

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2421

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 SYSTEM LAW; TO REPEAL SECTION 41-67-31,  
4 MISSISSIPPI CODE OF 1972, WHICH IS THE AUTOMATIC REPEALER ON THE  
5 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER SYSTEM LAW; AND FOR  
6 RELATED PURPOSES.

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

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

10 41-67-1. This chapter shall be known and may be cited as the  
11 "Mississippi Individual On-Site Wastewater Disposal System Law."

12 **SECTION 2.** Section 41-67-3, Mississippi Code of 1972, is  
13 reenacted as follows:

14 41-67-3. (1) The State Board of Health shall have the  
15 following duties and responsibilities:

16 (a) To exercise general supervision over the design,  
17 construction, operation and maintenance of individual on-site  
18 wastewater disposal systems;

19 (b) To adopt, modify, repeal and promulgate rules and  
20 regulations, after due notice and hearing, and where not otherwise  
21 prohibited by federal or state law, to make exceptions to, to  
22 grant exemptions from and to enforce rules and regulations  
23 implementing or effectuating the duties of the board under this  
24 chapter to protect the public health. The board may grant  
25 variances from rules and regulations adopted under this chapter,  
26 including requirements for buffer zones, or from setbacks required  
27 under Section 41-67-7 where the granting of a variance shall not  
28 subject the public to unreasonable health risks or jeopardize  
29 environmental resources;

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

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

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

45           (2) Nothing in this chapter shall preclude a professional  
46 engineer from providing services relating to the design,  
47 construction or installation of an individual on-site wastewater  
48 disposal system to comply with this chapter. Except as otherwise  
49 required by subsection (4) of this section, a professional  
50 engineer shall notify the department in writing of those services  
51 being provided. If a professional engineer designs, constructs or  
52 installs or directly supervises the construction or installation  
53 of a design-based individual on-site wastewater disposal system  
54 consistent with this chapter and stamps the appropriate  
55 documentation with that professional engineer's seal, the  
56 department shall approve the design, construction or installation  
57 of the system, if requested. Professional engineers engaging in  
58 the design, construction or installation of individual on-site  
59 wastewater disposal systems shall not require certification under  
60 this chapter.

61           (3) To assure the effective and efficient administration of  
62 this chapter, the board shall adopt rules governing the design,

63 construction or installation, operation and maintenance of  
64 individual on-site wastewater disposal systems, including rules  
65 concerning the:

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

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

72 (c) Registration and requirements for testing and  
73 listing of manufacturers of aerobic treatment systems.

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

85 (a) A standard application form and requirements for  
86 supporting documentation;

87 (b) Application review;

88 (c) Approval or denial of authorization for proposed  
89 systems;

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

92 (e) Enforcement of the requirements and conditions of  
93 authorization; and

94 (f) Inspection, monitoring, sampling and reporting on  
95 the performance of the system.

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

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

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

118 **SECTION 3.** Section 41-67-4, Mississippi Code of 1972, is  
119 reenacted as follows:

120 41-67-4. (1) The board shall determine the feasibility of  
121 establishing community sewerage systems upon the submission by the  
122 developer of a preliminary design and feasibility study prepared  
123 by a professional engineer. The developer may request and obtain  
124 a hearing before the board if the developer is dissatisfied with  
125 the board's determination of feasibility. The determination that  
126 a sewerage system must be established shall be made without regard  
127 to whether the establishment of a sewerage system is authorized by  
128 law or is subject to approval by one or more state or local

129 government or public bodies. Whenever a developer requests a  
130 determination of feasibility, the board must make the  
131 determination within forty-five (45) days after receipt of the  
132 preliminary design and feasibility study from the developer. The  
133 board shall state in writing the reasons for its determination.  
134 If the board does not make a determination within forty-five (45)  
135 days, all sites within the subdivision shall be approved, if a  
136 certified installer attests that each site can be adequately  
137 served by an individual on-site wastewater disposal system.

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

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

151 **SECTION 4.** Section 41-67-5, Mississippi Code of 1972, is  
152 reenacted as follows:

153 41-67-5. (1) No owner, lessee or developer shall construct  
154 or place any mobile, modular or permanently constructed residence,  
155 building or facility, which may require the installation of an  
156 individual on-site wastewater disposal system, without having  
157 first submitted a notice of intent to the department. Upon  
158 receipt of a notice of intent, the department shall provide the  
159 owner, lessee or developer with complete information on individual  
160 on-site wastewater disposal systems, including, but not limited  
161 to, applicable rules and regulations regarding the design,

162 construction, installation, operation and maintenance of  
163 individual on-site wastewater disposal systems and known  
164 requirements of lending institutions for approval of the systems.

165 (2) No new permanent water service connection shall be  
166 provided to any mobile, modular or permanently constructed  
167 residence, building or facility unless the owner, lessee or  
168 developer shows proof of the submission of the notice of intent  
169 required by this section.

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

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

177 41-67-6. (1) Within five (5) working days following receipt  
178 of the notice of intent and plot plan by an owner, lessee or  
179 developer of any lot or tract of land, the department shall  
180 conduct a soil and site evaluation, except in cases where a  
181 professional engineer provides services relating to the design,  
182 construction or installation of an individual on-site wastewater  
183 disposal system to comply with this chapter. Within ten (10)  
184 additional working days, the department shall make recommendations  
185 to the owner, lessee or developer of the type or types of  
186 individual on-site wastewater disposal systems suitable for  
187 installation on the lot or tract, unless there are conditions  
188 requiring further investigation that are revealed in the initial  
189 evaluation. In making recommendations on the type or types of  
190 individual on-site wastewater disposal systems suitable for  
191 installation on a lot or tract, personnel of the department shall  
192 use best professional judgment based on rules and regulations  
193 adopted by the board, considering the type or types of systems  
194 which are installed and functioning on lots or tracts near the

195 subject lot or tract. If existing systems in the surrounding area  
196 function properly, systems of that same type shall be approved.  
197 To the extent practicable, the recommendations shall give the  
198 owner, lessee or developer maximum flexibility and a maximum  
199 number of options consistent with the federal Clean Water Act,  
200 consistent with maintaining the wastes on the property of the  
201 generator and consistent with protection of the public health.  
202 The system or systems recommended shall be environmentally sound  
203 and cost-effective. The department or a professional engineer  
204 shall provide complete information, including all applicable  
205 requirements and regulations on all systems recommended. The  
206 owner, lessee or developer shall have the right to choose among  
207 systems. The department shall provide the owner, lessee or  
208 developer with a form that specifies all types of individual  
209 on-site wastewater disposal systems that are suitable for  
210 installation on the lot or tract and lists all installers of those  
211 systems that are certified by the department. Approval of the  
212 design, construction or installation of an individual on-site  
213 wastewater disposal system by the department is not required. If  
214 any property owner, lessee or the owner's or lessee's lending  
215 institution requests the department to approve the design,  
216 construction or installation of any system on the owner's or  
217 lessee's property, the department shall approve the design,  
218 construction or installation of that system, as requested, if the  
219 system is designed, constructed and installed, as the case may be,  
220 in accordance with the rules and regulations of the board. The  
221 department shall not approve any individual on-site wastewater  
222 disposal system that has a direct or point source discharge.  
223 Whenever a person requests approval of an individual on-site  
224 wastewater disposal system, the department must approve or  
225 disapprove the request within fifteen (15) working days. If the  
226 department disapproves the request, the department shall state in  
227 writing the reasons for the disapproval. If the department does

228 not respond to the request within fifteen (15) working days, the  
229 request for approval of the individual on-site wastewater disposal  
230 system shall be deemed approved.

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

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

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

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

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

256 **SECTION 6.** Section 41-67-7, Mississippi Code of 1972, is  
257 reenacted as follows:

258 41-67-7. Individual on-site wastewater disposal systems  
259 shall be considered acceptable on lots in areas or subdivisions



260 where prior to the sale of the lots, the following requirements  
261 are met:

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

265 (a) Sewers are not available or feasible;

266 (b) The existing disposal systems in the area are  
267 functioning satisfactorily;

268 (c) Soil types, soil texture, seasonal water tables and  
269 other limiting factors are satisfactory for underground  
270 absorption; and

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

275 (2) Except for systems utilizing underground absorption,  
276 alternative individual on-site wastewater disposal systems shall  
277 be considered acceptable, provided the following requirements are  
278 met:

279 (a) Sewers are not available or feasible;

280 (b) The systems meet applicable water quality  
281 requirements of the federal Clean Water Act and also requirements  
282 of the board and department; and

283 (c) Any discharge is confined within the boundaries of  
284 the property of the generator.

285 **SECTION 7.** Section 41-67-8, Mississippi Code of 1972, is  
286 reenacted as follows:

287 41-67-8. (1) This section shall be applicable only after  
288 the department has determined that there is no type of individual  
289 on-site wastewater disposal system authorized under subsection (3)  
290 or (4) of Section 41-67-3 or rules or regulations of the board  
291 that can maintain the wastes on the property of the generator.

292 (2) The owner of any individual on-site wastewater disposal  
293 system from which effluent is discharged off the property of the  
294 generator shall obtain a permit for that discharge, if required  
295 under Section 49-17-29, from the Permit Board created under  
296 Section 49-17-28.

297 (3) The Permit Board may issue general permits for  
298 individual on-site wastewater disposal systems as provided in  
299 Section 49-17-29.

300 (4) Any violation of this section shall be punished as  
301 provided in Section 49-17-43.

302 (5) This section shall repeal September 1, 2005.

303 **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is  
304 reenacted as follows:

305 41-67-9. (1) Existing individual on-site wastewater  
306 disposal systems shall be considered acceptable, provided the  
307 following requirements are met:

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

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

315 (c) The system is functioning properly with no evidence  
316 that any insufficiently treated effluent is or has been seeping to  
317 the surface of the ground and any discharge of treated effluent is  
318 confined within the boundaries of the property of the generator;  
319 and

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

325           (2) If an existing residential individual on-site wastewater  
326 disposal system is malfunctioning, the system should be replaced,  
327 where possible, with a system meeting all requirements of this  
328 chapter and rules and regulations of the board. If replacement of  
329 the existing system is not possible, the existing system shall be  
330 repaired to reduce the volume of effluent, to adequately treat the  
331 effluent and to the greatest extent possible, to confine the  
332 discharge to the property of the generator. If repairs are made  
333 to significantly upgrade the existing individual on-site  
334 wastewater disposal system, the department shall approve the  
335 system, if requested.

336           **SECTION 9.** Section 41-67-10, Mississippi Code of 1972, is  
337 reenacted as follows:

338           41-67-10. Aerobic treatment systems may be installed only if  
339 they have been tested and listed by a third-party certifying  
340 program. Aerobic treatment systems shall be in compliance with  
341 standards for a Class I system as defined by the most current  
342 revision of American National Standards Institute/National  
343 Sanitation Foundation (ANSI/NSF) International Standard Number 40,  
344 hereby incorporated by reference. Beginning on October 1, 1996,  
345 an approved third-party certifying program shall comply with the  
346 following provisions for systems which it has certified to be  
347 installed in Mississippi:

348           (a) Be accredited by the American National Standards  
349 Institute;

350           (b) Have established procedures which send  
351 representatives to distributors in Mississippi on a recurring  
352 basis to conduct evaluations to assure that distributors of  
353 certified aerobic treatment systems are providing proper  
354 maintenance, have sufficient replacement parts available and are  
355 maintaining service records;

356 (c) Notify the department of the results of monitoring  
357 visits to manufacturers and distributors within sixty (60) days of  
358 the conclusion of the monitoring; and

359 (d) Submit completion reports on testing and any other  
360 information as the department may require for its review.

361 **SECTION 10.** Section 41-67-11, Mississippi Code of 1972, is  
362 reenacted as follows:

363 41-67-11. (1) Temporary individual on-site wastewater  
364 disposal systems may be approved in otherwise unapprovable areas  
365 only after a contract has been awarded for the construction of  
366 municipal or community sewers that upon completion will adequately  
367 serve the property. Temporary individual on-site wastewater  
368 disposal systems shall only be approved under the following  
369 conditions:

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

376 (b) When the public sewers shall be available and ready  
377 for use within a period not to exceed six (6) months, or where a  
378 minor extension is to be made to a municipal system by the  
379 municipality and no contract is to be awarded, an individual  
380 on-site wastewater disposal system with a minimum capacity of  
381 three hundred (300) gallons and at least sixty percent (60%) of  
382 the required disposal field may be installed. The board shall not  
383 approve a temporary system under this subsection unless the  
384 professional engineer designing the sewer system has certified to  
385 the board in writing that the public sewer or extension shall be  
386 completed within six (6) months, and the owner of the temporary  
387 system has certified in writing that connection to the public  
388 sewer shall be made as soon as it becomes available.

389           (2) The board may approve the installation of sewage holding  
390 tanks in districts created under Sections 19-5-151 through  
391 19-5-207 for the purpose of providing sewage services. The  
392 district shall be required to maintain or provide for the  
393 maintenance of those holding tanks. The board shall require that  
394 residences be connected to a municipal or community sewage system  
395 when that system is available and ready to use.

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

398           41-67-12. (1) The department shall assess fees in the  
399 following amounts for the following purposes:

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

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

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

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

414           (3) The fee authorized under this section shall not be  
415 assessed for any system operated by state agencies or  
416 institutions, including, without limitation, foster homes licensed  
417 by the State Department of Human Services. The fee authorized  
418 under this section shall not be charged again after payment of the  
419 initial fee for any system that has been installed in accordance  
420 with this chapter, within a period of twenty-four (24) months  
421 following the date that the system was originally installed.

422           **SECTION 12.** Section 41-67-15, Mississippi Code of 1972, is  
423 reenacted as follows:

424           41-67-15. Nothing in this chapter shall limit the authority  
425 of a municipality or board of supervisors to adopt similar  
426 ordinances which may be, in whole or in part, more restrictive  
427 than this chapter, and in those cases the more restrictive  
428 ordinances will govern.

429           **SECTION 13.** Section 41-67-16, Mississippi Code of 1972, is  
430 reenacted as follows:

431           41-67-16. (1) Before January 1, 1997, the department shall  
432 conduct a study of all individual on-site wastewater disposal  
433 systems currently being recommended for use in the state to  
434 determine the suitability of using those systems on lots or tracts  
435 in areas of the state given the various soil types and  
436 classifications. In conducting the study, the department shall  
437 consider the type of system, lot size, effluent quality and other  
438 recommended limitations which should be placed on the use of each  
439 system.

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

442           **SECTION 14.** Section 41-67-19, Mississippi Code of 1972, is  
443 reenacted as follows:

444           41-67-19. Each authorized agent of the department  
445 implementing this chapter shall demonstrate to the department's  
446 satisfaction that the person:

447           (a) Is competent to review and provide any requested  
448 approval of design, construction and installation of individual  
449 on-site wastewater disposal systems, as well as the operation,  
450 repair or maintenance of those systems, to make soil permeability  
451 tests or soil and site evaluations, and to conduct inspections of  
452 individual on-site wastewater disposal systems in accordance with  
453 this chapter and rules and regulations adopted under this chapter;  
454 and

455 (b) Has successfully completed the installer  
456 certification training program provided by the department.

457 **SECTION 15.** Section 41-67-21, Mississippi Code of 1972, is  
458 reenacted as follows:

459 41-67-21. (1) The board or the department may require a  
460 property owner or lessee to repair a malfunctioning individual  
461 on-site wastewater disposal system on the owner's or lessee's  
462 property before the thirtieth day after the date on which the  
463 owner or lessee is notified by the department of the  
464 malfunctioning system.

465 (2) The property owner or lessee shall take adequate  
466 measures as soon as practicable to abate an immediate health  
467 hazard.

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

473 (4) The board may assess the property owner or lessee of an  
474 individual on-site wastewater disposal system authorized pursuant  
475 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars  
476 (\$50.00) for each day the system fails to meet the performance  
477 standards of that system after the thirty-day period specified in  
478 subsection (1) of this section.

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

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

483 **SECTION 16.** Section 41-67-23, Mississippi Code of 1972, is  
484 reenacted as follows:

485 41-67-23. The department or its authorized representative  
486 may enter onto property and make inspections of any individual  
487 on-site wastewater disposal system as necessary to ensure that the

488 system is in compliance with this chapter and the rules adopted  
489 under this chapter. The department shall give reasonable notice  
490 to any property owner, lessee or occupant prior to entry onto the  
491 property. The owner, lessee, owner's representative, or occupant  
492 of the property on which the system is located shall give the  
493 department or its authorized representative reasonable access to  
494 the property at reasonable times to make necessary inspections.

495 **SECTION 17.** Section 41-67-27, Mississippi Code of 1972, is  
496 reenacted as follows:

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

501 **SECTION 18.** Section 41-67-28, Mississippi Code of 1972, is  
502 reenacted as follows:

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

508 (2) Each day of a continuing violation is a separate  
509 violation.

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

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



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

525                   (iii) Failure of an individual on-site wastewater  
526 disposal system to operate properly due to defective design or  
527 construction.

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

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

544                   **SECTION 19.** Section 41-67-29, Mississippi Code of 1972, is  
545 reenacted as follows:

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

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

574       **SECTION 20.** Section 41-67-31, Mississippi Code of 1972,  
575 which is the automatic repealer on the Mississippi Individual  
576 On-Site Wastewater System Law, is hereby repealed.

577       **SECTION 21.** This act shall take effect and be in force from  
578 and after June 30, 2006.