

By: Representative Warren

To: Conservation and Water Resources; Public Health and Human Services

HOUSE BILL NO. 543

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 SYSTEM LAW; TO AMEND SECTION 41-67-31,
4 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON
5 THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM LAW;
6 AND FOR 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) "Department" means the Mississippi State Department
20 of Health.

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

24 (d) "Individual on-site wastewater disposal system"
25 means a sewage treatment and effluent disposal system that does
26 not discharge into waters of the state, that serves only one (1)
27 legal tract, that accepts only human sanitary waste and similar
28 waste streams maintained on the property of the generator, and

29 that is designed and installed in accordance with this law and
30 regulations of the board.

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

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

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

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

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

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

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

55 (b) To adopt, modify, repeal and promulgate rules and
56 regulations, after due notice and hearing, and where not otherwise
57 prohibited by federal or state law, to make exceptions to, to
58 grant exemptions from and to enforce rules and regulations
59 implementing or effectuating the duties of the board under this
60 chapter to protect the public health. The board may grant
61 variances from rules and regulations adopted under this chapter,

62 including requirements for buffer zones, or from setbacks required
63 under Section 41-67-7 where the granting of a variance shall not
64 subject the public to unreasonable health risks or jeopardize
65 environmental resources;

66 (c) To provide or deny certification for persons
67 engaging in the business of the design, construction or
68 installation of individual on-site wastewater disposal systems and
69 persons engaging in the removal and disposal of the sludge and
70 liquid waste from those systems;

71 (d) To suspend or revoke certifications issued to
72 persons engaging in the business of the design, construction or
73 installation of individual on-site wastewater disposal systems or
74 persons engaging in the removal and disposal of the sludge and
75 liquid waste from those systems, when it is determined the person
76 has violated this chapter or applicable rules and regulations; and

77 (e) To require the submission of information deemed
78 necessary by the department to determine the suitability of
79 individual lots for individual on-site wastewater disposal
80 systems.

81 (2) Nothing in this chapter shall preclude a professional
82 engineer from providing services relating to the design,
83 construction or installation of an individual on-site wastewater
84 disposal system to comply with this chapter. Except as otherwise
85 required by subsection (4) of this section, a professional
86 engineer shall notify the department in writing of those services
87 being provided. If a professional engineer designs, constructs or
88 installs or directly supervises the construction or installation
89 of a design-based individual on-site wastewater disposal system
90 consistent with this chapter and stamps the appropriate
91 documentation with that professional engineer's seal, the
92 department shall approve the design, construction or installation
93 of the system, if requested. Professional engineers engaging in
94 the design, construction or installation of individual on-site

95 wastewater disposal systems shall not require certification under
96 this chapter.

97 (3) To assure the effective and efficient administration of
98 this chapter, the board shall adopt rules governing the design,
99 construction or installation, operation and maintenance of
100 individual on-site wastewater disposal systems, including rules
101 concerning the:

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

104 (b) Certification of installers of individual on-site
105 wastewater disposal systems and persons engaging in the removal
106 and disposal of the sludge and liquid waste from those systems;
107 and

108 (c) Registration and requirements for testing and
109 listing of manufacturers of aerobic treatment systems.

110 (4) In addition, the board shall adopt rules establishing
111 performance standards for individual on-site wastewater disposal
112 systems for single family residential generators and rules
113 concerning the operation and maintenance of individual on-site
114 wastewater disposal systems designed to meet those standards. The
115 performance standards shall be consistent with the federal Clean
116 Water Act, maintaining the wastes on the property of the generator
117 and protection of the public health. Rules for the operation and
118 maintenance of individual on-site wastewater disposal systems
119 designed to meet performance standards shall include rules
120 concerning the following:

121 (a) A standard application form and requirements for
122 supporting documentation;

123 (b) Application review;

124 (c) Approval or denial of authorization for proposed
125 systems;

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

128 (e) Enforcement of the requirements and conditions of
129 authorization; and

130 (f) Inspection, monitoring, sampling and reporting on
131 the performance of the system.

132 Any system proposed for authorization in accordance with
133 performance standards must be designed and certified by a
134 professional engineer and must be authorized by the board before
135 installation. Appeals from a final decision of the board
136 regarding the authorization of an individual on-site wastewater
137 disposal system based upon performance standards shall be taken
138 using a procedure substantially equivalent to the procedure
139 specified for hospital licenses in Chapter 9 of Title 41.

140 (5) To the extent practicable, all rules and regulations
141 adopted under this chapter shall give maximum flexibility to
142 persons installing individual on-site wastewater disposal systems
143 and a maximum number of options consistent with the federal Clean
144 Water Act, consistent with maintaining the wastes on the property
145 of the generator and consistent with protection of the public
146 health. In addition, all rules and regulations, to the extent
147 practicable, shall encourage the use of economically feasible
148 systems, including alternative techniques and technologies for
149 individual on-site wastewater disposal.

150 (6) All regulations shall be applied uniformly in all areas
151 of the state and shall take into consideration and make provision
152 for different types of soil in the state when performing soil and
153 site evaluations.

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

156 41-67-4. (1) The board shall determine the feasibility of
157 establishing community sewerage systems upon the submission by the
158 developer of a preliminary design and feasibility study prepared
159 by a professional engineer. The developer may request and obtain
160 a hearing before the board if the developer is dissatisfied with

161 the board's determination of feasibility. The determination that
162 a sewerage system must be established shall be made without regard
163 to whether the establishment of a sewerage system is authorized by
164 law or is subject to approval by one or more state or local
165 government or public bodies. Whenever a developer requests a
166 determination of feasibility, the board must make the
167 determination within forty-five (45) days after receipt of the
168 preliminary design and feasibility study from the developer. The
169 board shall state in writing the reasons for its determination.
170 If the board does not make a determination within forty-five (45)
171 days, all sites within the subdivision shall be approved, if a
172 certified installer attests that each site can be adequately
173 served by an individual on-site wastewater disposal system.

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

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

187 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
188 reenacted as follows:

189 41-67-5. (1) No owner, lessee or developer shall construct
190 or place any mobile, modular or permanently constructed residence,
191 building or facility, which may require the installation of an
192 individual on-site wastewater disposal system, without having
193 first submitted a notice of intent to the department. Upon

194 receipt of a notice of intent, the department shall provide the
195 owner, lessee or developer with complete information on individual
196 on-site wastewater disposal systems, including, but not limited
197 to, applicable rules and regulations regarding the design,
198 construction, installation, operation and maintenance of
199 individual on-site wastewater disposal systems and known
200 requirements of lending institutions for approval of the systems.

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

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

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

213 41-67-6. (1) Within five (5) working days following receipt
214 of the notice of intent and plot plan by an owner, lessee or
215 developer of any lot or tract of land, the department shall
216 conduct a soil and site evaluation, except in cases where a
217 professional engineer provides services relating to the design,
218 construction or installation of an individual on-site wastewater
219 disposal system to comply with this chapter. Within ten (10)
220 additional working days, the department shall make recommendations
221 to the owner, lessee or developer of the type or types of
222 individual on-site wastewater disposal systems suitable for
223 installation on the lot or tract, unless there are conditions
224 requiring further investigation that are revealed in the initial
225 evaluation. In making recommendations on the type or types of
226 individual on-site wastewater disposal systems suitable for

227 installation on a lot or tract, personnel of the department shall
228 use best professional judgment based on rules and regulations
229 adopted by the board, considering the type or types of systems
230 which are installed and functioning on lots or tracts near the
231 subject lot or tract. If existing systems in the surrounding area
232 function properly, systems of that same type shall be approved.
233 To the extent practicable, the recommendations shall give the
234 owner, lessee or developer maximum flexibility and a maximum
235 number of options consistent with the federal Clean Water Act,
236 consistent with maintaining the wastes on the property of the
237 generator and consistent with protection of the public health.
238 The system or systems recommended shall be environmentally sound
239 and cost-effective. The department or a professional engineer
240 shall provide complete information, including all applicable
241 requirements and regulations on all systems recommended. The
242 owner, lessee or developer shall have the right to choose among
243 systems. The department shall provide the owner, lessee or
244 developer with a form that specifies all types of individual
245 on-site wastewater disposal systems that are suitable for
246 installation on the lot or tract and lists all installers of those
247 systems that are certified by the department. Approval of the
248 design, construction or installation of an individual on-site
249 wastewater disposal system by the department is not required. If
250 any property owner, lessee or the owner's or lessee's lending
251 institution requests the department to approve the design,
252 construction or installation of any system on the owner's or
253 lessee's property, the department shall approve the design,
254 construction or installation of that system, as requested, if the
255 system is designed, constructed and installed, as the case may be,
256 in accordance with the rules and regulations of the board. The
257 department shall not approve any individual on-site wastewater
258 disposal system that has a direct or point source discharge.
259 Whenever a person requests approval of an individual on-site

260 wastewater disposal system, the department must approve or
261 disapprove the request within fifteen (15) working days. If the
262 department disapproves the request, the department shall state in
263 writing the reasons for the disapproval. If the department does
264 not respond to the request within fifteen (15) working days, the
265 request for approval of the individual on-site wastewater disposal
266 system shall be deemed approved.

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

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

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

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

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

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

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

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

301 (a) Sewers are not available or feasible;

302 (b) The existing disposal systems in the area are
303 functioning satisfactorily;

304 (c) Soil types, soil texture, seasonal water tables and
305 other limiting factors are satisfactory for underground
306 absorption; and

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

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

315 (a) Sewers are not available or feasible;

316 (b) The systems meet applicable water quality
317 requirements of the federal Clean Water Act and also requirements
318 of the board and department; and

319 (c) Any discharge is confined within the boundaries of
320 the property of the generator.

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

323 41-67-9. (1) Existing individual on-site wastewater
324 disposal systems shall be considered acceptable, provided the
325 following requirements are met:

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

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

333 (c) The system is functioning properly with no evidence
334 that any insufficiently treated effluent is or has been seeping to
335 the surface of the ground and any discharge of treated effluent is
336 confined within the boundaries of the property of the generator;
337 and

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

343 (2) If an existing residential individual on-site wastewater
344 disposal system is malfunctioning, the system should be replaced,
345 where possible, with a system meeting all requirements of this
346 chapter and rules and regulations of the board. If replacement of
347 the existing system is not possible, the existing system shall be
348 repaired to reduce the volume of effluent, to adequately treat the
349 effluent and to the greatest extent possible, to confine the
350 discharge to the property of the generator. If repairs are made
351 to significantly upgrade the existing individual on-site
352 wastewater disposal system, the department shall approve the
353 system, if requested.

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

356 41-67-10. Aerobic treatment systems may be installed only if
357 they have been tested and listed by a third-party certifying
358 program. Aerobic treatment systems shall be in compliance with
359 standards for a Class I system as defined by the most current
360 revision of American National Standards Institute/National
361 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
362 hereby incorporated by reference. Beginning on October 1, 1996,
363 an approved third-party certifying program shall comply with the
364 following provisions for systems which it has certified to be
365 installed in Mississippi:

366 (a) Be accredited by the American National Standards
367 Institute;

368 (b) Have established procedures which send
369 representatives to distributors in Mississippi on a recurring
370 basis to conduct evaluations to assure that distributors of
371 certified aerobic treatment systems are providing proper
372 maintenance, have sufficient replacement parts available and are
373 maintaining service records;

374 (c) Notify the department of the results of monitoring
375 visits to manufacturers and distributors within sixty (60) days of
376 the conclusion of the monitoring; and

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

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

381 41-67-11. (1) Temporary individual on-site wastewater
382 disposal systems may be approved in otherwise unapprovable areas
383 only after a contract has been awarded for the construction of
384 municipal or community sewers that upon completion will adequately
385 serve the property. Temporary individual on-site wastewater
386 disposal systems shall only be approved under the following
387 conditions:

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

394 (b) When the public sewers shall be available and ready
395 for use within a period not to exceed six (6) months, or where a
396 minor extension is to be made to a municipal system by the
397 municipality and no contract is to be awarded, an individual
398 on-site wastewater disposal system with a minimum capacity of
399 three hundred (300) gallons and at least sixty percent (60%) of
400 the required disposal field may be installed. The board shall not
401 approve a temporary system under this subsection unless the
402 professional engineer designing the sewer system has certified to
403 the board in writing that the public sewer or extension shall be
404 completed within six (6) months, and the owner of the temporary
405 system has certified in writing that connection to the public
406 sewer shall be made as soon as it becomes available.

407 (2) The board may approve the installation of sewage holding
408 tanks in districts created under Sections 19-5-151 through
409 19-5-207 for the purpose of providing sewage services. The
410 district shall be required to maintain or provide for the
411 maintenance of those holding tanks. The board shall require that
412 residences be connected to a municipal or community sewage system
413 when that system is available and ready to use.

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

416 41-67-12. (1) The department shall assess fees in the
417 following amounts for the following purposes:

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

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

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

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

432 (3) The fee authorized under this section shall not be
433 assessed for any system operated by state agencies or
434 institutions, including, without limitation, foster homes licensed
435 by the State Department of Human Services. The fee authorized
436 under this section shall not be charged again after payment of the
437 initial fee for any system that has been installed in accordance
438 with this chapter, within a period of twenty-four (24) months
439 following the date that the system was originally installed.

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

442 41-67-15. Nothing in this chapter shall limit the authority
443 of a municipality or board of supervisors to adopt similar
444 ordinances which may be, in whole or in part, more restrictive
445 than this chapter, and in those cases the more restrictive
446 ordinances will govern.

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

449 41-67-16. (1) Before January 1, 1997, the department shall
450 conduct a study of all individual on-site wastewater disposal
451 systems currently being recommended for use in the state to
452 determine the suitability of using those systems on lots or tracts
453 in areas of the state given the various soil types and

454 classifications. In conducting the study, the department shall
455 consider the type of system, lot size, effluent quality and other
456 recommended limitations which should be placed on the use of each
457 system.

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

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

462 41-67-19. Each authorized agent of the department
463 implementing this chapter shall demonstrate to the department's
464 satisfaction that the person:

465 (a) Is competent to review and provide any requested
466 approval of design, construction and installation of individual
467 on-site wastewater disposal systems, as well as the operation,
468 repair or maintenance of those systems, to make soil permeability
469 tests or soil and site evaluations, and to conduct inspections of
470 individual on-site wastewater disposal systems in accordance with
471 this chapter and rules and regulations adopted under this chapter;
472 and

473 (b) Has successfully completed the installer
474 certification training program provided by the department.

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

477 41-67-21. (1) The board or the department may require a
478 property owner or lessee to repair a malfunctioning individual
479 on-site wastewater disposal system on the owner's or lessee's
480 property before the thirtieth day after the date on which the
481 owner or lessee is notified by the department of the
482 malfunctioning system.

483 (2) The property owner or lessee shall take adequate
484 measures as soon as practicable to abate an immediate health
485 hazard.

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

491 (4) The board may assess the property owner or lessee of an
492 individual on-site wastewater disposal system authorized pursuant
493 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
494 (\$50.00) for each day the system fails to meet the performance
495 standards of that system after the thirty-day period specified in
496 subsection (1) of this section.

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

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

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

503 41-67-23. The department or its authorized representative
504 may enter onto property and make inspections of any individual
505 on-site wastewater disposal system as necessary to ensure that the
506 system is in compliance with this chapter and the rules adopted
507 under this chapter. The department shall give reasonable notice
508 to any property owner, lessee or occupant prior to entry onto the
509 property. The owner, lessee, owner's representative, or occupant
510 of the property on which the system is located shall give the
511 department or its authorized representative reasonable access to
512 the property at reasonable times to make necessary inspections.

513 **SECTION 17.** Section 41-67-25, Mississippi Code of 1972, is
514 reenacted as follows:

515 41-67-25. (1) A person may not operate as an installer in
516 this state unless that person is certified by the board except any
517 individual who installs an individual on-site wastewater disposal
518 system on his own property or a professional engineer.

519 (2) An installer of aerobic treatment plants or subsurface
520 drip disposal systems must be a factory-trained and authorized
521 representative. The manufacturer must furnish documentation to
522 the department certifying the satisfactory completion of factory
523 training and the establishment of the installer as an authorized
524 manufacturer's representative.

525 (3) The board shall issue a certification to an installer if
526 the installer:

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

529 (b) Satisfactorily completes the training program
530 provided by the department;

531 (c) Pays the annual certification fee; and

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

536 (4) Each installer shall furnish proof of certification to a
537 property owner, lessee, the owner's representative or occupant of
538 the property on which an individual on-site wastewater disposal
539 system is to be designed, constructed, repaired or installed by
540 that installer and to the department or its authorized
541 representative, if requested.

542 (5) The department shall provide for annual renewal of
543 certifications.

544 (6) (a) An installer's certification may be suspended or
545 revoked by the board after notice and hearing if the installer
546 violates this chapter or any rule or regulation adopted under this
547 chapter.

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

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

553 **SECTION 18.** Section 41-67-27, Mississippi Code of 1972, is
554 reenacted as follows:

555 41-67-27. It is unlawful for a manufacturer of an individual
556 on-site wastewater disposal system to operate a business in or to
557 do business in the State of Mississippi without holding a valid
558 registration issued by the department.

559 **SECTION 19.** Section 41-67-28, Mississippi Code of 1972, is
560 reenacted as follows:

561 41-67-28. (1) Except as otherwise provided in this chapter,
562 any person who shall knowingly violate this chapter or any rule or
563 regulation or written order of the board in pursuance thereof is,
564 upon conviction, guilty of a misdemeanor and shall be punished as
565 provided in Section 41-3-59.

566 (2) Each day of a continuing violation is a separate
567 violation.

568 (3) (a) In addition to all other statutory and common law
569 rights, remedies and defenses, any person who purchases an
570 individual on-site wastewater disposal system and suffers any
571 ascertainable loss of money or property, real or personal, may
572 bring an action at law in the court having jurisdiction in the
573 county in which the installer or manufacturer has the principal
574 place of business, where the act allegedly occurred, to recover
575 any loss of money or damages for the loss of any property
576 resulting from any of the following:

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

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

583 (iii) Failure of an individual on-site wastewater
584 disposal system to operate properly due to defective design or
585 construction.

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

590 (4) A person who violates this chapter thereby causing a
591 discharge off the property of the generator shall be liable to the
592 party aggrieved or damaged by that violation for the actual
593 damages and additional punitive damages equal to a maximum of
594 twenty-five percent (25%) of the actual damages proven by the
595 aggrieved party, to be taxed by the court where the suit is heard
596 on an original action, by appeal or otherwise and recovered by a
597 suit at law in any court of competent jurisdiction. In addition,
598 the court may award the prevailing party reasonable attorney's
599 fees and court costs. Before filing suit, the party aggrieved or
600 damaged must give thirty (30) days' written notice of its intent
601 to file suit to the alleged violator.

602 **SECTION 20.** Section 41-67-29, Mississippi Code of 1972, is
603 reenacted as follows:

604 41-67-29. Any person who is aggrieved by any final decision
605 of the board may appeal that final decision to the chancery court
606 of the county of the situs in whole or in part of the subject
607 matter. The appellant shall give a cost bond with sufficient
608 sureties, payable to the state in a sum to be fixed by the board
609 or the court and to be filed with and approved by the clerk of the
610 court. The aggrieved party may, within thirty (30) days following
611 a final decision of the board, petition the chancery court for an
612 appeal with supersedeas and the chancellor shall grant a hearing
613 on the petition. Upon good cause shown the chancellor may grant
614 the appeal with supersedeas. The appellant shall be required to
615 post a bond with sufficient sureties according to law in an amount

616 to be determined by the chancellor. The chancery court shall
617 always be deemed open for hearing of appeals and the chancellor
618 may hear the appeal in termtime or in vacation at any place in his
619 district. The appeal shall have precedence over all civil cases,
620 except election contests. The chancery court shall review all
621 questions of law and of fact and may enter a final order or remand
622 the matter to the board for appropriate action as may be indicated
623 or necessary under the circumstances. Appeals may be taken from
624 the chancery court to the Supreme Court in the manner as now
625 required by law, but if a supersedeas is desired by the party
626 appealing to the chancery court, that party may apply therefor to
627 the chancellor, who shall award a writ of supersedeas, without
628 additional bond, if in the chancellor's judgment material damage
629 is not likely to result. If material damage is likely to result,
630 the chancellor shall require a supersedeas bond as deemed proper,
631 which shall be liable to the state for any damage.

632 **SECTION 21.** Section 41-67-31, Mississippi Code of 1972, is
633 amended as follows:

634 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
635 repealed on July 1, 2008.

636 **SECTION 22.** This act shall take effect and be in force from
637 and after July 1, 2006.