

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2433

1 AN ACT TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE AUTOMATIC REPEALER ON THE STATUTE PROVIDING FOR
3 EXEMPTION FROM CHILD-CARE FACILITY LICENSURE FOR CERTAIN
4 ACCREDITED PROGRAMS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-20-5, Mississippi Code of 1972, is
7 amended as follows:

8 43-20-5. When used in this chapter, the following words
9 shall have the following meanings:

10 (a) "Child-care facility" means a place which provides
11 shelter and personal care for six (6) or more children who are not
12 related within the third degree computed according to the civil
13 law to the operator and who are under thirteen (13) years of age,
14 for any part of the twenty-four-hour day, whether such place be
15 organized or operated for profit or not. The term "child-care
16 facility" includes day nurseries, day care centers and any other
17 facility that falls within the scope of the definitions set forth
18 above, regardless of auspices. Exemptions from the provisions of
19 this chapter include:

20 (i) Child-care facilities which operate for no
21 more than two (2) days a week, whose primary purpose is to provide
22 respite for the caregiver or temporary care during other scheduled
23 or related activities and organized programs which operate for
24 three (3) or less weeks per year such as, but not limited to,
25 vacation bible schools and scout day camps.

26 (ii) Any child residential home as defined in, and
27 in compliance with the provisions of, Section 43-16-3(b) et seq.

28 (iii) 1. Any elementary, including kindergarten,
29 and/or secondary school system, accredited by the Mississippi
30 State Department of Education, the Southern Association of
31 Colleges and Schools, the Mississippi Private School Education
32 Association, the American Association of Christian Schools, the
33 Association of Christian Schools International, and any Head Start
34 program operating in conjunction with an elementary school system,
35 whether it be public, private or parochial, whose primary purpose
36 is a structured school or school readiness program.

37 2. Accreditation, for the purpose of
38 exemption from the provisions of this chapter, means: a. receipt
39 by any school or school system of full accreditation from an
40 accrediting entity listed in item 1 of this subparagraph (iii), or
41 b. proof of application by the school or school system for
42 accreditation status from the accrediting entity. Proof of
43 application for accreditation status shall include, but not be
44 limited to, a copy of the applicant's completed application for
45 accreditation filed with the licensing agency and a letter or
46 other authenticating documentation from a signatory authority with
47 the accrediting entity that the application for accreditation has
48 been received and that the applicant is currently under
49 consideration or review for full accreditation status by the
50 accrediting entity. An exemption for a nonaccredited applicant
51 under this item 2 shall be for a maximum of one (1) year from the
52 receipt date by the licensing agency of the completed
53 documentation for proof of application for accreditation status.
54 Failure to receive full accreditation by the end of the one-year
55 exemption period for a nonaccredited applicant shall result in the
56 nonaccredited applicant no longer remaining exempt from the
57 provisions of this chapter at the end of the one-year period.
58 However, if full accreditation is not received by the end of the
59 one-year exemption period, the State Board of Health, in its
60 discretion, may extend the exemption period for any nonaccredited

61 applicant for periods of six (6) months, with the total extension
62 not to exceed one (1) year. During any such extension periods,
63 the board shall have the authority to enforce child-care facility
64 licensure provisions relating to the health and safety of the
65 children in the school or school system. If a nonaccredited
66 applicant fails to receive full accreditation by the end of all
67 extended exemption periods, the applicant shall no longer remain
68 exempt from the provisions of this chapter at the end of the
69 extended exemption periods. This item 2 shall stand repealed on
70 July 1, 2006.

71 (iv) Any membership organization affiliated with a
72 national organization which charges only a nominal annual
73 membership fee, does not receive monthly, weekly or daily payments
74 for services, and is certified by its national association as
75 being in compliance with the association's minimum standards and
76 procedures, including, but not limited to, the Boys and Girls Club
77 of America, and the YMCA.

78 (v) Any family child-care home as defined in
79 Section 43-20-53(a) et seq.

80 All other preschool child-care programs and/or extended day
81 school programs must meet requirements set forth in this chapter.

82 (b) "Health" means that condition of being sound in
83 mind and body and encompasses an individual's physical, mental and
84 emotional welfare.

85 (c) "Safety" means that condition of being protected
86 from hurt, injury or loss.

87 (d) "Person" means any person, firm, partnership,
88 corporation or association.

89 (e) "Operator" means any person, acting individually or
90 jointly with another person or persons, who shall establish, own,
91 operate, conduct or maintain a child-care facility. The
92 child-care facility license shall be issued in the name of the
93 operator, or, if there is more than one (1) operator, in the name

94 of one (1) of the operators. If there is more than one (1)
95 operator, all statutory and regulatory provisions concerning the
96 background checks of operators shall be equally applied to all
97 operators of a facility, including, but not limited to, a spouse
98 who jointly owns, operates or maintains the child-care facility
99 regardless of which particular person is named on the license.

100 (f) "Personal care" means assistance rendered by
101 personnel of the child-care facility in performing one or more of
102 the activities of daily living, which includes, but is not limited
103 to, the feeding, personal grooming, supervising and dressing of
104 children placed in the child-care facility.

105 (g) "Licensing agency" means the Mississippi State
106 Department of Health.

107 (h) "Caregiver" means any person who provides direct
108 care, supervision or guidance to children in a child-care
109 facility, regardless of title or occupation.

110 **SECTION 2.** This act shall take effect and be in force from
111 and after June 30, 2004.