

By: Representative Moody

To: Public Health and Welfare

HOUSE BILL NO. 1225

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND SECTION 41-67-25,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE WASTEWATER DISPOSAL SYSTEM
5 INSTALLERS TO POST A PERFORMANCE BOND; TO AMEND SECTION 41-67-31,
6 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
7 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL LAW; AND FOR
8 RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

133 (b) Application review;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

295 (a) Sewers are not available or feasible;

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

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

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

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

309 (a) Sewers are not available or feasible;

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

313 (c) Any discharge is confined within the boundaries of
314 the property of the generator except as authorized under Section
315 41-67-8.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

541 (b) Satisfactorily completes the training program
542 provided by the department; * * *

543 (c) Pays the annual certification fee; and

544 (d) Provides proof of holding a valid performance bond.

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

551 (5) The department shall provide for annual renewal of
552 certifications.

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

555 violates this chapter or any rule or regulation adopted under this
556 chapter.

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

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

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

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

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

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

575 (2) Each day of a continuing violation is a separate
576 violation.

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

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

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

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

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

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

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

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

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

641 SECTION 22. Section 41-67-31, Mississippi Code of 1972, is
642 amended as follows:

643 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
644 repealed on July 1, 2007.

645 SECTION 23. This act shall take effect and be in force from
646 and after June 30, 2001.