

By: Senator(s) Dawkins

To: Environment Prot, Cons  
and Water Res

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2957

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,  
2 MISSISSIPPI CODE OF 1972, WHICH IS THE MISSISSIPPI INDIVIDUAL  
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND SECTION 41-67-21,  
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF  
5 ENVIRONMENTAL QUALITY TO SEEK INJUNCTIVE RELIEF FOR VIOLATIONS; TO  
6 AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE  
7 REPEALER ON THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL  
8 LAW; TO CREATE A SPECIAL TASK FORCE TO STUDY LAWS PERTAINING TO  
9 WATER AND SEWAGE SERVICE; AND FOR RELATED PURPOSES.

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

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

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

15 SECTION 2. Section 41-67-3, Mississippi Code of 1972, is  
16 reenacted as follows:

17 41-67-3. (1) The State Board of Health shall have the  
18 following duties and responsibilities:

19 (a) To exercise general supervision over the design,  
20 construction, operation and maintenance of individual on-site  
21 wastewater disposal systems with flows substantially equivalent to  
22 a single family residential generator, except when the property  
23 owner or lessee chooses to employ a professional engineer to  
24 comply with this chapter. To effectively administer this law, the  
25 department and the Department of Environmental Quality shall enter  
26 into a memorandum of understanding, which at a minimum shall  
27 clearly define the jurisdiction of each department with regard to  
28 wastewater disposal and procedures for interdepartmental  
29 interaction and cooperation;



30 (b) To adopt, modify, repeal and promulgate rules and  
31 regulations, after due notice and hearing, and where not otherwise  
32 prohibited by federal or state law, to make exceptions to, to  
33 grant exemptions from and to enforce rules and regulations  
34 implementing or effectuating the duties of the board under this  
35 chapter to protect the public health. The board may grant  
36 variances from rules and regulations adopted under this chapter,  
37 including requirements for buffer zones, or from setbacks required  
38 under Section 41-67-7 where the granting of a variance shall not  
39 subject the public to unreasonable health risks or jeopardize  
40 environmental resources;

41 (c) To provide or deny certification for persons  
42 engaging in the business of the design, construction or  
43 installation of individual on-site wastewater disposal systems and  
44 persons engaging in the removal and disposal of the sludge and  
45 liquid waste from those systems;

46 (d) To suspend or revoke certifications issued to  
47 persons engaging in the business of the design, construction or  
48 installation of individual on-site wastewater disposal systems or  
49 persons engaging in the removal and disposal of the sludge and  
50 liquid waste from those systems, when it is determined the person  
51 has violated this chapter or applicable rules and regulations; and

52 (e) To require the submission of information deemed  
53 necessary by the department to determine the suitability of  
54 individual lots for individual on-site wastewater disposal  
55 systems.

56 (2) Nothing in this chapter shall preclude a professional  
57 engineer from providing services relating to the design,  
58 construction or installation of an individual on-site wastewater  
59 disposal system to comply with this chapter. Except as otherwise  
60 required by subsection (4) of this section or Section 41-67-8, a  
61 professional engineer shall notify the department in writing of  
62 those services being provided. If a professional engineer



63 designs, constructs or installs or directly supervises the  
64 construction or installation of a design-based individual on-site  
65 wastewater disposal system consistent with this chapter and stamps  
66 the appropriate documentation with that professional engineer's  
67 seal, the department shall approve the design, construction or  
68 installation of the system, if requested. Professional engineers  
69 engaging in the design, construction or installation of individual  
70 on-site wastewater disposal systems shall not require  
71 certification under this chapter.

72 (3) To assure the effective and efficient administration of  
73 this chapter, the board shall adopt rules governing the design,  
74 construction or installation, operation and maintenance of  
75 individual on-site wastewater disposal systems, including rules  
76 concerning the:

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

79 (b) Certification of installers of individual on-site  
80 wastewater disposal systems and persons engaging in the removal  
81 and disposal of the sludge and liquid waste from those systems;  
82 and

83 (c) Registration and requirements for testing and  
84 listing of manufacturers of aerobic treatment systems.

85 (4) In addition, the board shall adopt rules establishing  
86 performance standards for individual on-site wastewater disposal  
87 systems for single family residential generators and rules  
88 concerning the operation and maintenance of individual on-site  
89 wastewater disposal systems designed to meet those standards. The  
90 performance standards shall be consistent with the federal Clean  
91 Water Act, maintaining the wastes on the property of the generator  
92 except as authorized under Section 41-67-8, and protection of the  
93 public health. Rules for the operation and maintenance of  
94 individual on-site wastewater disposal systems designed to meet



95 performance standards shall include rules concerning the  
96 following:

97 (a) A standard application form and requirements for  
98 supporting documentation;

99 (b) Application review;

100 (c) Approval or denial of authorization for proposed  
101 systems;

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

104 (e) Enforcement of the requirements and conditions of  
105 authorization; and

106 (f) Inspection, monitoring, sampling and reporting on  
107 the performance of the system.

108 Any system proposed for authorization in accordance with  
109 performance standards must be designed and certified by a  
110 professional engineer and must be authorized by the board before  
111 installation. Appeals from a final decision of the board  
112 regarding the authorization of an individual on-site wastewater  
113 disposal system based upon performance standards shall be taken  
114 using a procedure substantially equivalent to the procedure  
115 specified for hospital licenses in Chapter 9 of Title 41.

116 (5) To the extent practicable, all rules and regulations  
117 adopted under this chapter shall give maximum flexibility to  
118 persons installing individual on-site wastewater disposal systems  
119 and a maximum number of options consistent with the federal Clean  
120 Water Act, consistent with maintaining the wastes on the property  
121 of the generator except as authorized under Section 41-67-8, and  
122 consistent with protection of the public health. In addition, all  
123 rules and regulations, to the extent practicable, shall encourage  
124 the use of economically feasible systems, including alternative  
125 techniques and technologies for individual on-site wastewater  
126 disposal.



127           (6) All regulations shall be applied uniformly in all areas  
128 of the state and shall take into consideration and make provision  
129 for different types of soil in the state when performing soil and  
130 site evaluations.

131           SECTION 3. Section 41-67-4, Mississippi Code of 1972, is  
132 reenacted as follows:

133           41-67-4. (1) The Commission on Environmental Quality shall  
134 determine the feasibility of establishing community sewerage  
135 systems upon the submission by the developer of a preliminary  
136 design and feasibility study prepared by a professional engineer.  
137 The developer may request and obtain a hearing before the  
138 commission if the developer is dissatisfied with the commission's  
139 determination of feasibility. The determination that a sewerage  
140 system must be established shall be made without regard to whether  
141 the establishment of a sewerage system is authorized by law or is  
142 subject to approval by one or more state or local government or  
143 public bodies.

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

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

157           SECTION 4. Section 41-67-5, Mississippi Code of 1972, is  
158 reenacted as follows:



159           41-67-5. (1) No owner, lessee or developer shall construct  
160 or place any mobile, modular or permanently constructed residence,  
161 building or facility, which may require the installation of an  
162 individual on-site wastewater disposal system, without having  
163 first submitted a notice of intent to the department. Upon  
164 receipt of a notice of intent, the department shall provide the  
165 owner, lessee or developer with complete information on individual  
166 on-site wastewater disposal systems, including but not limited to  
167 applicable rules and regulations regarding the design,  
168 construction, installation, operation and maintenance of  
169 individual on-site wastewater disposal systems and known  
170 requirements of lending institutions for approval of the systems.

171           (2) No new permanent water service connection shall be  
172 provided to any mobile, modular or permanently constructed  
173 residence, building or facility unless the owner, lessee or  
174 developer shows proof of the submission of the notice of intent  
175 required by this section.

176           SECTION 5. Section 41-67-6, Mississippi Code of 1972, is  
177 reenacted as follows:

178           41-67-6. (1) Within five (5) working days following receipt  
179 of the notice of intent and plot plan by an owner, lessee or  
180 developer of any lot or tract of land, the department shall  
181 conduct a soil and site evaluation, except in cases where a  
182 professional engineer provides services relating to the design,  
183 construction or installation of an individual on-site wastewater  
184 disposal system to comply with this chapter. Within ten (10)  
185 additional working days, the department shall make recommendations  
186 to the owner, lessee or developer of the type or types of  
187 individual on-site wastewater disposal systems suitable for  
188 installation on the lot or tract, unless there are conditions  
189 requiring further investigation that are revealed in the initial  
190 evaluation. In making recommendations on the type or types of  
191 individual on-site wastewater disposal systems suitable for



192 installation on a lot or tract, personnel of the department shall  
193 use best professional judgment based on rules and regulations  
194 adopted by the board, considering the type or types of systems  
195 which are installed and functioning on lots or tracts near the  
196 subject lot or tract. If existing systems in the surrounding area  
197 function properly, systems of that same type shall be approved.  
198 To the extent practicable, the recommendations shall give the  
199 owner, lessee or developer maximum flexibility and a maximum  
200 number of options consistent with the federal Clean Water Act,  
201 consistent with maintaining the wastes on the property of the  
202 generator except as authorized under Section 41-67-8, and  
203 consistent with protection of the public health. The system or  
204 systems recommended shall be environmentally sound and  
205 cost-effective. The department or a professional engineer shall  
206 provide complete information, including all applicable  
207 requirements and regulations on all systems recommended. The  
208 owner, lessee or developer shall have the right to choose among  
209 systems. The department shall provide the owner, lessee or  
210 developer with a form that specifies all types of individual  
211 on-site wastewater disposal systems that are suitable for  
212 installation on the lot or tract and lists all installers of those  
213 systems that are certified by the department. Approval of the  
214 design, construction or installation of an individual on-site  
215 wastewater disposal system by the department is not required. If  
216 any property owner, lessee or the owner's or lessee's lending  
217 institution requests the department to approve the design,  
218 construction or installation of any system on the owner's or  
219 lessee's property, the department shall approve the design,  
220 construction or installation of that system, as requested, if the  
221 system is designed, constructed and installed, as the case may be,  
222 in accordance with the rules and regulations of the board. The  
223 department shall not approve any individual on-site wastewater  
224 disposal system that has a direct or point source discharge,



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

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

229 (3) If the department has been requested to approve the  
230 design, construction or installation of an individual on-site  
231 wastewater disposal system, an installer may not begin the design,  
232 construction or installation of the individual on-site wastewater  
233 disposal system, unless the installer notifies the department of  
234 the date on which the installer plans to begin work on the system.

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

239 (5) Any person who installs an individual on-site wastewater  
240 disposal system shall sign and file with the department an  
241 affidavit that the system was installed in compliance with all  
242 requirements and regulations applicable to that type of system.  
243 If any person or contractor fails to comply with all requirements  
244 and regulations in the installation of the system, the board,  
245 after due notice and hearing, may levy an administrative fine not  
246 to exceed One Thousand Dollars (\$1,000.00).

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

252 SECTION 6. Section 41-67-7, Mississippi Code of 1972, is  
253 reenacted as follows:

254 41-67-7. Individual on-site wastewater disposal systems  
255 shall be considered acceptable on lots in areas or subdivisions  
256 where prior to the sale of the lots, the following requirements  
257 are met:





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

261 (a) Sewers are not available or feasible;

262 (b) The existing disposal systems in the area are  
263 functioning satisfactorily;

264 (c) Soil types, soil texture, seasonal water tables and  
265 other limiting factors are satisfactory for underground  
266 absorption; and

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

271 (2) Except for systems utilizing underground absorption,  
272 alternative individual on-site wastewater disposal systems shall  
273 be considered acceptable, provided the following requirements are  
274 met:

275 (a) Sewers are not available or feasible;

276 (b) The systems meet applicable water quality  
277 requirements of the federal Clean Water Act and also requirements  
278 of the board and department; and

279 (c) Any discharge is confined within the boundaries of  
280 the property of the generator except as authorized under Section  
281 41-67-8.

282 SECTION 7. Section 41-67-9, Mississippi Code of 1972, is  
283 reenacted as follows:

284 41-67-9. (1) Existing individual on-site wastewater  
285 disposal systems shall be considered acceptable, provided the  
286 following requirements are met:

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



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

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

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

304 (2) If an existing residential individual on-site wastewater  
305 disposal system is malfunctioning, the system should be replaced,  
306 where possible, with a system meeting all requirements of this  
307 chapter and rules and regulations of the board. If replacement of  
308 the existing system is not possible, the existing system shall be  
309 repaired to reduce the volume of effluent, to adequately treat the  
310 effluent and to the greatest extent possible, to confine the  
311 discharge to the property of the generator except as authorized  
312 under Section 41-67-8. If repairs are made to significantly  
313 upgrade the existing individual on-site wastewater disposal  
314 system, the department shall approve the system, if requested.

315 SECTION 8. Section 41-67-11, Mississippi Code of 1972, is  
316 reenacted as follows:

317 41-67-11. (1) Temporary individual on-site wastewater  
318 disposal systems may be approved in otherwise unapprovable areas  
319 only after a contract has been awarded for the construction of  
320 municipal or community sewers that upon completion will adequately  
321 serve the property. Temporary individual on-site wastewater



322 disposal systems shall only be approved under the following  
323 conditions:

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

330 (b) When the public sewers shall be available and ready  
331 for use within a period not to exceed six (6) months, or where a  
332 minor extension is to be made to a municipal system by the  
333 municipality and no contract is to be awarded, an individual  
334 on-site wastewater disposal system with a minimum capacity of  
335 three hundred (300) gallons and at least sixty percent (60%) of  
336 the required disposal field may be installed. The board shall not  
337 approve a temporary system under this subsection unless the  
338 professional engineer designing the sewer system has certified to  
339 the board in writing that the public sewer or extension shall be  
340 completed within six (6) months, and the owner of the temporary  
341 system has certified in writing that connection to the public  
342 sewer shall be made as soon as it becomes available.

343 (2) The board may approve the installation of sewage holding  
344 tanks in districts created under Sections 19-5-151 through  
345 19-5-207 for the purpose of providing sewage services. The  
346 district shall be required to maintain or provide for the  
347 maintenance of those holding tanks. The board shall require that  
348 residences be connected to a municipal or community sewage system  
349 when that system is available and ready to use.

350 SECTION 9. Section 41-67-12, Mississippi Code of 1972, is  
351 reenacted as follows:

352 41-67-12. (1) The department shall assess fees in the  
353 following amounts for the following purposes:



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

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

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

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

368 (3) The fee authorized under this section shall not be  
369 assessed for any system operated by state agencies or  
370 institutions, including without limitation, foster homes licensed  
371 by the State Department of Human Services. The fee authorized  
372 under this section shall not be charged again after payment of the  
373 initial fee for any system that has been installed in accordance  
374 with this chapter, within a period of twenty-four (24) months  
375 following the date that the system was originally installed.

376 SECTION 10. Section 41-67-15, Mississippi Code of 1972, is  
377 reenacted as follows:

378 41-67-15. Nothing in this chapter shall limit the authority  
379 of a municipality or board of supervisors to adopt similar  
380 ordinances which may be, in whole or in part, more restrictive  
381 than this chapter, and in those cases the more restrictive  
382 ordinances will govern.

383 SECTION 11. Section 41-67-16, Mississippi Code of 1972, is  
384 reenacted as follows:

385 41-67-16. (1) Before January 1, 1997, the department shall  
386 conduct a study of all individual on-site wastewater disposal



387 systems currently being recommended for use in the state to  
388 determine the suitability of using those systems on lots or tracts  
389 in areas of the state given the various soil types and  
390 classifications. In conducting the study, the department shall  
391 consider the type of system, lot size, effluent quality and other  
392 recommended limitations which should be placed on the use of each  
393 system.

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

396 SECTION 12. Section 41-67-19, Mississippi Code of 1972, is  
397 reenacted as follows:

398 41-67-19. Each authorized agent of the department  
399 implementing this chapter shall demonstrate to the department's  
400 satisfaction that the person:

401 (a) Is competent to review and provide any requested  
402 approval of design, construction and installation of individual  
403 on-site wastewater disposal systems, as well as the operation,  
404 repair or maintenance of those systems, to make soil permeability  
405 tests or soil and site evaluations, and to conduct inspections of  
406 individual on-site wastewater disposal systems in accordance with  
407 this chapter and rules and regulations adopted under this chapter;  
408 and

409 (b) Has successfully completed the installer  
410 certification training program provided by the department.

411 SECTION 13. Section 41-67-21, Mississippi Code of 1972, is  
412 amended as follows:

413 41-67-21. (1) The board or the department may order a  
414 property owner or lessee to repair a malfunctioning individual  
415 on-site wastewater disposal system on the owner's or lessee's  
416 property before the thirtieth day after the date on which the  
417 owner or lessee is notified by the department of the  
418 malfunctioning system. If the malfunctioning system presents an



419 immediate health hazard, the board or the department may order the  
420 system to be repaired or shut down in less than thirty (30) days.

421 (2) The property owner or lessee shall take adequate  
422 measures as soon as practicable to abate an immediate health  
423 hazard.

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

429 (4) The board may assess the property owner or lessee of an  
430 individual on-site wastewater disposal system authorized pursuant  
431 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars  
432 (\$50.00) for each day the system fails to meet the performance  
433 standards of that system after the thirty-day period specified in  
434 subsection (1) of this section.

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

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

439 (7) In addition to the penalties provided in this section  
440 and any other available remedies, the board or department may seek  
441 mandatory or prohibitory injunctive relief to enforce this  
442 chapter, any rule or regulation or any order issued pursuant to  
443 this chapter in the chancery court in which the property lies.

444 SECTION 14. Section 41-67-23, Mississippi Code of 1972, is  
445 reenacted as follows:

446 41-67-23. The department or its authorized representative  
447 may enter onto property and make inspections of any individual  
448 on-site wastewater disposal system as necessary to ensure that the  
449 system is in compliance with this chapter and the rules adopted  
450 under this chapter. The department shall give reasonable notice  
451 to any property owner, lessee or occupant prior to entry onto the



452 property. The owner, lessee, owner's representative, or occupant  
453 of the property on which the system is located shall give the  
454 department or its authorized representative reasonable access to  
455 the property at reasonable times to make necessary inspections.

456 SECTION 15. Section 41-67-25, Mississippi Code of 1972, is  
457 reenacted as follows:

458 41-67-25. (1) A person may not operate as an installer in  
459 this state unless that person is certified by the board except any  
460 individual who installs an individual on-site wastewater disposal  
461 system on his own property or a professional engineer.

462 (2) An installer of aerobic treatment plants or subsurface  
463 drip disposal systems must be a factory-trained and authorized  
464 representative. The manufacturer must furnish documentation to  
465 the department certifying the satisfactory completion of factory  
466 training and the establishment of the installer as an authorized  
467 manufacturer's representative.

468 (3) The board shall issue a certification to an installer if  
469 the installer:

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

472 (b) Satisfactorily completes the training program  
473 provided by the department; and

474 (c) Pays the annual certification fee.

475 (4) Each installer shall furnish proof of certification to a  
476 property owner, lessee, the owner's representative or occupant of  
477 the property on which an individual on-site wastewater disposal  
478 system is to be designed, constructed, repaired or installed by  
479 that installer and to the department or its authorized  
480 representative, if requested.

481 (5) The department shall provide for annual renewal of  
482 certifications.

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



485 violates this chapter or any rule or regulation adopted under this  
486 chapter.

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

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

492 SECTION 16. Section 41-67-27, Mississippi Code of 1972, is  
493 reenacted as follows:

494 41-67-27. It is unlawful for a manufacturer of an individual  
495 on-site wastewater disposal system to operate a business in or to  
496 do business in the State of Mississippi without holding a valid  
497 registration issued by the department.

498 SECTION 17. Section 41-67-28, Mississippi Code of 1972, is  
499 reenacted as follows:

500 41-67-28. (1) Except as otherwise provided in this chapter,  
501 any person who shall knowingly violate this chapter or any rule or  
502 regulation or written order of the board in pursuance thereof is,  
503 upon conviction, guilty of a misdemeanor and shall be punished as  
504 provided in Section 41-3-59.

505 (2) Each day of a continuing violation is a separate  
506 violation.

507 (3) (a) In addition to all other statutory and common law  
508 rights, remedies and defenses, any person who purchases an  
509 individual on-site wastewater disposal system and suffers any  
510 ascertainable loss of money or property, real or personal, may  
511 bring an action at law in the court having jurisdiction in the  
512 county in which the installer or manufacturer has the principal  
513 place of business, where the act allegedly occurred, to recover  
514 any loss of money or damages for the loss of any property  
515 resulting from any of the following:

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





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

522 (iii) Failure of an individual on-site wastewater  
523 disposal system to operate properly due to defective design or  
524 construction.

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

529 (4) A person who violates this chapter thereby causing a  
530 discharge off the property of the generator shall be liable to the  
531 party aggrieved or damaged by that violation for the actual  
532 damages and additional punitive damages equal to a maximum of  
533 twenty-five percent (25%) of the actual damages proven by the  
534 aggrieved party, to be taxed by the court where the suit is heard  
535 on an original action, by appeal or otherwise and recovered by a  
536 suit at law in any court of competent jurisdiction. In addition,  
537 the court may award the prevailing party reasonable attorneys fees  
538 and court costs. Before filing suit, the party aggrieved or  
539 damaged must give thirty (30) days' written notice of its intent  
540 to file suit to the alleged violator.

541 SECTION 18. Section 41-67-29, Mississippi Code of 1972, is  
542 reenacted as follows:

543 41-67-29. Any person who is aggrieved by any final decision  
544 of the board may appeal that final decision to the chancery court  
545 of the county of the situs in whole or in part of the subject  
546 matter. The appellant shall give a cost bond with sufficient  
547 sureties, payable to the state in a sum to be fixed by the board  
548 or the court and to be filed with and approved by the clerk of the  
549 court. The aggrieved party may, within thirty (30) days following  
550 a final decision of the board, petition the chancery court for an



551 appeal with supersedeas and the chancellor shall grant a hearing  
552 on the petition. Upon good cause shown the chancellor may grant  
553 the appeal with supersedeas. The appellant shall be required to  
554 post a bond with sufficient sureties according to law in an amount  
555 to be determined by the chancellor. The chancery court shall  
556 always be deemed open for hearing of appeals and the chancellor  
557 may hear the appeal in termtime or in vacation at any place in his  
558 district. The appeal shall have precedence over all civil cases,  
559 except election contests. The chancery court shall review all  
560 questions of law and of fact and may enter a final order or remand  
561 the matter to the board for appropriate action as may be indicated  
562 or necessary under the circumstances. Appeals may be taken from  
563 the chancery court to the Supreme Court in the manner as now  
564 required by law, but if a supersedeas is desired by the party  
565 appealing to the chancery court, that party may apply therefor to  
566 the chancellor, who shall award a writ of supersedeas, without  
567 additional bond, if in the chancellor's judgment material damage  
568 is not likely to result. If material damage is likely to result,  
569 the chancellor shall require a supersedeas bond as deemed proper,  
570 which shall be liable to the state for any damage.

571 SECTION 19. Section 41-67-31, Mississippi Code of 1972, is  
572 amended as follows:

573 41-67-31. Sections 41-67-1 through 41-67-29 shall stand  
574 repealed on July 1, 2002.

575 SECTION 20. (1) There is created a special task force to  
576 study water and sewage utility services and the laws pertaining to  
577 the regulatory functions, responsibilities and oversight duties of  
578 the Department of Health, Department of Environmental Quality and  
579 Public Service Commission.

580 The task force shall consist of the following four (4)  
581 members of the Senate: the Chairman of the Senate Environmental  
582 Protection, Conservation and Water Resources Committee, or his  
583 designee; the Chairman of the Senate County Affairs Committee, or



584 his designee; the Chairman of the Senate Municipalities Committee,  
585 or his designee; and the Chairman of the Senate Public Utilities  
586 Committee, or his designee. The task force shall elect a chairman  
587 and a vice chairman from its membership.

588 After appointment of the members, the task force shall meet  
589 on a date designated by the chairman of the task force at the New  
590 Capitol to organize the task force and establish rules for  
591 transacting its business and keeping records. A majority of the  
592 members of the task force shall constitute a quorum at all task  
593 force meetings. An affirmative vote of a majority of the members  
594 present and voting shall be required for actions taken by the task  
595 force. All members of the task force shall be notified in writing  
596 of all regular and special meetings of the task force, which  
597 notices shall be mailed at least five (5) days before the dates of  
598 the meetings.

599 The task force may establish any subcommittees that it deems  
600 desirable to analyze issues and report to the task force with  
601 respect to any matter that is within the scope of this section.

602 The task force shall make a written report of its findings  
603 and recommendations before January 5, 2002.

604 In carrying out this section, the task force may utilize the  
605 services, facilities and personnel of all departments, agencies,  
606 offices and institutions of the state, including the state  
607 universities and the community and junior colleges.

608 For attending meetings of the task force, each member shall  
609 be paid, from the Senate Contingent Expense Fund, per diem  
610 compensation in the amount authorized by Section 25-3-69,  
611 Mississippi Code of 1972, and a mileage allowance and an expense  
612 allowance in the amount authorized by Section 5-1-47, Mississippi  
613 Code of 1972. However, no per diem compensation, mileage  
614 allowance or expense allowance shall be paid for attending  
615 meetings of the task force while the Legislature is in session.



616 All expenses incurred by and on behalf of the task force  
617 shall be paid from funds made available by the Senate Rules  
618 Committee from the Senate Contingent Expense Fund, from any funds  
619 appropriated for the purpose of this section, and from any grants  
620 or contributions made to the task force for its purpose.

621 (2) This section shall stand repealed January 6, 2002.

622 SECTION 21. This act shall take effect and be in force from  
623 and after June 30, 2001.

