

By: Senator(s) Dawkins

To: Environment Prot, Cons
and Water Res

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 41-67-3,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE PROFESSIONAL ENGINEERS TO
5 NOTIFY THE STATE DEPARTMENT OF HEALTH OF PLANS FOR WASTEWATER
6 SYSTEM DESIGN AND SPECIFICATIONS; TO AMEND SECTION 41-67-4,
7 MISSISSIPPI CODE OF 1972, TO REVISE AND CLARIFY THE AUTHORITY OF
8 THE COMMISSION ON ENVIRONMENTAL QUALITY AND THE STATE DEPARTMENT
9 OF HEALTH TO DETERMINE THE FEASIBILITY OF ESTABLISHING SEWERAGE
10 SYSTEMS THROUGH THE SUBMISSION OF PRELIMINARY DESIGN AND
11 FEASIBILITY STUDIES PREPARED BY A PROFESSIONAL ENGINEER; TO AMEND
12 SECTION 41-67-6, MISSISSIPPI CODE OF 1972, TO DELETE CERTAIN
13 EXEMPTIONS TO THE APPROVAL OF WASTEWATER SYSTEMS; TO AMEND SECTION
14 41-67-11, MISSISSIPPI CODE OF 1972, TO AUTHORIZE TEMPORARY
15 WASTEWATER SYSTEMS IN CERTAIN SITUATIONS; TO AMEND SECTION
16 41-67-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE WASTEWATER
17 MANAGEMENT AUTHORITIES TO ADOPT MORE RESTRICTIVE WASTEWATER
18 REGULATIONS; TO AMEND SECTION 41-67-25, MISSISSIPPI CODE OF 1972,
19 TO REQUIRE WASTEWATER DISPOSAL SYSTEM INSTALLERS TO POST A
20 PERFORMANCE BOND; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE OF
21 1972, TO EXTEND THE REPEALER ON THE MISSISSIPPI INDIVIDUAL ON-SITE
22 WASTEWATER DISPOSAL LAW; AND FOR RELATED PURPOSES.

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

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

26 41-67-1. This chapter shall be known and may be cited as the
27 "Mississippi Individual On-Site Wastewater Disposal System Law."

28 SECTION 2. Section 41-67-3, Mississippi Code of 1972, is
29 amended as follows:

30 41-67-3. (1) The State Board of Health shall have the
31 following duties and responsibilities:

32 (a) To exercise general supervision over the design,
33 construction, operation and maintenance of individual on-site
34 wastewater disposal systems with flows substantially equivalent to
35 a single family residential generator, except when the property

36 owner or lessee chooses to employ a professional engineer to
37 comply with this chapter. To effectively administer this law, the
38 department and the Department of Environmental Quality shall enter
39 into a memorandum of understanding, which at a minimum shall
40 clearly define the jurisdiction of each department with regard to
41 wastewater disposal and procedures for interdepartmental
42 interaction and cooperation;

43 (b) To adopt, modify, repeal and promulgate rules and
44 regulations, after due notice and hearing, and where not otherwise
45 prohibited by federal or state law, to make exceptions to, to
46 grant exemptions from and to enforce rules and regulations
47 implementing or effectuating the duties of the board under this
48 chapter to protect the public health. The board may grant
49 variances from rules and regulations adopted under this chapter,
50 including requirements for buffer zones, or from setbacks required
51 under Section 41-67-7 where the granting of a variance shall not
52 subject the public to unreasonable health risks or jeopardize
53 environmental resources;

54 (c) To provide or deny certification for persons
55 engaging in the business of the design, construction or
56 installation of individual on-site wastewater disposal systems and
57 persons engaging in the removal and disposal of the sludge and
58 liquid waste from those systems;

59 (d) To suspend or revoke certifications issued to
60 persons engaging in the business of the design, construction or
61 installation of individual on-site wastewater disposal systems or
62 persons engaging in the removal and disposal of the sludge and
63 liquid waste from those systems, when it is determined the person
64 has violated this chapter or applicable rules and regulations; and

65 (e) To require the submission of information deemed
66 necessary by the department to determine the suitability of
67 individual lots for individual on-site wastewater disposal
68 systems.

69 (2) Nothing in this chapter shall preclude a professional
70 engineer from providing services relating to the design,
71 construction or installation of an individual on-site wastewater
72 disposal system to comply with this chapter. Except as otherwise
73 required by subsection (4) of this section or Section 41-67-8, a
74 professional engineer shall notify the department in writing of
75 those services being provided, including the plans for system
76 design and specifications, under the professional engineer's seal.
77 If a professional engineer designs, constructs or installs or
78 directly supervises the construction or installation of a
79 design-based individual on-site wastewater disposal system
80 consistent with this chapter and stamps the appropriate
81 documentation with that professional engineer's seal, the
82 department shall approve the design, construction or installation
83 of the system, if requested. Professional engineers engaging in
84 the design, construction or installation of individual on-site
85 wastewater disposal systems shall not require certification under
86 this chapter.

87 (3) To assure the effective and efficient administration of
88 this chapter, the board shall adopt rules governing the design,
89 construction or installation, operation and maintenance of
90 individual on-site wastewater disposal systems, including rules
91 concerning the:

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

94 (b) Certification of installers of individual on-site
95 wastewater disposal systems and persons engaging in the removal
96 and disposal of the sludge and liquid waste from those systems;
97 and

98 (c) Registration and requirements for testing and
99 listing of manufacturers of aerobic treatment systems.

100 (4) In addition, the board shall adopt rules establishing
101 performance standards for individual on-site wastewater disposal

102 systems for single family residential generators and rules
103 concerning the operation and maintenance of individual on-site
104 wastewater disposal systems designed to meet those standards. The
105 performance standards shall be consistent with the federal Clean
106 Water Act, maintaining the wastes on the property of the generator
107 except as authorized under Section 41-67-8, and protection of the
108 public health. Rules for the operation and maintenance of
109 individual on-site wastewater disposal systems designed to meet
110 performance standards shall include rules concerning the
111 following:

112 (a) A standard application form and requirements for
113 supporting documentation;

114 (b) Application review;

115 (c) Approval or denial of authorization for proposed
116 systems;

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

119 (e) Enforcement of the requirements and conditions of
120 authorization; and

121 (f) Inspection, monitoring, sampling and reporting on
122 the performance of the system.

123 Any system proposed for authorization in accordance with
124 performance standards must be designed and certified by a
125 professional engineer and must be authorized by the board before
126 installation. Appeals from a final decision of the board
127 regarding the authorization of an individual on-site wastewater
128 disposal system based upon performance standards shall be taken
129 using a procedure substantially equivalent to the procedure
130 specified for hospital licenses in Chapter 9 of Title 41.

131 (5) To the extent practicable, all rules and regulations
132 adopted under this chapter shall give maximum flexibility to
133 persons installing individual on-site wastewater disposal systems
134 and a maximum number of options consistent with the federal Clean

135 Water Act, consistent with maintaining the wastes on the property
136 of the generator except as authorized under Section 41-67-8, and
137 consistent with protection of the public health. In addition, all
138 rules and regulations, to the extent practicable, shall encourage
139 the use of economically feasible systems, including alternative
140 techniques and technologies for individual on-site wastewater
141 disposal.

142 (6) All regulations shall be applied uniformly in all areas
143 of the state and shall take into consideration and make provision
144 for different types of soil in the state when performing soil and
145 site evaluations.

146 SECTION 3. Section 41-67-4, Mississippi Code of 1972, is
147 amended as follows:

148 41-67-4. (1) Prior to the sale of any lot, the developer of
149 a subdivision composed of thirty-five (35) or more building sites
150 shall submit to the Commission on Environmental Quality a
151 preliminary design and feasibility study prepared by a
152 professional engineer registered in the State of Mississippi.
153 Failure to comply with this requirement is a violation of this
154 chapter. Each day upon which a violation occurs shall be deemed a
155 separate and additional violation.

156 (2) The Commission on Environmental Quality shall determine
157 the feasibility of establishing community sewerage systems upon
158 the submission by the developer of * * * the feasibility
159 study * * *. The developer may request and obtain a hearing
160 before the commission if the developer is dissatisfied with the
161 commission's determination of feasibility. The determination that
162 a sewerage system must be established shall be made without regard
163 to whether the establishment of a sewerage system is authorized by
164 law or is subject to approval by one or more state or local
165 government or public bodies.

166 (3) Where residential subdivisions are proposed which are
167 composed of fewer than thirty-five (35) building sites, and no

168 system of sanitary sewers is available to which collection sewers
169 may be feasibly connected, the developer must submit to the
170 department: a plot plan showing lot dimensions and topography;
171 and verification whether the proposed subdivision is located
172 within a certificated area of a wastewater utility, and whether
173 the proposed subdivision will be served by that utility. The
174 board may waive the requirement for a feasibility study. If the
175 feasibility study is waived, the Mississippi State Department of
176 Health shall evaluate each lot individually to verify whether an
177 individual system is suitable. However, the board may not waive
178 the requirement for a feasibility study for a continuation of a
179 development which would result in a total of thirty-five (35) or
180 more building sites. In addition, the Commission on Environmental
181 Quality shall consider the total development in determining the
182 feasibility of establishing a community sewerage system.

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

188 (5) Before accepting a Notice of Intent for any building
189 site within a subdivision, the department must be in receipt of
190 the following: documentation that a community sewerage system is
191 not feasible; or, for residential subdivisions which are composed
192 of fewer than thirty-five (35) building sites, a waiver from the
193 board.

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

196 41-67-5. (1) No owner, lessee or developer shall construct
197 or place any mobile, modular or permanently constructed residence,
198 building or facility, which may require the installation of an
199 individual on-site wastewater disposal system, without having
200 first submitted a notice of intent to the department. Upon

201 receipt of a notice of intent, the department shall provide the
202 owner, lessee or developer with complete information on individual
203 on-site wastewater disposal systems, including but not limited to
204 applicable rules and regulations regarding the design,
205 construction, installation, operation and maintenance of
206 individual on-site wastewater disposal systems and known
207 requirements of lending institutions for approval of the systems.

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

213 SECTION 5. Section 41-67-6, Mississippi Code of 1972, is
214 amended as follows:

215 41-67-6. (1) Within five (5) working days following receipt
216 of the notice of intent and plot plan by an owner, lessee or
217 developer of any lot or tract of land, the department shall
218 conduct a soil and site evaluation, except in cases where a
219 professional engineer provides services relating to the design,
220 construction or installation of an individual on-site wastewater
221 disposal system to comply with this chapter. Within ten (10)
222 additional working days, the department shall make recommendations
223 to the owner, lessee or developer of the type or types of
224 individual on-site wastewater disposal systems suitable for
225 installation on the lot or tract, unless there are conditions
226 requiring further investigation that are revealed in the initial
227 evaluation. In making recommendations on the type or types of
228 individual on-site wastewater disposal systems suitable for
229 installation on a lot or tract, personnel of the department shall
230 use best professional judgment based on rules and regulations
231 adopted by the board, considering the type or types of systems
232 which are installed and functioning on lots or tracts near the
233 subject lot or tract. * * * To the extent practicable, the

234 recommendations shall give the owner, lessee or developer maximum
235 flexibility and a maximum number of options consistent with the
236 federal Clean Water Act, consistent with maintaining the wastes on
237 the property of the generator except as authorized under Section
238 41-67-8, and consistent with protection of the public health. The
239 system or systems recommended shall be environmentally sound and
240 cost-effective. The department or a professional engineer shall
241 provide complete information, including all applicable
242 requirements and regulations on all systems recommended. The
243 owner, lessee or developer shall have the right to choose among
244 systems. The department shall provide the owner, lessee or
245 developer with a form that specifies all types of individual
246 on-site wastewater disposal systems that are suitable for
247 installation on the lot or tract and lists all installers of those
248 systems that are certified by the department. Approval of the
249 design, construction or installation of an individual on-site
250 wastewater disposal system by the department is not required. If
251 any property owner, lessee or the owner's or lessee's lending
252 institution requests the department to approve the design,
253 construction or installation of any system on the owner's or
254 lessee's property, the department shall approve the design,
255 construction or installation of that system, as requested, if the
256 system is designed, constructed and installed, as the case may be,
257 in accordance with the rules and regulations of the board. The
258 department shall not approve any individual on-site wastewater
259 disposal system that has a direct or point source discharge,
260 unless the Permit Board has issued a permit for that system under
261 Section 41-67-8.

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

264 (3) If the department has been requested to approve the
265 design, construction or installation of an individual on-site
266 wastewater disposal system, an installer may not begin the design,

267 construction or installation of the individual on-site wastewater
268 disposal system, unless the installer notifies the department of
269 the date on which the installer plans to begin work on the system.

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

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

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

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

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

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

296 (a) Sewers are not available or feasible;

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

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

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

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

310 (a) Sewers are not available or feasible;

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

314 (c) Any discharge is confined within the boundaries of
315 the property of the generator except as authorized under Section
316 41-67-8.

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

319 41-67-9. (1) Existing individual on-site wastewater
320 disposal systems shall be considered acceptable, provided the
321 following requirements are met:

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

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

329 (c) The system is functioning properly with no evidence
330 that any insufficiently treated effluent is or has been seeping to
331 the surface of the ground and any discharge of treated effluent is

332 confined within the boundaries of the property of the generator
333 except as authorized under Section 41-67-8; and

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

339 (2) If an existing residential individual on-site wastewater
340 disposal system is malfunctioning, the system should be replaced,
341 where possible, with a system meeting all requirements of this
342 chapter and rules and regulations of the board. If replacement of
343 the existing system is not possible, the existing system shall be
344 repaired to reduce the volume of effluent, to adequately treat the
345 effluent and to the greatest extent possible, to confine the
346 discharge to the property of the generator except as authorized
347 under Section 41-67-8. If repairs are made to significantly
348 upgrade the existing individual on-site wastewater disposal
349 system, the department shall approve the system, if requested.

350 SECTION 8. Section 41-67-11, Mississippi Code of 1972, is
351 amended as follows:

352 41-67-11. (1) Temporary individual on-site wastewater
353 disposal systems may be approved in otherwise unapprovable areas
354 only after a contract has been awarded for the construction of
355 municipal or community sewers that upon completion will adequately
356 serve the property. Temporary individual on-site wastewater
357 disposal systems shall only be approved under the following
358 conditions:

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

365 (b) When the public sewers shall be available and ready
366 for use within a period not to exceed six (6) months, or where a
367 minor extension is to be made to a municipal system by the
368 municipality and no contract is to be awarded, an individual
369 on-site wastewater disposal system with a minimum capacity of
370 three hundred (300) gallons and at least sixty percent (60%) of
371 the required disposal field may be installed, or other temporary
372 systems as permitted by department regulations. The board shall
373 not approve a temporary system under this subsection unless the
374 professional engineer designing the sewer system has certified to
375 the board in writing that the public sewer or extension shall be
376 completed within six (6) months, and the owner of the temporary
377 system has certified in writing that connection to the public
378 sewer shall be made as soon as it becomes available.

379 (2) The board may approve the installation of sewage holding
380 tanks in districts created under Sections 19-5-151 through
381 19-5-207 for the purpose of providing sewage services. The
382 district shall be required to maintain or provide for the
383 maintenance of those holding tanks. The board shall require that
384 residences be connected to a municipal or community sewage system
385 when that system is available and ready to use.

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

388 41-67-12. (1) The department shall assess fees in the
389 following amounts for the following purposes:

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

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

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

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

404 (3) The fee authorized under this section shall not be
405 assessed for any system operated by state agencies or
406 institutions, including without limitation, foster homes licensed
407 by the State Department of Human Services. The fee authorized
408 under this section shall not be charged again after payment of the
409 initial fee for any system that has been installed in accordance
410 with this chapter, within a period of twenty-four (24) months
411 following the date that the system was originally installed.

412 SECTION 10. Section 41-67-15, Mississippi Code of 1972, is
413 amended as follows:

414 41-67-15. Nothing in this chapter shall limit the authority
415 of a municipality, board of supervisors or wastewater management
416 authorities to adopt similar ordinances which may be, in whole or
417 in part, more restrictive than this chapter, and in those cases
418 the more restrictive ordinances will govern.

419 SECTION 11. Section 41-67-19, Mississippi Code of 1972, is
420 reenacted as follows:

421 41-67-19. Each authorized agent of the department
422 implementing this chapter shall demonstrate to the department's
423 satisfaction that the person:

424 (a) Is competent to review and provide any requested
425 approval of design, construction and installation of individual
426 on-site wastewater disposal systems, as well as the operation,
427 repair or maintenance of those systems, to make soil permeability
428 tests or soil and site evaluations, and to conduct inspections of
429 individual on-site wastewater disposal systems in accordance with

430 this chapter and rules and regulations adopted under this chapter;
431 and

432 (b) Has successfully completed the installer
433 certification training program provided by the department.

434 SECTION 12. Section 41-67-21, Mississippi Code of 1972, is
435 reenacted as follows:

436 41-67-21. (1) The board or the department may require a
437 property owner or lessee to repair a malfunctioning individual
438 on-site wastewater disposal system on the owner's or lessee's
439 property before the thirtieth day after the date on which the
440 owner or lessee is notified by the department of the
441 malfunctioning system.

442 (2) The property owner or lessee shall take adequate
443 measures as soon as practicable to abate an immediate health
444 hazard.

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

450 (4) The board may assess the property owner or lessee of an
451 individual on-site wastewater disposal system authorized pursuant
452 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
453 (\$50.00) for each day the system fails to meet the performance
454 standards of that system after the thirty-day period specified in
455 subsection (1) of this section.

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

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

460 SECTION 13. Section 41-67-23, Mississippi Code of 1972, is
461 reenacted as follows:

462 41-67-23. The department or its authorized representative
463 may enter onto property and make inspections of any individual
464 on-site wastewater disposal system as necessary to ensure that the
465 system is in compliance with this chapter and the rules adopted
466 under this chapter. The department shall give reasonable notice
467 to any property owner, lessee or occupant prior to entry onto the
468 property. The owner, lessee, owner's representative, or occupant
469 of the property on which the system is located shall give the
470 department or its authorized representative reasonable access to
471 the property at reasonable times to make necessary inspections.

472 SECTION 14. Section 41-67-25, Mississippi Code of 1972, is
473 amended as follows:

474 41-67-25. (1) A person may not operate as an installer in
475 this state unless that person is certified by the board except any
476 individual who installs an individual on-site wastewater disposal
477 system on his own property or a professional engineer.

478 (2) An installer of aerobic treatment plants or subsurface
479 drip disposal systems must be a factory-trained and authorized
480 representative. The manufacturer must furnish documentation to
481 the department certifying the satisfactory completion of factory
482 training and the establishment of the installer as an authorized
483 manufacturer's representative.

484 (3) The board shall issue a certification to an installer if
485 the installer:

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

488 (b) Satisfactorily completes the training program
489 provided by the department; * * *

490 (c) Pays the annual certification fee; and

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

492 (4) Each installer shall furnish proof of certification to a
493 property owner, lessee, the owner's representative or occupant of
494 the property on which an individual on-site wastewater disposal

495 system is to be designed, constructed, repaired or installed by
496 that installer and to the department or its authorized
497 representative, if requested.

498 (5) The department shall provide for annual renewal of
499 certifications.

500 (6) (a) An installer's certification may be suspended or
501 revoked by the board after notice and hearing if the installer
502 violates this chapter or any rule or regulation adopted under this
503 chapter.

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

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

509 SECTION 15. Section 41-67-27, Mississippi Code of 1972, is
510 reenacted as follows:

511 41-67-27. It is unlawful for a manufacturer of an individual
512 on-site wastewater disposal system to operate a business in or to
513 do business in the State of Mississippi without holding a valid
514 registration issued by the department.

515 SECTION 16. Section 41-67-28, Mississippi Code of 1972, is
516 reenacted as follows:

517 41-67-28. (1) Except as otherwise provided in this chapter,
518 any person who shall knowingly violate this chapter or any rule or
519 regulation or written order of the board in pursuance thereof is,
520 upon conviction, guilty of a misdemeanor and shall be punished as
521 provided in Section 41-3-59.

522 (2) Each day of a continuing violation is a separate
523 violation.

524 (3) (a) In addition to all other statutory and common law
525 rights, remedies and defenses, any person who purchases an
526 individual on-site wastewater disposal system and suffers any
527 ascertainable loss of money or property, real or personal, may

528 bring an action at law in the court having jurisdiction in the
529 county in which the installer or manufacturer has the principal
530 place of business, where the act allegedly occurred, to recover
531 any loss of money or damages for the loss of any property
532 resulting from any of the following:

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

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

539 (iii) Failure of an individual on-site wastewater
540 disposal system to operate properly due to defective design or
541 construction.

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

546 (4) A person who violates this chapter thereby causing a
547 discharge off the property of the generator shall be liable to the
548 party aggrieved or damaged by that violation for the actual
549 damages and additional punitive damages equal to a maximum of
550 twenty-five percent (25%) of the actual damages proven by the
551 aggrieved party, to be taxed by the court where the suit is heard
552 on an original action, by appeal or otherwise and recovered by a
553 suit at law in any court of competent jurisdiction. In addition,
554 the court may award the prevailing party reasonable attorneys fees
555 and court costs. Before filing suit, the party aggrieved or
556 damaged must give thirty (30) days' written notice of its intent
557 to file suit to the alleged violator.

558 SECTION 17. Section 41-67-29, Mississippi Code of 1972, is
559 reenacted as follows:

560 41-67-29. Any person who is aggrieved by any final decision
561 of the board may appeal that final decision to the chancery court
562 of the county of the situs in whole or in part of the subject
563 matter. The appellant shall give a cost bond with sufficient
564 sureties, payable to the state in a sum to be fixed by the board
565 or the court and to be filed with and approved by the clerk of the
566 court. The aggrieved party may, within thirty (30) days following
567 a final decision of the board, petition the chancery court for an
568 appeal with supersedeas and the chancellor shall grant a hearing
569 on the petition. Upon good cause shown the chancellor may grant
570 the appeal with supersedeas. The appellant shall be required to
571 post a bond with sufficient sureties according to law in an amount
572 to be determined by the chancellor. The chancery court shall
573 always be deemed open for hearing of appeals and the chancellor
574 may hear the appeal in termtime or in vacation at any place in his
575 district. The appeal shall have precedence over all civil cases,
576 except election contests. The chancery court shall review all
577 questions of law and of fact and may enter a final order or remand
578 the matter to the board for appropriate action as may be indicated
579 or necessary under the circumstances. Appeals may be taken from
580 the chancery court to the Supreme Court in the manner as now
581 required by law, but if a supersedeas is desired by the party
582 appealing to the chancery court, that party may apply therefor to
583 the chancellor, who shall award a writ of supersedeas, without
584 additional bond, if in the chancellor's judgment material damage
585 is not likely to result. If material damage is likely to result,
586 the chancellor shall require a supersedeas bond as deemed proper,
587 which shall be liable to the state for any damage.

588 SECTION 18. Section 41-67-31, Mississippi Code of 1972, is
589 amended as follows:

590 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
591 repealed on July 1, 2007.

592 SECTION 19. This act shall take effect and be in force from
593 and after June 30, 2001.