

By: Representative Ford

To: Public Health and Welfare

HOUSE BILL NO. 434
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND SECTION 41-67-31,
4 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
5 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL 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 41-67-2, Mississippi Code of 1972, is
13 reenacted as follows:

14 41-67-2. For purposes of this chapter, the following words
15 shall have the meanings ascribed herein unless the context clearly
16 indicates otherwise:

17 (a) "Board" means the Mississippi State Board of
18 Health.

19 (b) "Commission" means the Commission on Environmental
20 Quality.

21 (c) "Department" means the Mississippi State Department
22 of Health.

23 (d) "Generator" means any person whose act or process
24 produces sewage or other material suitable for disposal in an
25 individual on-site wastewater disposal system.

26 (e) "Individual on-site wastewater disposal system"
27 means an approved method of sewage disposal designed and installed
28 in accordance with this law, and regulations of the board and the
29 commission.



30 (f) "Person" means any individual, trust, firm,
31 joint-stock company, public or private corporation (including a
32 government corporation), partnership, association, state, or any
33 agency or institution thereof, municipality, commission, political
34 subdivision of a state or any interstate body, and includes any
35 officer or governing or managing body of any municipality,
36 political subdivision, or the United States or any officer or
37 employee thereof.

38 (g) "Professional engineer" means any person who has
39 met the qualifications required under Section 73-13-23(1) and who
40 has been issued a certificate of registration as a professional
41 engineer.

42 (h) "Property of the generator" means land owned by or
43 under permanent legal easement or lease to the generator.

44 (i) "Subdivision" means any land that is divided into
45 ten (10) or more lots, tracts, sites or parcels for the purpose of
46 residential development.

47 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is
48 reenacted as follows:

49 41-67-3. (1) The State Board of Health shall have the
50 following duties and responsibilities:

51 (a) To exercise general supervision over the design,
52 construction, operation and maintenance of individual on-site
53 wastewater disposal systems with flows substantially equivalent to
54 a single family residential generator, except when the property
55 owner or lessee chooses to employ a professional engineer to
56 comply with this chapter. To effectively administer this law, the
57 department and the Department of Environmental Quality shall enter
58 into a memorandum of understanding, which at a minimum shall
59 clearly define the jurisdiction of each department with regard to
60 wastewater disposal and procedures for interdepartmental
61 interaction and cooperation;



62 (b) To adopt, modify, repeal and promulgate rules and
63 regulations, after due notice and hearing, and where not otherwise
64 prohibited by federal or state law, to make exceptions to, to
65 grant exemptions from and to enforce rules and regulations
66 implementing or effectuating the duties of the board under this
67 chapter to protect the public health. The board may grant
68 variances from rules and regulations adopted under this chapter,
69 including requirements for buffer zones, or from setbacks required
70 under Section 41-67-7 where the granting of a variance shall not
71 subject the public to unreasonable health risks or jeopardize
72 environmental resources;

73 (c) To provide or deny certification for persons
74 engaging in the business of the design, construction or
75 installation of individual on-site wastewater disposal systems and
76 persons engaging in the removal and disposal of the sludge and
77 liquid waste from those systems;

78 (d) To suspend or revoke certifications issued to
79 persons engaging in the business of the design, construction or
80 installation of individual on-site wastewater disposal systems or
81 persons engaging in the removal and disposal of the sludge and
82 liquid waste from those systems, when it is determined the person
83 has violated this chapter or applicable rules and regulations; and

84 (e) To require the submission of information deemed
85 necessary by the department to determine the suitability of
86 individual lots for individual on-site wastewater disposal
87 systems.

88 (2) Nothing in this chapter shall preclude a professional
89 engineer from providing services relating to the design,
90 construction or installation of an individual on-site wastewater
91 disposal system to comply with this chapter. Except as otherwise
92 required by subsection (4) of this section or Section 41-67-8, a
93 professional engineer shall notify the department in writing of
94 those services being provided. If a professional engineer



95 designs, constructs or installs or directly supervises the
96 construction or installation of a design-based individual on-site
97 wastewater disposal system consistent with this chapter and stamps
98 the appropriate documentation with that professional engineer's
99 seal, the department shall approve the design, construction or
100 installation of the system, if requested. Professional engineers
101 engaging in the design, construction or installation of individual
102 on-site wastewater disposal systems shall not require
103 certification under this chapter.

104 (3) To assure the effective and efficient administration of
105 this chapter, the board shall adopt rules governing the design,
106 construction or installation, operation and maintenance of
107 individual on-site wastewater disposal systems, including rules
108 concerning the:

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

111 (b) Certification of installers of individual on-site
112 wastewater disposal systems and persons engaging in the removal
113 and disposal of the sludge and liquid waste from those systems;
114 and

115 (c) Registration and requirements for testing and
116 listing of manufacturers of aerobic treatment systems.

117 (4) In addition, the board shall adopt rules establishing
118 performance standards for individual on-site wastewater disposal
119 systems for single family residential generators and rules
120 concerning the operation and maintenance of individual on-site
121 wastewater disposal systems designed to meet those standards. The
122 performance standards shall be consistent with the federal Clean
123 Water Act, maintaining the wastes on the property of the generator
124 except as authorized under Section 41-67-8, and protection of the
125 public health. Rules for the operation and maintenance of
126 individual on-site wastewater disposal systems designed to meet



127 performance standards shall include rules concerning the
128 following:

129 (a) A standard application form and requirements for
130 supporting documentation;

131 (b) Application review;

132 (c) Approval or denial of authorization for proposed
133 systems;

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

136 (e) Enforcement of the requirements and conditions of
137 authorization; and

138 (f) Inspection, monitoring, sampling and reporting on
139 the performance of the system.

140 Any system proposed for authorization in accordance with
141 performance standards must be designed and certified by a
142 professional engineer and must be authorized by the board before
143 installation. Appeals from a final decision of the board
144 regarding the authorization of an individual on-site wastewater
145 disposal system based upon performance standards shall be taken
146 using a procedure substantially equivalent to the procedure
147 specified for hospital licenses in Chapter 9 of Title 41.

148 (5) To the extent practicable, all rules and regulations
149 adopted under this chapter shall give maximum flexibility to
150 persons installing individual on-site wastewater disposal systems
151 and a maximum number of options consistent with the federal Clean
152 Water Act, consistent with maintaining the wastes on the property
153 of the generator except as authorized under Section 41-67-8, and
154 consistent with protection of the public health. In addition, all
155 rules and regulations, to the extent practicable, shall encourage
156 the use of economically feasible systems, including alternative
157 techniques and technologies for individual on-site wastewater
158 disposal.



159 (6) All regulations shall be applied uniformly in all areas
160 of the state and shall take into consideration and make provision
161 for different types of soil in the state when performing soil and
162 site evaluations.

163 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is
164 reenacted as follows:

165 41-67-4. (1) The Commission on Environmental Quality shall
166 determine the feasibility of establishing community sewerage
167 systems upon the submission by the developer of a preliminary
168 design and feasibility study prepared by a professional engineer.
169 The developer may request and obtain a hearing before the
170 commission if the developer is dissatisfied with the commission's
171 determination of feasibility. The determination that a sewerage
172 system must be established shall be made without regard to whether
173 the establishment of a sewerage system is authorized by law or is
174 subject to approval by one or more state or local government or
175 public bodies.

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

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

189 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
190 reenacted and amended as follows:



191 41-67-5. (1) No owner, lessee or developer shall construct
192 or place any mobile, modular or permanently constructed residence,
193 building or facility, which may require the installation of an
194 individual on-site wastewater disposal system, without having
195 first submitted a notice of intent to the department. Upon
196 receipt of a notice of intent, the department shall provide the
197 owner, lessee or developer with complete information on individual
198 on-site wastewater disposal systems, including, but not limited
199 to, applicable rules and regulations regarding the design,
200 construction, installation, operation and maintenance of
201 individual on-site wastewater disposal systems and known
202 requirements of lending institutions for approval of the systems.

203 (2) No new permanent water service connection shall be
204 provided to any mobile, modular or permanently constructed
205 residence, building or facility unless the owner, lessee or
206 developer shows proof of the submission of the notice of intent
207 required by this section.

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

213 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is
214 reenacted as follows:

215 41-67-6. (1) Within five (5) working days following receipt
216 of the notice of intent and plot plan by an owner, lessee or
217 developer of any lot or tract of land, the department shall
218 conduct a soil and site evaluation, except in cases where a
219 professional engineer provides services relating to the design,
220 construction or installation of an individual on-site wastewater
221 disposal system to comply with this chapter. Within ten (10)
222 additional working days, the department shall make recommendations
223 to the owner, lessee or developer of the type or types of



224 individual on-site wastewater disposal systems suitable for
225 installation on the lot or tract, unless there are conditions
226 requiring further investigation that are revealed in the initial
227 evaluation. In making recommendations on the type or types of
228 individual on-site wastewater disposal systems suitable for
229 installation on a lot or tract, personnel of the department shall
230 use best professional judgment based on rules and regulations
231 adopted by the board, considering the type or types of systems
232 which are installed and functioning on lots or tracts near the
233 subject lot or tract. If existing systems in the surrounding area
234 function properly, systems of that same type shall be approved.
235 To the extent practicable, the recommendations shall give the
236 owner, lessee or developer maximum flexibility and a maximum
237 number of options consistent with the federal Clean Water Act,
238 consistent with maintaining the wastes on the property of the
239 generator except as authorized under Section 41-67-8, and
240 consistent with protection of the public health. The system or
241 systems recommended shall be environmentally sound and
242 cost-effective. The department or a professional engineer shall
243 provide complete information, including all applicable
244 requirements and regulations on all systems recommended. The
245 owner, lessee or developer shall have the right to choose among
246 systems. The department shall provide the owner, lessee or
247 developer with a form that specifies all types of individual
248 on-site wastewater disposal systems that are suitable for
249 installation on the lot or tract and lists all installers of those
250 systems that are certified by the department. Approval of the
251 design, construction or installation of an individual on-site
252 wastewater disposal system by the department is not required. If
253 any property owner, lessee or the owner's or lessee's lending
254 institution requests the department to approve the design,
255 construction or installation of any system on the owner's or
256 lessee's property, the department shall approve the design,



257 construction or installation of that system, as requested, if the
258 system is designed, constructed and installed, as the case may be,
259 in accordance with the rules and regulations of the board. The
260 department shall not approve any individual on-site wastewater
261 disposal system that has a direct or point source discharge,
262 unless the Permit Board has issued a permit for that system under
263 Section 41-67-8.

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

266 (3) If the department has been requested to approve the
267 design, construction or installation of an individual on-site
268 wastewater disposal system, an installer may not begin the design,
269 construction or installation of the individual on-site wastewater
270 disposal system, unless the installer notifies the department of
271 the date on which the installer plans to begin work on the system.

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

276 (5) Any person who installs an individual on-site wastewater
277 disposal system shall sign and file with the department an
278 affidavit that the system was installed in compliance with all
279 requirements and regulations applicable to that type of system.
280 If any person or contractor fails to comply with all requirements
281 and regulations in the installation of the system, the board,
282 after due notice and hearing, may levy an administrative fine not
283 to exceed One Thousand Dollars (\$1,000.00).

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



289 **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is
290 reenacted as follows:

291 41-67-7. Individual on-site wastewater disposal systems
292 shall be considered acceptable on lots in areas or subdivisions
293 where prior to the sale of the lots, the following requirements
294 are met:

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

298 (a) Sewers are not available or feasible;

299 (b) The existing disposal systems in the area are
300 functioning satisfactorily;

301 (c) Soil types, soil texture, seasonal water tables and
302 other limiting factors are satisfactory for underground
303 absorption; and

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

308 (2) Except for systems utilizing underground absorption,
309 alternative individual on-site wastewater disposal systems shall
310 be considered acceptable, provided the following requirements are
311 met:

312 (a) Sewers are not available or feasible;

313 (b) The systems meet applicable water quality
314 requirements of the federal Clean Water Act and also requirements
315 of the board and department; and

316 (c) Any discharge is confined within the boundaries of
317 the property of the generator except as authorized under Section
318 41-67-8.

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



321 41-67-8. (1) This section shall be applicable only after
322 the department has determined that there is no type of individual
323 on-site wastewater disposal system authorized under subsection (3)
324 or (4) of Section 41-67-3 or rules or regulations of the board
325 that can maintain the wastes on the property of the generator.

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

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

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

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

338 41-67-9. (1) Existing individual on-site wastewater
339 disposal systems shall be considered acceptable, provided the
340 following requirements are met:

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

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

348 (c) The system is functioning properly with no evidence
349 that any insufficiently treated effluent is or has been seeping to
350 the surface of the ground and any discharge of treated effluent is
351 confined within the boundaries of the property of the generator
352 except as authorized under Section 41-67-8; and



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

358 (2) If an existing residential individual on-site wastewater
359 disposal system is malfunctioning, the system should be replaced,
360 where possible, with a system meeting all requirements of this
361 chapter and rules and regulations of the board. If replacement of
362 the existing system is not possible, the existing system shall be
363 repaired to reduce the volume of effluent, to adequately treat the
364 effluent and to the greatest extent possible, to confine the
365 discharge to the property of the generator except as authorized
366 under Section 41-67-8. If repairs are made to significantly
367 upgrade the existing individual on-site wastewater disposal
368 system, the department shall approve the system, if requested.

369 **SECTION 10.** Section 41-67-10, Mississippi Code of 1972, is
370 reenacted as follows:

371 41-67-10. Aerobic treatment systems may be installed only
372 if they have been tested and listed by a third party certifying
373 program. Aerobic treatment systems shall be in compliance with
374 standards for a Class I system as defined by the most current
375 revision of American National Standards Institute/National
376 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
377 hereby incorporated by reference. Beginning on October 1, 1996,
378 an approved third party certifying program shall comply with the
379 following provisions for systems which it has certified to be
380 installed in Mississippi:

381 (a) Be accredited by the American National Standards
382 Institute;

383 (b) Have established procedures which send
384 representatives to distributors in Mississippi on a recurring
385 basis to conduct evaluations to assure that distributors of



386 certified aerobic treatment systems are providing proper
387 maintenance, have sufficient replacement parts available and are
388 maintaining service records;

389 (c) Notify the department of the results of monitoring
390 visits to manufacturers and distributors within sixty (60) days of
391 the conclusion of the monitoring; and

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

394 **SECTION 11.** Section 41-67-11, Mississippi Code of 1972, is
395 reenacted as follows:

396 41-67-11. (1) Temporary individual on-site wastewater
397 disposal systems may be approved in otherwise unapprovable areas
398 only after a contract has been awarded for the construction of
399 municipal or community sewers that upon completion will adequately
400 serve the property. Temporary individual on-site wastewater
401 disposal systems shall only be approved under the following
402 conditions:

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

409 (b) When the public sewers shall be available and ready
410 for use within a period not to exceed six (6) months, or where a
411 minor extension is to be made to a municipal system by the
412 municipality and no contract is to be awarded, an individual
413 on-site wastewater disposal system with a minimum capacity of
414 three hundred (300) gallons and at least sixty percent (60%) of
415 the required disposal field may be installed. The board shall not
416 approve a temporary system under this subsection unless the
417 professional engineer designing the sewer system has certified to
418 the board in writing that the public sewer or extension shall be



419 completed within six (6) months, and the owner of the temporary
420 system has certified in writing that connection to the public
421 sewer shall be made as soon as it becomes available.

422 (2) The board may approve the installation of sewage holding
423 tanks in districts created under Sections 19-5-151 through
424 19-5-207 for the purpose of providing sewage services. The
425 district shall be required to maintain or provide for the
426 maintenance of those holding tanks. The board shall require that
427 residences be connected to a municipal or community sewage system
428 when that system is available and ready to use.

429 **SECTION 12.** Section 41-67-12, Mississippi Code of 1972, is
430 reenacted as follows:

431 41-67-12. (1) The department shall assess fees in the
432 following amounts for the following purposes:

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

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

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

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

447 (3) The fee authorized under this section shall not be
448 assessed for any system operated by state agencies or
449 institutions, including without limitation, foster homes licensed
450 by the State Department of Human Services. The fee authorized
451 under this section shall not be charged again after payment of the



452 initial fee for any system that has been installed in accordance
453 with this chapter, within a period of twenty-four (24) months
454 following the date that the system was originally installed.

455 **SECTION 13.** Section 41-67-15, Mississippi Code of 1972, is
456 reenacted as follows:

457 41-67-15. Nothing in this chapter shall limit the authority
458 of a municipality or board of supervisors to adopt similar
459 ordinances which may be, in whole or in part, more restrictive
460 than this chapter, and in those cases the more restrictive
461 ordinances will govern.

462 **SECTION 14.** Section 41-67-16, Mississippi Code of 1972, is
463 reenacted as follows:

464 41-67-16. (1) Before January 1, 1997, the department shall
465 conduct a study of all individual on-site wastewater disposal
466 systems currently being recommended for use in the state to
467 determine the suitability of using those systems on lots or tracts
468 in areas of the state given the various soil types and
469 classifications. In conducting the study, the department shall
470 consider the type of system, lot size, effluent quality and other
471 recommended limitations which should be placed on the use of each
472 system.

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

475 **SECTION 15.** Section 41-67-19, Mississippi Code of 1972, is
476 reenacted as follows:

477 41-67-19. Each authorized agent of the department
478 implementing this chapter shall demonstrate to the department's
479 satisfaction that the person:

480 (a) Is competent to review and provide any requested
481 approval of design, construction and installation of individual
482 on-site wastewater disposal systems, as well as the operation,
483 repair or maintenance of those systems, to make soil permeability
484 tests or soil and site evaluations, and to conduct inspections of



485 individual on-site wastewater disposal systems in accordance with
486 this chapter and rules and regulations adopted under this chapter;
487 and

488 (b) Has successfully completed the installer
489 certification training program provided by the department.

490 **SECTION 16.** Section 41-67-21, Mississippi Code of 1972, is
491 reenacted as follows:

492 41-67-21. (1) The board or the department may require a
493 property owner or lessee to repair a malfunctioning individual
494 on-site wastewater disposal system on the owner's or lessee's
495 property before the thirtieth day after the date on which the
496 owner or lessee is notified by the department of the
497 malfunctioning system.

498 (2) The property owner or lessee shall take adequate
499 measures as soon as practicable to abate an immediate health
500 hazard.

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

506 (4) The board may assess the property owner or lessee of an
507 individual on-site wastewater disposal system authorized pursuant
508 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
509 (\$50.00) for each day the system fails to meet the performance
510 standards of that system after the thirty-day period specified in
511 subsection (1) of this section.

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

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

516 **SECTION 17.** Section 41-67-23, Mississippi Code of 1972, is
517 reenacted as follows:



518 41-67-23. The department or its authorized representative
519 may enter onto property and make inspections of any individual
520 on-site wastewater disposal system as necessary to ensure that the
521 system is in compliance with this chapter and the rules adopted
522 under this chapter. The department shall give reasonable notice
523 to any property owner, lessee or occupant prior to entry onto the
524 property. The owner, lessee, owner's representative, or occupant
525 of the property on which the system is located shall give the
526 department or its authorized representative reasonable access to
527 the property at reasonable times to make necessary inspections.

528 **SECTION 18.** Section 41-67-25, Mississippi Code of 1972, is
529 reenacted as follows:

530 41-67-25. (1) A person may not operate as an installer in
531 this state unless that person is certified by the board except any
532 individual who installs an individual on-site wastewater disposal
533 system on his own property or a professional engineer.

534 (2) An installer of aerobic treatment plants or subsurface
535 drip disposal systems must be a factory-trained and authorized
536 representative. The manufacturer must furnish documentation to
537 the department certifying the satisfactory completion of factory
538 training and the establishment of the installer as an authorized
539 manufacturer's representative.

540 (3) The board shall issue a certification to an installer if
541 the installer:

542 (a) Completes an application form that complies with
543 this chapter and rules adopted under this chapter;

544 (b) Satisfactorily completes the training program
545 provided by the department;

546 (c) Pays the annual certification fee; and

547 (d) Provides proof of having a valid public liability
548 insurance policy in effect with liability limits of at least Fifty
549 Thousand Dollars (\$50,000.00) per occurrence and at least One
550 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.



551 (4) Each installer shall furnish proof of certification to a
552 property owner, lessee, the owner's representative or occupant of
553 the property on which an individual on-site wastewater disposal
554 system is to be designed, constructed, repaired or installed by
555 that installer and to the department or its authorized
556 representative, if requested.

557 (5) The department shall provide for annual renewal of
558 certifications.

559 (6) (a) An installer's certification may be suspended or
560 revoked by the board after notice and hearing if the installer
561 violates this chapter or any rule or regulation adopted under this
562 chapter.

563 (b) The installer may appeal a suspension or revocation
564 under this section as provided by law.

565 (7) The department semiannually shall disseminate to the
566 public an official list of certified installers and provide to
567 county health departments a monthly update of the list.

568 **SECTION 19.** Section 41-67-27, Mississippi Code of 1972, is
569 reenacted as follows:

570 41-67-27. It is unlawful for a manufacturer of an individual
571 on-site wastewater disposal system to operate a business in or to
572 do business in the State of Mississippi without holding a valid
573 registration issued by the department.

574 **SECTION 20.** Section 41-67-28, Mississippi Code of 1972, is
575 reenacted as follows:

576 41-67-28. (1) Except as otherwise provided in this chapter,
577 any person who shall knowingly violate this chapter or any rule or
578 regulation or written order of the board in pursuance thereof is,
579 upon conviction, guilty of a misdemeanor and shall be punished as
580 provided in Section 41-3-59.

581 (2) Each day of a continuing violation is a separate
582 violation.



583 (3) (a) In addition to all other statutory and common law
584 rights, remedies and defenses, any person who purchases an
585 individual on-site wastewater disposal system and suffers any
586 ascertainable loss of money or property, real or personal, may
587 bring an action at law in the court having jurisdiction in the
588 county in which the installer or manufacturer has the principal
589 place of business, where the act allegedly occurred, to recover
590 any loss of money or damages for the loss of any property
591 resulting from any of the following:

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

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

598 (iii) Failure of an individual on-site wastewater
599 disposal system to operate properly due to defective design or
600 construction.

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

605 (4) A person who violates this chapter thereby causing a
606 discharge off the property of the generator shall be liable to the
607 party aggrieved or damaged by that violation for the actual
608 damages and additional punitive damages equal to a maximum of
609 twenty-five percent (25%) of the actual damages proven by the
610 aggrieved party, to be taxed by the court where the suit is heard
611 on an original action, by appeal or otherwise and recovered by a
612 suit at law in any court of competent jurisdiction. In addition,
613 the court may award the prevailing party reasonable attorneys fees
614 and court costs. Before filing suit, the party aggrieved or



615 damaged must give thirty (30) days' written notice of its intent
616 to file suit to the alleged violator.

617 **SECTION 21.** Section 41-67-29, Mississippi Code of 1972, is
618 reenacted as follows:

619 41-67-29. Any person who is aggrieved by any final decision
620 of the board may appeal that final decision to the chancery court
621 of the county of the situs in whole or in part of the subject
622 matter. The appellant shall give a cost bond with sufficient
623 sureties, payable to the state in a sum to be fixed by the board
624 or the court and to be filed with and approved by the clerk of the
625 court. The aggrieved party may, within thirty (30) days following
626 a final decision of the board, petition the chancery court for an
627 appeal with supersedeas and the chancellor shall grant a hearing
628 on the petition. Upon good cause shown the chancellor may grant
629 the appeal with supersedeas. The appellant shall be required to
630 post a bond with sufficient sureties according to law in an amount
631 to be determined by the chancellor. The chancery court shall
632 always be deemed open for hearing of appeals and the chancellor
633 may hear the appeal in termtime or in vacation at any place in his
634 district. The appeal shall have precedence over all civil cases,
635 except election contests. The chancery court shall review all
636 questions of law and of fact and may enter a final order or remand
637 the matter to the board for appropriate action as may be indicated
638 or necessary under the circumstances. Appeals may be taken from
639 the chancery court to the Supreme Court in the manner as now
640 required by law, but if a supersedeas is desired by the party
641 appealing to the chancery court, that party may apply therefor to
642 the chancellor, who shall award a writ of supersedeas, without
643 additional bond, if in the chancellor's judgment material damage
644 is not likely to result. If material damage is likely to result,
645 the chancellor shall require a supersedeas bond as deemed proper,
646 which shall be liable to the state for any damage.



647 **SECTION 22.** Section 41-67-31, Mississippi Code of 1972, is
648 amended as follows:

649 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
650 repealed on July 1, 2003.

651 **SECTION 23.** This act shall take effect and be in force from
652 and after June 30, 2002.

