

By: Harvey, Canon

To: Forestry

SENATE BILL NO. 2583
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 73-36-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY EXEMPTIONS FROM REGISTRATION WITH THE STATE BOARD OF
3 REGISTRATION FOR FORESTERS; TO AMEND SECTION 73-36-9, MISSISSIPPI
4 CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE STATE BOARD OF
5 REGISTRATION FOR FORESTERS; TO AMEND SECTIONS 73-36-11, 73-36-13,
6 73-36-15, 73-36-17, 73-36-19, 73-36-21, 73-36-23, 73-36-27 AND
7 73-36-31, MISSISSIPPI CODE OF 1972, TO CLARIFY TERMINOLOGY; TO
8 AMEND SECTION 73-36-29, MISSISSIPPI CODE OF 1972, TO REVISE THE
9 TIME FOR RENEWAL OF THE LICENSE FOR FORESTERS; TO AMEND SECTION
10 73-36-35, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES FOR
11 VIOLATIONS; TO CREATE CODE SECTION 73-36-36, MISSISSIPPI CODE OF
12 1972, TO PROVIDE FOR AN ADMINISTRATIVE FINE FOR VIOLATIONS; TO
13 AMEND SECTION 73-36-37, MISSISSIPPI CODE OF 1972, TO EXTEND THE
14 REPEALER ON THE SECTIONS OF LAW CREATING A BOARD OF REGISTRATION
15 FOR FORESTERS; AND FOR RELATED PURPOSES.

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

17 SECTION 1. Section 73-36-5, Mississippi Code of 1972, is
18 amended as follows:

19 73-36-5. In order to benefit and protect the public and the
20 forest resources, no person in either public or private capacity
21 shall practice or offer to practice forestry, unless he shall
22 first have submitted evidence that he is qualified so to practice
23 and shall be registered by the board * * * or unless he is
24 specifically exempted from registration under * * * this chapter.

25 It is unlawful for any person to practice or offer to practice
26 forestry in this state * * *, as defined by this chapter, or to
27 use in connection with his name or otherwise assume, use or
28 advertise any title or description tending to convey the
29 impression that he is a forester, unless the person has been duly
30 registered or is exempt from registration under * * * this
31 chapter.

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

33 (a) The conduct of business and support services
34 including: tree planting, timber stand improvement, pesticide
35 application, pest control, site preparation, heavy equipment
36 operation, prescribed fire application, timber buying, logging
37 contracting, timber cruising, timber marking and the application
38 of best management practices.

39 (b) The application of forestry principles and
40 procedures on any timberlands, woodlands or forest in which the
41 person, firm, partnership or corporation owns the timberlands,
42 woodlands or forest; or persons, firms, partnerships and
43 corporations having the right to manage and administer forestlands
44 in any legal manner.

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

49 (d) The practice of forestry by officers and employees
50 of the United States government on federally-owned lands.

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

53 (f) Employees of the federal government, state
54 government and educational institutions of the State of
55 Mississippi who, in the exercise of their assigned duties, conduct
56 forestry education programs.

57 (g) Persons who hold valid licenses prior to July 1,
58 1989.

59 SECTION 2. Section 73-36-9, Mississippi Code of 1972, is
60 amended as follows:

61 73-36-9. There is hereby created the State Board of
62 Registration for Foresters of the State of Mississippi for the
63 purposes of safeguarding forests by regulating the practice of
64 forestry and requiring that persons practicing or offering to
65 practice forestry as a registered forester to be registered. The

66 board shall be composed of seven (7) members appointed by the
67 Governor with the advice and consent of the Senate. One (1)
68 member shall be appointed from each of the six (6) forestry
69 commission districts as * * * constituted on January 1, 1999, and
70 one (1) member shall be appointed at large. The State Forester of
71 Mississippi shall serve as an ex officio member of the board.
72 Each of the members shall be a forester within the meaning of this
73 chapter with at least three (3) years' experience in such field,
74 and a resident and citizen of the State of Mississippi at the time
75 of his appointment. Within thirty (30) days after the passage of
76 this chapter, the Governor shall appoint the members, designating
77 a term of office of one (1), two (2), three (3), four (4) or five
78 (5) years for each of the members as appointed; provided, however,
79 two (2) members shall serve a term of one (1) year and two (2)
80 shall serve a term of four (4) years. As the terms of office of
81 the members so appointed expire, successors shall be appointed for
82 terms of five (5) years * * *. Any vacancy occurring in the
83 membership of the board shall be filled by the Governor for the
84 unexpired term * * *. The Governor shall have the right, upon the
85 approval of a majority of the board, to remove any members of the
86 board for inefficiency, neglect of duty or dishonorable conduct.

87 SECTION 3. Section 73-36-11, Mississippi Code of 1972, is
88 amended as follows:

89 73-36-11. * * * No person shall * * * be appointed a member
90 of the board unless the person at the time appointed has held a
91 license as a registered forester for at least five (5) years.

92 SECTION 4. Section 73-36-13, Mississippi Code of 1972, is
93 amended as follows:

94 73-36-13. Each year the board shall elect one (1) of its
95 members as chairman, one (1) as vice chairman, and one (1) as
96 secretary, and each shall perform the usual duties of such
97 offices. The board may adopt an official seal. Four (4) members
98 of the board shall constitute a quorum, and a majority vote of

99 those present at any meeting shall be necessary for the adoption
100 of any order proposed or the disposition of other business coming
101 before the board.

102 SECTION 5. Section 73-36-15, Mississippi Code of 1972, is
103 amended as follows:

104 73-36-15. * * * The board shall hold at least two (2)
105 regular meetings during each year and such other meetings as the
106 chairman may find necessary. Notice of the time and place of the
107 meetings of the board shall be mailed to each of the members of
108 the board at least five (5) days before the meeting and, in
109 addition, shall be posted as provided by the rules and regulations
110 of the board at least five (5) days prior to the meeting.

111 SECTION 6. Section 73-36-17, Mississippi Code of 1972, is
112 amended as follows:

113 73-36-17. Each member of the board shall receive per diem
114 compensation as authorized by Section 25-3-69, and shall be
115 reimbursed for such other expenses at the same rate and under the
116 same conditions as provided for public officers and employees in
117 Section 25-3-41. The board shall pay for all expenses incurred by
118 the board, including * * * clerical help as may be needed, if
119 itemized statements of the expenses are first approved by order of
120 the board entered on its minutes. The board shall not expend in
121 any fiscal year more monies than the amount of fees
122 collected * * *. All fees * * * shall be paid to the secretary of
123 the board and the secretary shall deposit all monies received
124 under this chapter in the State Treasury. All such monies shall
125 be kept in a special fund in the State Treasury known as the
126 "State Board of Registered Foresters Fund" and shall be used for
127 the administration of this chapter. The funds shall not lapse at
128 the end of each year. All expenditures from the fund shall be by
129 requisition to the Executive Director of the Department of Finance
130 and Administration and signed by the board chairman * * *. The
131 secretary of the board shall be under a surety bond in the penal

132 sum of Five Thousand Dollars (\$5,000.00) with a surety company
133 authorized to do business in this state, the bond to be
134 conditioned for the faithful performance of his duties, and the
135 fee shall be paid by the board.

136 SECTION 7. Section 73-36-19, Mississippi Code of 1972, is
137 amended as follows:

138 73-36-19. (1) The State Board of Registration for Foresters
139 shall have the following powers and duties:

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

143 (b) To establish and promulgate standards of practice
144 and a code of ethics for registered foresters and provide for the
145 enforcement thereof.

146 (c) To establish minimum requirements for professional
147 continuing education.

148 (d) To prepare a biennial roster showing the names,
149 business addresses and such other information as the board may
150 deem necessary of all * * * foresters registered under * * * this
151 chapter, and to provide copies * * * to the registered foresters
152 and the public. A copy of the roster shall be filed with the
153 Secretary of State of the State of Mississippi on or before April
154 1 in the year such roster is prepared.

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

157 (2) At any hearing before the board, any member may
158 administer oaths to witnesses appearing before the board. If any
159 person shall refuse to testify or to produce any books, papers or
160 documents, the board may present its petition to any court of
161 competent jurisdiction within the state setting forth the facts,
162 and then the court, in a proper case, may issue its subpoena to
163 the person requiring his attendance before the court and * * * to
164 testify or to produce such books, papers and documents as may be

165 deemed necessary and pertinent thereto. Any person failing or
166 refusing to obey the subpoena of the court may be proceeded
167 against in the same manner as for refusal to obey any other
168 subpoena of the court.

169 (3) The board shall keep a record of its proceedings and a
170 register of all applications for registration. The register shall
171 show the name, age and residence of each applicant, the date of
172 the application and the board's action on the application and any
173 other information as may be deemed necessary by the board. The
174 board shall submit an annual report to the Governor * * * and a
175 report to the regular session of the Legislature. The report to
176 the Legislature shall include a financial statement of the
177 transactions of the board during the year.

178 SECTION 8. Section 73-36-21, Mississippi Code of 1972, is
179 amended as follows:

180 73-36-21. Any person who has graduated with a bachelor's
181 degree or higher degree from a university or college of forestry
182 in a curriculum in forestry acceptable to the board and found by
183 the board to be substantially equivalent to curricula in schools
184 of forestry accredited by the Society of American Foresters shall
185 be eligible for registration as a registered forester, and a
186 license shall be issued upon application and payment of the
187 required fee, if the person files an application for registration
188 with the board and successfully passes a written and/or oral
189 examination.

190 SECTION 9. Section 73-36-23, Mississippi Code of 1972, is
191 amended as follows:

192 73-36-23. Applications for registration shall be made on
193 forms prescribed and furnished by the board. The initial
194 registration fee for a license as a registered forester shall be
195 fixed by the board, but shall not exceed Fifty Dollars (\$50.00).
196 If the board denies the issuance of a license to any applicant,
197 the fee deposited shall be retained by the board as an application

198 fee.

199 Each application or filing made under this section shall
200 include the social security number(s) of the applicant in
201 accordance with Section 93-11-64, Mississippi Code of 1972.

202 SECTION 10. Section 73-36-27, Mississippi Code of 1972, is
203 amended as follows:

204 73-36-27. The board shall issue a properly authenticated,
205 serially numbered license upon payment of the registration
206 fee * * * to any applicant who in the opinion of the board has
207 satisfactorily met all the requirements of this chapter and the
208 rules and regulations of the board duly adopted under * * * this
209 chapter. The issuance of a license by the board shall be evidence
210 that the person named therein is entitled to all the rights and
211 privileges of a registered forester while the * * * license
212 remains unrevoked or unexpired.

213 SECTION 11. Section 73-36-29, Mississippi Code of 1972, is
214 amended as follows:

215 73-36-29. All licenses issued under the provisions of this
216 chapter shall expire after December 31 of odd numbered years and
217 shall become invalid after that date unless renewed. * * * The
218 secretary of the board shall mail a notice to every person
219 registered under this chapter notifying the person of the date of
220 the expiration of his license and the amount of fee required for
221 its renewal for two (2) years. The notice shall be mailed to the
222 latest known address, according to the board's records, at least
223 one (1) month in advance of the date of the expiration of the
224 license. The board shall from time to time fix the fee for
225 renewal of licenses, provided the fee shall not exceed the amount
226 of One Hundred Dollars (\$100.00) for two (2) years' renewal. Any
227 registrant failing to renew his license * * * and applying for a
228 license shall be required to pay a fee as set by the board not to
229 exceed twice the total amount of the license fees * * * had his
230 license been continued in effect, and also to comply with such

231 other reasonable requirements as may be established by rules and
232 regulations of the board * * *.

233 SECTION 12. Section 73-36-31, Mississippi Code of 1972, is
234 amended as follows:

235 73-36-31. A person not a resident of and having no
236 established place of business in Mississippi, or who has recently
237 become a resident * * *, may use the title of registered forester
238 in Mississippi, provided: (a) such person is legally licensed as
239 a registered forester in his own state or county and has submitted
240 evidence to the board that he is so licensed and that the
241 requirements for registration * * * are at least substantially
242 equivalent to the requirements of this chapter; and (b) the state
243 or county in which he is so licensed observes these same rules of
244 reciprocity in regard to persons * * * licensed under * * * this
245 chapter. Each person seeking the privileges of reciprocity
246 granted under this chapter shall submit his application * * * to
247 the board and must receive a card or certificate from the board
248 before exercising such privileges. The fee for obtaining * * * a
249 license through reciprocity shall be the same as charged a
250 Mississippi licensee.

251 SECTION 13. Section 73-36-35, Mississippi Code of 1972, is
252 amended as follows:

253 73-36-35. Any person who * * * practices or offers to
254 practice the profession of forestry in this state as a registered
255 forester without being registered in accordance with * * * this
256 chapter, or any person who * * * uses in connection with his name,
257 or otherwise assumes, uses or advertises any title or description
258 tending to convey the impression that he is a registered forester
259 without being registered in accordance with * * * this chapter, or
260 any person who * * * presents or attempts to use as his own the
261 license of another, or any person who * * * gives any false or
262 forged evidence of any kind to the board or any member * * * in
263 obtaining a license, or any person who * * * attempts to use an

264 expired or revoked license, or any person, firm, partnership or
265 corporation who * * * violates any of the provisions of this
266 chapter and has not been issued an administrative fine by the
267 board for the violation is guilty of a misdemeanor and, upon
268 conviction, * * * shall be fined not more than Ten Thousand
269 Dollars (\$10,000.00) for each * * * violation. The board, or any
270 person or persons as may be designated by the board to act in its
271 stead, is empowered to prefer charges for any violations of this
272 chapter in any court of competent jurisdiction. It shall be the
273 duty of all duly constituted officers of the law of this state to
274 enforce the provisions of this chapter and to prosecute any
275 persons, firms, partnerships or corporations violating same. The
276 Attorney General of the state or his designated assistant shall
277 act as legal advisor of the board and render such assistance as
278 may be necessary in carrying out the provisions of this chapter.

279 SECTION 14. Section 73-36-37, Mississippi Code of 1972, is
280 amended as follows:

281 73-36-37. Sections 73-36-1 through 73-36-35, which create a
282 board of registration for foresters and prescribe its duties and
283 powers, shall stand repealed as of December 31, 2010.

284 SECTION 15. The following shall be codified as Section
285 73-36-36, Mississippi Code of 1972:

286 73-36-36. In addition to the penalties provided under
287 Section 73-36-33 and Section 73-36-35, any person, found by the
288 board to be in violation of this chapter or any rule or regulation
289 of the board, shall be subject to an administrative fine of not
290 more than One Thousand Dollars (\$1,000.00) for each violation.
291 The person shall be given at least ten (10) days written notice
292 and an opportunity for a hearing before the board. If the
293 administrative fine is not paid within ninety (90) days after the
294 date of the board's order, the order shall become a judgment and
295 may be filed and executed. Any person aggrieved of the board's
296 order may appeal the order to the Circuit Court of Hinds County

297 within thirty (30) days after the date of the order of the board
298 is issued. Appeal shall be on the record made before the board.

299 SECTION 16. This act shall take effect and be in force from
300 and after July 1, 2000.