

By: Representatives Stevens, Frierson,
Clarke

To: Public Health and Human
Services

HOUSE BILL NO. 587

1 AN ACT TO AMEND SECTIONS 41-67-3 AND 41-67-5, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH MUST
3 GIVE PRIOR WRITTEN APPROVAL CERTIFYING THE SUFFICIENCY AND
4 AVAILABILITY OF A SEWAGE TREATMENT AND DISPOSAL SYSTEM AT A
5 RESIDENCE BEFORE ANY PUBLIC UTILITY MAY MAKE CONNECTION TO THE
6 RESIDENCE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-67-3, Mississippi Code of 1972, is
9 amended as follows:

10 41-67-3. (1) The State Board of Health shall have the
11 following duties and responsibilities:

12 (a) To exercise general supervision over the design,
13 construction, operation and maintenance of individual on-site
14 wastewater disposal systems with flows substantially equivalent to
15 a single family residential generator, including the preapproval
16 of the system before a residence may receive any utility services.

17 To effectively administer this law, the department and the
18 Department of Environmental Quality shall enter into a memorandum
19 of understanding, which at a minimum shall clearly define the
20 jurisdiction of each department with regard to wastewater disposal
21 and procedures for interdepartmental interaction and cooperation;

22 (b) To adopt, modify, repeal and promulgate rules and
23 regulations, after due notice and hearing, and where not otherwise
24 prohibited by federal or state law, to make exceptions to, to
25 grant exemptions from and to enforce rules and regulations
26 implementing or effectuating the duties of the board under this
27 chapter to protect the public health. The board may grant
28 variances from rules and regulations adopted under this chapter,
29 including requirements for buffer zones, or from setbacks required

30 under Section 41-67-7 where the granting of a variance shall not
31 subject the public to unreasonable health risks or jeopardize
32 environmental resources;

33 (c) To provide or deny certification for persons
34 engaging in the business of the design, construction or
35 installation of individual on-site wastewater disposal systems and
36 persons engaging in the removal and disposal of the sludge and
37 liquid waste from those systems;

38 (d) To suspend or revoke certifications issued to
39 persons engaging in the business of the design, construction or
40 installation of individual on-site wastewater disposal systems or
41 persons engaging in the removal and disposal of the sludge and
42 liquid waste from those systems, when it is determined the person
43 has violated this chapter or applicable rules and regulations; and

44 (e) To require the submission of information deemed
45 necessary by the department to determine the suitability of
46 individual lots for individual on-site wastewater disposal
47 systems.

48 (2) Nothing in this chapter shall preclude a professional
49 engineer from providing services relating to the design,
50 construction or installation of an individual on-site wastewater
51 disposal system to comply with this chapter. Except as otherwise
52 required by subsection (4) of this section or Section 41-67-8, a
53 professional engineer shall notify the department in writing of
54 those services being provided. * * * Professional engineers
55 engaging in the design, construction or installation of individual
56 on-site wastewater disposal systems shall not require
57 certification under this chapter.

58 (3) To assure the effective and efficient administration of
59 this chapter, the board shall adopt rules governing the design,
60 construction or installation, operation and maintenance of
61 individual on-site wastewater disposal systems, including rules
62 concerning the:

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

65 (b) Certification of installers of individual on-site
66 wastewater disposal systems and persons engaging in the removal
67 and disposal of the sludge and liquid waste from those systems;
68 and

69 (c) Registration and requirements for testing and
70 listing of manufacturers of aerobic treatment systems.

71 (4) In addition, the board shall adopt rules establishing
72 performance standards for individual on-site wastewater disposal
73 systems for single family residential generators and rules
74 concerning the operation and maintenance of individual on-site
75 wastewater disposal systems designed to meet those standards. The
76 performance standards shall be consistent with the federal Clean
77 Water Act, maintaining the wastes on the property of the generator
78 except as authorized under Section 41-67-8, and protection of the
79 public health. Rules for the operation and maintenance of
80 individual on-site wastewater disposal systems designed to meet
81 performance standards shall include rules concerning the
82 following:

83 (a) A standard application form and requirements for
84 supporting documentation;

85 (b) Application review;

86 (c) Approval or denial of authorization for proposed
87 systems;

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

90 (e) Enforcement of the requirements and conditions of
91 authorization; and

92 (f) Inspection, monitoring, sampling and reporting on
93 the performance of the system.

94 Any system proposed for authorization in accordance with
95 performance standards must be designed and certified by a

96 professional engineer and must be authorized by the board before
97 installation. Appeals from a final decision of the board
98 regarding the authorization of an individual on-site wastewater
99 disposal system based upon performance standards shall be taken
100 using a procedure substantially equivalent to the procedure
101 specified for hospital licenses in Chapter 9 of Title 41.

102 (5) To the extent practicable, all rules and regulations
103 adopted under this chapter shall give * * * flexibility to persons
104 installing individual on-site wastewater disposal systems
105 and * * * options consistent with the federal Clean Water Act,
106 consistent with maintaining the wastes on the property of the
107 generator except as authorized under Section 41-67-8, and
108 consistent with protection of the public health. In addition, all
109 rules and regulations, to the extent practicable, shall encourage
110 the use of economically feasible systems, including alternative
111 techniques and technologies for individual on-site wastewater
112 disposal.

113 (6) All regulations shall be applied uniformly in all areas
114 of the state and shall take into consideration and make provision
115 for different types of soil in the state when performing soil and
116 site evaluations.

117 **SECTION 2.** Section 41-67-5, Mississippi Code of 1972, is
118 amended as follows:

119 41-67-5. (1) No owner, lessee or developer shall construct
120 or place any mobile, modular or permanently constructed residence,
121 building or facility, which may require the installation of an
122 individual on-site wastewater disposal system, without having
123 first submitted a notice of intent to the department. Upon
124 receipt of a notice of intent, the department shall provide the
125 owner, lessee or developer with complete information on individual
126 on-site wastewater disposal systems, including, but not limited
127 to, applicable rules and regulations regarding the design,
128 construction, installation, operation and maintenance of

129 individual on-site wastewater disposal systems and known
130 requirements of lending institutions for approval of the systems.

131 (2) No new permanent water service connection shall be
132 provided to any mobile, modular or permanently constructed
133 residence, building or facility unless the owner, lessee or
134 developer shows proof of the submission of the notice of intent
135 required by this section. In addition, no public utility
136 supplying electricity, water or natural gas may make connection to
137 any dwelling house, mobile home or residence without the prior
138 written approval of the department certifying the sufficiency and
139 availability of a sewage treatment and disposal system at the
140 location of the property. However, temporary connections of those
141 utilities may be made during a period of construction if the
142 department has approved a plan for a sewage treatment and disposal
143 system acceptable to that department and the owner of the property
144 has agreed to have the system operational before the use or
145 occupancy of the property.

146 (3) The department shall furnish to the county tax assessor
147 or collector, upon request, the name and address of the person
148 submitting a notice of intent and the section, township and range
149 of the lot or tract of land on which the individual on-site
150 wastewater disposal system will be installed.

151 **SECTION 3.** This act shall take effect and be in force from
152 and after July 1, 2004.