

By: Senator(s) Simmons (12th)

To: Labor; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2173

1 AN ACT TO AMEND SECTION 71-1-1, MISSISSIPPI CODE OF 1972, TO
2 EMPOWER THE STATE BOARD OF HEALTH TO ESTABLISH AN OFFICE OF
3 WORKPLACE SAFETY AND HEALTH; TO REGULATE OCCUPATIONAL HEALTH AND
4 SAFETY STANDARDS IN THE STATE OF MISSISSIPPI; TO PRESCRIBE ITS
5 POWERS AND RESPONSIBILITIES; TO AMEND SECTIONS 71-1-25 AND
6 71-1-27, MISSISSIPPI CODE OF 1972, TO EMPOWER THE OFFICE OF
7 WORKPLACE SAFETY AND HEALTH TO ENFORCE CHILD LABOR LAWS IN THE
8 STATE OF MISSISSIPPI; TO PRESCRIBE ITS POWERS AND
9 RESPONSIBILITIES; TO AMEND SECTION 41-3-15, IN CONFORMITY; AND FOR
10 RELATED PURPOSES.

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

12 **SECTION 1.** Section 71-1-1, Mississippi Code of 1972, is
13 amended as follows:

14 71-1-1. (1) The State Board of Health is empowered to
15 establish an Office of Workplace Safety and Health within the
16 Mississippi Department of Health to implement the programs
17 prescribed under this section and by law.

18 (2) The Office of Workplace Safety and Health of the State
19 Department of Health is authorized to establish an occupational
20 health and safety program and is empowered:

21 (a) To employ such qualified personnel as staff to
22 carry out the duties and responsibilities set forth herein;



23 (b) To develop and make available upon request to all
24 employers of the state, including public employers, information,
25 consultation and assistance related to safety and health laws,
26 regulations, measures and standards; to participate and assist
27 with training and educational programs, directed toward employee
28 safety and disease prevention;

29 (c) To employ such personnel and procure such equipment
30 as necessary to provide on-site consultative services related to
31 assistance, information, education or training of employers and
32 employees toward compliance with safety and health standards and
33 toward the establishment of safety and health programs to prevent
34 work-connected disabilities;

35 (d) To collect, compile and report statistics related
36 to work-connected disabilities in Mississippi; such statistical
37 work shall be performed in cooperation with other
38 statistic-gathering agencies with the federal and state
39 governments. Such statistical reports as may be available shall
40 be made known to employers and employees * * *;

41 (e) To receive such federal or state grants and
42 appropriations as available to further the education, training and
43 assistance to the employers and employees of Mississippi in
44 preventing work-connected disabilities * * *;

45 (f) Nothing in this section shall be construed as
46 authorizing the * * * Office of Workplace Safety and Health to
47 administer or enforce in any way the Federal Occupational Safety



48 and Health Act, known as OSHA; however, the Office of Workplace
49 Safety and Health may coordinate its inspections, activities and
50 employee functions with those of the Federal OSHA.

51 (3) In addition to such other duties and powers as may be
52 conferred by law, the Office of Workplace Safety and Health of the
53 Department of Health shall have the power, jurisdiction and
54 authority to:

55 (a) Make and promulgate such rules, or changes in
56 rules, as it may deem advisable for the prevention of accidents or
57 the prevention of industrial or occupational diseases in every
58 employment or place of employment, and such rule, or changes in
59 rules, for the construction, repair and maintenance of places of
60 employment, places of public assembly, and public buildings as it
61 may deem advisable to render them safe. The division may appoint
62 committees composed of employers, employees and experts to suggest
63 rules or changes therein;

64 (b) Order such reasonable changes in the construction,
65 maintenance and repair of places of employment as shall render
66 them safe; and

67 (c) Require the performance of any act necessary for
68 the protection of life, health and safety of employees.

69 **SECTION 2.** Section 71-1-25, Mississippi Code of 1972, is
70 amended as follows:

71 71-1-25. (1) It shall be the duty of the Office of
72 Workplace Safety and Health of the Department of Health to inspect



73 employers under its jurisdiction for compliance with the child
74 labor provisions of the Mississippi Code of 1972.

75 (2) It shall be the duty of the * * * Office of Workplace
76 Safety and Health to visit, without notice of * * * its intention
77 to do so, all mills, canneries, workshops, factories, or
78 manufacturing establishments employing child labor * * * at least
79 twice each year, or oftener if requested by the sheriff, and to
80 promptly report to the sheriff any unsanitary condition of the
81 premises, any child or children afflicted with infectious,
82 contagious, or communicable diseases, or whose physical condition
83 renders such child or children incapacitated to perform the work
84 required of them. The sheriff shall promptly remove such child or
85 children from such mill, cannery, workshop, factory, or
86 manufacturing establishment, and order the premises put in
87 sanitary condition. The judgment of the * * * Office of Workplace
88 Safety and Health as to the physical condition of the children and
89 the sanitary condition of the premises shall be final and
90 conclusive.

91 (3) Every employer shall furnish employment which shall be
92 reasonably safe for the employees therein, shall furnish and use
93 safety devices and safeguards, shall adopt and use methods and
94 processes reasonably adequate to render such an employment and
95 place of employment safe, and shall do every other thing
96 reasonably necessary to protect the life, health, safety and
97 welfare of such employees; provided that, as used in this chapter,



98 the term "safe" or "safety" as applied to any employment or place
99 of employment shall include conditions and methods of sanitation
100 and hygiene reasonably necessary for the protection of the life,
101 health, safety and welfare of employees.

102 (4) Every employer and every owner of a place of employment,
103 place of public assembly, or public building, now or hereafter
104 constructed, shall so construct, repair and maintain the same as
105 to render it reasonably safe.

106 **SECTION 3.** Section 71-1-27, Mississippi Code of 1972, is
107 amended as follows:

108 71-1-27. Any officer, manager, or superintendent of any
109 mill, cannery, workshop, factory, or manufacturing establishment
110 in which child labor is employed who shall fail or refuse to give
111 true and correct information demanded of him by any officer
112 hereinbefore directed to inspect such mill, cannery, workshop,
113 factory, or manufacturing establishment, or who shall fail or
114 refuse to obey any lawful order of the Office of Workplace Safety
115 and Health or the sheriff * * * of the county in which said mill,
116 cannery, workshop, factory, or manufacturing establishment is
117 located for carrying out the purpose of this chapter, shall be
118 guilty of a misdemeanor and, upon conviction, shall be fined not
119 less than * * * One Hundred Dollars (\$100.00) nor more than * * *
120 One Thousand Dollars (\$1,000.00).

121 **SECTION 4.** Section 41-3-15, Mississippi Code of 1972, is
122 amended as follows:



123 41-3-15. (1) (a) There shall be a State Department of
124 Health.

125 (b) The State Board of Health shall have the following
126 powers and duties:

127 (i) To formulate the policy of the State
128 Department of Health regarding public health matters within the
129 jurisdiction of the department;

130 (ii) To adopt, modify, repeal and promulgate,
131 after due notice and hearing, and enforce rules and regulations
132 implementing or effectuating the powers and duties of the
133 department under any and all statutes within the department's
134 jurisdiction, and as the board may deem necessary;

135 (iii) To apply for, receive, accept and expend any
136 federal or state funds or contributions, gifts, trusts, devises,
137 bequests, grants, endowments or funds from any other source or
138 transfers of property of any kind;

139 (iv) To enter into, and to authorize the executive
140 officer to execute contracts, grants and cooperative agreements
141 with any federal or state agency or subdivision thereof, or any
142 public or private institution located inside or outside the State
143 of Mississippi, or any person, corporation or association in
144 connection with carrying out the provisions of this chapter, if it
145 finds those actions to be in the public interest and the contracts
146 or agreements do not have a financial cost that exceeds the
147 amounts appropriated for those purposes by the Legislature;



148 (v) To appoint, upon recommendation of the
149 Executive Officer of the State Department of Health, a Director of
150 Internal Audit who shall be either a Certified Public Accountant
151 or Certified Internal Auditor, and whose employment shall be
152 continued at the discretion of the board, and who shall report
153 directly to the board, or its designee; and

154 (vi) To discharge such other duties,
155 responsibilities and powers as are necessary to implement the
156 provisions of this chapter.

157 (c) The Executive Officer of the State Department of
158 Health shall have the following powers and duties:

159 (i) To administer the policies of the State Board
160 of Health within the authority granted by the board;

161 (ii) To supervise and direct all administrative
162 and technical activities of the department, except that the
163 department's internal auditor shall be subject to the sole
164 supervision and direction of the board;

165 (iii) To organize the administrative units of the
166 department in accordance with the plan adopted by the board and,
167 with board approval, alter the organizational plan and reassign
168 responsibilities as he or she may deem necessary to carry out the
169 policies of the board;

170 (iv) To coordinate the activities of the various
171 offices of the department;



172 (v) To employ, subject to regulations of the State
173 Personnel Board, qualified professional personnel in the subject
174 matter or fields of each office, and such other technical and
175 clerical staff as may be required for the operation of the
176 department. The executive officer shall be the appointing
177 authority for the department, and shall have the power to delegate
178 the authority to appoint or dismiss employees to appropriate
179 subordinates, subject to the rules and regulations of the State
180 Personnel Board;

181 (vi) To recommend to the board such studies and
182 investigations as he or she may deem appropriate, and to carry out
183 the approved recommendations in conjunction with the various
184 offices;

185 (vii) To prepare and deliver to the Legislature
186 and the Governor on or before January 1 of each year, and at such
187 other times as may be required by the Legislature or Governor, a
188 full report of the work of the department and the offices thereof,
189 including a detailed statement of expenditures of the department
190 and any recommendations the board may have;

191 (viii) To prepare and deliver to the Chairmen of
192 the Public Health and Welfare/Human Services Committees of the
193 Senate and House on or before January 1 of each year, a plan for
194 monitoring infant mortality in Mississippi and a full report of
195 the work of the department on reducing Mississippi's infant



196 mortality and morbidity rates and improving the status of maternal
197 and infant health; and

198 (ix) To enter into contracts, grants and
199 cooperative agreements with any federal or state agency or
200 subdivision thereof, or any public or private institution located
201 inside or outside the State of Mississippi, or any person,
202 corporation or association in connection with carrying out the
203 provisions of this chapter, if he or she finds those actions to be
204 in the public interest and the contracts or agreements do not have
205 a financial cost that exceeds the amounts appropriated for those
206 purposes by the Legislature. Each contract or agreement entered
207 into by the executive officer shall be submitted to the board
208 before its next meeting.

209 (2) The State Board of Health shall have the authority to
210 establish an Office of Rural Health within the department. The
211 duties and responsibilities of this office shall include the
212 following:

213 (a) To collect and evaluate data on rural health
214 conditions and needs;

215 (b) To engage in policy analysis, policy development
216 and economic impact studies with regard to rural health issues;

217 (c) To develop and implement plans and provide
218 technical assistance to enable community health systems to respond
219 to various changes in their circumstances;



220 (d) To plan and assist in professional recruitment and
221 retention of medical professionals and assistants; and

222 (e) To establish information clearinghouses to improve
223 access to and sharing of rural health care information.

224 (3) The State Board of Health shall have general supervision
225 of the health interests of the people of the state and to exercise
226 the rights, powers and duties of those acts which it is authorized
227 by law to enforce.

228 (4) The State Board of Health shall have authority:

229 (a) To make investigations and inquiries with respect
230 to the causes of disease and death, and to investigate the effect
231 of environment, including conditions of employment and other
232 conditions that may affect health, and to make such other
233 investigations as it may deem necessary for the preservation and
234 improvement of health.

235 (b) To make such sanitary investigations as it may,
236 from time to time, deem necessary for the protection and
237 improvement of health and to investigate nuisance questions that
238 affect the security of life and health within the state.

239 (c) To direct and control sanitary and quarantine
240 measures for dealing with all diseases within the state possible
241 to suppress same and prevent their spread.

242 (d) To obtain, collect and preserve such information
243 relative to mortality, morbidity, disease and health as may be



244 useful in the discharge of its duties or may contribute to the
245 prevention of disease or the promotion of health in this state.

246 (e) To charge and collect reasonable fees for health
247 services, including immunizations, inspections and related
248 activities, and the board shall charge fees for those services;
249 however, if it is determined that a person receiving services is
250 unable to pay the total fee, the board shall collect any amount
251 that the person is able to pay. Any increase in the fees charged
252 by the board under this paragraph shall be in accordance with the
253 provisions of Section 41-3-65.

254 (f) (i) To establish standards for, issue permits and
255 exercise control over, any cafes, restaurants, food or drink
256 stands, sandwich manufacturing establishments, and all other
257 establishments, other than churches, church-related and private
258 schools, and other nonprofit or charitable organizations, where
259 food or drink is regularly prepared, handled and served for pay;
260 and

261 (ii) To require that a permit be obtained from the
262 Department of Health before those persons begin operation. If any
263 such person fails to obtain the permit required in this
264 subparagraph (ii), the State Board of Health, after due notice and
265 opportunity for a hearing, may impose a monetary penalty not to
266 exceed One Thousand Dollars (\$1,000.00) for each violation.
267 However, the department is not authorized to impose a monetary
268 penalty against any person whose gross annual prepared food sales



269 are less than Five Thousand Dollars (\$5,000.00). Money collected
270 by the board under this subparagraph (ii) shall be deposited to
271 the credit of the State General Fund of the State Treasury.

272 (g) To promulgate rules and regulations and exercise
273 control over the production and sale of milk pursuant to the
274 provisions of Sections 75-31-41 through 75-31-49.

275 (h) On presentation of proper authority, to enter into
276 and inspect any public place or building where the State Health
277 Officer or his representative deems it necessary and proper to
278 enter for the discovery and suppression of disease and for the
279 enforcement of any health or sanitary laws and regulations in the
280 state.

281 (i) To conduct investigations, inquiries and hearings,
282 and to issue subpoenas for the attendance of witnesses and the
283 production of books and records at any hearing when authorized and
284 required by statute to be conducted by the State Health Officer or
285 the State Board of Health.

286 (j) To promulgate rules and regulations, and to collect
287 data and information, on (i) the delivery of services through the
288 practice of telemedicine; and (ii) the use of electronic records
289 for the delivery of telemedicine services.

290 (k) To enforce and regulate domestic and imported fish
291 as authorized under Section 69-7-601 et seq.

292 (5) (a) The State Board of Health shall have the authority,
293 in its discretion, to establish programs to promote the public



294 health, to be administered by the State Department of Health.
295 Specifically, those programs may include, but shall not be limited
296 to, programs in the following areas:

- 297 (i) Maternal and child health;
- 298 (ii) Family planning;
- 299 (iii) Pediatric services;
- 300 (iv) Services to crippled and disabled children;
- 301 (v) Control of communicable and noncommunicable

302 disease;

- 303 (vi) Chronic disease;
- 304 (vii) Accidental deaths and injuries;
- 305 (viii) Child care licensure;
- 306 (ix) Radiological health;
- 307 (x) Dental health;
- 308 (xi) Milk sanitation;
- 309 (xii) Occupational safety and health, and
310 compliance with child labor laws, acting through its Office of
311 Workplace Safety and Health;

312 (xiii) Food, vector control and general
313 sanitation;

- 314 (xiv) Protection of drinking water;
- 315 (xv) Sanitation in food handling establishments
316 open to the public;

317 (xvi) Registration of births and deaths and other
318 vital events;



319 (xvii) Such public health programs and services as
320 may be assigned to the State Board of Health by the Legislature or
321 by executive order; and

322 (xviii) Regulation of domestic and imported fish
323 for human consumption.

324 (b) The State Board of Health and State Department of
325 Health shall not be authorized to sell, transfer, alienate or
326 otherwise dispose of any of the home health agencies owned and
327 operated by the department on January 1, 1995, and shall not be
328 authorized to sell, transfer, assign, alienate or otherwise
329 dispose of the license of any of those home health agencies,
330 except upon the specific authorization of the Legislature by an
331 amendment to this section. However, this paragraph (b) shall not
332 prevent the board or the department from closing or terminating
333 the operation of any home health agency owned and operated by the
334 department, or closing or terminating any office, branch office or
335 clinic of any such home health agency, or otherwise discontinuing
336 the providing of home health services through any such home health
337 agency, office, branch office or clinic, if the board first
338 demonstrates that there are other providers of home health
339 services in the area being served by the department's home health
340 agency, office, branch office or clinic that will be able to
341 provide adequate home health services to the residents of the area
342 if the department's home health agency, office, branch office or
343 clinic is closed or otherwise discontinues the providing of home



344 health services. This demonstration by the board that there are
345 other providers of adequate home health services in the area shall
346 be spread at length upon the minutes of the board at a regular or
347 special meeting of the board at least thirty (30) days before a
348 home health agency, office, branch office or clinic is proposed to
349 be closed or otherwise discontinue the providing of home health
350 services.

351 (c) The State Department of Health may undertake such
352 technical programs and activities as may be required for the
353 support and operation of those programs, including maintaining
354 physical, chemical, bacteriological and radiological laboratories,
355 and may make such diagnostic tests for diseases and tests for the
356 evaluation of health hazards as may be deemed necessary for the
357 protection of the people of the state.

358 (6) (a) The State Board of Health shall administer the
359 local governments and rural water systems improvements loan
360 program in accordance with the provisions of Section 41-3-16.

361 (b) The State Board of Health shall have authority:

362 (i) To enter into capitalization grant agreements
363 with the United States Environmental Protection Agency, or any
364 successor agency thereto;

365 (ii) To accept capitalization grant awards made
366 under the federal Safe Drinking Water Act, as amended;



367 (iii) To provide annual reports and audits to the
368 United States Environmental Protection Agency, as may be required
369 by federal capitalization grant agreements; and

370 (iv) To establish and collect fees to defray the
371 reasonable costs of administering the revolving fund or emergency
372 fund if the State Board of Health determines that those costs will
373 exceed the limitations established in the federal Safe Drinking
374 Water Act, as amended. The administration fees may be included in
375 loan amounts to loan recipients for the purpose of facilitating
376 payment to the board; however, those fees may not exceed five
377 percent (5%) of the loan amount.

378 (7) Notwithstanding any other provision to the contrary, the
379 State Department of Health shall have the following specific
380 powers: The department shall issue a license to Alexander Milne
381 Home for Women, Inc., a 501(c)(3) nonprofit corporation, for the
382 construction, conversion, expansion and operation of not more than
383 forty-five (45) beds for developmentally disabled adults who have
384 been displaced from New Orleans, Louisiana, with the beds to be
385 located in a certified ICF-MR facility in the City of Laurel,
386 Mississippi. There shall be no prohibition or restrictions on
387 participation in the Medicaid program for the person receiving the
388 license under this subsection (7). The license described in this
389 subsection shall expire five (5) years from the date of its issue.
390 The license authorized by this subsection shall be issued upon the
391 initial payment by the licensee of an application fee of



392 Sixty-seven Thousand Dollars (\$67,000.00) and a monthly fee of
393 Sixty-seven Thousand Dollars (\$67,000.00) after the issuance of
394 the license, to be paid as long as the licensee continues to
395 operate. The initial and monthly licensing fees shall be
396 deposited by the State Department of Health into the special fund
397 created under Section 41-7-188.

398 (8) Notwithstanding any other provision to the contrary, the
399 State Department of Health shall have the following specific
400 powers: The State Department of Health is authorized to issue a
401 license to an existing home health agency for the transfer of a
402 county from that agency to another existing home health agency,
403 and to charge a fee for reviewing and making a determination on
404 the application for such transfer not to exceed one-half (1/2) of
405 the authorized fee assessed for the original application for the
406 home health agency, with the revenue to be deposited by the State
407 Department of Health into the special fund created under Section
408 41-7-188.

409 (9) Notwithstanding any other provision to the contrary, the
410 State Department of Health shall have the following specific
411 powers: For the period beginning July 1, 2010, through July 1,
412 2017, the State Department of Health is authorized and empowered
413 to assess a fee in addition to the fee prescribed in Section
414 41-7-188 for reviewing applications for certificates of need in an
415 amount not to exceed twenty-five one-hundredths of one percent
416 (.25 of 1%) of the amount of a proposed capital expenditure, but



417 shall be not less than Two Hundred Fifty Dollars (\$250.00)
418 regardless of the amount of the proposed capital expenditure, and
419 the maximum additional fee permitted shall not exceed Fifty
420 Thousand Dollars (\$50,000.00). Provided that the total
421 assessments of fees for certificate of need applications under
422 Section 41-7-188 and this section shall not exceed the actual cost
423 of operating the certificate of need program.

424 (10) Notwithstanding any other provision to the contrary,
425 the State Department of Health shall have the following specific
426 powers: The State Department of Health is authorized to extend
427 and renew any certificate of need that has expired, and to charge
428 a fee for reviewing and making a determination on the application
429 for such action not to exceed one-half (1/2) of the authorized fee
430 assessed for the original application for the certificate of need,
431 with the revenue to be deposited by the State Department of Health
432 into the special fund created under Section 41-7-188.

433 (11) Notwithstanding any other provision to the contrary,
434 the State Department of Health shall have the following specific
435 powers: The State Department of Health is authorized and
436 empowered, to revoke, immediately, the license and require closure
437 of any institution for the aged or infirm, including any other
438 remedy less than closure to protect the health and safety of the
439 residents of said institution or the health and safety of the
440 general public.



441 (12) Notwithstanding any other provision to the contrary,
442 the State Department of Health shall have the following specific
443 powers: The State Department of Health is authorized and
444 empowered, to require the temporary detainment of individuals for
445 disease control purposes based upon violation of any order of the
446 State Health Officer, as provided in Section 41-23-5. For the
447 purpose of enforcing such orders of the State Health Officer,
448 persons employed by the department as investigators shall have
449 general arrest powers. All law enforcement officers are
450 authorized and directed to assist in the enforcement of such
451 orders of the State Health Officer.

452 **SECTION 5.** This act shall take effect and be in force from
453 and after July 1, 2024.

