

By: Representative Ford

To: Public Health and Welfare

HOUSE BILL NO. 442

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL SYSTEM LAW AND ESTABLISH THE DUTIES OF
4 THE STATE BOARD OF HEALTH AND DEPARTMENT OF ENVIRONMENTAL QUALITY
5 TO IMPLEMENT AND ENFORCE THIS LAW; TO AMEND SECTION 41-67-31,
6 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL FROM JULY
7 1, 2001, TO JULY 1, 2002; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 41-67-1, Mississippi Code of 1972, is
10 reenacted as follows:

11 41-67-1. This chapter shall be known and may be cited as the
12 "Mississippi Individual On-Site Wastewater Disposal System Law."

13 SECTION 2. Section 41-67-2, Mississippi Code of 1972, is
14 reenacted as follows:

15 41-67-2. For purposes of this chapter, the following words
16 shall have the meanings ascribed herein unless the context clearly
17 indicates otherwise:

18 (a) "Board" means the Mississippi State Board of
19 Health.

20 (b) "Commission" means the Commission on Environmental
21 Quality.

22 (c) "Department" means the Mississippi State Department
23 of Health.

24 (d) "Generator" means any person whose act or process
25 produces sewage or other material suitable for disposal in an
26 individual on-site wastewater disposal system.

27 (e) "Individual on-site wastewater disposal system"
28 means an approved method of sewage disposal designed and installed



29 in accordance with this law, and regulations of the board and the
30 commission.

31 (f) "Person" means any individual, trust, firm,
32 joint-stock company, public or private corporation (including a
33 government corporation), partnership, association, state, or any
34 agency or institution thereof, municipality, commission, political
35 subdivision of a state or any interstate body, and includes any
36 officer or governing or managing body of any municipality,
37 political subdivision, or the United States or any officer or
38 employee thereof.

39 (g) "Professional engineer" means any person who has
40 met the qualifications required under Section 73-13-23(1) and who
41 has been issued a certificate of registration as a professional
42 engineer.

43 (h) "Property of the generator" means land owned by or
44 under permanent legal easement or lease to the generator.

45 (i) "Subdivision" means any land that is divided into
46 ten (10) or more lots, tracts, sites or parcels for the purpose of
47 residential development.

48 SECTION 3. Section 41-67-3, Mississippi Code of 1972, is
49 reenacted as follows:

50 41-67-3. (1) The State Board of Health shall have the
51 following duties and responsibilities:

52 (a) To exercise general supervision over the design,
53 construction, operation and maintenance of individual on-site
54 wastewater disposal systems with flows substantially equivalent to
55 a single family residential generator, except when the property
56 owner or lessee chooses to employ a professional engineer to
57 comply with this chapter. To effectively administer this law, the
58 department and the Department of Environmental Quality shall enter
59 into a memorandum of understanding, which at a minimum shall
60 clearly define the jurisdiction of each department with regard to



61 wastewater disposal and procedures for interdepartmental
62 interaction and cooperation;

63 (b) To adopt, modify, repeal and promulgate rules and
64 regulations, after due notice and hearing, and where not otherwise
65 prohibited by federal or state law, to make exceptions to, to
66 grant exemptions from and to enforce rules and regulations
67 implementing or effectuating the duties of the board under this
68 chapter to protect the public health. The board may grant
69 variances from rules and regulations adopted under this chapter,
70 including requirements for buffer zones, or from setbacks required
71 under Section 41-67-7 where the granting of a variance shall not
72 subject the public to unreasonable health risks or jeopardize
73 environmental resources;

74 (c) To provide or deny certification for persons
75 engaging in the business of the design, construction or
76 installation of individual on-site wastewater disposal systems and
77 persons engaging in the removal and disposal of the sludge and
78 liquid waste from those systems;

79 (d) To suspend or revoke certifications issued to
80 persons engaging in the business of the design, construction or
81 installation of individual on-site wastewater disposal systems or
82 persons engaging in the removal and disposal of the sludge and
83 liquid waste from those systems, when it is determined the person
84 has violated this chapter or applicable rules and regulations; and

85 (e) To require the submission of information deemed
86 necessary by the department to determine the suitability of
87 individual lots for individual on-site wastewater disposal
88 systems.

89 (2) Nothing in this chapter shall preclude a professional
90 engineer from providing services relating to the design,
91 construction or installation of an individual on-site wastewater
92 disposal system to comply with this chapter. Except as otherwise
93 required by subsection (4) of this section or Section 41-67-8, a



94 professional engineer shall notify the department in writing of
95 those services being provided. If a professional engineer
96 designs, constructs or installs or directly supervises the
97 construction or installation of a design-based individual on-site
98 wastewater disposal system consistent with this chapter and stamps
99 the appropriate documentation with that professional engineer's
100 seal, the department shall approve the design, construction or
101 installation of the system, if requested. Professional engineers
102 engaging in the design, construction or installation of individual
103 on-site wastewater disposal systems shall not require
104 certification under this chapter.

105 (3) To assure the effective and efficient administration of
106 this chapter, the board shall adopt rules governing the design,
107 construction or installation, operation and maintenance of
108 individual on-site wastewater disposal systems, including rules
109 concerning the:

110 (a) Review and approval of individual on-site
111 wastewater disposal systems in accordance with Section 41-67-6;

112 (b) Certification of installers of individual on-site
113 wastewater disposal systems and persons engaging in the removal
114 and disposal of the sludge and liquid waste from those systems;
115 and

116 (c) Registration and requirements for testing and
117 listing of manufacturers of aerobic treatment systems.

118 (4) In addition, the board shall adopt rules establishing
119 performance standards for individual on-site wastewater disposal
120 systems for single family residential generators and rules
121 concerning the operation and maintenance of individual on-site
122 wastewater disposal systems designed to meet those standards. The
123 performance standards shall be consistent with the federal Clean
124 Water Act, maintaining the wastes on the property of the generator
125 except as authorized under Section 41-67-8, and protection of the
126 public health. Rules for the operation and maintenance of



127 individual on-site wastewater disposal systems designed to meet
128 performance standards shall include rules concerning the
129 following:

130 (a) A standard application form and requirements for
131 supporting documentation;

132 (b) Application review;

133 (c) Approval or denial of authorization for proposed
134 systems;

135 (d) Requirements, as deemed appropriate by the board,
136 for annual renewal of authorization;

137 (e) Enforcement of the requirements and conditions of
138 authorization; and

139 (f) Inspection, monitoring, sampling and reporting on
140 the performance of the system.

141 Any system proposed for authorization in accordance with
142 performance standards must be designed and certified by a
143 professional engineer and must be authorized by the board before
144 installation. Appeals from a final decision of the board
145 regarding the authorization of an individual on-site wastewater
146 disposal system based upon performance standards shall be taken
147 using a procedure substantially equivalent to the procedure
148 specified for hospital licenses in Chapter 9 of Title 41.

149 (5) To the extent practicable, all rules and regulations
150 adopted under this chapter shall give maximum flexibility to
151 persons installing individual on-site wastewater disposal systems
152 and a maximum number of options consistent with the federal Clean
153 Water Act, consistent with maintaining the wastes on the property
154 of the generator except as authorized under Section 41-67-8, and
155 consistent with protection of the public health. In addition, all
156 rules and regulations, to the extent practicable, shall encourage
157 the use of economically feasible systems, including alternative
158 techniques and technologies for individual on-site wastewater
159 disposal.



160 (6) All regulations shall be applied uniformly in all areas
161 of the state and shall take into consideration and make provision
162 for different types of soil in the state when performing soil and
163 site evaluations.

164 SECTION 4. Section 41-67-4, Mississippi Code of 1972, is
165 reenacted as follows:

166 41-67-4. (1) The Commission on Environmental Quality shall
167 determine the feasibility of establishing community sewerage
168 systems upon the submission by the developer of a preliminary
169 design and feasibility study prepared by a professional engineer.
170 The developer may request and obtain a hearing before the
171 commission if the developer is dissatisfied with the commission's
172 determination of feasibility. The determination that a sewerage
173 system must be established shall be made without regard to whether
174 the establishment of a sewerage system is authorized by law or is
175 subject to approval by one or more state or local government or
176 public bodies.

177 (2) Where residential subdivisions are proposed which are
178 composed of fewer than thirty-five (35) building sites, and no
179 system of sanitary sewers is available to which collection sewers
180 may be feasibly connected, the board may waive the requirement for
181 a feasibility study. If the feasibility study is waived, all
182 sites within the subdivision shall be approved, if a certified
183 installer attests that each site can be adequately served by an
184 individual on-site wastewater disposal system.

185 (3) No feasibility study or community sewerage system shall
186 be required for subdivisions designed, laid out, platted or
187 partially constructed before July 1, 1988, or for any subdivision
188 that was platted and recorded during the period from July 1, 1995
189 through June 30, 1996.

190 SECTION 5. Section 41-67-5, Mississippi Code of 1972, is
191 reenacted as follows:



192 41-67-5. (1) No owner, lessee or developer shall construct
193 or place any mobile, modular or permanently constructed residence,
194 building or facility, which may require the installation of an
195 individual on-site wastewater disposal system, without having
196 first submitted a notice of intent to the department. Upon
197 receipt of a notice of intent, the department shall provide the
198 owner, lessee or developer with complete information on individual
199 on-site wastewater disposal systems, including but not limited to
200 applicable rules and regulations regarding the design,
201 construction, installation, operation and maintenance of
202 individual on-site wastewater disposal systems and known
203 requirements of lending institutions for approval of the systems.

204 (2) No new permanent water service connection shall be
205 provided to any mobile, modular or permanently constructed
206 residence, building or facility unless the owner, lessee or
207 developer shows proof of the submission of the notice of intent
208 required by this section.

209 SECTION 6. Section 41-67-6, Mississippi Code of 1972, is
210 reenacted as follows:

211 41-67-6. (1) Within five (5) working days following receipt
212 of the notice of intent and plot plan by an owner, lessee or
213 developer of any lot or tract of land, the department shall
214 conduct a soil and site evaluation, except in cases where a
215 professional engineer provides services relating to the design,
216 construction or installation of an individual on-site wastewater
217 disposal system to comply with this chapter. Within ten (10)
218 additional working days, the department shall make recommendations
219 to the owner, lessee or developer of the type or types of
220 individual on-site wastewater disposal systems suitable for
221 installation on the lot or tract, unless there are conditions
222 requiring further investigation that are revealed in the initial
223 evaluation. In making recommendations on the type or types of
224 individual on-site wastewater disposal systems suitable for



225 installation on a lot or tract, personnel of the department shall
226 use best professional judgment based on rules and regulations
227 adopted by the board, considering the type or types of systems
228 which are installed and functioning on lots or tracts near the
229 subject lot or tract. If existing systems in the surrounding area
230 function properly, systems of that same type shall be approved.
231 To the extent practicable, the recommendations shall give the
232 owner, lessee or developer maximum flexibility and a maximum
233 number of options consistent with the federal Clean Water Act,
234 consistent with maintaining the wastes on the property of the
235 generator except as authorized under Section 41-67-8, and
236 consistent with protection of the public health. The system or
237 systems recommended shall be environmentally sound and
238 cost-effective. The department or a professional engineer shall
239 provide complete information, including all applicable
240 requirements and regulations on all systems recommended. The
241 owner, lessee or developer shall have the right to choose among
242 systems. The department shall provide the owner, lessee or
243 developer with a form that specifies all types of individual
244 on-site wastewater disposal systems that are suitable for
245 installation on the lot or tract and lists all installers of those
246 systems that are certified by the department. Approval of the
247 design, construction or installation of an individual on-site
248 wastewater disposal system by the department is not required. If
249 any property owner, lessee or the owner's or lessee's lending
250 institution requests the department to approve the design,
251 construction or installation of any system on the owner's or
252 lessee's property, the department shall approve the design,
253 construction or installation of that system, as requested, if the
254 system is designed, constructed and installed, as the case may be,
255 in accordance with the rules and regulations of the board. The
256 department shall not approve any individual on-site wastewater
257 disposal system that has a direct or point source discharge,



258 unless the Permit Board has issued a permit for that system under
259 Section 41-67-8.

260 (2) Evaluations and recommendations for a subdivision shall
261 not be subject to the time constraints in this section.

262 (3) If the department has been requested to approve the
263 design, construction or installation of an individual on-site
264 wastewater disposal system, an installer may not begin the design,
265 construction or installation of the individual on-site wastewater
266 disposal system, unless the installer notifies the department of
267 the date on which the installer plans to begin work on the system.

268 (4) A person may not design, construct or install, or cause
269 to be designed, constructed or installed an individual on-site
270 wastewater disposal system that does not comply with this chapter
271 and rules and regulations of the board.

272 (5) Any person who installs an individual on-site wastewater
273 disposal system shall sign and file with the department an
274 affidavit that the system was installed in compliance with all
275 requirements and regulations applicable to that type of system.
276 If any person or contractor fails to comply with all requirements
277 and regulations in the installation of the system, the board,
278 after due notice and hearing, may levy an administrative fine not
279 to exceed One Thousand Dollars (\$1,000.00).

280 (6) Any provisions of this chapter regarding the
281 department's approval of the design, construction and installation
282 of an individual on-site wastewater disposal system shall not
283 apply to a residence, building or facility that is located on a
284 land tract that is two (2) acres or larger.

285 SECTION 7. Section 41-67-7, Mississippi Code of 1972, is
286 reenacted as follows:

287 41-67-7. Individual on-site wastewater disposal systems
288 shall be considered acceptable on lots in areas or subdivisions
289 where prior to the sale of the lots, the following requirements
290 are met:



291 (1) Individual on-site wastewater disposal systems with
292 underground absorption fields shall be considered acceptable,
293 provided the following requirements are met:

294 (a) Sewers are not available or feasible;

295 (b) The existing disposal systems in the area are
296 functioning satisfactorily;

297 (c) Soil types, soil texture, seasonal water tables and
298 other limiting factors are satisfactory for underground
299 absorption; and

300 (d) Any private water supply is located at a higher
301 elevation and at least fifty (50) feet from the individual on-site
302 wastewater disposal system and at least one hundred (100) feet
303 from the disposal field of the system.

304 (2) Except for systems utilizing underground absorption,
305 alternative individual on-site wastewater disposal systems shall
306 be considered acceptable, provided the following requirements are
307 met:

308 (a) Sewers are not available or feasible;

309 (b) The systems meet applicable water quality
310 requirements of the federal Clean Water Act and also requirements
311 of the board and department; and

312 (c) Any discharge is confined within the boundaries of
313 the property of the generator except as authorized under Section
314 41-67-8.

315 SECTION 8. Section 41-67-8, Mississippi Code of 1972, is
316 reenacted as follows:

317 41-67-8. (1) This section shall be applicable only after
318 the department has determined that there is no type of individual
319 on-site wastewater disposal system authorized under subsection (3)
320 or (4) of Section 41-67-3 or rules or regulations of the board
321 that can maintain the wastes on the property of the generator.

322 (2) The owner of any individual on-site wastewater disposal
323 system from which effluent is discharged off the property of the



324 generatory shall obtain a permit for that discharge, if required
325 under Section 49-17-29, from the Permit Board created under
326 Section 49-17-28.

327 (3) The Permit Board may issue general permits for
328 individual on-site wastewater disposal systems as provided in
329 Section 49-17-29.

330 (4) Any violation of this section shall be punished as
331 provided in Section 49-17-43.

332 SECTION 9. Section 41-67-9, Mississippi Code of 1972, is
333 reenacted as follows:

334 41-67-9. (1) Existing individual on-site wastewater
335 disposal systems shall be considered acceptable, provided the
336 following requirements are met:

337 (a) The lot is located in an area or subdivision where
338 individual on-site wastewater disposal systems are considered
339 acceptable under this chapter;

340 (b) The residence, building or facility has previously
341 been occupied for a period of time deemed by the department
342 necessary to determine the functioning capability of the
343 individual on-site wastewater disposal system;

344 (c) The system is functioning properly with no evidence
345 that any insufficiently treated effluent is or has been seeping to
346 the surface of the ground and any discharge of treated effluent is
347 confined within the boundaries of the property of the generator
348 except as authorized under Section 41-67-8; and

349 (d) If a private water supply well is present, the well
350 is located at a higher elevation than the disposal system and is
351 protected from surface contamination by a concrete slab of a
352 thickness of at least four (4) inches extending at least two (2)
353 feet in all directions from the well casing.

354 (2) If an existing residential individual on-site wastewater
355 disposal system is malfunctioning, the system should be replaced,
356 where possible, with a system meeting all requirements of this



357 chapter and rules and regulations of the board. If replacement of
358 the existing system is not possible, the existing system shall be
359 repaired to reduce the volume of effluent, to adequately treat the
360 effluent and to the greatest extent possible, to confine the
361 discharge to the property of the generator except as authorized
362 under Section 41-67-8. If repairs are made to significantly
363 upgrade the existing individual on-site wastewater disposal
364 system, the department shall approve the system, if requested.

365 SECTION 10. Section 41-67-10, Mississippi Code of 1972, is
366 reenacted as follows:

367 41-67-10. Aerobic treatment systems may be installed only
368 if they have been tested and listed by a third party certifying
369 program. Aerobic treatment systems shall be in compliance with
370 standards for a Class I system as defined by the most current
371 revision of American National Standards Institute/National
372 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
373 hereby incorporated by reference. Beginning on October 1, 1996,
374 an approved third party certifying program shall comply with the
375 following provisions for systems which it has certified to be
376 installed in Mississippi:

377 (a) Be accredited by the American National Standards
378 Institute;

379 (b) Have established procedures which send
380 representatives to distributors in Mississippi on a recurring
381 basis to conduct evaluations to assure that distributors of
382 certified aerobic treatment systems are providing proper
383 maintenance, have sufficient replacement parts available and are
384 maintaining service records;

385 (c) Notify the department of the results of monitoring
386 visits to manufacturers and distributors within sixty (60) days of
387 the conclusion of the monitoring; and

388 (d) Submit completion reports on testing and any other
389 information as the department may require for its review.



390 SECTION 11. Section 41-67-11, Mississippi Code of 1972, is
391 reenacted as follows:

392 41-67-11. (1) Temporary individual on-site wastewater
393 disposal systems may be approved in otherwise unapprovable areas
394 only after a contract has been awarded for the construction of
395 municipal or community sewers that upon completion will adequately
396 serve the property. Temporary individual on-site wastewater
397 disposal systems shall only be approved under the following
398 conditions:

399 (a) When the municipal or community sewers shall not be
400 completed and available for use within six (6) months, a complete
401 individual on-site wastewater disposal system complying with all
402 requirements of the board may be installed. Upon completion of
403 the sewer construction all systems shall be abandoned and all
404 residences, buildings or facilities connected to the sewer.

405 (b) When the public sewers shall be available and ready
406 for use within a period not to exceed six (6) months, or where a
407 minor extension is to be made to a municipal system by the
408 municipality and no contract is to be awarded, an individual
409 on-site wastewater disposal system with a minimum capacity of
410 three hundred (300) gallons and at least sixty percent (60%) of
411 the required disposal field may be installed. The board shall not
412 approve a temporary system under this subsection unless the
413 professional engineer designing the sewer system has certified to
414 the board in writing that the public sewer or extension shall be
415 completed within six (6) months, and the owner of the temporary
416 system has certified in writing that connection to the public
417 sewer shall be made as soon as it becomes available.

418 (2) The board may approve the installation of sewage holding
419 tanks in districts created under Sections 19-5-151 through
420 19-5-207 for the purpose of providing sewage services. The
421 district shall be required to maintain or provide for the
422 maintenance of those holding tanks. The board shall require that



423 residences be connected to a municipal or community sewage system
424 when that system is available and ready to use.

425 SECTION 12. Section 41-67-12, Mississippi Code of 1972, is
426 reenacted as follows:

427 41-67-12. (1) The department shall assess fees in the
428 following amounts for the following purposes:

429 (a) A fee of Fifty Dollars (\$50.00) shall be levied for
430 soil and site evaluation and recommendation of individual on-site
431 wastewater disposal systems.

432 (b) A fee of Fifty Dollars (\$50.00) shall be levied
433 annually for the certification of installers and persons engaging
434 in the removal and disposal of the sludge and liquid wastes from
435 individual on-site wastewater disposal systems.

436 (c) A fee of One Hundred Dollars (\$100.00) shall be
437 levied annually for the registration of manufacturers.

438 (2) In the discretion of the board, a person shall be liable
439 for a penalty equal to one and one-half (1-1/2) times the amount
440 of the fee due and payable for failure to pay the fee on or before
441 the date due, plus any amount necessary to reimburse the cost of
442 collection.

443 (3) The fee authorized under this section shall not be
444 assessed for any system operated by state agencies or
445 institutions, including without limitation, foster homes licensed
446 by the State Department of Human Services. The fee authorized
447 under this section shall not be charged again after payment of the
448 initial fee for any system that has been installed in accordance
449 with this chapter, within a period of twenty-four (24) months
450 following the date that the system was originally installed.

451 SECTION 13. Section 41-67-15, Mississippi Code of 1972, is
452 reenacted as follows:

453 41-67-15. Nothing in this chapter shall limit the authority
454 of a municipality or board of supervisors to adopt similar
455 ordinances which may be, in whole or in part, more restrictive



456 than this chapter, and in those cases the more restrictive
457 ordinances will govern.

458 SECTION 14. Section 41-67-16, Mississippi Code of 1972, is
459 reenacted as follows:

460 41-67-16. (1) Before January 1, 1997, the department shall
461 conduct a study of all individual on-site wastewater disposal
462 systems currently being recommended for use in the state to
463 determine the suitability of using those systems on lots or tracts
464 in areas of the state given the various soil types and
465 classifications. In conducting the study, the department shall
466 consider the type of system, lot size, effluent quality and other
467 recommended limitations which should be placed on the use of each
468 system.

469 (2) The department shall prepare and submit a report to the
470 Governor and the Legislature describing the results of its study.

471 SECTION 15. Section 41-67-19, Mississippi Code of 1972, is
472 reenacted as follows:

473 41-67-19. Each authorized agent of the department
474 implementing this chapter shall demonstrate to the department's
475 satisfaction that the person:

476 (a) Is competent to review and provide any requested
477 approval of design, construction and installation of individual
478 on-site wastewater disposal systems, as well as the operation,
479 repair or maintenance of those systems, to make soil permeability
480 tests or soil and site evaluations, and to conduct inspections of
481 individual on-site wastewater disposal systems in accordance with
482 this chapter and rules and regulations adopted under this chapter;
483 and

484 (b) Has successfully completed the installer
485 certification training program provided by the department.

486 SECTION 16. Section 41-67-21, Mississippi Code of 1972, is
487 reenacted as follows:



488 41-67-21. (1) The board or the department may require a
489 property owner or lessee to repair a malfunctioning individual
490 on-site wastewater disposal system on the owner's or lessee's
491 property before the thirtieth day after the date on which the
492 owner or lessee is notified by the department of the
493 malfunctioning system.

494 (2) The property owner or lessee shall take adequate
495 measures as soon as practicable to abate an immediate health
496 hazard.

497 (3) The property owner or lessee may be assessed a civil
498 penalty not to exceed Five Dollars (\$5.00) for each day the
499 individual on-site wastewater disposal system remains unrepaired
500 after the thirty-day period specified in subsection (1) of this
501 section.

502 (4) The board may assess the property owner or lessee of an
503 individual on-site wastewater disposal system authorized pursuant
504 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
505 (\$50.00) for each day the system fails to meet the performance
506 standards of that system after the thirty-day period specified in
507 subsection (1) of this section.

508 (5) All penalties collected by the board under this section
509 shall be deposited in the State General Fund.

510 (6) Appeals from the imposition of civil penalty under this
511 section may be taken as provided in Section 41-67-29.

512 SECTION 17. Section 41-67-23, Mississippi Code of 1972, is
513 reenacted as follows:

514 41-67-23. The department or its authorized representative
515 may enter onto property and make inspections of any individual
516 on-site wastewater disposal system as necessary to ensure that the
517 system is in compliance with this chapter and the rules adopted
518 under this chapter. The department shall give reasonable notice
519 to any property owner, lessee or occupant prior to entry onto the
520 property. The owner, lessee, owner's representative, or occupant



521 of the property on which the system is located shall give the
522 department or its authorized representative reasonable access to
523 the property at reasonable times to make necessary inspections.

524 SECTION 18. Section 41-67-25, Mississippi Code of 1972, is
525 reenacted as follows:

526 41-67-25. (1) A person may not operate as an installer in
527 this state unless that person is certified by the board except any
528 individual who installs an individual on-site wastewater disposal
529 system on his own property or a professional engineer.

530 (2) An installer of aerobic treatment plants or subsurface
531 drip disposal systems must be a factory-trained and authorized
532 representative. The manufacturer must furnish documentation to
533 the department certifying the satisfactory completion of factory
534 training and the establishment of the installer as an authorized
535 manufacturer's representative.

536 (3) The board shall issue a certification to an installer if
537 the installer:

538 (a) Completes an application form that complies with
539 this chapter and rules adopted under this chapter;

540 (b) Satisfactorily completes the training program
541 provided by the department; and

542 (c) Pays the annual certification fee.

543 (4) Each installer shall furnish proof of certification to a
544 property owner, lessee, the owner's representative or occupant of
545 the property on which an individual on-site wastewater disposal
546 system is to be designed, constructed, repaired or installed by
547 that installer and to the department or its authorized
548 representative, if requested.

549 (5) The department shall provide for annual renewal of
550 certifications.

551 (6) (a) An installer's certification may be suspended or
552 revoked by the board after notice and hearing if the installer



553 violates this chapter or any rule or regulation adopted under this
554 chapter.

555 (b) The installer may appeal a suspension or revocation
556 under this section as provided by law.

557 (7) The department semiannually shall disseminate to the
558 public an official list of certified installers and provide to
559 county health departments a monthly update of the list.

560 SECTION 19. Section 41-67-27, Mississippi Code of 1972, is
561 reenacted as follows:

562 41-67-27. It is unlawful for a manufacturer of an individual
563 on-site wastewater disposal system to operate a business in or to
564 do business in the State of Mississippi without holding a valid
565 registration issued by the department.

566 SECTION 20. Section 41-67-28, Mississippi Code of 1972, is
567 reenacted as follows:

568 41-67-28. (1) Except as otherwise provided in this chapter,
569 any person who shall knowingly violate this chapter or any rule or
570 regulation or written order of the board in pursuance thereof is,
571 upon conviction, guilty of a misdemeanor and shall be punished as
572 provided in Section 41-3-59.

573 (2) Each day of a continuing violation is a separate
574 violation.

575 (3) (a) In addition to all other statutory and common law
576 rights, remedies and defenses, any person who purchases an
577 individual on-site wastewater disposal system and suffers any
578 ascertainable loss of money or property, real or personal, may
579 bring an action at law in the court having jurisdiction in the
580 county in which the installer or manufacturer has the principal
581 place of business, where the act allegedly occurred, to recover
582 any loss of money or damages for the loss of any property
583 resulting from any of the following:

584 (i) Improper installation of an individual on-site
585 wastewater disposal system due to faulty workmanship;



586 (ii) Failure of an individual on-site wastewater
587 disposal system to operate properly due to failure to install the
588 system in accordance with any requirements of the manufacturer or
589 in compliance with any rules and regulations of the board; or

590 (iii) Failure of an individual on-site wastewater
591 disposal system to operate properly due to defective design or
592 construction.

593 (b) Nothing in this chapter shall be construed to
594 permit any class action or suit, but every private action must be
595 maintained in the name of and for the sole use and benefit of the
596 individual person.

597 (4) A person who violates this chapter thereby causing a
598 discharge off the property of the generator shall be liable to the
599 party aggrieved or damaged by that violation for the actual
600 damages and additional punitive damages equal to a maximum of
601 twenty-five percent (25%) of the actual damages proven by the
602 aggrieved party, to be taxed by the court where the suit is heard
603 on an original action, by appeal or otherwise and recovered by a
604 suit at law in any court of competent jurisdiction. In addition,
605 the court may award the prevailing party reasonable attorneys fees
606 and court costs. Before filing suit, the party aggrieved or
607 damaged must give thirty (30) days' written notice of its intent
608 to file suit to the alleged violator.

609 SECTION 21. Section 41-67-29, Mississippi Code of 1972, is
610 reenacted as follows:

611 41-67-29. Any person who is aggrieved by any final decision
612 of the board may appeal that final decision to the chancery court
613 of the county of the situs in whole or in part of the subject
614 matter. The appellant shall give a cost bond with sufficient
615 sureties, payable to the state in a sum to be fixed by the board
616 or the court and to be filed with and approved by the clerk of the
617 court. The aggrieved party may, within thirty (30) days following
618 a final decision of the board, petition the chancery court for an



619 appeal with supersedeas and the chancellor shall grant a hearing
620 on the petition. Upon good cause shown the chancellor may grant
621 the appeal with supersedeas. The appellant shall be required to
622 post a bond with sufficient sureties according to law in an amount
623 to be determined by the chancellor. The chancery court shall
624 always be deemed open for hearing of appeals and the chancellor
625 may hear the appeal in termtime or in vacation at any place in his
626 district. The appeal shall have precedence over all civil cases,
627 except election contests. The chancery court shall review all
628 questions of law and of fact and may enter a final order or remand
629 the matter to the board for appropriate action as may be indicated
630 or necessary under the circumstances. Appeals may be taken from
631 the chancery court to the Supreme Court in the manner as now
632 required by law, but if a supersedeas is desired by the party
633 appealing to the chancery court, that party may apply therefor to
634 the chancellor, who shall award a writ of supersedeas, without
635 additional bond, if in the chancellor's judgment material damage
636 is not likely to result. If material damage is likely to result,
637 the chancellor shall require a supersedeas bond as deemed proper,
638 which shall be liable to the state for any damage.

639 SECTION 22. Section 41-67-31, Mississippi Code of 1972, is
640 reenacted and amended as follows:

641 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
642 repealed on July 1, 2002.

643 SECTION 23. This act shall take effect and be in force from
644 and after July 1, 2001.

