

By: Senator(s) Frazier, Albritton

To: Public Health and Welfare

SENATE BILL NO. 2352

1 AN ACT TO REQUIRE THE STATE BOARD OF HEALTH TO PROMULGATE
2 RULES FOR CHILD CARE FACILITIES TO PROMOTE BREAST-FEEDING BY THE
3 MOTHERS OF THE CHILDREN BEING CARED FOR; TO PROHIBIT
4 DISCRIMINATION AGAINST A BREAST-FEEDING MOTHER WHO USES HER LAWFUL
5 BREAK TIME TO EXPRESS MILK; TO AMEND SECTION 43-20-8, MISSISSIPPI
6 CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The Department of Health shall promulgate
9 regulations to ensure that licensed child care facilities shall be
10 required to comply with the following:

11 (a) Breast-feeding mothers, including employees, shall
12 be provided a private and sanitary place that is not a toilet
13 stall to breast-feed their children or express milk. This area
14 shall provide an electrical outlet, comfortable chair, and nearby
15 access to running water.

16 (b) A refrigerator will be made available for storage
17 of expressed breast milk following guidelines from the American
18 Academy of Pediatrics and Centers for Disease Control in ensuring
19 that breast milk is properly treated to avoid waste. Universal
20 precautions are not required in handling human milk.

21 (c) Staff shall be trained in the safe and proper
22 storage and handling of human milk.

23 (d) Breast-feeding promotion information will be
24 displayed in order to positively promote breast-feeding to the
25 clients of the facility.

26 (e) Such other requirements as the Board of Health
27 finds desirable or necessary to promote and protect
28 breast-feeding.

29 **SECTION 2.** (1) No employer shall prohibit an employee from
30 expressing breast milk during any meal period or other break
31 period provided by the employer.

32 (2) It shall be an unlawful discriminatory practice for any
33 employer to bar or discharge from employment, or withhold pay,
34 demote or penalize a lactating employee because the employee
35 breast-feeds or expresses milk at the workplace if the
36 breast-feeding or expression does not interfere with the operation
37 of the business or performance of the employee's job.

38 **SECTION 3.** Section 43-20-8, Mississippi Code of 1972, is
39 amended as follows:

40 43-20-8. (1) The licensing agency shall have powers and
41 duties as set forth below, in addition to other duties prescribed
42 under this chapter:

43 (a) Promulgate rules and regulations concerning the
44 licensing and regulation of child care facilities as defined in
45 Section 43-20-5;

46 (b) Have the authority to issue, deny, suspend, revoke,
47 restrict or otherwise take disciplinary action against licensees
48 as provided for in this chapter;

49 (c) Set and collect fees and penalties as provided for
50 in this chapter; and

51 (d) Have such other powers as may be required to carry
52 out the provisions of this chapter.

53 (2) Child care facilities shall assure that parents have
54 welcome access to the child care facility at all times and shall
55 comply with the provisions of Senate Bill No. 2352, 2006 Regular
56 Session.

57 (3) Each child care facility shall develop and maintain a
58 current list of contact persons for each child provided care by
59 that facility. An agreement may be made between the child care
60 facility and the child's parent, guardian or contact person at the
61 time of registration to inform the parent, guardian or contact

62 person if the child does not arrive at the facility within a
63 reasonable time.

64 (4) Child care facilities shall require that, for any
65 current or prospective caregiver, all criminal records, background
66 and sex offender registry checks and current child abuse registry
67 checks are obtained. In order to determine the applicant's
68 suitability for employment, the applicant shall be fingerprinted.
69 If no disqualifying record is identified at the state level, the
70 fingerprints shall be forwarded by the Department of Public Safety
71 to the FBI for a national criminal history record check.

72 (5) The licensing agency shall require to be performed a
73 criminal records background check and a child abuse registry check
74 for all operators of a child care facility and any person living
75 in a residence used for child care. The Department of Human
76 Services shall have the authority to disclose to the State
77 Department of Health any potential applicant whose name is listed
78 on the Child Abuse Central Registry or has a pending
79 administrative review. That information shall remain confidential
80 by all parties. In order to determine the applicant's suitability
81 for employment, the applicant shall be fingerprinted. If no
82 disqualifying record is identified at the state level, the
83 fingerprints shall be forwarded by the Department of Public Safety
84 to the FBI for a national criminal history record check.

85 (6) The licensing agency shall have the authority to exclude
86 a particular crime or crimes or a substantiated finding of child
87 abuse and/or neglect as disqualifying individuals or entities for
88 prospective or current employment or licensure.

89 (7) The licensing agency and its agents, officers,
90 employees, attorneys and representatives shall not be held civilly
91 liable for any findings, recommendations or actions taken under
92 this section.

93 (8) All fees incurred in compliance with this section shall
94 be borne by the child care facility. The licensing agency is

95 authorized to charge a fee that includes the amount required by
96 the Federal Bureau of Investigation for the national criminal
97 history record check in compliance with the Child Protection Act
98 of 1993, as amended, and any necessary costs incurred by the
99 licensing agency for the handling and administration of the
100 criminal history background checks.

101 **SECTION 4.** This act shall take effect and be in force from
102 and after July 1, 2006.