

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1162

1 AN ACT TO AMEND SECTION 43-20-5, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT FROM LICENSURE UNDER THE CHILD CARE FACILITIES LICENSURE
3 LAW ELEMENTARY AND/OR SECONDARY SCHOOL PROGRAMS OPERATED BY A
4 NONPROFIT ENTITY UNDER THE AUSPICES OF AND ON THE SITE OF A
5 CHURCH, WHOSE PRIMARY PURPOSE IS A STRUCTURED SCHOOL OR SCHOOL
6 READINESS PROGRAM; AND FOR RELATED PURPOSES.

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

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

10 43-20-5. When used in this chapter, the following words
11 shall have the following meanings:

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

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

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

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

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

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

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

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

82 (vi) Any elementary, including kindergarten,
83 and/or secondary school program operated by a nonprofit entity
84 under the auspices of and on the site of a church, whose primary
85 purpose is a structured school or school readiness program.

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

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

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

93 (d) "Person" means any person, firm, partnership,
94 corporation or association.

95 (e) "Operator" means any person, acting individually or
96 jointly with another person or persons, who establishes, owns,
97 operates, conducts or maintains a child-care facility. The
98 child-care facility license shall be issued in the name of the
99 operator, or, if there is more than one (1) operator, in the name
100 of one (1) of the operators. If there is more than one (1)
101 operator, all statutory and regulatory provisions concerning the
102 background checks of operators shall be equally applied to all
103 operators of a facility including, but not limited to, a spouse
104 who jointly owns, operates or maintains the child-care facility
105 regardless of which particular person is named on the license.

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

111 (g) "Licensing agency" means the Mississippi State
112 Department of Health.

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

116 **SECTION 2.** This act shall take effect and be in force from
117 and after July 1, 2005.