialysis services to stabilized  
164 patients.

165 (vi) "Intermediate care facility" means an  
166 institution which provides, on a regular basis, health related  
167 care and services to individuals who do not require the degree of  
168 care and treatment which a hospital or skilled nursing facility is  
169 designed to provide, but who, because of their mental or physical  
170 condition, require health related care and services (above the  
171 level of room and board).

172 (vii) "Ambulatory surgical facility" means a  
173 facility primarily organized or established for the purpose of  
174 performing surgery for outpatients and is a separate identifiable  
175 legal entity from any other health care facility. Such term does  
176 not include the offices of private physicians or dentists, whether  
177 for individual or group practice unless the office seeks Medicare  
178 certification or Medicaid reimbursement as an ambulatory surgical  
179 facility or for ambulatory surgical services, and does not include  
180 any abortion facility as defined in Section 41-75-1(e). Offices  
181 of private physicians or dentists, whether for individual or group  
182 practice, that obtained Medicare certification or Medicaid  
183 reimbursement as an ambulatory surgical facility or for ambulatory  
184 surgical services before June 30, 2006, shall be exempt from the  
185 requirements of Section 41-7-191(1)(d)(xi).

186 (viii) "Intermediate care facility for the  
187 mentally retarded" means an intermediate care facility that  
188 provides health or rehabilitative services in a planned program of  
189 activities to the mentally retarded, also including, but not  
190 limited to, cerebral palsy and other conditions covered by the  
191 Federal Developmentally Disabled Assistance and Bill of Rights  
192 Act, Public Law 94-103.

193 (ix) "Home health agency" means a public or  
194 privately owned agency or organization, or a subdivision of such

195 an agency or organization, properly authorized to conduct business  
196 in Mississippi, which is primarily engaged in providing to  
197 individuals at the written direction of a licensed physician, in  
198 the individual's place of residence, skilled nursing services  
199 provided by or under the supervision of a registered nurse  
200 licensed to practice in Mississippi, and one or more of the  
201 following services or items:

- 202 1. Physical, occupational or speech therapy;
- 203 2. Medical social services;
- 204 3. Part-time or intermittent services of a  
205 home health aide;
- 206 4. Other services as approved by the  
207 licensing agency for home health agencies;
- 208 5. Medical supplies, other than drugs and  
209 biologicals, and the use of medical appliances; or
- 210 6. Medical services provided by an intern or  
211 resident-in-training at a hospital under a teaching program of  
212 such hospital.

213 Further, all skilled nursing services and those services  
214 listed in items 1. through 4. of this subparagraph (ix) must be  
215 provided directly by the licensed home health agency. For  
216 purposes of this subparagraph, "directly" means either through an  
217 agency employee or by an arrangement with another individual not  
218 defined as a health care facility.

219 This subparagraph (ix) shall not apply to health care  
220 facilities which had contracts for the above services with a home  
221 health agency on January 1, 1990.

222 (x) "Psychiatric residential treatment facility"  
223 means any nonhospital establishment with permanent licensed  
224 facilities which provides a twenty-four-hour program of care by  
225 qualified therapists including, but not limited to, duly licensed  
226 mental health professionals, psychiatrists, psychologists,  
227 psychotherapists and licensed certified social workers, for

228 emotionally disturbed children and adolescents referred to such  
229 facility by a court, local school district or by the Department of  
230 Human Services, who are not in an acute phase of illness requiring  
231 the services of a psychiatric hospital, and are in need of such  
232 restorative treatment services. For purposes of this paragraph,  
233 the term "emotionally disturbed" means a condition exhibiting one  
234 or more of the following characteristics over a long period of  
235 time and to a marked degree, which adversely affects educational  
236 performance:

- 237 1. An inability to learn which cannot be  
238 explained by intellectual, sensory or health factors;
- 239 2. An inability to build or maintain  
240 satisfactory relationships with peers and teachers;
- 241 3. Inappropriate types of behavior or  
242 feelings under normal circumstances;
- 243 4. A general pervasive mood of unhappiness or  
244 depression; or
- 245 5. A tendency to develop physical symptoms or  
246 fears associated with personal or school problems. An  
247 establishment furnishing primarily domiciliary care is not within  
248 this definition.

249 (xi) "Pediatric skilled nursing facility" means an  
250 institution or a distinct part of an institution that is primarily  
251 engaged in providing to inpatients skilled nursing care and  
252 related services for persons under twenty-one (21) years of age  
253 who require medical or nursing care or rehabilitation services for  
254 the rehabilitation of injured, disabled or sick persons.

255 (xii) "Long-term care hospital" means a  
256 freestanding, Medicare-certified hospital that has an average  
257 length of inpatient stay greater than twenty-five (25) days, which  
258 is primarily engaged in providing chronic or long-term medical  
259 care to patients who do not require more than three (3) hours of  
260 rehabilitation or comprehensive rehabilitation per day, and has a



261 transfer agreement with an acute care medical center and a  
262 comprehensive medical rehabilitation facility. Long-term care  
263 hospitals shall not use rehabilitation, comprehensive medical  
264 rehabilitation, medical rehabilitation, sub-acute rehabilitation,  
265 nursing home, skilled nursing facility, or sub-acute care facility  
266 in association with its name.

267 (xiii) "Comprehensive medical rehabilitation  
268 facility" means a hospital or hospital unit that is licensed  
269 and/or certified as a comprehensive medical rehabilitation  
270 facility which provides specialized programs that are accredited  
271 by the Commission on Accreditation of Rehabilitation Facilities  
272 and supervised by a physician board certified or board eligible in  
273 Physiatry or other doctor of medicine or osteopathy with at least  
274 two (2) years of training in the medical direction of a  
275 comprehensive rehabilitation program that:

276 1. Includes evaluation and treatment of  
277 individuals with physical disabilities;

278 2. Emphasizes education and training of  
279 individuals with disabilities;

280 3. Incorporates at least the following core  
281 disciplines:

282 (i) Physical Therapy;

283 (ii) Occupational Therapy;

284 (iii) Speech and Language Therapy;

285 (iv) Rehabilitation Nursing; and

286 4. Incorporates at least three (3) of the  
287 following disciplines:

288 (i) Psychology;

289 (ii) Audiology;

290 (iii) Respiratory Therapy;

291 (iv) Therapeutic Recreation;

292 (v) Orthotics;

293 (vi) Prosthetics;

- 294 (vii) Special Education;
- 295 (viii) Vocational Rehabilitation;
- 296 (ix) Psychotherapy;
- 297 (x) Social Work;
- 298 (xi) Rehabilitation Engineering.

299 These specialized programs include, but are not limited to:  
300 spinal cord injury programs, head injury programs and infant and  
301 early childhood development programs.

302 (i) "Health maintenance organization" or "HMO" means a  
303 public or private organization organized under the laws of this  
304 state or the federal government which:

305 (i) Provides or otherwise makes available to  
306 enrolled participants health care services, including  
307 substantially the following basic health care services: usual  
308 physician services, hospitalization, laboratory, x-ray, emergency  
309 and preventive services, and out-of-area coverage;

310 (ii) Is compensated (except for copayments) for  
311 the provision of the basic health care services listed in  
312 subparagraph (i) of this paragraph to enrolled participants on a  
313 predetermined basis; and

314 (iii) Provides physician services primarily:

315 1. Directly through physicians who are either  
316 employees or partners of such organization; or

317 2. Through arrangements with individual  
318 physicians or one or more groups of physicians (organized on a  
319 group practice or individual practice basis).

320 (j) "Health service area" means a geographic area of  
321 the state designated in the State Health Plan as the area to be  
322 used in planning for specified health facilities and services and  
323 to be used when considering certificate of need applications to  
324 provide health facilities and services.

325           (k) "Health services" means clinically related (i.e.,  
326 diagnostic, treatment or rehabilitative) services and includes  
327 alcohol, drug abuse, mental health and home health care services.

328           (l) "Institutional health services" shall mean health  
329 services provided in or through health care facilities and shall  
330 include the entities in or through which such services are  
331 provided.

332           (m) "Major medical equipment" means medical equipment  
333 designed for providing medical or any health related service which  
334 costs in excess of One Million Five Hundred Thousand Dollars  
335 (\$1,500,000.00). However, this definition shall not be applicable  
336 to clinical laboratories if they are determined by the State  
337 Department of Health to be independent of any physician's office,  
338 hospital or other health care facility or otherwise not so defined  
339 by federal or state law, or rules and regulations promulgated  
340 thereunder.

341           (n) "State Department of Health" shall mean the state  
342 agency created under Section 41-3-15, which shall be considered to  
343 be the State Health Planning and Development Agency, as defined in  
344 paragraph (t) of this section.

345           (o) "Offer," when used in connection with health  
346 services, means that it has been determined by the State  
347 Department of Health that the health care facility is capable of  
348 providing specified health services.

349           (p) "Person" means an individual, a trust or estate,  
350 partnership, corporation (including associations, joint stock  
351 companies and insurance companies), the state or a political  
352 subdivision or instrumentality of the state.

353           (q) "Provider" shall mean any person who is a provider  
354 or representative of a provider of health care services requiring  
355 a certificate of need under Section 41-7-171 et seq., or who has  
356 any financial or indirect interest in any provider of services.

357 (r) "Secretary" means the Secretary of Health and Human  
358 Services, and any officer or employee of the Department of Health  
359 and Human Services to whom the authority involved has been  
360 delegated.

361 (s) "State Health Plan" means the sole and official  
362 statewide health plan for Mississippi which identifies priority  
363 state health needs and establishes standards and criteria for  
364 health-related activities which require certificate of need review  
365 in compliance with Section 41-7-191.

366 (t) "State Health Planning and Development Agency"  
367 means the agency of state government designated to perform health  
368 planning and resource development programs for the State of  
369 Mississippi.

370 **SECTION 2.** Section 41-75-1, Mississippi Code of 1972, is  
371 amended as follows:

372 41-75-1. For the purpose of this chapter:

373 (a) "Ambulatory surgical facility" means a publicly- or  
374 privately-owned institution that is primarily organized,  
375 constructed, renovated or otherwise established for the purpose of  
376 providing elective surgical treatment of "outpatients" whose  
377 recovery, under normal and routine circumstances, will not require  
378 "inpatient" care. The facility defined in this paragraph does not  
379 include the offices of private physicians or dentists, whether  
380 practicing individually or in groups unless the office seeks  
381 Medicare certification or Medicaid reimbursement as an ambulatory  
382 surgical facility or for ambulatory surgical services, but does  
383 include organizations or facilities primarily engaged in that  
384 outpatient surgery, whether using the name "ambulatory surgical  
385 facility" or a similar or different name. That organization or  
386 facility, if in any manner considered to be operated or owned by a  
387 hospital or a hospital holding, leasing or management company,  
388 either for profit or not for profit, is required to comply with  
389 all licensing agency ambulatory surgical licensure standards

390 governing a "hospital affiliated" facility as adopted under  
391 Section 41-9-1 et seq., provided that the organization or facility  
392 does not intend to seek federal certification as an ambulatory  
393 surgical facility as provided for at 42 CFR, Parts 405 and 416.  
394 If the organization or facility is to be operated or owned by a  
395 hospital or a hospital holding, leasing or management company and  
396 intends to seek federal certification as an ambulatory facility,  
397 then the facility is considered to be "freestanding" and must  
398 comply with all licensing agency ambulatory surgical licensure  
399 standards governing a "freestanding" facility.

400 If the organization or facility is to be owned or operated by  
401 an entity or person other than a hospital or hospital holding,  
402 leasing or management company, then the organization or facility  
403 must comply with all licensing agency ambulatory surgical facility  
404 standards governing a "freestanding" facility.

405 (b) "Hospital affiliated" ambulatory surgical facility  
406 means a separate and distinct organized unit of a hospital or a  
407 building owned, leased, rented or utilized by a hospital and  
408 located in the same county in which the hospital is located, for  
409 the primary purpose of performing ambulatory surgery procedures.  
410 The facility is not required to be separately licensed under this  
411 chapter and may operate under the hospital's license in compliance  
412 with all applicable requirements of Section 41-9-1 et seq.

413 (c) "Freestanding" ambulatory surgical facility means a  
414 separate and distinct facility or a separate and distinct  
415 organized unit of a hospital owned, leased, rented or utilized by  
416 a hospital or other persons for the primary purpose of performing  
417 ambulatory surgery procedures. The facility must be separately  
418 licensed as defined in this section and must comply with all  
419 licensing standards promulgated by the licensing agency under this  
420 chapter regarding a "freestanding" ambulatory surgical facility.  
421 Further, the facility must be a separate, identifiable entity and  
422 must be physically, administratively and financially independent

423 and distinct from other operations of any other health facility,  
424 and shall maintain a separate organized medical and administrative  
425 staff. Furthermore, once licensed as a "freestanding" ambulatory  
426 surgical facility, the facility shall not become a component of  
427 any other health facility without securing a certificate of need  
428 to do that.

429 (d) "Ambulatory surgery" means surgical procedures that  
430 are more complex than office procedures performed under local  
431 anesthesia, but less complex than major procedures requiring  
432 prolonged postoperative monitoring and hospital care to ensure  
433 safe recovery and desirable results. General anesthesia is used  
434 in most cases. The patient must arrive at the facility and expect  
435 to be discharged on the same day. Ambulatory surgery shall only  
436 be performed by physicians or dentists licensed to practice in the  
437 State of Mississippi.

438 (e) "Abortion" means the use or prescription of any  
439 instrument, medicine, drug or any other substances or device to  
440 terminate the pregnancy of a woman known to be pregnant with an  
441 intention other than to increase the probability of a live birth,  
442 to preserve the life or health of the child after live birth or to  
443 remove a dead fetus. Abortion procedures after the first  
444 trimester shall only be performed at a Level I abortion facility  
445 or an ambulatory surgical facility or hospital licensed to perform  
446 that service.

447 (f) "Abortion facility" means a facility operating  
448 substantially for the purpose of performing abortions and is a  
449 separate identifiable legal entity from any other health care  
450 facility. Abortions shall only be performed by physicians  
451 licensed to practice in the State of Mississippi. The term  
452 "abortion facility" includes physicians' offices that are used  
453 substantially for the purpose of performing abortions. An  
454 abortion facility operates substantially for the purpose of  
455 performing abortions if any of the following conditions are met:

456 (i) The abortion facility is a provider for  
457 performing ten (10) or more abortion procedures per calendar month  
458 during any month of a calendar year, or one hundred (100) or more  
459 in a calendar year.

460 (ii) The abortion facility, if operating less than  
461 twenty (20) days per calendar month, is a provider for performing  
462 ten (10) or more abortion procedures, or performing a number of  
463 abortion procedures that would be equivalent to ten (10)  
464 procedures per month, if the facility were operating twenty (20)  
465 or more days per calendar month, in any month of a calendar year.

466 (iii) The abortion facility holds itself out to  
467 the public as an abortion provider by advertising by any public  
468 means, such as newspaper, telephone directory, magazine or  
469 electronic media, that it performs abortions.

470 (iv) The facility applies to the licensing agency  
471 for licensure as an abortion facility.

472 (g) "Licensing agency" means the State Department of  
473 Health.

474 (h) "Operating" an abortion facility means that the  
475 facility is open for any period of time during a day and has on  
476 site at the facility or on call a physician licensed to practice  
477 in the State of Mississippi available to provide abortions.

478 An abortion facility may apply to be licensed as a Level I  
479 facility or a Level II facility by the licensing agency. Level II  
480 abortion facilities shall be required to meet minimum standards  
481 for abortion facilities as established by the licensing agency.  
482 Level I abortion facilities shall be required to meet minimum  
483 standards for abortion facilities and minimum standards for  
484 ambulatory surgical facilities as established by the licensing  
485 agency.

486 Any abortion facility that begins operation after June 30,  
487 1996, shall not be located within fifteen hundred (1500) feet from  
488 the property on which any church, school or kindergarten is

489 located. An abortion facility shall not be in violation of this  
490 paragraph if it is in compliance with this paragraph on the date  
491 it begins operation and the property on which a church, school or  
492 kindergarten is located is later within fifteen hundred (1500)  
493 feet from the facility.

494 This section shall stand repealed on June 30, 2007.

495 **SECTION 3.** This act shall take effect and be in force from  
496 and after June 30, 2006.