

By: Senator(s) Nunnelee

To: Forestry

SENATE BILL NO. 2905
(As Passed the Senate)

1 AN ACT TO BRING FORWARD SECTIONS 73-36-3 THROUGH 73-36-35,
2 MISSISSIPPI CODE OF 1972; TO AMEND SECTION 73-36-37, MISSISSIPPI
3 CODE OF 1972, TO EXTEND THE REPEALER ON THE SECTIONS CREATING THE
4 BOARD FOR REGISTRATION OF FORESTERS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 73-36-3, Mississippi Code of 1972, is
7 brought forward as follows:

8 73-36-3. As used in this chapter the following words and
9 phrases shall include the meanings ascribed in this section unless
10 the context clearly requires a different meaning:

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

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

19 (c) The term "registered forester" means a person who
20 has been registered and licensed pursuant to this chapter.

21 (d) The term "practice of forestry" means any
22 professional forestry service, including but not limited to
23 consultation, investigation, evaluation, valuation, planning,
24 recommending silvicultural or harvesting practices or responsible
25 supervision of any forestry activities in connection with any
26 public or private lands wherein the public welfare and property
27 are concerned or involved when such professional services require
28 the application of forestry principles, knowledge and data.

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

31 SECTION 2. Section 73-36-5, Mississippi Code of 1972, is
32 brought forward as follows:

33 73-36-5. In order to benefit and protect the public and the
34 forest resources, no person in either public or private capacity
35 shall practice or offer to practice forestry, unless he shall
36 first have submitted evidence that he is qualified so to practice
37 and shall be registered by the board as hereinafter provided or
38 unless he is specifically exempted from registration under the
39 provisions of this chapter. It shall be unlawful for any person
40 to practice or offer to practice in this state forestry, as
41 defined by this chapter, or to use in connection with his name or
42 otherwise assume, use or advertise any title or description
43 tending to convey the impression that he is a forester, unless
44 such person has been duly registered or is exempt from
45 registration under the provisions of this chapter.

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

47 (a) The practice of any other legally recognized
48 profession or trade to include vendors of tree planting, timber
49 stand improvement, pesticide application, pest control, site
50 preparation, heavy equipment operators, prescribed fire
51 applicators, timber buyers, logging contractors, timber cruisers
52 and timber markers.

53 (b) The application of forestry principles and
54 procedures on any timberlands, woodlands or forest in which such
55 person, firm, partnership or corporation owns such timberlands,
56 woodlands or forest; or persons, firms, partnerships and
57 corporations having the right to manage and administer forestlands
58 in any legal manner.

59 (c) The work of an employee or a subordinate of any
60 forester holding a license under this chapter; provided, that such
61 work is done under the direction, supervision and responsibility
62 of a person holding a license under this chapter.

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

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

67 (f) Employees of the federal government, state
68 government and educational institutions of the State of
69 Mississippi who, in the exercise of their assigned duties, conduct
70 forestry education programs.

71 (g) Persons who hold valid licenses prior to July 1,
72 1989.

73 SECTION 3. Section 73-36-7, Mississippi Code of 1972, is
74 brought forward as follows:

75 73-36-7. Nothing contained in this chapter shall be
76 construed as preventing any person, firm, partnership or
77 corporation from practicing forestry or managing woodlands,
78 forests or trees on any land, provided such acts are not performed
79 or offered to the public for compensation as the services of a
80 registered forester.

81 SECTION 4. Section 73-36-9, Mississippi Code of 1972, is
82 brought forward as follows:

83 73-36-9. There is hereby created the State Board of
84 Registration for Foresters of the State of Mississippi for the
85 purposes of safeguarding forests by regulating the practice of
86 forestry and requiring that persons practicing or offering to
87 practice forestry as a registered forester be registered. The
88 board shall be composed of seven (7) members appointed by the
89 Governor with the advice and consent of the Senate. One (1)
90 member shall be appointed from each of the seven (7) forestry
91 commission districts as presently constituted. The State Forester
92 of Mississippi shall serve as an ex officio member of the board.
93 Each of said members shall be a forester within the meaning of
94 this chapter with at least three (3) years' experience in such
95 field, and a resident and citizen of the State of Mississippi at
96 the time of his appointment. Within thirty (30) days after the

97 passage of this chapter, the Governor shall appoint said members,
98 designating a term of office of one (1), two (2), three (3), four
99 (4) or five (5) years for each of said members as appointed;
100 provided, however, two (2) members shall serve a term of one (1)
101 year and two (2) shall serve a term of four (4) years. As the
102 terms of office of the members so appointed expire, successors
103 shall be appointed for terms of five (5) years, and all members
104 thereafter appointed shall likewise be appointed for terms of five
105 (5) years. Any vacancy occurring in the membership of the board
106 shall be filled by the Governor for the unexpired term of such
107 membership. The Governor shall have the right, upon the approval
108 of a majority of the board, to remove any members of said board
109 for inefficiency, neglect of duty or dishonorable conduct.

110 SECTION 5. Section 73-36-11, Mississippi Code of 1972, is
111 brought forward as follows:

112 73-36-11. The first seven (7) members appointed to the board
113 shall issue to themselves the licenses as registered foresters
114 upon the payment of the fees hereinafter provided by virtue of
115 their appointment. After the first seven (7) members of said
116 board have so qualified and been administered the oath of office,
117 no person shall thereafter be appointed a member of this board
118 unless such person at the time appointed has held a license as a
119 registered forester for at least five (5) years.

120 SECTION 6. Section 73-36-13, Mississippi Code of 1972, is
121 brought forward as follows:

122 73-36-13. Each year the board shall elect one (1) of its
123 members as chairman, one (1) as vice-chairman, and one (1) as
124 secretary, and each shall perform the usual duties of such
125 offices. The board may adopt an official seal. Four (4) members
126 of the board shall constitute a quorum, and a majority vote of
127 those present at any meeting shall be necessary for the adoption
128 of any order proposed or the disposition of other business coming
129 before said board.

130 SECTION 7. Section 73-36-15, Mississippi Code of 1972, is

131 brought forward as follows:

132 73-36-15. The board shall hold an organizational meeting
133 within thirty (30) days after its members are appointed. The
134 board shall hold at least two (2) regular meetings during each
135 year and such other meetings as the chairman may find necessary.
136 Notice of the time and place of the meetings of the board shall be
137 mailed to each of the members of the board at least five (5) days
138 before such meeting and, in addition, shall be posted as provided
139 by the rules and regulations of the board at least five (5) days
140 prior to said meeting.

141 SECTION 8. Section 73-36-17, Mississippi Code of 1972, is
142 brought forward as follows:

143 73-36-17. Each member of the board shall receive per diem
144 compensation as authorized by Section 25-3-69, and shall be
145 reimbursed for such other expenses at the same rate and under the
146 same conditions as provided for public officers and employees in
147 Section 25-3-41. The board shall pay for all expenses incurred by
148 the board, including such clerical help as shall be needed,
149 provided that itemized statements of the foregoing are first
150 approved by order of the board entered on its minutes. The board
151 shall not expend in any fiscal year more monies than the amount of
152 fees collected as hereinafter provided. All fees hereinafter
153 provided shall be paid to the secretary of the board and said
154 secretary shall deposit all monies received under this chapter in
155 the State Treasury. All such monies shall be kept in a special
156 fund in the State Treasury known as the "State Board of Registered
157 Foresters Fund" and shall be used for the administration of this
158 chapter. Said funds shall not lapse at the end of each year. All
159 expenditures from said fund shall be by requisition to the
160 Executive Director of the Department of Finance and
161 Administration, signed by the board chairman, and the State
162 Treasurer shall issue his warrant thereon. The secretary of the
163 board shall be under a surety bond in the penal sum of Five
164 Thousand Dollars (\$5,000.00) with a surety company authorized to

165 do business in this state, said bond to be conditioned for the
166 faithful performance of his duties, and the fee therefor to be
167 paid by the board.

168 SECTION 9. Section 73-36-19, Mississippi Code of 1972, is
169 brought forward as follows:

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

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

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

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

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

188 (e) To issue, suspend or revoke licenses as hereinafter
189 provided and to take all actions necessary with reference thereto.

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

199 or refusing to obey the subpoena of said court may be proceeded
200 against in the same manner as for refusal to obey any other
201 subpoena of said court.

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

212 SECTION 10. Section 73-36-21, Mississippi Code of 1972, is
213 brought forward as follows:

214 73-36-21. Any person who shall have graduated with a
215 bachelor's degree or higher degree from a university or college of
216 forestry in a curriculum in forestry acceptable to the board and
217 found by the board to be substantially equivalent to curricula in
218 schools of forestry accredited by the Society of American
219 Foresters shall be eligible for registration as a registered
220 forester, and a license shall be issued upon application and
221 payment of the required fee, provided further, that such person
222 file such application for registration with the board and
223 successfully passes a written and/or oral examination.

224 SECTION 11. Section 73-36-23, Mississippi Code of 1972, is
225 brought forward as follows:

226 73-36-23. Applications for registration shall be made on
227 forms prescribed and furnished by the board. The initial
228 registration fee for a license as a registered forester shall be
229 fixed by the board, but shall not exceed Fifty Dollars (\$50.00).
230 Should the board deny the issuance of a license to any applicant,
231 the fee deposited shall be retained by the board as an application
232 fee.

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

236 SECTION 12. Section 73-36-25, Mississippi Code of 1972, is
237 brought forward as follows:

238 73-36-25. When written examinations are required, they shall
239 be held at such time and place as the board shall determine. The
240 methods of procedure shall be prescribed by the board. A
241 candidate failing an examination may apply for reexamination at
242 the expiration of six (6) months and shall be entitled to one (1)
243 reexamination without payment of an additional fee. Subsequent
244 examinations may be granted upon payment of a fee to be determined
245 by the board, but not in excess of Fifty Dollars (\$50.00).

246 SECTION 13. Section 73-36-27, Mississippi Code of 1972, is
247 brought forward as follows:

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

257 SECTION 14. Section 73-36-29, Mississippi Code of 1972, is
258 brought forward as follows:

259 73-36-29. All licenses issued under the provisions of this
260 chapter shall expire on December 31 following their issuance or
261 renewal and shall become invalid on that date unless renewed. It
262 shall be the duty of the secretary of the board to mail a notice
263 to every person registered under this chapter notifying such
264 person of the date of the expiration of his license and the amount
265 of fee required for its renewal for one (1) year, such notice to
266 be mailed to the latest known address, according to the board's

267 records, at least one (1) month in advance of the date of the
268 expiration of said license. The board shall from time to time fix
269 the fee for renewal of licenses, provided said fee shall not
270 exceed the amount of Fifty Dollars (\$50.00) for one (1) year's
271 renewal. Any registrant failing to renew his license annually
272 desiring to apply for a license shall be required to pay a fee
273 equal to the total amount said license fees would have been had
274 his license been continued in effect, and also to comply with such
275 other reasonable requirements as may be established by rules and
276 regulations of the board, provided such requirement shall not be
277 greater than the requirements for an applicant who has never been
278 licensed.

279 SECTION 15. Section 73-36-31, Mississippi Code of 1972, is
280 brought forward as follows:

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

297 SECTION 16. Section 73-36-33, Mississippi Code of 1972, is
298 brought forward as follows:

299 73-36-33. (1) The board shall have the power, after notice
300 and hearing, to suspend or revoke the license of any registrant

301 who (a) is found guilty by the board of fraud or gross negligence
302 in the practice of professional forestry; (b) fails to comply with
303 board rules and regulations; (c) is found guilty by the board of
304 unprofessional or unethical conduct; or (d) has had his license
305 suspended or revoked for cause in another jurisdiction.

306 (2) Any person may prefer charges of fraud or gross
307 negligence in connection with any forestry practice against any
308 registrant. Such charges shall be in writing, shall be sworn to
309 by the person making them, and shall be filed with the secretary
310 of the board. All charges shall be heard by the board pursuant to
311 its rules and regulations without undue delay.

312 (3) Any applicant whose license is suspended or revoked by
313 the board may apply for a review of the proceedings with reference
314 to such suspension or revocation by appealing to the Chancery
315 Court of the First Judicial District of Hinds County, Mississippi,
316 provided a notice of appeal is filed by such applicant with the
317 clerk of said court within sixty (60) days from entry of an order
318 by the board suspending or revoking his license, provided said
319 applicant files with said notice of appeal a bond to be approved
320 by the court assuring the prompt payment of any and all costs of
321 said appeal, said amount to be fixed by the court. Upon the
322 filing of such notice of appeal and posting of such bond, the
323 clerk of the said court shall notify the secretary of the board
324 thereof and the record of the proceedings involved shall be
325 prepared by the secretary and forwarded to the court within a
326 period of sixty (60) days from such notice by the clerk. The
327 court shall thereupon review the proceedings on the record
328 presented and may hear such additional testimony as to the court
329 may appear material and dispose of the appeal in termtime or in
330 vacation, and the court may sustain or dismiss the appeal, or
331 modify or vacate the order complained of, but in case the order is
332 modified or vacated, the court may also, in its discretion, remand
333 the matter to the board for such further proceedings not
334 inconsistent with the court's order as, in the opinion of the

335 court, justice may require. The decision of the chancery court
336 may be appealed as other cases to the Supreme Court.

337 (4) The board is authorized to secure, by contract, the
338 services of an investigator when deemed necessary by the board to
339 properly consider any charge then before it. The board may, at
340 its discretion, establish a program of routine inspections.

341 (5) In addition to the reasons specified in subsection (1)
342 of this section, the board shall be authorized to suspend the
343 license of any licensee for being out of compliance with an order
344 for support, as defined in Section 93-11-153. The procedure for
345 suspension of a license for being out of compliance with an order
346 for support, and the procedure for the reissuance or reinstatement
347 of a license suspended for that purpose, and the payment of any
348 fees for the reissuance or reinstatement of a license suspended
349 for that purpose, shall be governed by Section 93-11-157 or
350 93-11-163, as the case may be. Actions taken by the board in
351 suspending a license when required by Section 93-11-157 or
352 93-11-163 are not actions from which an appeal may be taken under
353 this section. Any appeal of a license suspension that is required
354 by Section 93-11-157 or 93-11-163 shall be taken in accordance
355 with the appeal procedure specified in Section 93-11-157 or
356 93-11-163, as the case may be, rather than the procedure specified
357 in this section. If there is any conflict between any provision
358 of Section 93-11-157 or 93-11-163 and any provision of this
359 chapter, the provisions of Section 93-11-157 or 93-11-163, as the
360 case may be, shall control.

361 SECTION 17. Section 73-36-35, Mississippi Code of 1972, is
362 brought forward as follows:

363 73-36-35. Any person who shall practice or offer to practice
364 the profession of forestry in this state as a registered forester
365 without being registered in accordance with the provisions of this
366 chapter, or any person who shall use in connection with his name,
367 or otherwise assume, use or advertise any title or description
368 tending to convey the impression that he is a registered forester

369 without being registered in accordance with the provisions of this
370 chapter, or any person who shall present or attempt to use as his
371 own the license of another, or any person who shall give any false
372 or forged evidence of any kind to the board or any member thereof
373 in obtaining a license, or any person who shall attempt to use an
374 expired or revoked license, or any person, firm, partnership or
375 corporation who shall violate any of the provisions of this
376 chapter shall be guilty of a misdemeanor and upon conviction
377 thereof shall be fined not more than Five Hundred Dollars
378 (\$500.00) for each such violation. The board, or such person or
379 persons as may be designated by the board to act in its stead, is
380 empowered to prefer charges for any violations of this chapter in
381 any court of competent jurisdiction. It shall be the duty of all
382 duly constituted officers of the law of this state to enforce the
383 provisions of this chapter and to prosecute any persons, firms,
384 partnerships or corporations violating same. The Attorney General
385 of the state or his designated assistant shall act as legal
386 advisor of the board and render such assistance as may be
387 necessary in carrying out the provisions of this chapter.

388 SECTION 18. Section 73-36-37, Mississippi Code of 1972, is
389 amended as follows:

390 73-36-37. Sections 73-36-1 through 73-36-5 and 73-36-9
391 through 73-36-35, which create a board of registration for
392 foresters and prescribe its duties and powers, shall stand
393 repealed as of December 31, 2000.

394 SECTION 19. This act shall take effect and be in force from
395 and after July 1, 1999.