

State of Mississippi



Digest of Mississippi Statutes on Illegal Dumping and Litter

June 12, 2013

A Message to Fellow Mississippians!

Dear Fellow Mississippians:

We live in a great State – blessed with beauty and tremendous natural resources. But there are threats to that beauty and to the quality of life for us as Mississippians from a growing problem in our state. That problem is the careless littering and illegal dumping of wastes across this great state. Litter and illegal dumping of wastes is a serious and expensive problem. Each year litter and dumping injures wildlife, pollutes our land and water, destroys natural resources, damages personal property, and impacts the quality of life for our citizens. Litter and illegal dumping of wastes also hampers economic growth and development because it creates a negative image of Mississippi and its people.

The assistance and the work of the state’s Law Enforcement Community, Local Prosecutors, Elected Officials and the state’s citizens is critical to clean up our state and rid it of litter and illegal dumping. We must respond to the challenge that illegal dumping presents and take the litter and dumping laws of our state seriously. We need to make it clear that we are not willing to tolerate litter and dumping in our communities and in our state.

Thank you for your assistance in ridding our state of litter and illegal dumping and for working to make our state a better place to live for all Mississippians!

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Mississippi Code Annotated

Statutes Applicable to Litter, Illegal Dumping, Defacement of Public Property and Other Similar Issues

This document contains portions of state law that apply to illegal dumping, litter and other similar issues. This document does not contain all of the laws or requirements on solid waste management and should not be construed as a full representation of law or regulation regarding these matters.

Listing of Statutes Included

- § [49-17-3. Mississippi's Statement of policy](#)
- § [17-17-7. Garbage disposal.](#)
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- § [47-5-431. Use of prisoners in county jails to pick up trash; earned time credit; escapes.](#)
- § [47-5-433. Use of State Highway vehicles to pick up trash bagged by inmates.](#)
- § [49-1-13. Conservation officers.](#)
- § [49-1-43. Powers and duties of director of Department of Wildlife, Fisheries and Parks.](#)
- § [49-1-44. Powers and duties of conservation officers to apprehend certain violators.](#)
- § [49-17-29. Permit Board; prohibitions; air and water permits; solid waste and hazardous permits; permit hearings; permit appeals.](#)
- § [51-2-3. Disposal of plastics and other garbage in marine waters; storage of certain substances in closed containers on vessels in marine waters; release of substances due to accidents or acts of nature; penalties.](#)

- § 51-2-7. Marinas and access areas to have proper disposal facilities on site.
- § 63-3-1211. Throwing, etc., of glass or other injurious material on highway; removal of glass or other injurious material by person removing wrecked or damaged vehicle from highway.
- § 63-7-83. Covering of open top vehicles carrying sand, dirt, gravel or rock.
- § 63-7-85. Use of sideboards on open top vehicles carrying sand, dirt, gravel or rock.
- § 97-15-1. Destroying, defacing, etc., milepost, signboard, etc., or bridge, underpass or overpass prohibited; penalties; liability for cost of repair; liability of parents of minor.
- § 97-15-29. Littering highways and private property with trash or substance likely to cause fire; civil liability; fines; disposition of proceeds.
- § 97-15-30. Penalties for unauthorized dumping of solid wastes; "commercial purpose" defined.
- § 97-15-31. Littering highways, streets, sidewalks, etc. with tacks, glass or other damaging objects.
- § 97-15-32. Dumping of dead wildlife, wildlife parts or waste in or on highways, private property, lakes, navigable waters, etc.; penalties.
- § 97-17-9. Arson; fourth degree; attempt to burn.
- § 97-17-39. Penalties for injuring, destroying or defacing certain cemetery property, public buildings, schools or churches, or property thereof.
- § 97-17-67. Malicious mischief.
- § 97-17-91. Trespass; defacing, altering or destroying notices posted on land.
- § 97-27-9. Beaches; bringing or leaving breakable containers or other injurious debris upon established beaches.

§ 49-17-3. Statement of policy

Whereas, the pollution of the air and waters of the state constitutes a menace to public health and welfare, creates a public nuisance, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of air and water, and whereas, the problem of air and water pollution in this state is closely related to the problem of air and water pollution in adjoining states, it is hereby declared to be the public policy of this state to conserve the air and waters of the state and to protect, maintain and improve the quality thereof for public use, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to maintain such a reasonable degree of quality of the air resources of the state to protect the health, general welfare and physical property of the people, and to provide that no waste be discharged into any waters of the state without first receiving the necessary treatment or other corrective action to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing air or water pollution; and to cooperate with other agencies of the state, agencies of other states, and the federal government in carrying out these objectives.

§ 17-17-7. Garbage disposal.

Garbage and rubbish containing garbage shall be disposed of by sanitary landfill, approved incineration, composting, or by other means now available or which may later become available as approved by the department and under the supervision and control of a governmental, private or other agency acting within the provisions of this chapter.

Sources: Laws, 1974, ch. 573, § 3(2); Laws, 1981, ch. 528, § 4, eff from and after July 1, 1981.

§ 17-17-9. Burning of garbage, etc.

No garbage or rubbish containing garbage or other putrescible materials, or hazardous wastes shall be burned except in approved incinerators meeting the necessary temperature requirements and air pollution controls as now established or may later be established. The open burning of rubbish shall be permitted only under controlled circumstances where sanitary landfill and landfill is not feasible and not in proximity to sanitary landfill or landfill operations where spread of fire to these operations may be a hazard in the opinion of the controlling agency.

Sources: Laws, 1974, ch. 573, § 3, eff from and after passage (approved April 24, 1974).

§ 17-17-11. Hauling of solid waste.

Trucks or other vehicles engaged in the business of hauling solid waste shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways or cause a nuisance or hazard to the public health.

Sources: Laws, 1974, ch. 473, § 3; Laws, 1979, ch. 491, § 2, eff from and after July 1, 1979.

§ 17-17-17. Unauthorized dumps as public nuisance per se.

The formation of unauthorized dumps is hereby declared to be a public nuisance per se, menacing public health and unlawful, and any person who forms an unauthorized dump shall be punished as provided in section 17-17-29 of this chapter. Existing dumps shall be eliminated by removal or on-site burial.

Sources: Laws, 1974, ch. 573, § 4, eff from and after passage (approved April 24, 1974).

§ 17-17-29. Penalties; injunction; recovery of cost of remedial action; disposition of fines.

(1) Any person found by the commission violating any of the provisions of Sections 17-17-1 through 17-17-47, or any rule or regulation or written order of the commission in pursuance thereof, or any condition or limitation of a permit, shall be subject to a civil penalty of not more than Twenty-five Thousand Dollars (\$25,000.00) for each violation, such penalty to be assessed and levied by the commission after a hearing. Appeals from the imposition of the civil penalty may be taken to the chancery court in the same manner as appeals from orders of the commission. If the appellant desires to stay the execution of a civil penalty assessed by the commission, he shall give bond with sufficient resident sureties of one or more guaranty or surety companies authorized to do business in this state, payable to the State of Mississippi, in an amount equal to double the amount of any civil penalty assessed by the commission, as to which the stay of execution is desired, conditioned, if the judgment shall be affirmed, to pay all costs of the assessment entered against the appellant. Each day upon which such violation occurs shall be deemed a separate and additional violation.

(2) In lieu of, or in addition to, the penalty provided in subsection (1) of this section, the commission shall have the power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of Sections 17-17-1 through 17-17-47, rules and regulations in force pursuant thereto, and orders and permits made and issued under those sections, in the appropriate circuit, chancery, county or justice court of the county in which venue may lie. The commission may obtain mandatory or prohibitory injunctive relief, either temporary or permanent, and in cases of imminent and substantial hazard as set forth in Section 17-17-27, it shall not be necessary in such cases that the state plead or prove (a) that irreparable damage would result if the injunction did not issue; (b) that there is no adequate remedy at law; or (c) that a written complaint or commission order has first been issued for the alleged violation.

(3) Any person who violates any of the provisions of, or fails to perform any duty imposed by, Sections 17-17-1 through 17-17-47, or any rule or regulation issued hereunder, or who violates any order or determination of the commission promulgated pursuant to such sections, and causes the death of wildlife shall be liable, in addition to the penalties provided in subsections (1) and (2) of this section, to pay to the state an additional amount equal to the sum of money reasonably necessary to replenish such wildlife as determined by the commission after consultation with the Mississippi Commission on Wildlife, Fisheries and Parks. Such amount

may be recovered by the commission on behalf of the state in a civil action brought in the appropriate county or circuit court of the county in which venue may lie.

(4) Any person creating, or responsible for creating, through misadventure, happenstance, or otherwise, an immediate necessity for remedial or clean-up action involving solid waste shall be liable for the cost of such remedial or clean-up action and the commission may recover the cost of same by a civil action brought in the circuit court of the county in which venue may lie. This penalty may be recovered in lieu of or in addition to the penalties provided in subsections (1), (2) and (3) of this section.

In the event of the necessity for immediate remedial or clean-up action, the commission may contract for same and advance funds from the Pollution Emergency Fund to pay the costs thereof, such advancements to be repaid to the Pollution Emergency Fund upon recovery by the commission as provided herein.

(5) Any person who knowingly violates any provision of this chapter or violates any order issued by the commission under the authority of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) for each day of violation or to imprisonment not to exceed one (1) year, or both. Each day's violation shall constitute a separate offense.

(6) All fines, penalties and other sums recovered or collected by the commission for and in behalf of the state under this section shall be deposited in the Pollution Emergency Fund established by Sections 49-17-61 through 49-17-70, and the commission is authorized to receive and accept, from any and all available sources whatsoever, additional funds to be deposited in such fund and expended for the purpose of remedial, cleanup or abatement actions involving the introduction of solid waste upon or into the land, air or waters of this state in violation of Sections 17-17-1 through 17-17-47, any rule or regulation or written order of the commission in pursuance thereof, or any condition or limitation of a permit.

(7) In determining the amount of any penalty under this chapter, the commission shall consider at a minimum:

- (a) The willfulness of the violation;
- (b) Any damage to air, water, land or other natural resources of the state or their uses;
- (c) Costs of restoration and abatement;
- (d) Economic benefit as a result of noncompliance;
- (e) The seriousness of the violation, including any harm to the environment and any hazard to the health, safety and welfare of the public;
- (f) Past performance history; and

(g) Whether the noncompliance was discovered and reported as the result of a voluntary self-evaluation. If a person discovers as a result of a voluntary self-evaluation, information related to noncompliance with an environmental law and voluntarily discloses that information to the department, commission or any employee thereof, the commission shall, to the greatest extent possible, reduce a penalty, if any, determined by the commission, except for economic benefit as a result of noncompliance, to a de minimis amount if all of the following are true:

(i) The disclosure is made promptly after knowledge of the information disclosed is obtained by the person;

(ii) The person making the disclosure initiates the appropriate corrective actions and pursues those corrective actions with due diligence;

(iii) The person making the disclosure cooperates with the commission and the department regarding investigation of the issues identified in the disclosure;

(iv) The person is not otherwise required by an environmental law to make the disclosure to the commission or the department;

(v) The information was not obtained through any source independent of the voluntary self-evaluation or by the department through observation, sampling or monitoring;

(vi) The noncompliance did not result in a substantial endangerment threatening the public health, safety or welfare or the environment; and

(vii) The noncompliance is not a repeat violation occurring at the same facility within a period of three (3) years. "Repeat violation" in this subparagraph means a second or subsequent violation, after the first violation has ceased, of the same statutory provision, regulation, permit condition, or condition in an order of the commission.

(8) Any provision of this section and chapter regarding liability for the costs of cleanup, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in Section 49-17-42 and rules adopted thereto.

(9) Any person who violates Section 49-17-603, shall, in addition to any other penalties, be subject to the penalties provided in this section.

Sources: Laws, 1974, ch. 573, § 7; Laws, 1979, ch. 491, § 6; Laws, 1980, ch. 551, § 2; Laws, 1981, ch. 528, § 9; Laws, 1988, ch. 311, § 2; Laws, 1991, ch. 334, § 1; Laws, 1995, ch. 627, § 5; Laws, 2001, ch. 560, § 3; Laws, 2003, ch. 301, § 4, eff from and after passage (approved Jan. 20, 2003.)

§ 17-17-65. Local Governments Solid Waste Assistance Fund.

(1) There is created in the State Treasury a fund designated as the Local Governments Solid Waste Assistance Fund, referred to in this section as "fund," to be administered by the executive director of the department.

(2) The fund shall be used to provide grants to counties, municipalities, regional solid waste management authorities or multi-county entities as provided in subsection (5) of this section for one or more of the following purposes:

(a) Cleanup of existing and future unauthorized dumps on public or private property, subject to the limitation in subsection (4) of this section;

(b) Establishment of a collection center or program for white goods, recyclables or other bulky rubbish waste not managed by local residential solid waste collection programs;

(c) Provision of public notice and education related to the proper management of solid waste, including recycling;

(d) Payment of a maximum of fifty percent (50%) of the cost of employing a local solid waste enforcement officer;

(e) Distribution and use as grants to regional solid waste management authorities, counties and municipalities for implementation of household hazardous waste collection programs, in accordance with Sections 17-17-439 through 17-17-445. The grants shall not exceed seventy-five percent (75%) of eligible project costs as established by the commission;

(f) Development of other local solid waste management program activities associated with the prevention, enforcement or abatement of unauthorized dumps, as approved by the commission; and

(g) Provide assistance to counties and municipalities for the establishment of regional recycling centers at regional correctional facilities.

(3) The commission shall earmark ten percent (10%) of the amount deposited in the fund annually to be used to make grants to counties, municipalities, regional solid waste management authorities or multi-county entities to assist in defraying the cost of preparing solid waste management plans required by Section 17-17-227. The commission shall award these grants according to the merit of grant proposals received by the commission and the level of need and timeliness of the requirement for the county or regional solid waste management authority to update its solid waste management plan.

(4) If a person is found to be responsible for creating an unauthorized dump, the grantee shall make a reasonable effort to require that person to clean up the property before expending any monies from the fund to clean up the property. If the grantee is unable to locate the person responsible for creating the dump, or if the grantee determines that person is financially or

otherwise incapable of cleaning up the property, the grantee may use the monies from the fund to clean up the property and shall make a reasonable effort to recover from the responsible person any funds expended.

(5) (a) Of monies annually deposited in the fund and any balance remaining in the fund, the commission shall annually allocate monies as follows:

(i) One-half (1/2) of the deposited funds and remaining balance shall be allocated to each county based on the percentage of state aid road mileage as established by the Mississippi Department of Transportation State Aid road formula.

(ii) One-half (1/2) of the deposited funds and remaining balance shall be made available to counties or municipalities for grants on a competitive basis.

(b) The department shall notify the president of the board of supervisors of each county in writing of the amount allocated under paragraph (a)(i) of this subsection and that additional funds are available on a competitive basis as provided under paragraph (a)(ii) of this subsection.

(c) Upon receipt of a scope of work and cost proposal acceptable to the commission, the commission shall award a grant to a county up to the allocated amount for that county under paragraph (a)(i) of this subsection. The commission may award additional grant funds from monies available under paragraph (a)(ii) of this subsection based upon the acceptable scope of work and cost proposal.

(d) The commission may award grants to a regional solid waste management authority or other multi-county entity upon submission of a consolidated scope of work and cost proposal acceptable to the commission and authorized by the member counties. Upon submission of a scope of work and cost proposal, the commission may award grants to municipalities from monies available under paragraph (a)(ii) of this subsection.

(e) No grantee shall use more than three percent (3%) of funds provided under this section to defray the costs of administration of the grant.

(6) The department may use up to three percent (3%) of monies annually deposited in the fund and of any balance remaining in the fund to provide for the administration of this section.

(7) Expenditures may be made from the fund upon requisition by the executive director of the department.

(8) The fund shall be treated as a special trust fund. Interest earned on the principal in the fund shall be credited by the department to the fund.

(9) The fund may receive monies from any available public or private source, including, but not limited to, collection of fees, interest, grants, taxes, public and private donations, judicial actions and appropriated funds.

(10) Monies in the fund at the end of the fiscal year shall be retained in the fund for use in the succeeding fiscal year.

(11) The commission may consolidate any grant provided under this section with any grant provided under the waste tire management program or the right-way-to-throw-away program. Funds provided through any consolidated grant shall be used in accordance with the program under which the funds are provided.

(12) Funds provided under this section shall not be used to pay any costs of the establishment or operation of a landfill, rubbish disposal site or other type of solid waste disposal facility, for the routine collection of garbage or to collect any fees assessed under Section 19-5-21 or 21-19-2.

(13) The commission shall not provide any funds under this section to any grantee with an inadequate garbage or rubbish collection or disposal system as required under Section 19-5-17 or 21-19-1.

Sources: Laws, 1997, ch. 596, § 1; Laws, 2000, ch. 395, § 1; Laws, 2002, ch. 483, § 1; Laws, 2010, ch. 318, § 2, eff from and after July 1, 2010.

§ 17-17-405. Provision to department of information regarding waste tire collection sites; maintenance of unauthorized waste tire collection or disposal sites; disposal of waste tires at unauthorized sites; closure of sites upon cessation of operations.

(1) Owners and operators of any waste tire collection site shall provide the department with information concerning the site's location, size and approximate number of waste tires that have been accumulated at the site. The department shall promptly provide that information to the chancery clerk of the county in which the site is located.

(2) It is unlawful for any person to maintain a waste tire collection site or a waste tire disposal site unless the site is authorized by the department or permitted by the permit board. It is unlawful for any person to dispose of waste tires in the state unless the waste tires are disposed at an authorized waste tire collection site, a waste tire collection center, waste tire processing site or a waste tire disposal site.

(3) Each operator of a waste tire collection site in operation or accepting waste tires after January 1, 1991, shall ensure that the area is properly closed upon cessation of operations. The department may require that a closure plan be submitted with the application for authorization. The closure plan, as approved by the department, shall include at least the following:

(a) A description of how and when the area will be closed; and

(b) The method of final disposition of any waste tires remaining on the site at the time notice of closure is given to the department.

(4) The operator shall notify the department at least ninety (90) days before the date the operator expects closure to begin. No waste tires may be received by the waste tire collection site after the date closure is to begin.

(5) If the operator of a waste tire collection site fails to properly implement the closure plan, the commission shall order the operator to implement that plan, and take other steps under Section 17-17-29 to assure the proper closure of the site.

Sources: Laws, 1991, ch. 531, § 3; Laws, 1997, ch. 544, § 2, eff from and after July 1, 1997.

§ 17-17-413. Execution and disposition of certification form relating to waste tires collected and shipped for storage, processing or disposal.

(1) Every tire retailer or other person providing waste tires for transportation to a facility for storage, processing or disposal shall complete and sign a certification form, as prescribed by the department certifying the number of waste tires shipped for processing or disposal, the county and state in which the tires were collected and the name and address of the waste tire processing, storage and/or disposal facility for which the waste tires are destined. The form shall be completed and signed by the waste tire hauler, certifying receipt of such waste tires from the tire retailer or other person providing waste tires for transportation to a facility for storage, processing or disposal. The waste tire hauler shall present the certification form to the owner or operator of a waste tire collection facility, waste tire processing facility or a waste tire disposal facility at the time of delivery of waste tires for collection, processing or disposal. The tire retailer or other person providing the waste tires for transportation shall retain a copy of the certification signed by such person and the waste tire hauler. The waste tire hauler and the owner or operator of the facility receiving the waste tires shall each retain a copy of the certification containing all signatures. Copies of these certification forms shall be retained for a minimum of three (3) years after the date of delivery of the waste tires.

(2) The provisions of this section shall not apply to tires that are provided for disposal in quantities of five (5) or less by a person other than a waste tire collector, waste tire processor or waste tire hauler.

Sources: Laws, 1991, ch. 531, § 7, eff from and after July 1, 1991.

§ 17-17-427. Hauling or disposal of waste tires in violation of §§ 17-17-401 through 17-17-427.

Any person who hauls or disposes of a waste tire in violation of Sections 17-17-401 through 17-17-427 or any rules and regulations promulgated under those sections may be assessed a civil penalty of Fifty Dollars (\$50.00) per violation. Each tire hauled or disposed of in violation of Sections 17-17-401 through 17-17-427 or any rules or regulations promulgated under those sections constitutes a separate violation.

Sources: Laws, 1991, ch. 521, § 14; Laws, 1997, ch. 544, § 7, eff from and after July 1, 1997.

§ 19-5-105. Cleaning private property, lien.

To determine whether property or a parcel of land located within a county is in such a state of uncleanness as to be a menace to the public health, safety and welfare of the community, the board of supervisors of any county is authorized and empowered to conduct a hearing on its own motion, or upon the receipt of a petition requesting the board of supervisors to act signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, within reasonable proximity of any property alleged to be in need of cleaning, or within seven hundred fifty (750) feet of the precise location of the alleged menace situated on any parcel of land which is located in a populated area or in a housing subdivision and alleged to be in need of cleaning.

Notice shall be provided to the property owner by:

- (a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and
- (b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at the county courthouse or another place in the county where such notices are posted.

The notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the board of supervisors to reenter the property or parcel of land for a period of one (1) year after the hearing without any further hearing, if notice is posted on the property or parcel of land and at the county courthouse or another place in the county where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the board of supervisors in conjunction with the hearing required by this section.

If at such hearing the board of supervisors shall in its resolution adjudicate such parcel of land in its then condition to be a menace to the public health and safety of the community, the board of supervisors may, if the owner not do so himself, proceed to have the land cleaned by cutting weeds, filling cisterns, and removing rubbish, dilapidated fences, outside toilets, dilapidated buildings and other debris, and draining cesspools and standing water. Thereafter, the board of supervisors may at its next regular meeting by resolution adjudicate the actual cost of cleaning the land and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$ 1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty shall become an assessment against the property. The "cost assessed against the property" means either the cost to the county of using its own employees to do the work or the cost to the county of any contract executed by the county to have the work done, and administrative costs and legal costs of the county.

A county may reenter the property or parcel of land to maintain cleanliness without further notice of hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land. The expense of cleaning the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$ 20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The board of supervisors may assess the same penalty each time the property or land is cleaned as otherwise provided in this section.

The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a county clean a parcel owned by the State of Mississippi without first giving notice.

The assessment authorized by this section shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the county shall, upon order of the board of supervisors, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent taxes. Furthermore, the property owner whose land has been sold pursuant to this section shall have the same right of redemption as now provided by law for the sale of lands for delinquent taxes. All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from county boards.

Sources: Laws, 1983, ch. 459; Laws, 1996, ch. 332, § 1; Laws, 2012, ch. 366, § 1, eff from and after July 1, 2012.

§ 21-19-11. Cleaning private property; notice; lien; acknowledgement of notice of hearing.

(1) To determine whether property or parcel of land located within a municipality is in such a state of uncleanliness as to be a menace to the public health, safety and welfare of the community, a governing authority of any municipality shall conduct a hearing, on its own motion, or upon the receipt of a petition signed by a majority of the residents residing within four hundred (400) feet of any property or parcel of land alleged to be in need of the cleaning. Notice shall be provided to the property owner by:

(a) United States mail two (2) weeks before the date of the hearing mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and

(b) Posting notice for at least two (2) weeks before the date of a hearing on the property or parcel of land alleged to be in need of cleaning and at city hall or another place in the municipality where such notices are posted.

Any notice required by this section shall include language that informs the property owner that an adjudication at the hearing that the property or parcel of land is in need of cleaning will authorize the municipality to reenter the property or parcel of land for a period of one (1) year

after the hearing without any further hearing if notice is posted on the property or parcel of land and at city hall or another place in the municipality where such notices are generally posted at least seven (7) days before the property or parcel of land is reentered for cleaning. A copy of the required notice mailed and posted as required by this section shall be recorded in the minutes of the governing authority in conjunction with the hearing required by this section.

If, at such hearing, the governing authority shall adjudicate the property or parcel of land in its then condition to be a menace to the public health, safety and welfare of the community, the governing authority, if the owner does not do so himself, shall proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; removing rubbish, dilapidated fences, outside toilets, dilapidated buildings, personal property, which removal of personal property shall not be subject to the provisions of Section 21-39-21, and other debris; and draining cesspools and standing water therefrom. The governing authority may by resolution adjudicate the actual cost of cleaning the property and may also impose a penalty not to exceed One Thousand Five Hundred Dollars (\$ 1,500.00) or fifty percent (50%) of the actual cost, whichever is more. The cost and any penalty may become a civil debt against the property owner, or, at the option of the governing authority, an assessment against the property. The "cost assessed against the property" means either the cost to the municipality of using its own employees to do the work or the cost to the municipality of any contract executed by the municipality to have the work done, and administrative costs and legal costs of the municipality. For subsequent cleaning within the one-year period after the date of the hearing at which the property or parcel of land was adjudicated in need of cleaning, upon seven (7) days' notice posted both on the property or parcel of land adjudicated in need of cleaning and at city hall or another place in the municipality where such notices are generally posted, and consistent with the municipality's adjudication as authorized in this subsection (1), a municipality may reenter the property or parcel of land to maintain cleanliness without further notice or hearing no more than six (6) times in any twelve-month period with respect to removing dilapidated buildings, dilapidated fences and outside toilets, and no more than twelve (12) times in any twenty-four-month period with respect to cutting grass and weeds and removing rubbish, personal property and other debris on the land, and the expense of cleaning of the property shall not exceed an aggregate amount of Twenty Thousand Dollars (\$ 20,000.00) per year, or the fair market value of the property subsequent to cleaning, whichever is less. The governing authority may assess the same penalty for each time the property or land is cleaned as otherwise provided in this section. The penalty provided herein shall not be assessed against the State of Mississippi upon request for reimbursement under Section 29-1-145, nor shall a municipality clean a parcel owned by the State of Mississippi without first giving notice.

(2) If the governing authority declares, by resolution, that the cost and any penalty shall be collected as a civil debt, the governing authority may authorize the institution of a suit on open account against the owner of the property in a court of competent jurisdiction in the manner provided by law for the cost and any penalty, plus court costs, reasonable attorney's fees and interest from the date that the property was cleaned.

(3) (a) If the governing authority does not declare that the cost and any penalty shall be collected as a civil debt, then the assessment above provided for shall be a lien against the property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the municipality shall, upon order of the

board of governing authorities, proceed to sell the land to satisfy the lien as now provided by law for the sale of lands for delinquent municipal taxes.

(b)(i) All assessments levied under the provisions of this section shall be included with municipal ad valorem taxes and payment shall be enforced in the same manner in which payment is enforced for municipal ad valorem taxes, and all statutes regulating the collection of other taxes in a municipality shall apply to the enforcement and collection of the assessments levied under the provisions of this section, including utilization of the procedures authorized under Sections 17-13-9(2) and 27-41-2.

(ii) All assessments levied under the provisions of this section shall become delinquent at the same time municipal ad valorem taxes become delinquent. Delinquencies shall be collected in the same manner and at the same time delinquent ad valorem taxes are collected and shall bear the same penalties as those provided for delinquent taxes. If the property is sold for the nonpayment of an assessment under this section, it shall be sold in the manner that property is sold for the nonpayment of delinquent ad valorem taxes. If the property is sold for delinquent ad valorem taxes, the assessment under this section shall be added to the delinquent tax and collected at the same time and in the same manner.

(4) All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from municipal boards or courts are taken.

(5) Nothing contained under this section shall prevent any municipality from enacting criminal penalties for failure to maintain property so as not to constitute a menace to public health, safety and welfare.

Sources: Codes, 1930, §§ 2456, 2457; 1942, § 3374-171; Laws, 1922, ch. 220; Laws, 1950, ch. 491, § 171; Laws, 1962, ch. 545; Laws, 1964, ch. 498; Laws, 1966, ch. 593, § 1; Laws, 1971, ch. 360, § 1; Laws, 1976, ch. 335; Laws, 1977, ch. 330; Laws, 1985, ch. 350; Laws, 1987, ch. 321; Laws, 1989, ch. 322, § 1; Laws, 1991, ch. 395, § 1; Laws, 1992, ch. 479 § 1; Laws, 2001, ch. 576, § 1; Laws, 2005, ch. 427, § 1; Laws, 2009, ch. 503, § 1; Laws, 2010, ch. 471, § 1, eff from and after July 1, 2010; Laws, 2010, ch. 475, § 1, eff from and after passage (approved Apr. 1, 2010.)

§ 21-37-3. Streets, sidewalks, sewers and parks.

(1) Except as otherwise provided in subsection (2) of this section, the governing authorities of municipalities shall have the power to exercise full jurisdiction in the matter of streets, sidewalks, sewers, and parks; to open and lay out and construct the same; and to repair, maintain, pave, sprinkle, adorn, and light the same.

(2) Section 63-3-208, shall govern the use of electric personal assistive mobility devices (as defined in Section 63-3-103) on streets and sidewalks.

Sources: Codes, 1892, § 2947; 1906, § 3338; Hemingway's 1917, § 5835; 1930, § 2414; 1942, § 3374-129; Laws, 1950, ch. 491, § 129; Laws, 2003, ch. 485, § 4, eff from and after July 1, 2003.

§ 47-5-431. Use of prisoners in county jails to pick up trash; earned time credit; escapes.

(1) The sheriff may, in his discretion, use any person who has been convicted of a nonviolent felony and who is serving all or any part of his sentence in the county jail to pick up trash along public roads and state highways within the county.

(2) County inmates performing work under this section shall be eligible for earned time credit in the same manner as state inmates. State inmates shall be eligible for earned time credit in the same manner as other inmates confined or detained in state prisons or other state correctional facilities.

(3) Any inmate escaping while participating in the work described herein shall receive an additional five-year sentence.

Sources: Laws, 1988, ch. 343, § 1, eff from and after July 1, 1988.

§ 47-5-433. Use of State Highway vehicles to pick up trash bagged by inmates.

The State Highway Commission may furnish vehicles along state highways to pick up trash bagged by inmates.

Sources: Laws, 1988, ch. 343, § 2, eff from and after July 1, 1988.

§ 49-1-13. Conservation officers.

The director is hereby authorized and directed to appoint as many conservation officers as may be required to efficiently enforce the laws for the protection of wild animals, birds and fish, and the laws relating to theft of cattle, trespass prohibitions and litter. These officers shall be located in different sections of the state where their services are most needed. Conservation officers shall police the state lands in their respective districts and prohibit the unlawful cutting of timber. The salary of the conservation officers shall be as determined by the State Personnel Board, or its successor.

Each conservation officer and supervisor shall be furnished an allowance for uniforms not to exceed the amount specified in the appropriation bill.

Sources: Codes, 1942, § 5851; Laws, 1932, ch. 123; Laws, 1934, ch. 283; Laws, 1938, ch. 178; Laws, 1944, ch. 234; Laws, 1946, ch. 423, § 2; Laws, 1950, ch. 214; Laws, 1952, chs. 192, § 4, 186, § 4; Laws, 1958, ch. 171; Laws, 1962, ch. 184; Laws, 1973, ch. 502, § 1; Laws, 1974, ch. 569, § 8; Laws, 1978, ch. 417, § 2; Laws, 1980, ch. 553, § 1; Laws, 1982, ch. 365, § 2; Laws, 1996, ch. 370, § 1, eff from and after passage (approved March 18, 1996).

§ 49-1-43. Powers and duties of director of Department of Wildlife, Fisheries and Parks.

- (1) The director shall have general supervision and control of all conservation officers, and shall enforce all the laws and regulations of the state relating to wild animals, birds and fish, and shall exercise all necessary powers incident thereto not specifically conferred on the department.
- (2) The director, with the approval of the commission, shall make to the governor and the legislature a report covering the operation of the department for the preceding fiscal year.
- (3) It shall be the duty of all conservation officers to enforce, and to obey and carry out all instructions and directions of the department with respect to the enforcement of the laws and regulations relating to wild animals, birds and fish.
- (4) The director and each conservation officer shall have power, and it shall be the duty of the director and of each conservation officer:
 - (a) To execute all warrants and search warrants for a violation of the laws and regulations relating to wild animals, birds and fish and to serve subpoenas issued for the examination and investigation or trial of offenses against any of the laws or regulations;
 - (b) To search where the conservation officer has cause to believe and does believe that animals, birds or fish, or any parts thereof, or the nest or eggs of birds, or spawn or eggs of fish are possessed in violation of law or regulation and in such case to examine, without warrant, the contents of any boat, car, automobile or other vehicle, box, locker, basket, creel, crate, game bag or other package, to ascertain whether any law or regulation for the protection of animals, birds or fish have been or are being violated, and to use such force as may be necessary for the purpose of such examination and inspection;
 - (c) With a search warrant to search and examine the contents of any dwelling house, room, building or premises of any person suspected of violating any law or regulation, to seize all animals, birds or fish, or parts thereof, or nests or eggs of birds taken in violation of law or regulation, or showing evidence of illegal taking and to seize and confiscate all devices illegally used in taking animals, birds or fish;
 - (d) To arrest, without warrant, any person committing or attempting to commit a misdemeanor, felony or a breach of the peace within his presence or view and to pursue and so arrest any person committing an offense in any place in the state where the person may go or be; to aid and assist any peace officer of this state or any other state if requested, in manhunts or natural disasters within the state; and
 - (e) To exercise other powers of peace officers in the enforcement of game laws or regulations or of a judgment for the violation thereof, as are not herein specifically provided.

(5) In all cases of arrest without warrant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense or is arrested on pursuit.

(6) No conservation officer shall compromise or settle out of court any violation of this chapter, or any law or regulation for the protection of wild animals, birds or fish.

(7) Nothing in this section shall be construed as granting conservation officers general police powers.

(8) Citations issued by a conservation officer for any violation of the laws for the protection of wild animals, birds and fish, the trespass laws, the litter laws, and the boating laws shall be issued on a uniform citation form consisting of an original and at least two (2) copies. Such citation shall show, among other necessary information, the name of the issuing officer, the name of the court in which the cause is to be heard, and the date and time the person charged with a violation is to appear to answer the charge. The uniform citation form shall make a provision on it for information that will constitute a complaint charging the offense for which the citation was issued and, when duly sworn to and filed with a court of competent jurisdiction, prosecution may proceed under that complaint.

Sources: Codes, 1942, §§ 5843.2, 5856; Laws, 1932, ch. 123; Laws, 1956, ch. 147, § 5; Laws, 1970, ch. 278, § 1; Laws, 1974, ch. 569, § 15; Laws, 1994, ch. 592, § 1; Laws, 1996, ch. 407, § 1, eff July 1, 1996.

§ 49-1-44. Powers and duties of conservation officers to apprehend certain violators.

In addition to the regulations of the commission and the statutes relating to protection and preservation of wildlife and the environment, conservation officers are hereby authorized to assist in the detection and apprehension of violators of the laws of this state which pertain to theft of cattle, to enforce and apprehend violators of the laws of this state which pertain to unauthorized dumping of garbage, obstructing streams and littering, as set forth specifically in Sections 97-15-13, 97-15-21, 97-15-23, 97-15-25, 97-15-27, 97-15-29, 97-15-31, 97-15-39, 97-15-41, 97-15-43, 97-15-45, 97-17-53, 97-17-79, 97-17-81 and 97-17-83, but not limited thereto, and in addition to any other powers and duties otherwise delegated or assigned to conservation officers.

Sources: Laws, 1974, ch. 569, § 2; Laws, 1994, ch. 592, § 2, eff from and after passage (approved April 8, 1994).

§ 49-17-29. Permit Board; prohibitions; air and water permits; solid waste and hazardous permits; permit hearings; permit appeals.

(1) (a) Except as in compliance with paragraph (b) of this subsection, it is unlawful for any person to cause pollution of the air in the state or to place or cause to be placed any wastes or other products or substances in a location where they are likely to cause pollution of the air. It is also unlawful to discharge any wastes, products or substances into the air of the

state which exceed standards of performance, hazardous air pollutant standards, other emission standards set by the commission, or which reduce the quality of the air below the air quality standards or increments established by the commission or prevent attainment or maintenance of those air quality standards. Any such action is hereby declared to be a public nuisance.

(b) It is unlawful for any person to build, erect, alter, replace, use or operate any equipment which will cause the issuance of air contaminants unless that person holds a permit from the Permit Board (except repairs or maintenance of equipment for which a permit has been previously issued), or unless that person is exempted from holding a permit by a regulation promulgated by the commission. Concentrated animal feeding operations may be a source or a category of sources exempted under this paragraph. However, no new or existing applications relating to swine concentrated animal feeding operations within a county shall be exempted from regulations and ordinances which have been duly passed by the county's board of supervisors and which are in force on June 1, 1998.

(2) (a) Except as in compliance with paragraph (b) of this subsection, it is unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state. It is also unlawful to discharge any wastes into any waters of the state which reduce the quality of those waters below the water quality standards established by the commission; or to violate any applicable pretreatment standards or limitations, technology-based effluent limitations, toxic standards or any other limitations established by the commission. Any such action is declared to be a public nuisance.

(b) It is unlawful for any person to carry on any of the following activities, unless that person holds a current permit for that activity from the Permit Board as may be required for the disposal of all wastes which are or may be discharged into the waters of the state, or unless that person is exempted from holding a permit by a regulation promulgated by the commission:

(i) The construction, installation, modification or operation of any disposal system or part thereof or any extension or addition thereto, including, but not limited to, systems serving agricultural operations;

(ii) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;

(iii) The construction, installation or operation of any industrial, commercial or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized;

(iv) The construction or use of any new outlet for the discharge of any wastes into the waters of the state. However, no new or existing applications relating to swine concentrated animal feeding operations within a county shall be exempted from regulations and ordinances which have been duly passed by the county's board of supervisors and which are in force on June 1, 1998.

(3) (a) Except as otherwise provided in this section, the Permit Board created by Section 49-17-28 shall be the exclusive administrative body to make decisions on permit issuance, re-issuance, denial, modification or revocation of air pollution control and water pollution control permits and permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17), and all other permits within the jurisdiction of the Permit Board. After consideration of alternative waste treatment technologies available to control air and water pollution and odor, including appropriate siting criteria, the commission may promulgate regulations establishing conditions, limitations and exemptions under which the Permit Board shall make these decisions. Regulations promulgated by the commission which establish exemptions as authorized under this section shall apply to any applicable facility in operation on the effective date of that regulation and to any applicable facility constructed or operated after the effective date of that regulation. The Permit Board may issue multiple permits for the same facility or operation simultaneously or in the sequence that it deems appropriate consistent with the commission's regulations. Except as otherwise provided in this paragraph, the Permit Board, under any conditions that the board may prescribe, may authorize the Executive Director of the Department of Environmental Quality to make decisions on permit issuance, re-issuance, denial, modification or revocation. The executive director shall not be authorized to make decisions on permit issuance, re-issuance, denial, modification or revocation for a commercial hazardous waste management facility or a municipal solid waste landfill or incinerator. A decision by the executive director shall be a decision of the Permit Board and shall be subject to formal hearing and appeal as provided in this section. The executive director shall report all permit decisions to the Permit Board at its next regularly scheduled meeting and those decisions shall be recorded in the minutes of the Permit Board. The decisions of the Permit Board shall be recorded in minutes of the Permit Board and shall be kept separate and apart from the minutes of the commission. The decision of the Permit Board or the executive director to issue, reissue, deny, modify or revoke permits shall not be construed to be an order or other action of the commission.

(b) The Executive Director of the Department of Environmental Quality shall also be the Executive Director of the Permit Board and shall have available to him, as Executive Director of the Permit Board, all resources and personnel otherwise available to him as executive director of the department.

(c) All persons required to obtain an air pollution control or water pollution control permit, a permit under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any other permit within the jurisdiction of the Permit Board shall make application for that permit with the Permit Board. The Permit Board, under any regulations as the commission may prescribe, may require the submission of those plans, specifications and other information as it deems necessary to carry out Sections 49-17-1 through 49-17-43 and Title 17, Chapter

17, or to carry out the commission's regulations adopted under those sections. The Permit Board, based upon any information as it deems relevant, shall issue, reissue, deny, modify or revoke air pollution control or water pollution control permit or permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any other permit within the jurisdiction of the Permit Board under any conditions as it deems necessary that are consistent with the commission's regulations. The Permit Board's action of issuance, re-issuance, denial, modification or revocation of a permit as recorded in its minutes shall constitute a complete decision of the board. All permits issued by the Permit Board shall remain in full force and effect until the board makes a final determination regarding any re-issuance, modification, or revocation thereof. The Permit Board shall take action upon an application within one hundred eighty (180) days following its receipt in the board's principal office. No action which affects revocation of an existing permit shall take effect until the thirty (30) days mentioned in paragraph (4)(b) of this section has expired or until a formal hearing as prescribed in that paragraph is held, whichever is later.

(d) The Permit Board may adopt rules of practice and procedure governing its proceedings that are consistent with the commission's regulations. All hearings in connection with permits issued, reissued, denied, modified or revoked and all appeals from decisions of the Permit Board shall be as provided in this section.

(e) Upon any conditions that are consistent with the commission's regulations and subject to those procedures for public notice and hearings as provided by law, not inconsistent with federal law and regulations, the Permit Board may issue general permits and, where appropriate, may consolidate multiple permits for the same facility or operation into a single permit.

(f) The Permit Board shall not issue any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation before January 1, 2000, unless the department received the application for that operation's new or modified permit before February 28, 1998, or except as provided in this paragraph (f). In issuing or modifying any permit for which the department received an application before February 28, 1998, the Permit Board shall apply those siting criteria adopted or used by the commission before February 28, 1998, unless federal law or regulations require more stringent criteria. The moratorium established in this paragraph shall not apply to the issuance of any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation that uses an animal waste management system which the applicant demonstrates to the Permit Board is innovative in significantly reducing the effects of the operation on the public health, welfare or the environment and which is approved by the Permit Board. The Permit Board shall not issue or modify more than five (5) permits under this innovative animal waste management system technology exemption to the moratorium.

(g) Each applicant for a permit for a new outlet for the discharge of wastes into the waters of the state who is required to obtain a certificate of public convenience and necessity from the Public Service Commission for such wastewater system shall submit financial and managerial information as required by the Public Utilities Staff. Following review of that

information, the Executive Director of the Public Utilities Staff shall certify in writing to the executive director of the department, the financial and managerial viability of the system if the Executive Director of the Public Utilities Staff determines the system is viable. The Permit Board shall not issue the permit until the certification is received.

- (4) (a) Except as required by this section, before the issuance, re-issuance, denial, modification or revocation of any air pollution control or water pollution control permit, permit required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any other permit within its jurisdiction, the Permit Board, in its discretion, may hold a public hearing or meeting to obtain comments from the public on its proposed action. Before the issuance, re-issuance, denial, modification pertaining to the expansion of a facility, transfer or revocation of a permit for a commercial hazardous waste management facility or a commercial municipal solid waste landfill or incinerator, the Permit Board shall conduct a public hearing or meeting to obtain comments from the public on the proposed action. That hearing or meeting shall be informal in nature and conducted under those procedures as the Permit Board may deem appropriate consistent with the commission's regulations.

(b) Within thirty (30) days after the date the Permit Board takes action upon permit issuance, re-issuance, denial, modification or revocation, as recorded in the minutes of the Permit Board, any interested party aggrieved by that action may file a written request for a formal hearing before the Permit Board. An interested party is any person claiming an interest relating to the property or project which is the subject of the permit action, and who is so situated that the person may be affected by the disposition of that action.

The Permit Board shall fix the time and place of the formal hearing and shall notify the permittee of that time and place.

In conducting the formal hearing, the Permit Board shall have the same full powers as to subpoenaing witnesses, administering oaths, examining witnesses under oath and conducting the hearing, as is now vested by law in the Mississippi Public Service Commission, as to the hearings before it, with the additional power that the Executive Director of the Permit Board may issue all subpoenas at the instance of the Permit Board or at the instance of any interested party. Any subpoenas shall be served by any lawful officer in any county to whom the subpoena is directed and return made thereon as provided by law, with the cost of service being paid by the party on whose behalf the subpoena was issued. Witnesses summoned to appear at the hearing shall be entitled to the same per diem and mileage as witnesses attending the circuit court and shall be paid by the person on whose behalf the witness was called. Sufficient sureties for the cost of service of the subpoena and witness fees shall be filed with the Executive Director of the Permit Board at the time that issuance of the subpoena is requested. At a hearing, any interested party may present witnesses and submit evidence and cross-examine witnesses.

The Permit Board may designate a hearing officer to conduct the formal hearing on all or any part of the issues on behalf of the Permit Board. The hearing officer shall prepare the record of the formal hearing conducted by that officer for the Permit Board and shall submit the record to the Permit Board.

Upon conclusion of the formal hearing, the Permit Board shall enter in its minutes the board's decision affirming, modifying or reversing its prior decision to issue, reissue, deny, modify or revoke a permit. The Permit Board shall prepare and record in its minutes findings of fact and conclusions of law supporting its decision. That decision, as recorded in its minutes with its findings of fact and conclusions of law, shall be final unless an appeal, as provided in this section, is taken to chancery court within twenty (20) days following the date the decision is entered in the board's minutes.

(c) Within twenty (20) days after the date the Permit Board takes action upon permit issuance, re-issuance, denial, modification or revocation after a formal hearing under this subsection as recorded in the minutes of the Permit Board, any person aggrieved of that action may appeal the action as provided in subsection (5) of this section.

(5) (a) Appeals from any decision or action of the Permit Board shall be only to chancery court as provided in this subsection.

(b) Any person who is aggrieved by any decision of the Permit Board issuing, reissuing, denying, revoking or modifying a permit after a formal hearing may appeal that decision within the period specified in subsection (4)(c) of this section to the chancery court of the county of the situs in whole or in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in the sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), to be fixed by the Permit Board and to be filed with and approved by the Executive Director of the Permit Board, who shall forthwith certify the filing of the bond together with a certified copy of the record of the Permit Board in the matter to the chancery court to which the appeal is taken, which shall thereupon become the record of the cause. An appeal to the chancery court as provided in this section shall not stay the decision of the Permit Board. The aggrieved party may, within twenty (20) days following the date the board's decision after a formal hearing is entered on the board's minutes, petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on that petition. Upon good cause shown, the chancellor may grant that appeal with supersedeas. If granted, the appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. Appeals shall be considered only upon the record as made before the Permit Board. The chancery court shall always be deemed open for hearing of an appeal and the chancellor may hear the same in termtime or in vacation at any place in the chancellor's district, and the appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact. If no prejudicial error is found, the matter shall be affirmed. If prejudicial error is found the decision of the board shall be reversed and the chancery court shall remand the matter to the Permit Board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, except that if a supersedeas is desired by the party appealing to the chancery court, that party may apply for a supersedeas to the chancellor of that court, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result thereby; but otherwise, the

chancellor shall require a supersedeas bond as the chancellor deems proper, which shall be liable to the state for any damage.

Sources: Codes, 1942, § 7106-118; Laws, 1966, ch. 258, § 8; Laws, 1972, ch. 505, § 6; Laws, 1973, ch. 373, § 1; Laws, 1977, ch. 327, § 7; Laws, 1981, ch. 528, § 15; Laws, 1991, ch. 561, § 1; Laws, 1992, ch. 583 § 15; Laws, 1996, ch. 335, § 1; Laws, 1998, ch. 537, § 2; Laws, 2002, ch. 401, § 1, eff from and after July 1, 2002.

§ 51-2-3. Disposal of plastics and other garbage in marine waters; storage of certain substances in closed containers on vessels in marine waters; release of substances due to accidents or acts of nature; penalties.

(1) It is unlawful for any person or vessel to discharge any type of plastics, including synthetic ropes, fishing nets, garbage bags and other garbage, including paper products, glass, metal, dunnage, lining and packing materials into the marine waters of this state.

(2) For purposes of this section, vessel means any boat, barge, or other vehicle operating in the marine environment from the largest supertanker to the smallest recreational craft.

(3) The following substances shall be kept in closed containers whenever present on a vessel in the marine waters of this state: fuel, oil, paints, varnishes, solvents, pesticides, insecticides, fungicides, algicides, other hazardous liquids, and those substances referred to in subsection (1). The containers shall be sufficient to prevent the substances from escaping in the event the container is released into marine waters. Closed containers shall not be required for substances intended for human consumption, or for bait. Closed containers shall not be required while vessels are taking on or unloading cargo and provisions.

(4) This section shall not apply to substances released into marine waters accidentally or due to an act of nature, provided:

(a) That persons involved in an accident make good faith efforts to recover any substances released, proper allowances being first made for personal safety; and

(b) That snagged or entangled fishing tackle and nets are recovered as much as is reasonably possible, and the unrecovered remainder is caused to sink.

(5) (a) For a first violation, any person or vessel who violates this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or community service requiring litter collection of not less than twenty-five (25) hours nor more than two hundred fifty (250) hours, or both. Persons under eighteen (18) years of age shall be penalized with community service, and may be assessed a fine as well. Each day of a continuing violation constitutes a separate violation.

(b) For a second or subsequent violation, any person or vessel who violates this chapter is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or revocation of boating licenses, or both.

Sources: Laws, 1989, ch. 475, § 2; Laws, 1991, ch. 557 § 1, eff from and after passage (approved April 12, 1991).

§ 51-2-7. Marinas and access areas to have proper disposal facilities on site.

The Commission on Marine Resources shall require, by regulation, that all marinas and all other access areas used by vessels have proper disposal facilities on site. The commission shall establish the requirements for such disposal reception facilities.

Sources: Laws, 1989, ch. 475, § 4, eff from and after July 1, 1989; Laws, 1994, ch. 578, § 62, eff from and after July 1, 1994.

§ 63-3-1211. Throwing, etc., of glass or other injurious material on highway; removal of glass or other injurious material by person removing wrecked or damaged vehicle from highway.

No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon such highway. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

Sources: Codes, 1942, § 8225; Laws, 1938, ch. 200.

§ 63-7-83. Covering of open top vehicles carrying sand, dirt, gravel or rock.

Every truck, trailer or other carrier with an open top, while traveling upon any state, United States or interstate highway in the State of Mississippi and while carrying any load of sand, dirt, gravel or rock shall be equipped with a tarpaulin, canvas or other such top and same to be secured over the top of any load of sand, dirt, gravel, or rock.

Sources: Laws, 1974, ch. 521, § 1, eff from and after July 1, 1974.

§ 63-7-85. Use of sideboards on open top vehicles carrying sand, dirt, gravel or rock.

In lieu of the tarpaulin provided in Section 63-7-83, a truck, trailer or other carrier with an open top while traveling upon any state, United States or interstate highway in the State of Mississippi and while carrying any load of sand, dirt, gravel or rock shall be in full compliance with Sections 63-7-83 through 63-7-89 provided same is not loaded within six (6) inches of the top of the bed or is equipped with four (4) six-inch (6") sideboards, which sideboards shall be attached one (1) each to the front, back and two (2) sides of the carrier body, and shall remain lowered while the body is being loaded, provided that no part of the load shall extend above the body of the carrier. After loading, the sideboards shall be raised and secured to remain raised

during travel, and the space between the top of the sideboards and the top of the load making contact with the sideboards shall not be less than six (6) inches.

Sources: Laws, 1974, ch. 521, § 2, eff from and after July 1, 1974.

§ 97-15-1. Destroying, defacing, etc., milepost, signboard, etc., or bridge, underpass or overpass prohibited; penalties; liability for cost of repair; liability of parents of minor.

(1) Any person who shall willfully destroy, deface, mar, damage, pull down or remove any milepost, signboard, or index board, or road number, or railroad crossing sign or flasher signal, or other traffic control device shall, on conviction thereof, be liable for the actual cost of replacing or repairing such sign and shall be fined not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or be imprisoned in the county jail not more than six (6) months, or be punished by both such fine and imprisonment. If the offender is a minor, the parents of such minor shall be civilly liable in accordance with Section 93-13-2 for the actual cost of replacing or repairing the sign, signal or device.

(2) The penalties prescribed in subsection (1) of this section shall also be applicable to any person, and to the parents of any minor, who willfully defaces, mars or damages any bridge, underpass or overpass.

Sources: Codes, Hutchinson's 1848, ch. 10. art. 7(19); 1857, ch. 64, art. 159; 1871, § 2622; 1880, § 2870; 1892, § 1144; 1906, § 1222; Hemingway's 1917, § 952; 1930, § 979; 1942, § 2209; Laws, 1977, ch. 323, § 2; Laws, 1993, ch 483, § 2, eff from and after July 1, 1993.

§ 97-15-29. Littering highways and private property with trash or substance likely to cause fire; civil liability; fines; disposition of proceeds.

(1) Anyone who shall put, throw, dump or leave on the roads and highways of this state, or within the limits of the rights-of-way of such roads and highways, or upon any private property, any cigarette or cigar stubs, or any other thing or substance likely to ignite the grass or underbrush on a road or highway, in addition to being civilly liable for all damages caused by such act shall, upon conviction, be guilty of a misdemeanor and punished as provided by subsection (3) of this section.

(2) The Department of Transportation is authorized to erect warning signs along the roads and highways of this state advising the public of the existence of this section and of the penalty for the violation thereof and is further authorized to install receptacles at reasonable intervals along the roads and highways of this state to be used as containers for trash and rubbish and for the convenience of the public using such roads and highways.

(3) Any person found guilty of the violation of this section shall, upon conviction, be fined not less than Fifty Dollars (\$ 50.00) nor more than Two Hundred Fifty Dollars (\$ 250.00). The proceeds of such fines shall be expended by the collecting jurisdiction solely for the purpose of funding local litter prevention programs or projects or local or school litter education programs as recommended by the statewide litter prevention program of Keep Mississippi Beautiful, Inc.

(4) As a part of the fine imposed by subsection (3) above, a person convicted for an offense upon which fines are imposed by this section may be required to perform the following, and a person convicted for a second or subsequent offense upon which fines are imposed by this section shall be required to:

(a) Remove or render harmless, in accordance with written direction, as appropriate, from the Department of Environmental Quality or local law enforcement authorities, the unlawfully discarded solid waste;

(b) Repair or restore property damaged by, or pay damages for any damage arising out of the unlawfully discarded solid waste;

(c) Perform community public service relating to the removal of any unlawfully discarded solid waste or to the restoration of any area polluted by unlawfully discarded solid waste; and

(d) Pay all reasonable investigative and prosecutorial expenses and costs to the investigative and/or prosecutorial agency or agencies.

(5) Upon a second or subsequent conviction of an offense upon which fines are imposed by this section, the minimum and maximum fines shall be doubled.

(6) When any litter is thrown or discarded from a motor vehicle, the operator of the motor vehicle shall be deemed in violation of this section.

(7) There shall be imposed and collected an assessment of Fifty Dollars (\$ 50.00) on each violation of this section. The assessment shall be deposited into the Law Enforcement Officers Monument Fund created in Section 39-5-71. After the monument is constructed, the assessment shall not be deposited into the fund. The assessment shall then be deposited with the Board of Trustees of State Institutions of Higher Learning to be used for the scholarship program for children of deceased or disabled law enforcement officers and firemen as provided by Sections 37-107-1 through 37-107-9.

(8) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(9) This section shall not prohibit the storage of ties and machinery by a railroad on its right-of-way where the highway right-of-way extends to within a few feet of the railroad roadbed.

Sources: Codes, 1942, § 2214.5; Laws, 1956, ch. 243; Laws, 1958, ch. 238, §§ 1-8; Laws, 1964, ch. 350, §§ 1, 2 [Para.Para. 1, 2]; Laws, 1973, ch. 351, § 1; Laws, 1988, ch. 574, § 3; Laws, 1990, ch. 329, § 13; Laws, 1991, ch. 531, § 24; Laws, 1994, ch. 543, § 3; Laws, 1995, ch. 500, § 1; Laws, 2000, ch. 421, § 1; Laws, 2007, ch. 509, § 1; Laws, 2012, ch. 554, § 7, eff from and after July 1, 2012.

§ 97-15-30. Penalties for unauthorized dumping of solid wastes; "commercial purpose" defined.

(1) For purposes of this section the term "commercial purpose" means for the purpose of economic gain.

(2) (a) Except as authorized by law or permit, it is unlawful for any person to throw, scatter, spill or place, or cause to be thrown, scattered, spilled, or placed, or otherwise disposed of, any solid waste in any of the following manners or amounts:

(i) In or on any public highway, road, street, alley or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any solid waste is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(ii) In or on any waters of the state. When any solid waste is thrown or discarded from a vessel, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(iii) In or on any private property, unless prior written consent of the owner has been given and the solid waste will not cause a public nuisance or be in violation of any other state or local law, rule or regulation;

(iv) Raw human waste from any train, aircraft, motor vehicle or vessel upon the public or private lands or waters of the state.

(b) Nothing in this section shall prohibit acts authorized pursuant to Section 17-17-13.

(3) (a) Any person who violates this section in an amount not exceeding fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume and not for commercial purposes is guilty of littering and subject to a fine as provided in Section 97-15-29.

(b) Any person who violates this section in an amount exceeding fifteen (15) pounds or twenty-seven (27) cubic feet in volume, but not exceeding five hundred (500) pounds in weight or one hundred (100) cubic feet in volume and not for commercial purposes is guilty of a misdemeanor and subject to a fine of not less than One Hundred Dollars (\$100.00), nor more than One Thousand Dollars (\$1,000.00), or to imprisonment for a term of not more than one (1) year, or both.

(c) Any person who violates this section in an amount exceeding five hundred (500) pounds in weight or one hundred (100) cubic feet in volume, or in any amount or volume of solid waste for commercial purposes, or in any amount or volume of hazardous waste is guilty of a felony and subject to a fine of not less than Five Hundred Dollars (\$500.00), nor more than Fifty Thousand Dollars (\$50,000.00) or to imprisonment for a term of not more

than five (5) years, or both. For purposes of the fine, each day shall constitute a separate violation.

(d) In addition to any other fines, penalties or injunctive relief prescribed by law, a person convicted under subsections (3)(b) or (3)(c) of this section shall:

(i) Remove or render harmless, in accordance with written direction from the Department of Environmental Quality, the unlawfully discarded solid waste;

(ii) Repair or restore property damaged by, or pay damages for any damage arising out of the unlawfully discarded solid waste;

(iii) Perform community public service relating to the removal of any unlawfully discarded solid waste or to the restoration of an area polluted by unlawfully discarded solid waste; and

(iv) Pay all reasonable investigative and prosecutorial expenses and costs to the investigative and/or prosecutorial agency or agencies.

(e) If a conviction under subsection (3) of this section is for a violation committed after a first conviction of that person under this section, the maximum punishment under the respective paragraphs shall be doubled with respect to both fine and imprisonment.

(4) A court may enjoin a violation of subsection (2) of this section.

(5) Any motor vehicle, vessel, aircraft, container, crane, winch, or machine used in a felony violation of this section may be seized with process or without process if a law enforcement officer has probable cause to believe that the property was used in violation of that section. The seized property shall be subject to an administrative and/or judicial forfeiture by the same standards and procedures provided under Sections 41-29-176 through 41-29-185.

(6) In the criminal trial of any person charged with violating subsection (2) of this section, the defendant must affirmatively show that he had authority to discard the solid waste.

(7) Any person who conspires to commit a violation of this section shall be punished in accordance with the underlying offense set forth in this section.

(8) It shall be the duty of all law enforcement officers to enforce the provisions of this chapter.

(9) All prosecutions for felony violations of this section shall be instituted only by the Attorney General, his designee, the district attorney of the district in which the violation occurred or his designee and shall be conducted in the name of the people of the State of Mississippi. In the prosecution of any criminal proceeding under this section by the Attorney General, or his designee, and in any proceeding before a grand jury in connection therewith, the Attorney General or his designee shall exercise all the powers and perform all the duties which the district attorney would otherwise be authorized or required to exercise or perform. The

Attorney General shall have the authority to issue and serve subpoenas for any felony violation in the same manner as prescribed under Section 7-5-59.

(10) Jurisdiction for all felony violations shall be in the circuit court of the county in which the violation occurred.

(11) Nothing in this section shall limit the authority of the department to enforce the provisions of the Solid Waste Disposal Law or shall limit the authority of any state or local agency to enforce any other laws, rules or ordinances.

(12) The Department of Transportation may erect warning signs along the roads and highways of this state advising the public of the existence of these sections and of the penalty for the violation thereof.

(13) This section shall not prohibit the storage of ties poles, other materials and machinery by a railroad or a public utility on its right-of-way. This section does not apply to any vehicle transporting agricultural products or supplies when the solid waste from that vehicle is a nontoxic, biodegradable agricultural product or supply.

(14) Attorney General may pay an award, not to exceed Ten Thousand Dollars (\$10,000.00) to any person who furnishes information or services that lead to a felony criminal conviction for any violation of this section. The payment shall be subject to available appropriations for those purposes as provided in annual appropriation acts. Any officer or employee of the United States or any state or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection.

Sources: Laws, 1994, ch. 543, § 1, eff from and after July 1, 1994.

§ 97-15-31. Littering highways, streets, sidewalks, etc. with tacks, glass or other damaging objects.

It shall be unlawful for any person, or corporation acting through any employee or agent, to knowingly or willfully or carelessly place glass, nails, tacks, or other objects which may damage the property of another, in any public street, highway, alley-way, or sidewalk. If said person or corporation shall not immediately gather up and remove same, he or it shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than one hundred dollars for each offense, and in addition shall be liable to any person injured thereby, or injury to his property, for two times the amount of actual damage sustained.

Sources: Codes, Hemingway's 1921 Supp. § 1142i; 1930, § 984; 1942, § 2214; Laws, 1920, ch. 204.

§ 97-15-32. Dumping of dead wildlife, wildlife parts or waste in or on highways, private property, lakes, navigable waters, etc.; penalties.

(1) Anyone who puts, throws or dumps on the streets, roads or highways within this state, or within the limits of the rights-of-way of such streets, roads or highways, or in the lakes, streams, rivers or navigable waters or upon any private property without permission of the owner of such property, any dead wildlife, wildlife parts or waste, in addition to being civilly liable for all damages caused by such act, upon conviction, shall be guilty of a misdemeanor and punished as provided in this section.

(2) Any person found guilty of the violation of this section shall, upon conviction, be fined not less than Two Hundred Dollars (\$200.00) nor more than Four Hundred Dollars (\$400.00).

(3) A person convicted for a first offense under this section may be required to perform the following, and a person convicted for a second or subsequent offense shall be required to:

(a) Remove the unlawfully discarded dead wildlife or waste;

(b) Restore property damaged by, or pay damages for any damage arising out of the unlawfully discarded dead wildlife or waste;

(c) Perform community public service relating to the removal of any unlawfully discarded dead wildlife or waste or to the restoration of any area polluted by unlawfully discarded dead wildlife or waste; and

(d) Pay all reasonable investigative and prosecutorial expenses and costs to the investigative and/or prosecutorial agency or agencies.

(4) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

Sources: Laws, 2007, ch. 509, § 2, eff from and after July 1, 2007.

§ 97-17-9. Arson; fourth degree; attempt to burn.

(1) Any person who willfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in the foregoing sections, or who commits any act preliminary thereto, or in furtherance thereof, shall be guilty of arson in the fourth degree and upon conviction thereof be sentenced to the penitentiary for not less than one nor more than two years or fined not to exceed one thousand dollars.

(2) The placing or distributing of any flammable, explosive or combustible material or substance, or any device in any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually, willfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of same shall, for the purposes of this section constitute an attempt to burn such building or property.

Sources: Codes, 1942, § 2009; Laws, 1932, ch. 272.

§ 97-17-39. Penalties for injuring, destroying or defacing certain cemetery property, public buildings, schools or churches, or property thereof.

If any person, by any means whatever, shall willfully or mischievously injure or destroy any of the burial vaults, urns, memorials, vases, foundations, bases or other similar items in a cemetery, or injure or destroy any of the work, materials, or furniture of any courthouse or jail, or other public building, or schoolhouse or church, or deface any of the walls or other parts thereof, or shall write, or make any drawings or character, or do any other act, either on or in said building or the walls thereof, or shall deface or injure the trees, fences, pavements, or soil, on the grounds belonging thereto, or an ornamental or shade tree on any public road or street leading thereto, such person, upon conviction, for such offense, shall be punished as follows:

(a) If the damage caused by the destruction or defacement of such property has a value of less than Three Hundred Dollars (\$300.00), any person who is convicted of such offense shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned in the county jail for not more than one (1) year, or both.

(b) If the damage caused by the destruction or defacement of such property has a value equal to or exceeding Three Hundred Dollars (\$300.00), any person who is convicted of such offense shall be fined not more than Five Thousand Dollars (\$5,000.00) or be imprisoned in the State Penitentiary for up to five (5) years, or both.

Sources: Codes, 1880, § 2978; 1892, § 989; 1906, § 1065; Hemingway's 1917, § 793; 1930, § 809; 1942, § 2035; Laws, 1989, ch. 451, § 1, eff from and after July 1, 1989.

§ 97-17-67. Malicious mischief.

(1) Every person who shall maliciously or mischievously destroy, disfigure, or injure, or cause to be destroyed, disfigured, or injured, any property of another, either real or personal, shall be guilty of malicious mischief.

(2) If the value of the property destroyed, disfigured or injured is Five Hundred Dollars (\$500.00) or less, it shall be a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment not exceeding twelve (12) months in the county jail, or both.

(3) If the value of the property destroyed, disfigured or injured is in excess of Five Hundred Dollars (\$500.00), it shall be a felony punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding five (5) years, or both.

(4) In all cases restitution to the victim for all damages shall be ordered. The value of property destroyed, disfigured or injured by the same party as part of a common crime against the same or multiple victims may be aggregated together and if the value exceeds One Thousand Dollars (\$1,000.00), shall be a felony.

(5) For purposes of this statute, value shall be the cost of repair or replacement of the property damaged or destroyed.

(6) Anyone who by any word, deed or act directly or indirectly urges, aids, abets, suggests or otherwise instills in the mind of another the will to so act shall be considered a principal in the commission of said crime and shall be punished in the same manner.

Sources: Codes, Hutchinson's 1848, ch. 64, art. 7(2); 1857, ch. 64, art. 202; 1871, § 2709; 1880, § 2919; 1892, § 1209; 1906, § 1287; Hemingway's 1917, § 1019; 1930, § 1049; 1942, § 2281; Laws, 1962, ch. 319; Laws, 1968, ch. 357, § 1; Laws, 2003, ch. 434, § 1; Laws, 2009, ch. 379, § 2, eff from and after July 1, 2009.

§ 97-17-91. Trespass; defacing, altering or destroying notices posted on land.

Any person who shall deface, remove, alter or destroy any notice placed upon any lands by the owner thereof or his agent posting or otherwise prohibiting the entrance upon any lands in this state shall, upon conviction, be fined not more than fifty dollars (\$50.00) for each such notice defaced, removed, altered or destroyed.

Sources: Codes, 1942, § 2409.3; Laws, 1962, ch. 323, § 2.

§ 97-27-9. Beaches; bringing or leaving breakable containers or other injurious debris upon established beaches.

(1) Whoever shall bring, put, throw, dump or leave on any established beach any cans, bottles, jars, glassware or broken glass, or any debris of any kind that might cause injury to barefoot persons using the beach, shall be guilty of a misdemeanor and punished as provided for in subsection (3) of this section.

(2) For the purposes of this section, "established beach" shall include any sand beach, natural or man-made, along any natural coastline or inland lake within the State of Mississippi designated or used for public recreational purposes.

(3) Any person who shall be found guilty of the violation of this section shall, upon conviction, be fined in a sum not exceeding twenty dollars (\$20.00) for each offense.

Sources: Codes, 1942, § 2018.7; Laws, 1964, ch. 342, §§ 1-3, eff from and after passage (approved May 15, 1964).