

By: Senator(s) Dearing

To: Oil, Gas and Other Minerals

SENATE BILL NO. 2559

1 AN ACT TO AMEND SECTIONS 53-1-19 AND 53-1-47, MISSISSIPPI  
2 CODE OF 1972, TO CONFORM NOTICE PROCEDURES APPLICABLE TO THE OIL  
3 AND GAS BOARD CONCERNING NOTICE DUE IN ADMINISTRATIVE PROCEEDINGS  
4 BEFORE A STATE BODY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 53-1-19, Mississippi Code of 1972, is  
7 amended as follows:

8 53-1-19. The board shall prescribe its rules of order or  
9 procedure in hearings or other proceedings before it consistent  
10 with Title 25, Chapter 43. The board may provide for the  
11 recording and preservation of its proceedings by order entered on  
12 its minutes.

13 **SECTION 2.** Section 53-1-47, Mississippi Code of 1972, is  
14 amended as follows:

15 53-1-47. (a) (i) Any person, who, for the purpose of  
16 evading the provisions of Sections 53-1-1 through 53-1-47,  
17 inclusive, or any rule, regulation or order made thereunder, shall  
18 make or cause to be made any false entry, statement of fact or  
19 omission in any report required by such sections or by any rule,  
20 regulation or order thereunder or in any account, record or  
21 memorandum kept in connection with the provisions thereof or who,  
22 for such purpose, shall mutilate, alter, conceal or falsify any  
23 such report, account, record or memorandum, shall be subject to a  
24 penalty of not more than Ten Thousand Dollars (\$10,000.00) per day  
25 for each day of such violation to be assessed by the board. In  
26 determining the amount of the penalty, the board shall consider  
27 the factors specified in subsection (d) of this section. Such

28 penalties shall be assessed according to the procedures set forth  
29 in subsection (b) of this section.

30 (ii) Any person, who, for the purpose of evading the  
31 provisions of Sections 53-1-1 through 53-1-47, inclusive, or any  
32 rule, regulation or order made thereunder, shall intentionally  
33 make or cause to be made any false entry, statement of fact or  
34 omission in any report required by said sections or by any rule,  
35 regulation or order thereunder or in any account, record or  
36 memorandum kept in connection with the provisions thereof or who,  
37 for such purpose, shall mutilate, alter, conceal or falsify any  
38 such report, account, record or memorandum shall be deemed guilty  
39 of a misdemeanor and shall be subject, upon conviction in any  
40 court of competent jurisdiction, to a fine of not less than Five  
41 Hundred Dollars (\$500.00) nor more than One Thousand Dollars  
42 (\$1,000.00), or imprisonment for a term of not less than ten (10)  
43 days nor more than six (6) months for each such violation, or both  
44 such fine and imprisonment.

45 (b) Any person who violates any provision of Sections 53-1-1  
46 through 53-1-47, inclusive, or Sections 53-3-1 through 53-3-33,  
47 and 53-3-39 through 53-3-165, or any lawful rule, regulation or  
48 order of the board made hereunder, shall, in addition to any  
49 penalty for such violation that is otherwise provided for herein,  
50 be subject to a penalty of not to exceed Ten Thousand Dollars  
51 (\$10,000.00) per day for each day of such violation to be assessed  
52 by the board. When any charge is filed with the board charging  
53 any person with any such violation, the board shall conduct an  
54 adjudicative proceeding in accordance with the Administrative  
55 Procedures Law. Such proceeding shall be held by not less than  
56 three (3) members of the board and a unanimous verdict of all  
57 members hearing such charge shall be necessary for conviction and  
58 in the event of a conviction all members of the board hearing such  
59 cause must agree on the penalty assessed.

60           The Attorney General, by his designated assistant, shall  
61 represent the board in all such proceedings \* \* \*. The Attorney  
62 General shall also designate a member of his staff to present  
63 evidence and proof of such violation in the event such charge is  
64 contested.

65           All penalties assessed by the board under the provisions of  
66 this section shall have the force and effect of a judgment of the  
67 circuit court and shall be enrolled in the office of the circuit  
68 clerk and execution may be issued thereon. All such penalties  
69 paid or collected shall be paid to the State Treasurer for credit  
70 to the Special Oil and Gas Board Fund.

71           Any person adjudged guilty of any such violation shall have  
72 the right of appeal in accordance with the provisions of Section  
73 53-1-39.

74           The payment of any penalty as provided herein shall not have  
75 the effect of changing illegal oil into legal oil, illegal gas  
76 into legal gas or illegal product into legal product, nor shall  
77 such payment have the effect of authorizing the sale or purchase  
78 or acquisition or the transportation, refining, processing or  
79 handling in any other way of such illegal oil, illegal gas or  
80 illegal product.

81           (c) Any person who aids or abets any other person in the  
82 violation of any provision of Sections 53-1-1 through 53-1-47,  
83 inclusive, or Sections 53-3-1 through 53-3-21, inclusive, or any  
84 rule, regulation or order made thereunder, shall be subject to the  
85 same penalties as are prescribed herein for the violation by such  
86 other person.

87           (d) In determining the amount of the penalty under  
88 subsection (a), (b) or (c) of this section, the board shall  
89 consider at a minimum the following factors:

90                   (i) The willfulness of the violation;

91                   (ii) Any damage to water, land or other natural  
92 resources of the state or their users;

- 93                   (iii) Any cost of restoration and abatement;
- 94                   (iv) Any economic benefit to the violator as a result
- 95 of noncompliance;
- 96                   (v) The seriousness of the violation, including any
- 97 harm to the environment and any harm to the health and safety of
- 98 the public; and
- 99                   (vi) Any prior violation by such violator.

100           (e) The board is authorized to utilize the provisions of

101 Section 85-7-132 to enforce penalties provided by this section.

102           **SECTION 3.** This act shall take effect and be in force from

103 and after July 1, 2007.