

By: Senator(s) Stogner

To: Agriculture

SENATE BILL NO. 3012

1 AN ACT TO AMEND SECTION 69-21-101, MISSISSIPPI CODE OF 1972,  
2 TO CREATE THE AGRICULTURAL AVIATION LICENSING LAW OF 2002; TO  
3 AMEND SECTION 69-21-103, MISSISSIPPI CODE OF 1972, TO STATE THE  
4 PURPOSE OF THE STATE COMMERCIAL AERIAL APPLICATION CONTROL  
5 PROGRAM; TO AMEND SECTION 69-21-105, MISSISSIPPI CODE OF 1972, TO  
6 REVISE DEFINITIONS; TO AMEND SECTION 69-21-107, MISSISSIPPI CODE  
7 OF 1972, TO REVISE THE MEMBERSHIP OF THE STATE BOARD OF  
8 AGRICULTURAL AVIATION; TO AMEND SECTION 69-21-109, MISSISSIPPI  
9 CODE OF 1972, TO REVISE THE POWERS AND DUTIES OF THE BOARD; TO  
10 AMEND SECTION 69-21-113, MISSISSIPPI CODE OF 1972, TO REVISE  
11 REGULATIONS FOR AERIAL APPLICATOR LICENSES; TO AMEND SECTION  
12 69-21-117, MISSISSIPPI CODE OF 1972, TO REQUIRE CERTAIN  
13 NONRESIDENTS WHO PERFORM AGRICULTURAL AIRCRAFT OPERATIONS IN THE  
14 STATE TO OBTAIN AN APPLICATOR'S OR PILOT'S LICENSE; TO AMEND  
15 SECTION 69-21-119, MISSISSIPPI CODE OF 1972, TO REQUIRE THE BOARD  
16 TO FURNISH A COPY OF ITS FINANCIAL STATEMENT AND A COPY OF ANY  
17 PROPOSED LICENSE FEE ADJUSTMENTS TO THE STATE AUDITOR NO LATER  
18 THAN SIXTY DAYS AFTER THE END OF EACH FISCAL YEAR; TO AMEND  
19 SECTION 69-21-121, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
20 DISCIPLINARY ACTION AGAINST PERSONS WHO VIOLATE THIS ARTICLE; TO  
21 AMEND SECTION 69-21-125, MISSISSIPPI CODE OF 1972, TO PROVIDE  
22 CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS AND TO PROVIDE THAT  
23 CRIMINAL FINES GO TO THE COUNTY; TO AMEND SECTION 69-21-127,  
24 MISSISSIPPI CODE OF 1972, TO REVISE THE REPEALER; TO CREATE NEW  
25 CODE SECTION 69-21-129, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR  
26 BOARD HEARINGS FOR ALLEGED VIOLATORS; TO CREATE NEW CODE SECTION  
27 69-21-131, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE JURISDICTION  
28 OF THE BOARD; TO CREATE NEW CODE SECTION 69-21-133, MISSISSIPPI  
29 CODE OF 1972, TO PROVIDE FOR JUDICIAL REVIEW FOR ANY INDIVIDUAL  
30 AGGRIEVED BY A FINAL DECISION OF THE BOARD; TO CREATE NEW CODE  
31 SECTION 69-21-135, MISSISSIPPI CODE OF 1972, TO PROVIDE CIVIL  
32 PENALTIES FOR VIOLATIONS OF THE RULES AND REGULATIONS OF THE  
33 BOARD; TO CREATE NEW CODE SECTION 69-21-137, MISSISSIPPI CODE OF  
34 1972, TO PROVIDE FOR THE PAYMENT OF PENALTIES, ATTORNEY'S FEES AND  
35 COURT COSTS; TO CREATE NEW CODE SECTION 69-21-139, MISSISSIPPI  
36 CODE OF 1972, TO REQUIRE THE BOARD TO COMPLY WITH THE OPEN  
37 MEETINGS ACT, THE PUBLIC RECORDS ACT AND THE ADMINISTRATIVE  
38 PROCEDURES LAW; TO CREATE NEW CODE SECTION 69-21-141, MISSISSIPPI  
39 CODE OF 1972, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL BE  
40 COUNSEL AND ATTORNEY FOR THE BOARD; TO REPEAL SECTIONS 69-21-151  
41 THROUGH 69-21-165, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR  
42 ADMINISTRATIVE HEARING PROCEDURES TO ENFORCE RULES AND REGULATIONS  
43 OF THE BOARD OF AGRICULTURAL AVIATION; AND FOR RELATED PURPOSES.

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

45 **SECTION 1.** Section 69-21-101, Mississippi Code of 1972, is  
46 amended as follows:



47           69-21-101. This article shall be known and cited as the  
48 "Agricultural Aviation Licensing Law of 2002."

49           **SECTION 2.** Section 69-21-103, Mississippi Code of 1972, is  
50 amended as follows:

51           69-21-103. The purpose of this article is to supervise and  
52 regulate for the public good all commercial agricultural aerial  
53 application within the State of Mississippi and to establish and  
54 promote a close working relationship between agricultural aerial  
55 applicators and the Mississippi Department of Agriculture and  
56 Commerce, the licensing of all persons engaged in the aerial  
57 application of pesticides, poisons, seeds and chemicals, and the  
58 registration of all such commercial agricultural aircraft and  
59 pilots. It is the intent of the Legislature that the program  
60 established under this article provide a program of commercial  
61 aerial application control within the State of Mississippi  
62 sufficient to allow the state to retain delegation from the United  
63 States Environmental Protection Agency of the commercial aerial  
64 application regulation program created under the Federal  
65 Insecticide, Fungicide and Rodenticide Act, 7 USCS 136-136y. This  
66 article also establishes an administrative hearing procedure for  
67 the board's use in enforcing the rules and regulations of the  
68 board.

69           **SECTION 3.** Section 69-21-105, Mississippi Code of 1972, is  
70 amended as follows:

71           69-21-105. As used in this article, the following terms  
72 shall have the meanings hereinafter ascribed to them:

73           (a) "Board" shall mean the State Board of Agricultural  
74 Aviation \* \* \*.

75           (b) "Person" shall mean any individual, corporation,  
76 firm, partnership, company, trust, association or other legal  
77 entity.

78           (c) "Aerial application" means the practice of engaging  
79 in agricultural aircraft operations for remuneration.



80 (d) "Agricultural aircraft operation" means:

81 (i) Dispensing any pesticide, seed or fertilizer  
82 by aircraft;

83 (ii) Dispensing any other substance intended for  
84 plant nourishment, soil treatment, propagation of plant life, or  
85 pest control by aircraft; or

86 (iii) Engaging in dispensing activities directly  
87 affecting agriculture, horticulture, or forest preservation by  
88 aircraft.

89 (e) "Aircraft" means any contrivance now known or  
90 hereafter invented that is used or designed for navigation of or  
91 flight in the air over land and water, and that is designed for or  
92 adaptable for use in agricultural aircraft operation.

93 (f) "Applicator" means any person, as herein defined,  
94 who is licensed under this article to engage in agricultural  
95 aircraft operations.

96 (g) "Pesticide" means any substance or mixture of  
97 substances, except as set forth in Section 69-21-111, intended for  
98 defoliating or desiccating plants, or for preventing, destroying,  
99 repelling or mitigating any insects, fungi, bacteria, weeds, or  
100 other forms of plant or animal life which the board shall declare  
101 to be a pest.

102 (h) "Pilot" means the operator of an aircraft used in  
103 agricultural aircraft operation; provided, however, a pilot may  
104 also be a person who is licensed as an applicator under the  
105 provisions of this article.

106 (i) "Insect" means any of the numerous small  
107 invertebrate animals generally having the body more or less  
108 obviously segmented, for the most part belonging to the Class  
109 Insecta, comprising six-legged, usually winged forms, as for  
110 example, beetles, bugs and flies; and to other classes of  
111 arthropods whose members are wingless and usually have more than



112 six (6) legs, as for example, spiders, mites, ticks, centipedes  
113 and wood lice.

114 (j) "Defoliant" means any substance or mixture of  
115 substances intended for causing the leaves or foliage to drop from  
116 a plant, with or without causing abscission.

117 (k) "Desiccant" means any substances or mixtures of  
118 substances intended for artificially accelerating the drying of  
119 plant tissues.

120 **SECTION 4.** Section 69-21-107, Mississippi Code of 1972, is  
121 amended as follows:

122 69-21-107. There is hereby created a State Board of  
123 Agricultural Aviation composed of five (5) members as follows:  
124 two (2) licensed applicators to be appointed by the Governor with  
125 the advice and consent of the Senate from a list of four (4)  
126 applicators submitted to the Governor by the \* \* \* Mississippi  
127 Agricultural Aviation Association, the Executive Director of the  
128 Department of Environmental Quality, or his designee, a registered  
129 forester and a licensed engineer with agricultural emphasis to be  
130 appointed by the Governor with the advice and consent of the  
131 Senate. The term of office of one (1) board member shall be one  
132 (1) year; the term of office of the second board member shall be  
133 two (2) years; the term of office of the third board member shall  
134 be three (3) years; \* \* \* the term of office of the fourth board  
135 member shall be four (4) years as specified by the Governor in his  
136 initial appointments to the board. After the initial appointment,  
137 succeeding board members shall serve a staggered four-year term of  
138 office. The Executive Director of the Department of Environmental  
139 Quality, or his designee, shall continue to serve each term by  
140 virtue of his office. Each board member shall serve until his  
141 successor is appointed. \* \* \*

142 \* \* \*

143 Vacancies on the \* \* \* board shall be filled as herein stated  
144 by appointment of the Governor.



145 A quorum necessary to conduct business shall be a majority of  
146 the five (5) board members. Any member who shall not attend three  
147 (3) consecutive meetings of the board shall be subject to removal  
148 by the Governor. The chairman of the board shall notify the  
149 Governor in writing when any such member has failed to attend  
150 three (3) consecutive regular meetings.

151 Each member of the Agricultural Aviation Board shall receive  
152 a per diem as is authorized by law and actual expenses as provided  
153 by law incidental to attending meetings of the board, and other  
154 authorized business as provided by board authorization as spread  
155 on the board minutes. \* \* \*

156 **SECTION 5.** Section 69-21-109, Mississippi Code of 1972, is  
157 amended as follows:

158 69-21-109. (1) The board may adopt such rules and  
159 regulations as may be necessary to regulate the application of  
160 chemicals and pesticides according to the time of year, manner,  
161 form and area of application, wind velocity and other pertinent  
162 factors and may restrict the use of certain chemicals and  
163 pesticides which create an unusual hazard to the health, safety  
164 and welfare of the public. The board shall set professional  
165 standards for applicators and pilots in the interest of the  
166 safety, welfare and general well-being of the public of  
167 Mississippi and for the protection of the state's fish and  
168 wildlife, air, water and soil.

169 (2) The board shall have authority to procure samples of  
170 pesticide, seed or fertilizer or of pesticide or fertilizer spray  
171 and dust materials before and after they are mixed in order to  
172 determine the concentration of the mixtures.

173 (3) The \* \* \* board shall have authority to maintain an  
174 office and employ necessary personnel within its budget to carry  
175 out the purposes of this article.

176 (4) It shall be the duty of the board, and the board shall  
177 have the authority, to enforce this article and all rules and



178 regulations made and adopted in compliance with this article. The  
179 board shall not have jurisdiction to determine liability between  
180 private parties.

181 (5) The board or its representatives shall have access to  
182 any premises where there is reason to believe that a chemical or  
183 pesticide is being or has been applied by an applicator, or where  
184 any applicator is based, or preparing to apply any of the  
185 materials herein stated, for the purpose of enforcement of this  
186 article. The board shall have authority to inspect equipment used  
187 for application of chemicals and pesticides as stated in this  
188 article.

189 (6) The board \* \* \* shall maintain a close liaison and  
190 spirit of cooperation with the Mississippi Department of  
191 Agriculture and Commerce, in the supervision of aeriually applied  
192 chemicals which are under their jurisdiction as provided by  
193 Sections 69-21-7 through 69-21-15. The board and the Mississippi  
194 Department of Agriculture and Commerce shall enter a memorandum of  
195 agreement stating their plans to cooperate toward these purposes.  
196 In adopting regulations regarding agricultural aircraft operation,  
197 in providing training and requiring testing and certification of  
198 applicators and in enforcing this article, the board shall strive  
199 to regulate and train applicators in an a manner that is not  
200 inconsistent with the training and regulation of ground-based  
201 pesticide applicators provided by the Department of Agriculture  
202 and Commerce.

203 (7) The board may cooperate with or enter into formal  
204 cooperative agreements with any public or private agency or  
205 educational institution of this state or any other state or  
206 federal agency for the purpose of carrying out the provisions of  
207 this article.

208 **SECTION 6.** Section 69-21-113, Mississippi Code of 1972, is  
209 amended as follows:



210           69-21-113. (1) It shall be unlawful and a misdemeanor for  
211 any person to act, operate or do business as an applicator or  
212 pilot, or to engage in agricultural aircraft operations, unless  
213 such person has an applicator's or pilot's license issued by the  
214 board. Such license shall be issued only upon application  
215 therefor to the board on a form \* \* \* prescribed by the board.  
216 The application shall contain information regarding the  
217 applicant's qualifications and proposed operations, and such other  
218 information as may be specified by the board.

219           (2) Applicator's and pilot's licenses are not transferable.  
220 Licenses shall be effective for a period of one (1) year. Any  
221 licensee wishing to have a license renewed must submit an  
222 application for renewal with the board no later than ninety (90)  
223 days before the expiration of the license. If the applicant  
224 submits a timely and complete application for renewal, and the  
225 board, through no fault of the applicant, fails to reissue the  
226 license on or before the expiration date of the existing license,  
227 the existing license shall remain in effect until final action on  
228 the renewal application is taken by the board. Licenses are  
229 subject to modification, revocation or reissuance for cause at any  
230 time during the effective dates of the license.

231           (3) Any person seeking to obtain a license as an applicator  
232 in this state shall submit proof of payment of all ad valorem and  
233 other taxes which might be applicable on aircraft and other  
234 equipment.

235           (4) All persons licensed under the provisions of this  
236 article shall be known as registered applicators or pilots, and  
237 shall be issued a certificate by the board as proof thereof.

238           **SECTION 7.** Section 69-21-117, Mississippi Code of 1972, is  
239 amended as follows:

240           69-21-117. Any person who is a nonresident of this state and  
241 who intends to perform agricultural aircraft operations in the  
242 state or as a function of flights originating from a departure



243 point within the state shall obtain an applicator's or pilot's  
244 license under this article. Nonresident licensees shall designate  
245 and maintain a resident agent in this state for service of  
246 process, and shall establish and maintain proof of financial  
247 responsibility and provide proof of payment of all state taxes as  
248 provided in this article and as applied to a resident aerial  
249 applicator. Nothing in this article shall be construed to prevent  
250 the board from issuing reciprocal licenses from other states that  
251 recognize and accept registered aerial applicators of the State of  
252 Mississippi.

253 **SECTION 8.** Section 69-21-119, Mississippi Code of 1972, is  
254 amended as follows:

255 69-21-119. (1) A fee of not more than Five Hundred Dollars  
256 (\$500.00) for each aircraft owned, operated, used and employed in  
257 aerial application by an applicator shall be paid to the board for  
258 the issuance or required annual renewal of a license for an  
259 applicator. Each aircraft shall be identified at all times by a  
260 device supplied to the registered applicator by the board.

261 (2) A fee of not more than Two Hundred Fifty Dollars  
262 (\$250.00) for each pilot engaged in aerial application shall be  
263 paid to the board for the issuance or required annual renewal of a  
264 license for a pilot. Each pilot shall have in his possession at  
265 all times an identification card supplied by the board.

266 (3) All funds collected under the provisions of this article  
267 shall be kept in the Treasury of the State of Mississippi and  
268 disbursed upon requisitions signed by the chairman of the board.  
269 Such funds shall be subject to audit by the Auditor of the State  
270 of Mississippi. The \* \* \* board \* \* \* shall furnish a copy of its  
271 financial statement and a copy of any proposed license fee  
272 adjustments to the State Auditor no later than sixty (60) days  
273 after the end of each fiscal year. Such financial statement shall  
274 reflect all funds collected and all disbursements made under the  
275 provisions of this article.





276           **SECTION 9.** Section 69-21-121, Mississippi Code of 1972, is  
277 amended as follows:

278           69-21-121. (1) Any person found by the board to have  
279 violated any of the provisions of this article, any rule,  
280 regulation or written order of the board or any condition or  
281 limitation of a license issued by the board shall be subject to  
282 disciplinary action. Disciplinary matters shall be conducted as  
283 enforcement proceedings under Section 69-21-129. The board may  
284 discipline a violator in the following manner:

285           (a) By placing him upon probation, the terms of which  
286 may be set by the board;

287           (b) By suspending his right to do business as an  
288 applicator or pilot for a time deemed proper by the board;

289           (c) By revoking, cancelling or suspending his  
290 license; \* \* \*

291           (d) By levying a penalty against him in accordance with  
292 Section 69-21-135; and

293           (e) By taking any other action in relation to his  
294 license as the board may deem proper under the circumstances.

295           (2) The board shall suspend the license of an applicator or  
296 pilot for at least one (1) year if either of the following has  
297 occurred:

298           (a) The board determines that the licensee has  
299 committed one or more violations of this article, any rule,  
300 regulation or written order of the board or any condition or  
301 limitation of a license issued by the board on three (3) separate  
302 occasions during any twelve-month period, and each of those  
303 occasions, including singular or multiple violations, has resulted  
304 in the issuance of a penalty of One Thousand Dollars (\$1,000.00)  
305 or more by the board; or

306           (b) The board determines that the licensee has  
307 committed one or more violations of this article, any rule,  
308 regulation or written order of the board or any condition or



309 limitation of a license issued by the board that results in the  
310 issuance of a penalty of One Thousand Dollars (\$1,000.00) or more  
311 by the board while on probation ordered under subsection (1) of  
312 this section.

313 \* \* \*

314 **SECTION 10.** Section 69-21-125, Mississippi Code of 1972, is  
315 amended as follows:

316 69-21-125. (1) Violation of this article, the rules and  
317 regulations adopted by the board, a condition included in a  
318 license issued by the board or an order issued by the board shall  
319 be a misdemeanor punishable by a fine of not less than One Hundred  
320 Dollars (\$100.00) and not more than Five Hundred Dollars  
321 (\$500.00), or by imprisonment in the county jail for not more than  
322 six (6) months, or by both such fine and imprisonment. A  
323 violation of this article, the rules and regulations adopted by  
324 the board, a condition included in a license issued by the board  
325 or an order issued by the board may be cause for the imposition of  
326 administrative or civil penalties as allowed by Sections 69-21-129  
327 and 69-21-135. Each \* \* \* violation shall constitute a separate  
328 offense. All sums of money collected as a result of fines levied  
329 under this section shall be forwarded to the treasury of the  
330 county having jurisdiction \* \* \*.

331 (2) In addition to the penalties herein provided, the board  
332 is hereby granted the authority to file in any court of competent  
333 jurisdiction injunctive proceedings against any person violating  
334 the provisions of this article or the rules and regulations  
335 promulgated hereunder.

336 (3) The Attorney General, district attorneys, and county  
337 attorneys of the state shall assist the board \* \* \* upon its  
338 request to carry out the penalty section of this article.

339 **SECTION 11.** Section 69-21-127, Mississippi Code of 1972, is  
340 amended as follows:



341           69-21-127. Sections 69-21-101 through 69-21-125, Mississippi  
342 Code of 1972, which create the State Board of Agricultural  
343 Aviation and prescribe its duties and powers, shall stand repealed  
344 as of June 30, 2004.

345           **SECTION 12.** The following section shall be codified as  
346 Section 69-21-129, Mississippi Code of 1972:

347           69-21-129. (1) Whenever the board, an employee of the board  
348 or the Bureau of Plant Industry has reason to believe that a  
349 violation of this article, the rules and regulations adopted by  
350 the board, a condition included in a license issued by the board  
351 or an order issued by the board has occurred, the board may cause  
352 a written notice of violation to be served upon the alleged  
353 violator or violators. The notice of violation shall specify the  
354 statute, regulation, license or order alleged to be violated and  
355 the facts alleged to constitute a violation thereof and shall  
356 require that the alleged violator appear before the board at a  
357 time and place specified in the notice and answer the charges  
358 complained of. The time of appearance before the board shall not  
359 be less than fifteen (15) days from the date of the receipt by the  
360 alleged violator of the notice of violation, as proven by  
361 testimony, affidavit of the person delivering the notice of  
362 violation to the alleged violator, entry into evidence of a United  
363 States Postal Service return receipt or similar evidence of  
364 receipt.

365           (2) The board shall afford an opportunity for a hearing to  
366 the alleged violator at the time and place specified in the notice  
367 of violation. A certified court reporter shall be present at the  
368 hearing who shall make a transcription of the proceedings. At the  
369 hearing, both the alleged violator and the staff, or their legal  
370 representatives, shall be allowed to present legal arguments,  
371 factual evidence and witnesses relevant to the allegations and  
372 shall be allowed to cross-examine witnesses for the opposing  
373 party. Board hearings may be conducted by the board itself, or



374 the board may appoint a hearing officer who shall be authorized to  
375 conduct the hearing and to have the record of the hearing prepared  
376 and delivered to the board along with that hearing officer's  
377 recommended findings of fact and conclusions of law. On the basis  
378 of the evidence produced at the hearing, the board shall make  
379 findings of fact and conclusions of law and enter an order that in  
380 its opinion will best further the purposes of this article. The  
381 board's order may include an assessment of penalties, the  
382 imposition of injunctive relief, or both. If the board has  
383 utilized a hearing officer in the matter, the board may, upon  
384 review of the hearing record, issue an order accepting the hearing  
385 officer's recommended findings of fact and conclusions of law or  
386 may include in its order the board's own findings of fact and  
387 conclusions of law. The board shall give written notice of the  
388 order to the alleged violator and to other persons who make  
389 written request for notice of the order, and the board may assess  
390 such penalties as provided in this article.

391 (3) For purposes of such hearing, the board or its hearing  
392 officer may require the attendance of witnesses, administer oaths  
393 and hear testimony, either oral or documentary, for and against  
394 the accused. The board may issue subpoenas to compel the  
395 attendance of witnesses and the production of books, papers,  
396 records or other documentary evidence at a hearing. Subpoenas may  
397 be served by any method allowed by the Mississippi Rules of Civil  
398 Procedure or may be served by certified mail, return receipt  
399 requested. In case of the failure of any person to comply with  
400 any subpoena issued by the board, the board or its authorized  
401 representative may invoke the aid of any court of general  
402 jurisdiction of this state. The court may thereupon order such  
403 person to comply with the requirements of the subpoena. Failure  
404 to comply with the order of the court may be treated as contempt  
405 thereof.



406 (4) The board may adopt rules of practice and procedure  
407 governing its proceedings and hearings.

408 (5) The board may settle an enforcement matter before a  
409 hearing. The settlement of any enforcement matter shall be  
410 memorialized in an order approved by the board and subject to  
411 review under Section 69-21-133.

412 (6) In assessing penalties under this article, the board may  
413 consider at least the following:

414 (a) The willfulness of the violation;

415 (b) Any damage to air, water, land or other natural  
416 resources of the state or to their uses;

417 (c) Costs of restoration and abatement borne by  
418 governmental bodies;

419 (d) Economic benefit as a result of noncompliance;

420 (e) The seriousness of the violation, including any  
421 harm to public health, safety and welfare, harm to the environment  
422 and the importance of the provision violated to the agricultural  
423 aviation regulatory system; and

424 (f) Past performance history.

425 (7) Any interested person has the right to request the board  
426 to call a hearing for the purpose of taking action in respect to  
427 any matter within the jurisdiction of the board by making a  
428 request therefor in writing. Upon receipt of any such request,  
429 the board shall conduct such investigations as it deems necessary.  
430 On the basis of its investigations, the board shall schedule the  
431 matter for hearing or shall determine in writing that no hearing  
432 is warranted. Any hearing held under this subsection shall  
433 conform to the requirements of this section regarding hearing  
434 notice and procedure.

435 **SECTION 13.** The following section shall be codified as  
436 Section 69-21-131, Mississippi Code of 1972:

437 69-21-131. The board shall have jurisdiction over all  
438 persons and property within the state necessary to administer and



439 enforce the provisions of this article and the rules and  
440 regulations of the board. The board may adopt rules and  
441 regulations to implement the provisions of this article.

442 **SECTION 14.** The following section shall be codified as  
443 Section 69-21-133, Mississippi Code of 1972:

444 69-21-133. (1) Any individual aggrieved by a final decision  
445 of the board shall be entitled to judicial review. Any final  
446 decision of the board made in a contested licensing or enforcement  
447 matter and the final promulgation of regulations by the board  
448 shall be memorialized in an order issued by the board.

449 (2) Any appeal from a final decision of the board shall be  
450 filed in the chancery court of the county in which the violation  
451 occurred on the record made before the board, including a verbatim  
452 transcript of the testimony at the hearing held before the board.  
453 The appeal shall be filed within thirty (30) days after execution  
454 of the order by the board. The appeal shall be perfected upon  
455 filing notice of the appeal with the board and by the prepayment  
456 to the board of all costs, including the cost of preparation of  
457 the record of the proceedings before the board and the filing of a  
458 bond in an amount set by the board, conditioned that if the action  
459 of the board is affirmed, the aggrieved party shall pay the costs  
460 of the appeal to the court of appeals.

461 (3) The scope of review of the court of appeals shall be  
462 limited to a review of the record made before the board to  
463 determine if the action of the board is unlawful for the reason  
464 that it was:

- 465 (a) Not supported by any substantial evidence;  
466 (b) Arbitrary or capricious; or  
467 (c) In violation of some statutory or constitutional  
468 right of the individual.

469 (4) No relief shall be granted based upon the court's  
470 finding of harmless error by the board in complying with the  
471 procedural requirements of this article. If there is a finding of



472 prejudicial error in the proceedings, the cause may be remanded  
473 for a rehearing consistent with the findings of the court.

474 (5) Any party aggrieved by action of the chancery court may  
475 appeal to the State Supreme Court in the manner provided by law.

476 **SECTION 15.** The following section shall be codified as  
477 Section 69-21-135, Mississippi Code of 1972:

478 69-21-135. Each violation of the rules and regulations of  
479 the board, violations of this article and violations of licenses  
480 and orders issued by the board shall be subject to the imposition  
481 of a civil penalty of up to Five Thousand Five Hundred Dollars  
482 (\$5,500.00) per violation per day.

483 **SECTION 16.** The following section shall be codified as  
484 Section 69-21-137, Mississippi Code of 1972:

485 69-21-137. (1) Any penalty assessed by the board shall be  
486 due and payable within thirty (30) days of the receipt of the  
487 board's order in the matter by the person owing the penalty unless  
488 the board agrees to allow a longer period for payment. All sums  
489 of money collected as a result of fines levied under this section  
490 shall be disbursed as provided in Section 69-21-125(1).

491 (2) If the judgment is not paid within thirty (30) days, or  
492 within such additional time as the board may allow, the board  
493 through its designated representative may file suit in the circuit  
494 court of the county where the defendant resides or in the case of  
495 a nonresident defendant in the Circuit Court of the First Judicial  
496 District of Hinds County or any other court with appropriate  
497 jurisdiction to enforce the decision of the board and recover  
498 reasonable attorney's fees and all court costs.

499 (3) A copy of the notification sent by the board to the  
500 violator shall be sufficient proof as to the judgment of the  
501 board, and a copy of the United States Postal Service return  
502 receipt, or a similar indicia of delivery or service, shall be  
503 sufficient to prove receipt of the board's order by the person  
504 owing the penalties.



505           **SECTION 17.** The following section shall be codified in  
506 Section 69-21-139, Mississippi Code of 1972:

507           69-21-139. (1) The board shall conduct all meetings,  
508 including meetings regarding enforcement matters, under the  
509 Mississippi Open Meetings Act, Section 25-41-1 et seq.

510           (2) The board shall keep minutes of its meetings, including  
511 all orders, rules and regulations promulgated, in a record book,  
512 or books, especially prepared for that purpose. All minutes of  
513 board meetings and hearings and all rules, regulations and orders  
514 made by the board shall be in writing and shall be filed in full  
515 by the board in a book for such purposes, to be kept by the board,  
516 which shall be a public record and open to inspection by the  
517 public at all times during reasonable hours. The board shall  
518 compile and publish annually the rules and regulations promulgated  
519 by the board in current consolidated version. The board shall  
520 provide the consolidated compilation of the rules and regulations  
521 to the public for a cost sufficient to cover printing and postage  
522 and administrative expenses, including the cost of any contractual  
523 services necessary to compile and publish such rules and  
524 regulations on an annual basis. A copy of any rule, minutes,  
525 regulation or order certified by the board shall be received in  
526 evidence in all courts of this state with the same effect as the  
527 original. The board shall compile and index on a current date  
528 basis all orders of the board in a book for such purposes that  
529 shall be available for inspection and copying by the public. All  
530 responsibilities of the board under this section may be delegated  
531 by the board to its staff.

532           (3) The board shall maintain its records and make its  
533 records available to the public upon request in accordance with  
534 the Mississippi Public Records Act, Section 25-61-1 et seq.

535           (4) The board shall be subject to the provisions of the  
536 Mississippi Administrative Procedures Law, Section 25-43-1 et seq.





537           **SECTION 18.** The following section shall be codified as  
538 Section 69-21-141, Mississippi Code of 1972:

539           69-21-141. The Attorney General shall be counsel and  
540 attorney for the board and shall provide such legal services as  
541 may be requested from time to time, including, but not limited to,  
542 the provision of hearing officers and legal representation.

543           **SECTION 19.** Sections 69-21-151, 69-21-153, 69-21-155,  
544 69-21-157, 69-21-159, 69-21-161, 69-21-163 and 69-21-165,  
545 Mississippi Code of 1972, which provide for administrative hearing  
546 procedures to enforce rules and regulations of the Board of  
547 Agricultural Aviation, are repealed.

548           **SECTION 20.** This act shall take effect and be in force from  
549 and after its passage.

