

By: Representatives Hopkins, Criswell

To: Public Health and Human Services

HOUSE BILL NO. 549

1 AN ACT TO REPEAL SECTION 41-3-59, MISSISSIPPI CODE OF 1972,
 2 WHICH ESTABLISHES CRIMINAL PENALTIES FOR VIOLATIONS OF CERTAIN
 3 PUBLIC HEALTH STATUTES AND RULES AND REGULATIONS ADOPTED BY THE
 4 STATE BOARD OF HEALTH FOR THE PREVENTION OF DISEASE AND PROTECTION
 5 OF HEALTH; TO REPEAL SECTION 41-23-2, MISSISSIPPI CODE OF 1972,
 6 WHICH ESTABLISHES CRIMINAL PENALTIES FOR VIOLATIONS OF ORDERS
 7 ADOPTED BY THE STATE HEALTH OFFICER BY PERSONS AFFLICTED WITH A
 8 LIFE-THREATENING COMMUNICABLE DISEASE; TO AMEND SECTIONS 13-1-21,
 9 41-9-65, 41-67-28 AND 75-29-951, MISSISSIPPI CODE OF 1972, IN
 10 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 11 PURPOSES.

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

13 **SECTION 1.** Section 41-3-59, Mississippi Code of 1972, which
 14 establishes criminal penalties for violations of certain public
 15 health statutes and rules and regulations adopted by the State
 16 Board of Health for the prevention of disease and protection of
 17 health, is repealed.

18 **SECTION 2.** Section 41-23-2, Mississippi Code of 1972, which
 19 establishes criminal penalties for violations of orders adopted by
 20 the State Health Officer by persons afflicted with a
 21 life-threatening communicable disease, is repealed.



22 **SECTION 3.** Section 13-1-21, Mississippi Code of 1972, is
23 amended as follows:

24 13-1-21. (1) All communications made to a physician,
25 osteopath, dentist, hospital, nurse, pharmacist, podiatrist,
26 optometrist or chiropractor by a patient under his charge or by
27 one seeking professional advice are hereby declared to be
28 privileged, and such party shall not be required to disclose the
29 same in any legal proceeding except at the instance of the patient
30 or, in case of the death of the patient, at the instance of his
31 personal representative or legal heirs in case there be no
32 personal representative, or except, if the validity of the will of
33 the decedent is in question, at the instance of the personal
34 representative or any of the legal heirs or any contestant or
35 proponent of the will.

36 (2) Waiver of the medical privilege of patients regarding
37 the release of medical information to health care personnel, the
38 State Board of Health or local health departments, made to comply
39 with Sections 41-3-15 * * * and 41-23-1 * * * and related rules,
40 shall be implied. The medical privilege likewise shall be waived
41 to allow any physician, osteopath, dentist, hospital, nurse,
42 pharmacist, podiatrist, optometrist or chiropractor to report to
43 the State Department of Health necessary information regarding any
44 person afflicted with any communicable disease or infected with
45 the causative agent thereof who neglects or refuses to comply with



46 accepted protective measures to prevent the transmission of the
47 communicable disease.

48 (3) Willful violations of the provisions of this section
49 shall constitute a misdemeanor and shall be punishable as provided
50 for by law. Any physician, osteopath, dentist, hospital, nurse,
51 pharmacist, podiatrist, optometrist, or chiropractor shall be
52 civilly liable for damages for any willful or reckless and wanton
53 acts or omissions constituting such violations.

54 (4) In any action commenced or claim made after July 1,
55 1983, against a physician, hospital, hospital employee, osteopath,
56 dentist, nurse, pharmacist, podiatrist, optometrist or
57 chiropractor for professional services rendered or which should
58 have been rendered, the delivery of written notice of such claim
59 or the filing of such an action shall constitute a waiver of the
60 medical privilege and any medical information relevant to the
61 allegation upon which the cause of action or claim is based shall
62 be disclosed upon the request of the defendant, or his or her
63 counsel.

64 (5) In any disciplinary action commencing on or after July
65 1, 1987, against a medical physician, an osteopathic physician or
66 a podiatrist pursuant to the provisions of Sections 73-25-1
67 through 73-25-39, 73-25-51 through 73-25-67, 73-25-81 through
68 73-25-95 and 73-27-1 through 73-27-19, waiver of the medical
69 privilege of a patient to the extent of any information other than
70 that which would identify the patient shall be implied.



71 **SECTION 4.** Section 41-9-65, Mississippi Code of 1972, is
72 amended as follows:

73 41-9-65. (1) Hospital records are and shall remain the
74 property of the various hospitals, subject however to reasonable
75 access to the information contained in the records upon good cause
76 shown by the patient, his personal representatives or heirs, his
77 attending medical personnel and his duly authorized nominees, and
78 upon payment of any reasonable charges for that service. Nothing
79 in this section shall be construed to deny access to hospital
80 records by representatives and officials of the State Department
81 of Health, in the discharge of their official duties, under
82 Sections 41-3-15 * * * and 41-23-1 * * *.

83 (2) Nothing in this section shall be construed to prevent an
84 heir from obtaining access to a decedent's medical records under
85 Section 41-10-3.

86 **SECTION 5.** Section 41-67-28, Mississippi Code of 1972, is
87 amended as follows:

88 41-67-28. (1) Except as otherwise provided in this chapter,
89 any person who shall knowingly violate this chapter or any rule or
90 regulation or written order of the board in pursuance thereof is,
91 upon conviction, guilty of a misdemeanor * * *.

92 (2) Each day of a continuing violation is a separate
93 violation.

94 (3) (a) In addition to all other statutory and common law
95 rights, remedies and defenses, any person who purchases an



96 individual on-site wastewater disposal system and suffers any
97 ascertainable loss of money or property, real or personal, may
98 bring an action at law in the court having jurisdiction in the
99 county in which the installer or manufacturer has the principal
100 place of business, where the act allegedly occurred, to recover
101 any loss of money or damages for the loss of any property
102 resulting from any of the following:

103 (i) Improper installation of an individual on-site
104 wastewater disposal system due to faulty workmanship;

105 (ii) Failure of an individual on-site wastewater
106 disposal system to operate properly due to failure to install the
107 system in accordance with any requirements of the manufacturer or
108 in compliance with any rules and regulations of the board; or

109 (iii) Failure of an individual on-site wastewater
110 disposal system to operate properly due to installation.

111 (b) Nothing in this chapter shall be construed to
112 permit any class action or suit, but every private action must be
113 maintained in the name of and for the sole use and benefit of the
114 individual person.

115 (4) A person who violates this chapter thereby causing a
116 discharge off the property of the generator shall be liable to the
117 party aggrieved or damaged by that violation for the actual
118 damages and additional punitive damages equal to a maximum of
119 twenty-five percent (25%) of the actual damages proven by the
120 aggrieved party, to be taxed by the court where the suit is heard



121 on an original action, by appeal or otherwise and recovered by a
122 suit at law in any court of competent jurisdiction. In addition,
123 the court may award the prevailing party reasonable attorney's
124 fees and court costs. Before filing suit, the party aggrieved or
125 damaged must give thirty (30) days' written notice of its intent
126 to file suit to the alleged violator.

127 (5) (a) Any person who violates Section 41-67-7(5) or
128 41-67-11(2) may be assessed an administrative fine in the amount
129 of Five Hundred Dollars (\$500.00), and the public water system may
130 discontinue service to that property owner until the failure to
131 comply with Section 41-67-7(5) or 41-67-11(2) has been corrected.

132 (b) All violators shall be given thirty (30) days'
133 notice before any adverse action.

134 (c) Any violator shall have the right to appeal an
135 adverse determination through the procedures set out in Section
136 41-67-29.

137 **SECTION 6.** Section 75-29-951, Mississippi Code of 1972, is
138 amended as follows:

139 75-29-951. (1) (a) A cottage food operation must comply
140 with the applicable requirements of this section but is exempt
141 from the permitting requirements of Section 41-3-18 if the cottage
142 food operation complies with this section and has annual gross
143 sales of cottage food products that do not exceed Thirty-five
144 Thousand Dollars (\$35,000.00).



145 (b) For purposes of this subsection, a cottage food
146 operation's annual gross sales include all sales of cottage food
147 products at any location, regardless of the types of products sold
148 or the number of persons involved in the operation. A cottage
149 food operation must provide the department, upon request, with
150 written documentation to verify the operation's annual gross
151 sales.

152 (2) A cottage food operation may not sell cottage food
153 products over the Internet, by mail order, or at wholesale or to a
154 retail establishment; however, this does not prohibit the
155 advertising of cottage food products over the Internet, including
156 through social media. Cottage food products are nonpotentially
157 hazardous food products as defined by the department.

158 (3) A cottage food operation may only sell cottage food
159 products which are prepackaged with a label affixed that contains
160 the following information:

161 (a) The name and address of the cottage food operation;

162 (b) The name of the cottage food product;

163 (c) The ingredients of the cottage food product, in
164 descending order of predominance by weight;

165 (d) The net weight or net volume of the cottage food
166 product;

167 (e) Allergen information as specified by federal
168 labeling requirements;



169 (f) Appropriate nutritional information as specified by
170 federal labeling requirements, if any nutritional claim is made;
171 and

172 (g) The following statement printed in at least
173 ten-point type in a color that provides a clear contrast to the
174 background of the label: "Made in a cottage food operation that
175 is not subject to Mississippi's food safety regulations."

176 (4) This section does not exempt a cottage food operation
177 from any federal tax law, rule, regulation, or certificate that
178 applies to all cottage food operations.

179 (5) (a) The department may investigate any complaint that
180 alleges that a cottage food operation has violated an applicable
181 provision of this section or rule adopted under this section.

182 (b) Only upon receipt of a complaint, the department's
183 authorized officer or employee may enter and inspect the premises
184 of a cottage food operation to determine compliance with this
185 section and department rules. A cottage food operation's refusal
186 to permit the department's authorized officer or employee entry to
187 the premises or to conduct the inspection is grounds for
188 disciplinary action * * *.

189 (6) This section does not apply to a person operating under
190 a food permit issued pursuant to Section 41-3-18.

191 **SECTION 7.** This act shall take effect and be in force from
192 and after July 1, 2022.

