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To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 885

1 AN ACT TO REQUIRE INSURANCE COVERAGE FOR AUTISM RELATED  
2 TREATMENT; TO PROVIDE FOR THE REGULATION OF THE PRACTICE OF  
3 APPLIED BEHAVIOR ANALYSIS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** (1) A health insurance policy shall provide  
6 coverage for the screening, diagnosis, and treatment of autism  
7 spectrum disorder. To the extent that the screening, diagnosis,  
8 and treatment of autism spectrum disorder are not already covered  
9 by a health insurance policy, coverage under this section shall be  
10 included in health insurance policies that are delivered,  
11 executed, issued, amended, adjusted, or renewed in this state, or  
12 outside this state if insuring residents of this state, on or  
13 after January 1, 2016. No insurer can terminate coverage, or  
14 refuse to deliver, execute, issue, amend, adjust, or renew  
15 coverage to an individual solely because the individual is  
16 diagnosed with or has received treatment for an autism spectrum  
17 disorder.



18           (2) Coverage under this section must not be subject to  
19 dollar limits, deductibles, or coinsurance provisions that are  
20 less favorable to an insured than the dollar limits, deductibles,  
21 or coinsurance provisions that apply to substantially all medical  
22 and surgical benefits under the health insurance policy, except as  
23 otherwise provided in subsection (5) of this section.

24           (3) This section shall not be construed as limiting benefits  
25 that are otherwise available to an individual under a health  
26 insurance policy.

27           (4) As used in this section:

28                   (a) "Applied behavior analysis" means the  
29 individualized design, implementation, and evaluation of  
30 instructional and environmental modifications to produce socially  
31 significant improvement in human behavior, including the use of  
32 direct observation, measurement, and functional analysis of the  
33 relationship between environment and behavior.

34                   (b) "Autism spectrum disorder" means any of the  
35 pervasive developmental disorders or autism spectrum disorders as  
36 defined by the most recent edition of the Diagnostic and  
37 Statistical Manual of Mental Disorders (DSM) or the edition that  
38 was in effect at the time of diagnosis.

39                   (c) "Behavioral health treatment" means behavior  
40 modification and mental health counseling and treatment programs,  
41 including applied behavior analysis, that are:



42 (i) Necessary to develop or restore, to the  
43 maximum extent practicable, the functioning of an individual; and

44 (ii) Provided or supervised by a licensed mental  
45 health professional, so long as the services performed are  
46 commensurate with the licensed mental health professional's  
47 competency area, training, and supervised experience.

48 (d) "Diagnosis of autism spectrum disorder" means  
49 medically necessary assessment, evaluations, or tests to diagnose  
50 whether an individual has an autism spectrum disorder, as  
51 performed by a licensed psychologist or licensed physician.

52 (e) "Licensed behavior analyst" means a professional  
53 licensed under Section 8(4) of this act to practice applied  
54 behavior analysis in the State of Mississippi.

55 (f) "Health insurance policy" includes all individual  
56 and group health insurance policies providing coverage on an  
57 expense incurred basis, individual and group service or indemnity  
58 type contracts issued by a nonprofit corporation, individual and  
59 group service contracts issued by a health maintenance  
60 organization or preferred provider organization, all self-insured  
61 group arrangements to the extent not preempted by federal law and  
62 all managed health care delivery entities of any type or  
63 description providing coverage to any residents of this state, and  
64 the State and School Employees Health Insurance Plan.

65 (g) "Pharmacy care" means medications approved by the  
66 United States Food and Drug Administration and prescribed by a



67 licensed physician, and any health-related services deemed  
68 medically necessary to determine the need or effectiveness of the  
69 medications.

70 (h) "Psychiatric care" means direct or consultative  
71 services provided by a psychiatrist licensed to practice in the  
72 State of Mississippi or as provided under the applicable health  
73 insurance policy.

74 (i) "Psychological care" means direct or consultative  
75 services provided by a psychologist licensed to practice in the  
76 State of Mississippi or as provided under the applicable health  
77 insurance policy.

78 (j) "Therapeutic care" means services provided by  
79 licensed or certified speech therapists, occupational therapists,  
80 or physical therapists as covered by the health insurance policy.

81 (k) "Treatment for autism spectrum disorder" means  
82 evidence-based care prescribed or ordered for an individual  
83 diagnosed with an autism spectrum disorder by a licensed physician  
84 or a licensed psychologist who determines the care to be medically  
85 necessary, including but not limited to:

- 86 (i) Behavioral health treatment;
- 87 (ii) Pharmacy care;
- 88 (iii) Psychiatric care;
- 89 (iv) Psychological care; and
- 90 (v) Therapeutic care.



91 (1) "Treatment plan" means a written, comprehensive,  
92 and individualized intervention plan that incorporates specific  
93 treatment goals, individualized with objectives, data collection  
94 and analysis plan, and goal change procedures if goals are not  
95 met.

96 (5) Coverage under this section for applied behavior  
97 analysis shall be limited to twenty-five (25) hours per week and  
98 shall not be required beyond the age of eight (8) years. No more  
99 than ten (10) hours per week shall be for the services of a  
100 licensed behavior analyst; however, all services must be provided  
101 under the supervision or direction of a licensed behavior analyst  
102 or licensed psychologist. Coverage for applied behavior analysis  
103 may be extended beyond the limits provided in this subsection if  
104 medical necessity for the extension is determined to exist  
105 following the exercise of the appeal rights governing the  
106 applicable health insurance policy.

107 (6) Except for inpatient services, if an insured is  
108 receiving treatment for an autism spectrum disorder, an insurer  
109 shall have the right to review the treatment plan every six (6)  
110 months, unless the insurer and the insured's treating physician or  
111 psychologist agree that a more frequent review is necessary. The  
112 cost of obtaining any review of the treatment plan shall be borne  
113 by the insurer.

114 (7) This section shall not be construed to require an  
115 insurer to provide coverage for any services to an individual



116 under an individualized family service plan, an individualized  
117 education program, or an individualized service plan, required by  
118 federal or state law to be performed by public schools, including,  
119 but not limited to, Individualized Education Programs, Special  
120 Education Services, Individuals with Disabilities Education  
121 Improvement Act programs, Attention Deficit-hyperactivity Disorder  
122 Classrooms, or Autism Spectrum Disorder Classrooms.

123 (8) Nothing in this section shall apply to nongrandfathered  
124 plans in the individual and small group markets that are required  
125 to include essential health benefits under the Patient Protection  
126 and Affordable Care Act or to Medicare supplement, accident-only,  
127 specified disease, hospital indemnity, disability income,  
128 long-term care, or other limited benefit hospital insurance  
129 policies.

130 (9) The Insurance Department shall grant a small employer  
131 with a basic group health insurance policy, as defined in Section  
132 83-9-303, Mississippi Code of 1972, a waiver from the provisions  
133 of this section if the small employer demonstrates to the  
134 Insurance Department, by actual claims experience over any  
135 consecutive twelve (12) month period, that compliance with this  
136 section has increased the cost of the health insurance policy by  
137 an amount of two and one-half percent (2.5%) or greater over the  
138 period of a calendar year in premium costs to the small employer.

139 **SECTION 2. License required.** In order to safeguard life,  
140 health and property, no person shall practice applied behavior



141 analysis in this state, or use the title "Licensed Behavior  
142 Analyst" or "Licensed Assistant Behavior Analyst" unless such  
143 person has secured a license under this chapter.

144 **SECTION 3. Definitions.** The following definitions apply as  
145 used in this chapter, unless the context otherwise requires:

146 (1) "Board" means the Mississippi Autism Board.

147 (2) "Person" means any individual, organization or corporate  
148 body, except that only an individual may be licensed under this  
149 chapter.

150 (3) "Practice of applied behavior analysis" means  
151 interventions based on scientific research and the direct  
152 observation and measurement of behavior and the environment.  
153 Behavior analysts utilize contextual factors, motivating  
154 operations, antecedent stimuli, positive reinforcement, and other  
155 consequences to help people develop new behaviors, increase or  
156 decrease existing behaviors, and emit behaviors under specific  
157 environmental conditions. The practice of behavior analysis  
158 expressly excludes psychological testing, diagnosis of a mental or  
159 physical disorder, neuropsychology, psychotherapy, cognitive  
160 therapy, sex therapy, psychoanalysis, hypnotherapy, and long-term  
161 counseling as treatment modalities.

162 (4) "Licensed behavior analyst" means an individual  
163 currently certified by the Behavior Analyst Certification Board as  
164 a Board Certified Behavior Analyst (BCBA) or Board Certified



165 Behavior Analyst-Doctoral (BCBA-D) and licensed under Section 8(4)  
166 of this act to practice applied behavior analysis.

167 (5) "Licensed assistant behavior analyst" means an  
168 individual currently certified by the Behavior Analyst  
169 Certification Board as a Board Certified Assistant Behavior  
170 Analyst (BCABA) and licensed pursuant to Section 8(5) of this act  
171 to practice applied behavior analysis under the supervision of a  
172 licensed behavior analyst.

173 (6) "Behavior technician" means an individual currently  
174 certified by the Behavior Analyst Certification Board as a  
175 Registered Behavior Technician (RBT) to provide applied behavior  
176 analysis treatments under the supervision and direction of a  
177 licensed behavior analyst or licensed assistant behavior analyst.

178 **SECTION 4. Scope of Chapter.** (1) Nothing in this chapter  
179 shall be construed as preventing or restricting the practice of  
180 any of the following:

181 (a) A licensed psychologist, subject to any rules or  
182 regulations of the Mississippi Board of Psychology;

183 (b) Other licensed health care professionals authorized  
184 to practice in the state, so long as the services of the  
185 professional are commensurate with the professional's demonstrated  
186 competence and training and within the scope of practice regulated  
187 by the professional's licensing authority;

188 (c) A behavior technician who implements certain  
189 applied behavior analysis procedures under the extended authority





190 and direction of a licensed behavior analyst or licensed assistant  
191 behavior analyst, provided that the behavior technician is  
192 supervised in accordance with the Behavior Analyst Certification  
193 Board's supervision standards.

194 (d) A family member or guardian of a recipient of  
195 applied behavior analysis services who implements certain applied  
196 behavior analysis procedures in compliance with the training and  
197 direction of a licensed behavior analyst or licensed psychologist;

198 (e) A behavior analyst who practices with nonhumans,  
199 including applied animal behaviorists and animal trainers; or

200 (f) An individual who is pursuing supervised  
201 experiential training to meet eligibility requirements for  
202 Behavior Analyst Certification Board certification, provided that  
203 such training is supervised by a licensed behavior analyst and who  
204 meet Behavior Analyst Certification Board supervisor requirements,  
205 and that the supervised experience is conducted in accordance with  
206 other Behavior Analyst Certification Board standards and  
207 requirements.

208 (g) An individual who teaches behavior analysis or  
209 conducts behavior analytic research, provided that such teaching  
210 or research does not involve the delivery of direct behavior  
211 analytic services.

212 (h) A professional behavior analyst who provides  
213 general behavior analytic services to organizations, so long as



214 those services are for the benefit of the organizations and do not  
215 involve direct services to individuals.

216 (i) A matriculated college or university student whose  
217 applied behavior analysis activities are part of a defined course,  
218 internship, practicum, or program of study and are supervised by a  
219 licensed behavior analyst or an instructor in a Behavior Analyst  
220 Certification Board-approved course sequence or practicum.  
221 Students and interns must not represent themselves as professional  
222 behavior analysts but must use titles that clearly indicate their  
223 trainee status, such as "student," "intern," or "trainee."

224 (j) Individuals employed by a school board while  
225 performing the regular duties of their office or position. Such  
226 individuals shall not represent themselves as professional  
227 behavior analysts unless they are licensed behavior analysts or  
228 licensed assistant behavior analysts, and shall not offer behavior  
229 analytic services to any persons or entities other than their  
230 school employer or accept remuneration for providing behavior  
231 analytic services other than the remuneration they receive from  
232 their school employer.

233 (2) Subsection (1) of this section shall not be interpreted  
234 to expand the scope of practice of any licensed professional who  
235 is not licensed pursuant to this chapter; no individual described  
236 in subsection (1) may provide applied behavior analysis treatment  
237 outside the scope of their licensed practice.



238           **SECTION 5. Mississippi Autism Board; membership; term of**

239 **office; appointment; qualifications.** (1) The board shall consist  
240 of five (5) members. The Governor shall appoint one (1) licensed  
241 psychologist practicing in the area of applied behavior analysis,  
242 one (1) licensed behavior analyst, and one (1) public member who  
243 is not licensed in behavior analysis and who is the family member  
244 of a recipient of applied behavior analysis services. The  
245 Lieutenant Governor shall appoint two (2) licensed behavior  
246 analysts.

247           (2) The licensed psychologist member shall serve an initial  
248 term of one (1) year, the licensed behavior analyst appointed by  
249 the Governor shall serve an initial term of two (2) years, the  
250 public member shall serve an initial term of three (3) years, and  
251 the two (2) licensed behavior analysts appointed by the Lieutenant  
252 Governor shall serve initial terms of four (4) years. All  
253 subsequent appointees shall serve four (4) year terms.

254           (3) All appointees shall serve at the will and pleasure of  
255 the appointing official.

256           (4) Each board member shall serve without compensation, but  
257 shall receive actual traveling and incidental expenses necessarily  
258 incurred while engaged in the discharge of official duties.

259           **SECTION 6. Authority of the Board.** (1) The board shall

260 annually elect from its membership a chairman and executive  
261 secretary at a meeting held during the last two (2) quarters of  
262 the fiscal year. The board shall meet at any other times as it



263 deems necessary or advisable. Reasonable notice of all meetings  
264 shall be given in the manner prescribed by the board and in  
265 accordance with state law. The presence of three (3) members  
266 shall constitute a quorum.

267 (2) The board is authorized and empowered to:

268 (a) Investigate and evaluate each and every applicant  
269 applying for a license to practice applied behavior analysis.

270 (b) Issue subpoenas, examine witnesses and administer  
271 oaths, and shall, at its discretion, investigate allegations or  
272 practices violating the provisions of this chapter.

273 (c) Adopt and, from time to time, revise any rules and  
274 regulations not inconsistent with, and as may be necessary to  
275 carry into effect the provisions of this chapter.

276 **SECTION 7. Financing administration of provisions.** (1) The  
277 administration of the provisions of this chapter shall be financed  
278 from income accruing from fees, licenses and other charges  
279 assessed and collected by the board and from such other funds  
280 available to the board.

281 (2) The board shall receive and account for all funds  
282 received and shall keep such funds in a separate fund. Funds  
283 collected under the provisions of this chapter shall be used  
284 solely for the expenses of the board and to administer the  
285 provisions of this chapter, which may include full or partial  
286 financing of continuing education programs promulgated by the



287 board under this chapter. Such funds shall be subject to audit by  
288 the Auditor of the State of Mississippi.

289 (3) The board shall be assigned to the Office of the  
290 Secretary of State for administrative and ministerial purposes.

291 **SECTION 8. Eligibility for license.** To be eligible for  
292 licensure by the board as a behavior analyst or assistant behavior  
293 analyst, a person shall:

294 (1) Submit to the board an application, upon such form and  
295 in such manner as the board shall prescribe, along with the  
296 applicable fee and personal references;

297 (2) Certify that the applicant has not been convicted of a  
298 felony as defined by the laws of the State of Mississippi;

299 (3) Undergo a fingerprint-based criminal history records  
300 check of the Mississippi central criminal database and the Federal  
301 Bureau of Investigation criminal history database. Each applicant  
302 shall submit a full set of the applicant's fingerprints in a form  
303 and manner prescribed by the board, which shall be forwarded to  
304 the Mississippi Department of Public Safety and the Federal Bureau  
305 of Investigation Identification Division for this purpose; and

306 (4) For a behavior analyst:

307 (a) Possess at least a master's degree, or its  
308 equivalent, from an educational institution recognized by the  
309 board;

310 (b) Have current and active certification by the  
311 Behavior Analyst Certification Board as a Board Certified Behavior



312 Analyst (BCBA) or Board Certified Behavior Analyst-Doctoral  
313 (BCBA-D), verified by the Board; and

314 (c) Comply with such other requirements of the board.

315 (5) For an assistant behavior analyst:

316 (a) Possess a bachelor's degree, or its equivalent,  
317 from an educational institution recognized by the board;

318 (b) Have current and active certification by the  
319 Behavior Analyst Certification Board as a Board Certified

320 Assistant Behavior Analyst (BCABA), verified by the Board; and

321 (c) Provide proof of ongoing supervision by a licensed  
322 behavior analyst.

323 (6) All licenses issued pursuant to this section shall be  
324 for a term of three (3) years, but shall not exceed the expiration  
325 of the licensee's certification by the Behavior Analyst  
326 Certification Board.

327 **SECTION 9. Waiver of eligibility requirements.** The board  
328 may waive the examination for licensure of any applicant who  
329 presents proof of current licensure in another state, including  
330 the District of Columbia, or territory of the United States which  
331 maintains professional standards considered by the board to be  
332 equivalent to those set forth in this chapter. The issuance of a  
333 license by reciprocity to a military-trained applicant or military  
334 spouse shall be subject to the provisions of Section 73-50-1.

335 **SECTION 10. Temporary licenses.** The board shall draft rules  
336 and regulations for the granting and renewal of temporary licenses



337 for applicants who have met all eligibility requirements for  
338 certification by the Behavior Analyst Certification Board, have  
339 taken a certification examination, and are awaiting results of the  
340 examination, but otherwise meet the requirements of this chapter.

341 **SECTION 11. License denial, suspension, or revocation.** (1)

342 The board, by an affirmative vote of at least three (3) of its  
343 five (5) members, shall withhold, deny, revoke or suspend any  
344 license issued or applied for in accordance with the provisions of  
345 this chapter, or otherwise discipline a licensed behavior analyst  
346 or licensed assistant behavior analyst upon finding that the  
347 applicant or licensee:

348 (a) Has violated the current Behavior Analyst  
349 Certification Board Professional Disciplinary and Ethical  
350 Standards, the Behavior Analyst Certification Board Guidelines for  
351 Responsible Conduct for Behavior Analysts, or other codes of  
352 ethical standards adopted by the board, or has lost or failed to  
353 renew certification by the Behavior Analyst Certification Board;  
354 or

355 (b) Has been convicted of a felony or any offense  
356 involving moral turpitude, the record of conviction being  
357 conclusive evidence thereof; or

358 (c) Is using any narcotic or any alcoholic beverage to  
359 an extent or in a manner dangerous to any other person or the  
360 public, or to an extent that such use impairs his ability to



361 perform the work of a licensed behavior analyst or licensed  
362 assistant behavior analyst; or

363 (d) Has impersonated another person holding a license  
364 issued under this chapter or allowed another person to use his  
365 license; or

366 (e) Has used fraud or deception in applying for a  
367 license provided for in this chapter; or

368 (f) Has accepted commissions or rebates or other forms  
369 of remuneration for referring clients to other professional  
370 persons; or

371 (g) Has allowed his name or license issued under this  
372 chapter to be used in connection with any person or persons who  
373 perform applied behavior analysis services outside the area of  
374 their training, experience or competence; or

375 (h) Is legally adjudicated mentally incompetent, the  
376 record of such adjudication being conclusive evidence thereof; or

377 (i) Has willfully or negligently violated any of the  
378 provisions of this chapter.

379 (2) The board may recover from any person disciplined under  
380 this chapter the costs of investigation, prosecution, and  
381 adjudication of the disciplinary action.

382 (3) Notice shall be effected by registered mail or personal  
383 service setting forth the particular reasons for the proposed  
384 action and fixing a date not less than thirty (30) days nor more  
385 than sixty (60) days from the date of such mailing or such





386 service, at which time the applicant or licensee shall be given an  
387 opportunity for a prompt and fair hearing. For the purpose of  
388 such hearing the board, acting by and through its executive  
389 secretary, may exercise all authority granted to conduct  
390 investigations and hearings pursuant to Section 6(2)(a) and (b) of  
391 this act. At such hearing the applicant or licensee may appear by  
392 counsel and personally on his own behalf. On the basis of any  
393 such hearing, or upon default of applicant or licensee, the board  
394 shall make a determination specifying its findings of fact and  
395 conclusions of law. A copy of such determination shall be sent by  
396 registered mail or served personally upon the applicant or  
397 licensee. The decision of the board denying, revoking or  
398 suspending the license shall become final thirty (30) days after  
399 so mailed or served unless within that period the licensee appeals  
400 the decision to the Chancery Court of Madison or Rankin Counties,  
401 pursuant to the provisions hereof, and the proceedings in chancery  
402 shall be conducted as other matters coming before the court. All  
403 proceedings and evidence, together with exhibits, presented at  
404 such hearing before the board in the event of appeal, shall be  
405 admissible in evidence in the court.

406 (4) Nothing in this subsection shall be interpreted to  
407 prohibit the board from immediately suspending any license prior  
408 to a hearing under subsection (3) of this section, when in its  
409 sole discretion the suspension is required for the instruction,  
410 safety or well-being of any member of the public.



411 (5) Every order and judgment of the board shall take effect  
412 immediately upon its promulgation unless the board in such order  
413 or judgment fixes a probationary period for applicant or licensee.  
414 Such order and judgment shall continue in effect unless upon  
415 appeal the court by proper order or decree terminates it earlier.  
416 The board may make public its order and judgments in such manner  
417 and form as it deems proper.

418 (6) Suspension by the board of a license issued under this  
419 chapter shall be for a period not to exceed one (1) year. At the  
420 end of this period the board shall reevaluate the suspension, and  
421 shall either reinstate or revoke the license. A person whose  
422 license has been revoked under the provisions of this section may  
423 reapply for license after more than two (2) years have elapsed  
424 from the date such revocation is legally effective.

425 (7) In addition to the reasons specified in subsection (1)  
426 of this section, the board shall be authorized to suspend the  
427 license of any licensee for being out of compliance with an order  
428 for support, in compliance with the procedures set forth in  
429 Sections 93-11-151 through 93-11-163.

430 **SECTION 12. Procedure and fees for renewal.** (1) Except as  
431 provided in Section 33-1-39, every applicant for license or  
432 renewal pursuant to this chapter shall pay to the board a fee  
433 determined by the board, but not to exceed:



434 (a) Two Hundred Fifty Dollars (\$250.00), in addition to  
435 the cost of obtaining the criminal history record, for behavior  
436 analysts; and

437 (b) Hundred Dollars (\$100.00), in addition to the cost  
438 of obtaining the criminal history record, for assistant behavior  
439 analysts.

440 (2) Individuals licensed pursuant to this chapter shall  
441 apply for renewal every three (3) years, or upon renewal of  
442 certification by the Behavior Analyst Certification Board, have  
443 current certification by the Behavior Analyst Certification Board  
444 verified by the board, and present evidence of the satisfactory  
445 completion of continuing education requirements as determined by  
446 the board. The board shall issue a renewal of the license for a  
447 term of three (3) years to any licensee complying with the  
448 requirements of this section.

449 (3) A lapsed license under this chapter may be renewed  
450 within a period of two (2) years after the lapse, upon payment of  
451 all fees in arrears and verification by the board that the  
452 applicant is currently certified by the Behavior Analyst  
453 Certification Board. An individual wishing to renew a license  
454 that has been lapsed for more than two (2) years shall be required  
455 to reapply for licensure.

456 **SECTION 13. Duty to register behavior technicians.** Licensed  
457 behavior analysts and licensed assistant behavior analysts must  
458 register with the board all behavior technicians providing



459 services under their supervision. The licensed behavior  
460 analyst or licensed assistant behavior analyst shall update the  
461 board of the termination of supervision as required by the board.

462 **SECTION 14. Offenses and penalties.** Any person who violates  
463 any provision of this chapter shall, upon conviction, be guilty of  
464 a misdemeanor and shall be punished by a fine of not more than One  
465 Thousand Dollars (\$1,000.00) or imprisoned in the county jail for  
466 a period not exceeding six (6) months, or both.

467 **SECTION 15. Fees deposited in special fund.** All fees  
468 collected by the board under this chapter and any penalties  
469 collected by the board for violations of this chapter shall be  
470 deposited in a special fund hereby created in the State Treasury  
471 and shall be used for the implementation and administration of  
472 this chapter when appropriated by the Legislature for such  
473 purpose.

474 **SECTION 16.** (1) Section 1 of this act shall be codified as  
475 a new section in Chapter 9, Title 83, Mississippi Code of 1972.

476 (2) Sections 2 through 15 of this act shall be codified as a  
477 new chapter in Title 73, Mississippi Code of 1972.

478 **SECTION 17.** This act shall take effect and be in force from  
479 and after July 1, 2015.

