

1 **State of Arkansas**  
2 **80th General Assembly**  
3 **Regular Session, 1995**  
4 **By: Representative Goodwin**

# A Bill

**ACT 786 OF 1995**  
**HOUSE BILL 1889**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-236-106 TO STANDARDIZE  
9 ENFORCEMENT PROCEDURES AND PENALTIES BETWEEN SECTIONS OF  
10 THE STATE'S PUBLIC HEALTH CODE BY ADDING CIVIL PENALTY  
11 AUTHORITY TO THE ARKANSAS SEWAGE DISPOSAL SYSTEMS ACT; AND  
12 FOR OTHER PURPOSES."

## Subtitle

15 "TO STANDARDIZE PUBLIC HEALTH  
16 ENFORCEMENT BY ADDING CIVIL PENALTY  
17 AUTHORITY TO THE ARKANSAS SEWAGE  
18 DISPOSAL SYSTEMS ACT."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Annotated § 14-236-106 is amended to read as  
23 follows:

24 "14-236-106. Penalties.

25 (a) (1) A person who shall willingly and knowingly violate the  
26 provisions of this chapter shall be liable to the party aggrieved or damaged  
27 by that violation for the cost of suit, including a reasonable attorney's fee,  
28 actual damages, and additional punitive damages equal to twenty-five percent  
29 (25%) of the damages proven by the aggrieved party, to be taxed by the court  
30 where the suit is heard on an original action, by appeal, or otherwise, and  
31 recovered by a suit at law in any court of competent jurisdiction. However,  
32 the party aggrieved or damaged thereby must give twenty (20) days' written  
33 notice of any violation of this chapter to the violator.

34 (2) Approval by the Division of Environmental Health Protection  
35 of the Department of Health or its authorized agent of a requested variation  
36 from the rules and regulations adopted pursuant to this chapter shall not be

1 construed as a violation of this chapter.

2 (b) The Division of Environmental Health Protection of the Department  
3 of Health or its authorized agent is authorized to require the property owner  
4 to take the necessary action to correct the malfunctioning individual sewage  
5 disposal system within thirty (30) working days of being notified. Failure to  
6 take corrective action shall constitute a violation of this chapter.

7 (c)(1) Any person, firm, corporation, or association who violates any  
8 of the provisions of this chapter or any rules and regulations promulgated  
9 under the authority of this chapter shall, upon conviction, be deemed guilty  
10 of a misdemeanor and shall be punished by a fine of not less than one hundred  
11 dollars (\$100) nor more than one thousand dollars (\$1,000).

12 (2) Every firm, person, or corporation who violates any of the  
13 provisions of this act or rules or regulations or order issued or promulgated  
14 by the State Board of Health, or who violates any condition of a license,  
15 permit, certificate, or any other type of registration issued by the board may  
16 be assessed a civil penalty by the board. The penalty shall not exceed one  
17 thousand dollars (\$1,000) for each violation. Each day of a continuing  
18 violation may be deemed a separate violation for purposes of penalty  
19 assessments.

20 (3) All fines collected under subsection (c)(1) shall be  
21 deposited in the State Treasury and credited to the Public Health Fund to be  
22 used to defray costs of administering this section.

23 (4) Subject to such rules and regulations as may be implemented  
24 by the Chief Fiscal Officer of the State, the disbursing officer for the  
25 Department of Health is authorized to transfer all unexpended funds relative  
26 to fines collected under this subsection, as certified by the Chief Fiscal  
27 Officer of the State, to be carried forward and made available for  
28 expenditures for the same purpose for any following fiscal year."

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30 SECTION 2. All provisions of this act of a general and permanent nature  
31 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
32 Revision Commission shall incorporate the same in the Code.

33  
34 SECTION 3. If any provision of this act or the application thereof to  
35 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without  
2 the invalid provision or application, and to this end the provisions of this  
3 act are declared to be severable.

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5 SECTION 4. All laws and parts of laws in conflict with this act are  
6 hereby repealed.

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APPROVED: 3-24-95

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