

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.