

By: Representatives Formby, Arnold, Barnett, Bomgar, Boyd, Brown, Byrd, Carpenter, Chism, Criswell, Currie, Eubanks, Foster, Frierson, Gipson, Guice, Hale, Hopkins, Horne, Johnson (87th), Kinkade, Mangold, Moore, Oliver, Read, Rushing, Tullos, Zuber, Staples, Smith, Busby, Roberson, Crawford, Henley To: Education

HOUSE BILL NO. 938

1 AN ACT TO AMEND SECTION 41-23-37, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE AUTHORITY FOR PARENTS OR GUARDIANS OF SCHOOL-AGE
 3 CHILDREN TO OBTAIN LETTERS OF EXEMPTION FROM VACCINATIONS OR
 4 LIMITING THE NUMBER OF VACCINATIONS FOR MEDICAL REASONS IN ORDER
 5 FOR THE CHILD TO ATTEND SCHOOL; TO PROVIDE THAT IN ORDER TO CLAIM
 6 AN EXEMPTION FROM A REQUIRED VACCINATION FOR MEDICAL REASONS, THE
 7 CHILD'S PARENT OR GUARDIAN MUST PRESENT A LETTER FROM A PHYSICIAN
 8 STATING THAT THE REQUIRED VACCINE IS MEDICALLY CONTRAINDICATED OR
 9 POSES A SIGNIFICANT RISK TO OR WOULD BE INJURIOUS TO THE HEALTH
 10 AND WELL-BEING OF THE CHILD OR ANY MEMBER OF THE CHILD'S
 11 HOUSEHOLD; TO PROVIDE THAT EXEMPTIONS FROM VACCINATIONS FOR
 12 MEDICAL REASONS WILL BE VALID THE DURATION OF THE CHILD'S
 13 ATTENDANCE IN A SCHOOL DISTRICT; TO PROVIDE THAT THE OPINION OF
 14 THE PHYSICIAN WHO SIGNED THE LETTER IS FINAL AND THE SCHOOL TO
 15 WHICH THE LETTER IS PRESENTED MUST ACCEPT THE LETTER; AND FOR
 16 RELATED PURPOSES.

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

18 **SECTION 1.** Section 41-23-37, Mississippi Code of 1972, is
 19 amended as follows:

20 41-23-37. (1) Whenever indicated, the State Health Officer
 21 shall specify such immunization practices as may be considered
 22 best for the control of vaccine preventable diseases. A listing
 23 shall be promulgated annually or more often, if necessary.

24 (2) Except as provided * * * in this section, it shall be
 25 unlawful for any child to attend any school, kindergarten or



26 similar type facility intended for the instruction of children
27 (hereinafter called "schools"), either public or private, with the
28 exception of any legitimate home instruction program, as defined
29 in Section 37-13-91 * * * for ten (10) or * * * fewer children who
30 are related within the third degree computed according to the
31 civil law to the operator, unless they * * * have a certificate of
32 vaccination or have submitted to the school a letter of exemption
33 from vaccination.

34 (3) (a) A letter of exemption from vaccination or a letter
35 limiting the number of vaccinations for medical reasons that meets
36 the requirements of this subsection written on the stationery of a
37 physician may be * * * presented to the school on behalf of a
38 child * * * by the child's parent or guardian.

39 (b) To claim an exemption from a required vaccination
40 for medical reasons, the parent or guardian of the child must
41 present a letter written on the stationery of a physician (M.D. or
42 D.O.), who is duly registered and licensed to practice medicine in
43 the United States and who has examined the child, in which it is
44 stated that, in the physician's medical judgment and opinion, the
45 required vaccine is medically contraindicated or poses a
46 significant risk to or would be injurious to the health and
47 well-being of the child or any member of the child's household.
48 Unless it is written in the letter that a lifelong condition
49 exists, the letter of exemption is valid for the duration of the
50 child's attendance in the school district. If a child is



51 transferred to a new school district, the provisions of this
52 subsection must be met for enrollment and admission in that school
53 district.

54 (c) If a letter of exemption from vaccination or letter
55 limiting the number of vaccinations meets the requirements of this
56 subsection, the opinion of the physician who signed the letter of
57 exemption is final and may be not contradicted or rejected by the
58 local health officer or the State Department of Health, and the
59 school to which the certificate is presented must accept the
60 letter of exemption.

61 (4) Certificates of vaccination shall be issued by local
62 health officers or physicians on forms specified by the
63 Mississippi State Board of Health. These forms shall be the only
64 acceptable means for showing compliance with * * * the
65 immunization requirements of this section, and the responsible
66 school officials shall file the form with the child's record.

67 (5) If a child * * * offers to enroll at a school without
68 having completed the required vaccinations or submitting a letter
69 of exemption from vaccination or a letter limiting the number of
70 vaccinations, the local health officer may grant a period of time
71 up to ninety (90) days for * * * that completion when, in the
72 opinion of the health officer, such delay will not cause undue
73 risk to the child, the school or the community. No child without
74 a certificate of exemption from vaccination or letter limiting the



75 number of vaccinations shall be enrolled without having had at
76 least one (1) dose of each specified vaccine.

77 (6) Within thirty (30) days after the opening of the fall
78 term of school (on or before October 1 of each year) the person in
79 charge of each school shall report to the county or local health
80 officer, on forms provided by the Mississippi State Board of
81 Health, the number of children enrolled by age or grade or both,
82 the number fully vaccinated, the number in process of completing
83 vaccination requirements, and the number exempt from vaccination
84 by reason * * * of a letter of exemption.

85 (7) Within one hundred twenty (120) days after the opening
86 of the fall term (on or before December 31), the person in charge
87 of each school shall certify to the local or county health officer
88 that all children enrolled are in compliance with the immunization
89 requirements of this section or have submitted a letter of
90 exemption from vaccination or a letter limiting the number of
91 vaccinations.

92 (8) For the purpose of assisting in supervising the
93 immunization status of the children the local health officer, or
94 his designee, may inspect the children's records or be furnished
95 certificates of * * * vaccination compliance by the school.

96 (9) It shall be the responsibility of the person in charge
97 of each school to enforce the requirements for immunization and
98 exemption from vaccination. Any child not in compliance at the
99 end of ninety (90) days from the opening of the fall term must be



100 suspended until in compliance, unless the health officer * * *
101 attributes the delay to lack of supply of vaccine or some other
102 such factor clearly making compliance impossible.

103 (10) Failure to enforce provisions of this * * * section
104 shall constitute a misdemeanor and, upon conviction, be punishable
105 by fine or imprisonment or both.

106 * * *

107 **SECTION 2.** This act shall take effect and be in force from
108 and after July 1, 2016.

