

By: Senator(s) Nunnelee

To: Forestry

SENATE BILL NO. 2905

1 AN ACT TO AMEND SECTION 73-36-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE TERM "PRACTICE OF FORESTRY"; TO AMEND SECTION 73-36-5,
3 MISSISSIPPI CODE OF 1972, TO REMOVE EXEMPTIONS FROM REGISTRATION
4 WITH THE STATE BOARD OF REGISTRATION FOR FORESTERS; TO AMEND
5 SECTION 73-36-9, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 MEMBERSHIP OF THE STATE BOARD OF REGISTRATION FOR FORESTERS; TO
7 AMEND SECTIONS 73-36-11, 73-36-13, 73-36-15, 73-36-17, 73-36-19,
8 73-36-21, 73-36-27 AND 73-36-31, MISSISSIPPI CODE OF 1972, TO
9 CLARIFY TERMINOLOGY; TO AMEND SECTION 73-36-23, MISSISSIPPI CODE
10 OF 1972, TO INCREASE THE REGISTRATION FEE FOR A LICENSE AS A
11 REGISTERED FORESTER; TO AMEND SECTION 73-36-25, MISSISSIPPI CODE
12 OF 1972, TO INCREASE THE EXAMINATION FEE FOR FORESTERS; TO AMEND
13 SECTION 73-36-29, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FOR
14 RENEWAL OF THE LICENSE FOR FORESTERS AND TO INCREASE THE LICENSE
15 RENEWAL FEE; TO AMEND SECTION 73-36-35, MISSISSIPPI CODE OF 1972,
16 TO REVISE PENALTIES FOR VIOLATIONS; TO PROVIDE FOR AN
17 ADMINISTRATIVE FINE; TO AMEND SECTION 73-36-37, MISSISSIPPI CODE
18 OF 1972, TO EXTEND THE REPEALER ON THE SECTIONS OF LAW CREATING A
19 BOARD OF REGISTRATION FOR FORESTERS; TO REPEAL SECTION 73-36-7,
20 MISSISSIPPI CODE OF 1972, WHICH ALLOWS PERSONS TO PRACTICE
21 FORESTRY IF SUCH ACTS ARE NOT PERFORMED OR OFFERED TO THE PUBLIC
22 FOR COMPENSATION; AND FOR RELATED PURPOSES.

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

24 SECTION 1. Section 73-36-3, Mississippi Code of 1972, is
25 amended as follows:

26 73-36-3. As used in this chapter the following words and
27 phrases shall include the meanings ascribed in this section unless
28 the context clearly requires a different meaning:

29 (a) The term "person" means a natural person.

30 (b) The term "forester" means a person who, by reason
31 of his knowledge of the natural sciences, mathematics, economics
32 and the principles of forestry, and by his demonstrated skills
33 acquired through professional forestry education as set forth in
34 Section 73-36-21, is qualified to engage in the practice of
35 forestry and who also has been duly registered and holds a current
36 valid license issued by the board.

37 (c) The term "registered forester" means a person who

38 has been registered and licensed pursuant to this chapter.

39 (d) The term "practice of forestry" means any
40 professional forestry service, including but not limited to
41 consultation, investigation, evaluation, valuation, planning,
42 marketing and selling of timber, recommending silvicultural or
43 harvesting practices or responsible supervision of any forestry
44 activities in connection with any public or private lands wherein
45 the public welfare and property are concerned or involved when
46 such professional services require the application of forestry
47 principles, knowledge and data.

48 (e) The term "board" means the State Board of
49 Registration for Foresters.

50 SECTION 2. Section 73-36-5, Mississippi Code of 1972, is
51 amended as follows:

52 73-36-5. In order to benefit and protect the public and the
53 forest resources, no person in either public or private capacity
54 shall practice or offer to practice forestry, unless he shall
55 first have submitted evidence that he is qualified so to practice
56 and shall be registered by the board * * *. It is unlawful for
57 any person to practice or offer to practice forestry in this
58 state * * *, as defined by this chapter, or to use in connection
59 with his name or otherwise assume, use or advertise any title or
60 description tending to convey the impression that he is a
61 forester, unless the person has been duly registered * * *.

62 This chapter shall not be construed to prevent or to affect:

63 (a) The conduct of business and support services
64 including: tree planting, timber stand improvement, pesticide
65 application, pest control, site preparation, heavy equipment
66 operation, prescribed fire application, timber buying, logging
67 contracting, timber cruising and timber marking.

68 (b) The application of forestry principles and
69 procedures on any timberlands, woodlands or forest in which the
70 person, firm, partnership or corporation owns the timberlands,
71 woodlands or forest; or persons, firms, partnerships and

72 corporations having the right to manage and administer forest
73 lands in any legal manner.

74 (c) The work of an employee or a subordinate of any
75 forester holding a license under this chapter; if that * * * work
76 is done under the direction, supervision and responsibility of a
77 person holding a license under this chapter.

78 (d) The practice of forestry by officers and employees
79 of the United States Government on federally owned lands.

80 (e) The practice of forestry by officers and employees
81 of the State of Mississippi on state-owned lands.

82 (f) Employees of the federal government, state
83 government and educational institutions of the State of
84 Mississippi who, in the exercise of their assigned duties, conduct
85 forestry education programs.

86 (g) Persons who hold valid licenses prior to July 1,
87 1989.

88 SECTION 3. Section 73-36-9, Mississippi Code of 1972, is
89 amended as follows:

90 73-36-9. There is hereby created the State Board of
91 Registration for Foresters of the State of Mississippi for the
92 purposes of safeguarding forests by regulating the practice of
93 forestry and requiring that persons practicing or offering to
94 practice forestry * * * be registered. The board shall be
95 composed of seven (7) members appointed by the Governor with the
96 advice and consent of the Senate. One (1) member shall be
97 appointed from each of the six (6) forestry commission districts
98 as * * * constituted on January 1, 1999, and one (1) member shall
99 be appointed at large. The State Forester of Mississippi shall
100 serve as an ex officio member of the board. Each of the members
101 shall be a forester within the meaning of this chapter with at
102 least three (3) years' experience in such field, and a resident
103 and citizen of the State of Mississippi at the time of his
104 appointment. Within thirty (30) days after the passage of this
105 chapter, the Governor shall appoint the members, designating a

106 term of office of one (1), two (2), three (3), four (4) or five
107 (5) years for each of the members as appointed; provided, however,
108 two (2) members shall serve a term of one (1) year and two (2)
109 shall serve a term of four (4) years. As the terms of office of
110 the members so appointed expire, successors shall be appointed for
111 terms of five (5) years * * *. Any vacancy occurring in the
112 membership of the board shall be filled by the Governor for the
113 unexpired term * * *. The Governor shall have the right, upon the
114 approval of a majority of the board, to remove any members of the
115 board for inefficiency, neglect of duty or dishonorable conduct.

116 SECTION 4. Section 73-36-11, Mississippi Code of 1972, is
117 amended as follows:

118 73-36-11. * * * No person shall * * * be appointed a member
119 of the board unless the person at the time appointed has held a
120 license as a registered forester for at least five (5) years.

121 SECTION 5. Section 73-36-13, Mississippi Code of 1972, is
122 amended as follows:

123 73-36-13. Each year the board shall elect one (1) of its
124 members as chairman, one (1) as vice-chairman, and one (1) as
125 secretary, and each shall perform the usual duties of the offices.

126 The board may adopt an official seal. Four (4) members of the
127 board shall constitute a quorum, and a majority vote of those
128 present at any meeting shall be necessary for the adoption of any
129 order proposed or the disposition of other business coming before
130 the board.

131 SECTION 6. Section 73-36-15, Mississippi Code of 1972, is
132 amended as follows:

133 73-36-15. The board shall hold an organizational meeting
134 within thirty (30) days after its members are appointed. The
135 board shall hold at least two (2) regular meetings during each
136 year and such other meetings as the chairman may find necessary.
137 Notice of the time and place of the meetings of the board shall be
138 mailed to each of the members of the board at least five (5) days
139 before the meeting and, in addition, shall be posted as provided

140 by the rules and regulations of the board at least five (5) days
141 prior to the meeting.

142 SECTION 7. Section 73-36-17, Mississippi Code of 1972, is
143 amended as follows:

144 73-36-17. Each member of the board shall receive per diem
145 compensation as authorized by Section 25-3-69, and shall be
146 reimbursed for such other expenses at the same rate and under the
147 same conditions as provided for public officers and employees in
148 Section 25-3-41. The board shall pay for all expenses incurred by
149 the board, including * * * clerical help as may be needed,
150 provided that itemized statements of the foregoing are first
151 approved by order of the board entered on its minutes. The board
152 shall not expend in any fiscal year more monies than the amount of
153 fees collected * * *. All fees * * * shall be paid to the
154 secretary of the board and the secretary shall deposit all monies
155 received under this chapter in the State Treasury. All such
156 monies shall be kept in a special fund in the State Treasury known
157 as the "State Board of Registered Foresters Fund" and shall be
158 used for the administration of this chapter. The funds shall not
159 lapse at the end of each year. All expenditures from the fund
160 shall be by requisition to the Executive Director of the
161 Department of Finance and Administration, signed by the board
162 chairman * * *. The secretary of the board shall be under a
163 surety bond in the penal sum of Five Thousand Dollars (\$5,000.00)
164 with a surety company authorized to do business in this state, the
165 bond to be conditioned for the faithful performance of his duties,
166 and the fee shall be paid by the board.

167 SECTION 8. Section 73-36-19, Mississippi Code of 1972, is
168 amended as follows:

169 73-36-19. The State Board of Registration for Foresters
170 shall have the following powers and duties:

171 (a) To adopt rules and regulations governing the
172 holding of its meetings, hearings, applications for licenses and
173 any and all other duties provided by this chapter.

174 (b) To establish and promulgate standards of practice
175 and a code of ethics for registered foresters and provide for the
176 enforcement thereof.

177 (c) To establish minimum requirements for professional
178 continuing education.

179 (d) To prepare a biennial roster showing the names,
180 business addresses and such other information as the board may
181 deem necessary of all registered foresters qualified according
182 to * * * this chapter, and to provide copies * * * to the
183 registered foresters and the public. A copy of the roster shall
184 be filed with the Secretary of State of the State of Mississippi
185 on or before April 1 in the year such roster is prepared.

186 (e) To issue, suspend or revoke licenses * * * and to
187 take all actions necessary * * *.

188 (f) At any hearing before the board, any member may
189 administer oaths to witnesses appearing before the board. If any
190 person shall refuse to testify or to produce any books, papers or
191 documents, the board may present its petition to any court of
192 competent jurisdiction within the state setting forth the facts,
193 and then the court, in a proper case, may issue its subpoena to
194 the person requiring his attendance before the court and * * * to
195 testify or to produce such books, papers and documents as may be
196 deemed necessary and pertinent thereto. Any person failing or
197 refusing to obey the subpoena of the court may be proceeded
198 against in the same manner as for refusal to obey any other
199 subpoena of the court.

200 (g) The board shall keep a record of its proceedings
201 and a register of all applications for registration. The register
202 shall show the name, age and residence of each applicant, the date
203 of the application and the board's action on the application and
204 such other information as may be deemed necessary by the board.
205 The board shall submit an annual report to the Governor of its
206 transactions and a report to the regular session of the
207 Legislature. The report to the Legislature shall include a

208 financial statement of the transactions of the board during the
209 year.

210 SECTION 9. Section 73-36-21, Mississippi Code of 1972, is
211 amended as follows:

212 73-36-21. Any person who has graduated with a bachelor's
213 degree or higher degree from a university or college of forestry
214 in a curriculum in forestry acceptable to the board and found by
215 the board to be substantially equivalent to curricula in schools
216 of forestry accredited by the Society of American Foresters shall
217 be eligible for registration as a * * * forester, and a license
218 shall be issued upon application and payment of the required fee,
219 if the person files an application for registration with the board
220 and successfully passes a written and/or oral examination.

221 SECTION 10. Section 73-36-23, Mississippi Code of 1972, is
222 amended as follows:

223 73-36-23. Applications for registration shall be made on
224 forms prescribed and furnished by the board. The initial
225 registration fee for a license as a registered forester shall be
226 fixed by the board, but shall not exceed One Hundred Dollars
227 (\$100.00). If the board denies the issuance of a license to any
228 applicant, the fee deposited shall be retained by the board as an
229 application fee.

230 Each application or filing made under this section shall
231 include the Social Security number(s) of the applicant in
232 accordance with Section 93-11-64, Mississippi Code of 1972.

233 SECTION 11. Section 73-36-25, Mississippi Code of 1972, is
234 amended as follows:

235 73-36-25. When written examinations are required, they shall
236 be held at such time and place as the board shall determine. The
237 methods of procedure shall be prescribed by the board. A
238 candidate failing an examination may apply for reexamination at
239 the expiration of six (6) months and shall be entitled to one (1)
240 reexamination without payment of an additional fee. Subsequent
241 examinations may be granted upon payment of a fee to be determined

242 by the board, but not in excess of One Hundred Dollars (\$100.00).

243 SECTION 12. Section 73-36-27, Mississippi Code of 1972, is
244 amended as follows:

245 73-36-27. The board shall issue a properly authenticated,
246 serially numbered license upon payment of the registration fee as
247 provided in this chapter to any applicant who in the opinion of
248 the board has satisfactorily met all the requirements of this
249 chapter and the rules and regulations of the board duly adopted
250 under * * * this chapter. The issuance of a license by the board
251 shall be evidence that the person named therein is entitled to all
252 the rights and privileges of a * * * forester while the * * *
253 license remains unrevoked or unexpired.

254 SECTION 13. Section 73-36-29, Mississippi Code of 1972, is
255 amended as follows:

256 73-36-29. All licenses issued under the provisions of this
257 chapter shall expire after December 31 of odd-numbered years and
258 shall become invalid after that date unless renewed. * * * The
259 secretary of the board shall mail a notice to every person
260 registered under this chapter notifying the person of the date of
261 the expiration of his license and the amount of fee required for
262 its renewal for two (2) years. The notice shall be mailed to the
263 latest known address, according to the board's records, at least
264 one (1) month in advance of the date of the expiration of the
265 license. The board shall from time to time fix the fee for
266 renewal of licenses, provided the fee shall not exceed the amount
267 of Two Hundred Dollars (\$200.00) for two (2) years' renewal. Any
268 registrant failing to renew his license and applying for a license
269 shall be required to pay a fee as set by the board not to exceed
270 twice the total amount of the license fees * * * had his license
271 been continued in effect, and also to comply with such other
272 reasonable requirements as may be established by rules and
273 regulations of the board * * *.

274 SECTION 14. Section 73-36-31, Mississippi Code of 1972, is
275 amended as follows:

276 73-36-31. A person not a resident of and having no
277 established place of business in Mississippi, or who has recently
278 become a resident * * *, may use the title of registered forester
279 in Mississippi, provided: (a) such person is legally licensed as
280 a * * * forester in his own state or county and has submitted
281 evidence to the board that he is so licensed and that the
282 requirements for registration * * * are at least substantially
283 equivalent to the requirements of this chapter; and (b) the state
284 or county in which he is so licensed observes these same rules of
285 reciprocity in regard to persons originally licensed under * * *
286 this chapter. Each person seeking the privileges of reciprocity
287 granted under this chapter shall submit his application * * * to
288 the board and must receive a card or certificate from the board
289 before exercising such privileges. The fee for obtaining * * * a
290 license through reciprocity shall be the same as charged a
291 Mississippi licensee.

292 SECTION 15. Section 73-36-35, Mississippi Code of 1972, is
293 amended as follows:

294 73-36-35. Any person who shall practice or offer to practice
295 the profession of forestry in this state * * * without being
296 registered in accordance with * * * this chapter, or any person
297 who shall use in connection with his name, or otherwise assume,
298 use or advertise any title or description tending to convey the
299 impression that he is a * * * forester without being registered in
300 accordance with * * * this chapter, or any person who shall
301 present or attempt to use as his own the license of another, or
302 any person who shall give any false or forged evidence of any kind
303 to the board or any member * * * in obtaining a license, or any
304 person who shall attempt to use an expired or revoked license, or
305 any person, firm, partnership or corporation who shall violate any
306 of the provisions of this chapter shall be subject to an
307 administrative fine issued by the board not to exceed One Thousand
308 Dollars (\$1,000.00) for each violation but only after the person,
309 firm, partnership or corporation has been given the opportunity to

310 be heard by the board and has received written notice of the
311 alleged violation at least ten (10) days before the hearing.
312 Unless the fines are paid within ninety (90) days after the
313 board's order, the order shall become a judgment and may be filed
314 and executed. However, the person, firm, partnership or
315 corporation, within thirty (30) days of the board's order being
316 issued, may appeal the order to the Circuit Court of Hinds County
317 to be reviewed on the record. Any person, firm, partnership or
318 corporation that violates any of the provisions of this chapter
319 and has not been issued an administrative fine by the board for
320 the violation is guilty of a misdemeanor and, upon
321 conviction, * * * shall be fined not more than Ten Thousand
322 Dollars (\$10,000.00) for each * * * violation. The board, or any
323 person or persons as may be designated by the board to act in its
324 stead, is empowered to prefer charges for any violations of this
325 chapter in any court of competent jurisdiction. It shall be the
326 duty of all duly constituted officers of the law of this state to
327 enforce the provisions of this chapter and to prosecute any
328 persons, firms, partnerships or corporations violating same. The
329 Attorney General of the state or his designated assistant shall
330 act as legal advisor of the board and render such assistance as
331 may be necessary in carrying out the provisions of this chapter.

332 SECTION 16. Section 73-36-37, Mississippi Code of 1972, is
333 amended as follows:

334 73-36-37. Sections 73-36-1 through 73-36-5 and 73-36-9
335 through 73-36-35, which create a board of registration for
336 foresters and prescribe its duties and powers, shall stand
337 repealed as of December 31, 2000.

338 SECTION 17. Section 73-36-7, Mississippi Code of 1972, which
339 allows persons to practice forestry if such acts are not performed
340 or offered to the public for compensation as the services of a
341 registered forester, is repealed.

342 SECTION 18. This act shall take effect and be in force from
343 and after July 1, 1999.