

By: Senator(s) Dearing

To: Oil, Gas and Other Minerals

SENATE BILL NO. 2275

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 TO THE PROVISIONS OF HOUSE BILL NO. 651, 2003
4 REGULAR SESSION, CONCERNING NOTICE DUE IN ADMINISTRATIVE
5 PROCEEDINGS BEFORE A STATE BODY; AND FOR RELATED PURPOSES.

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

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

9 53-1-19. The board shall prescribe its rules of order or
10 procedure in hearings or other proceedings before it consistent
11 with the Administrative Procedures Law. The board may provide for
12 the recording and preservation of its proceedings by order entered
13 on its minutes.

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

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

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

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

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

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

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

72 Any person adjudged guilty of any such violation shall have
73 the right of appeal in accordance with the provisions of Section
74 53-1-39.

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

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

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

91 (i) The willfulness of the violation;

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

94 (iii) Any cost of restoration and abatement;

95 (iv) Any economic benefit to the violator as a
96 result of noncompliance;

97 (v) The seriousness of the violation, including
98 any harm to the environment and any harm to the health and safety
99 of the public; and

100 (vi) Any prior violation by such violator.

101 (e) The board is authorized to utilize the provisions
102 of Section 85-7-132 to enforce penalties provided by this section.

103 **SECTION 3.** This act shall take effect and be in force from
104 and after July 1, 2005.