

By: Senator(s) Dearing, Burton, Walls

To: Public Health and
Welfare; Environment Prot,
Cons and Water Res

SENATE BILL NO. 2169

1 AN ACT TO AMEND SECTION 41-67-3, MISSISSIPPI CODE OF 1972, TO
2 MAKE THE DEPARTMENT OF HEALTH RESPONSIBLE FOR INSPECTING
3 RESIDENTIAL WASTEWATER SYSTEMS PRIOR TO ANY RESIDENCE RECEIVING
4 UTILITY SERVICES; AND FOR RELATED PURPOSES.

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

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

8 41-67-3. (1) The State Board of Health shall have the
9 following duties and responsibilities:

10 (a) To exercise general supervision over the design,
11 construction, operation and maintenance of individual on-site
12 wastewater disposal systems with flows substantially equivalent to
13 a single family residential generator, including the pre-approval
14 of such system prior to connecting any utility services to the
15 residence. To effectively administer this law, the department and
16 the Department of Environmental Quality shall enter into a
17 memorandum of understanding, which at a minimum shall clearly
18 define the jurisdiction of each department with regard to
19 wastewater disposal and procedures for interdepartmental
20 interaction and cooperation;

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

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

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

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

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

47 (2) Nothing in this chapter shall preclude a professional
48 engineer from providing services relating to the design,
49 construction or installation of an individual on-site wastewater
50 disposal system to comply with this chapter. Except as otherwise
51 required by subsection (4) of this section or Section 41-67-8, a
52 professional engineer shall notify the department in writing of
53 those services being provided. * * *

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

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

61 (b) Certification of installers of individual on-site
62 wastewater disposal systems and persons engaging in the removal
63 and disposal of the sludge and liquid waste from those systems;
64 and

65 (c) Registration and requirements for testing and
66 listing of manufacturers of aerobic treatment systems.

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

79 (a) A standard application form and requirements for
80 supporting documentation;

81 (b) Application review;

82 (c) Approval or denial of authorization for proposed
83 systems;

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

86 (e) Enforcement of the requirements and conditions of
87 authorization; and

88 (f) Inspection, monitoring, sampling and reporting on
89 the performance of the system.

90 Any system proposed for authorization in accordance with
91 performance standards must be designed and certified by a
92 professional engineer and must be authorized by the board before
93 installation. Appeals from a final decision of the board

94 regarding the authorization of an individual on-site wastewater
95 disposal system based upon performance standards shall be taken
96 using a procedure substantially equivalent to the procedure
97 specified for hospital licenses in Chapter 9 of Title 41.

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

109 (6) All regulations shall be applied uniformly in all areas
110 of the state and shall take into consideration and make provision
111 for different types of soil in the state when performing soil and
112 site evaluations.

113 (7) No public utility supplying electricity, water or
114 natural gas shall make connection to any dwelling house, mobile
115 home or residence without the prior written approval of the
116 Mississippi State Department of Health certifying the sufficiency
117 and availability of a sewage treatment and disposal system at the
118 location of any such property. Provided, however, temporary
119 connections of such utilities may be made during a period of
120 construction provided that the Mississippi State Department of
121 Health has approved a plan for a sewage treatment and disposal
122 system acceptable to that department and the owner of such
123 property has agreed to have such system operational prior to the
124 use or occupancy of the property.

125 **SECTION 2.** This act shall take effect and be in force from
126 and after July 1, 2004.