

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2433
(As Passed the Senate)

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; TO AMEND SECTION 43-20-12, MISSISSIPPI CODE
5 OF 1972, TO PROVIDE THAT FEES COLLECTED BY THE STATE BOARD OF
6 HEALTH FOR CHILD CARE LICENSURE SHALL BE DEPOSITED INTO THE STATE
7 GENERAL FUND; AND FOR RELATED PURPOSES.

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

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

11 43-20-5. When used in this chapter, the following words
12 shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

90 (d) "Person" means any person, firm, partnership,
91 corporation or association.

92 (e) "Operator" means any person, acting individually or
93 jointly with another person or persons, who shall establish, own,
94 operate, conduct or maintain a child-care facility. The

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

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

108 (g) "Licensing agency" means the Mississippi State
109 Department of Health.

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

113 **SECTION 2.** Section 43-20-12, Mississippi Code of 1972, is
114 amended as follows:

115 43-20-12. All fees collected by the State Board of Health
116 under this chapter and any penalties collected by the board for
117 violations of this chapter shall be deposited into the State
118 General Fund * * *.

119 **SECTION 3.** This act shall take effect and be in force from
120 and after June 30, 2004.