

Senate Bill 95

By: Senators Harp of the 29th, Kemp of the 46th, Stephens of the 27th, Hudgens of the 47th and Seabaugh of the 28th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 43 of the Official Code of Georgia Annotated, relating to professions and
2 businesses, so as to regulate the practice of soil science; to provide for a short title; to provide
3 for legislative purpose; to define certain terms; to provide for inapplicability; to provide for
4 the State Licensing Board for Professional Soil Scientists; to provide for board powers and
5 duties; to provide for administration; to provide for certain records; to provide for filing and
6 service of documents; to provide for applications; to provide for eligibility; to provide for
7 licensing; to provide for refusal and discipline; to provide for seals; to provide for a code of
8 professional conduct; to provide for charges of violations; to require utilization of licensees
9 by government entities; to provide for a legal adviser; to provide for exemptions; to make
10 certain acts unlawful; to provide punishment for violations; to provide an effective date; to
11 repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
15 is amended by inserting a new chapter to read as follows:

16 **"CHAPTER 43B**

17 43-43B-1.

18 This chapter shall be known and may be cited as the 'Soil Scientists Licensing Act.'

19 43-43B-2.

20 The purposes of this chapter are to protect life, property, health, and public welfare through
21 regulation of the practice of soil science in the state; to define the practice of soil science
22 as a profession by establishing minimum standards of ethical conduct and professional
23 responsibility and by establishing professional education and experience requirements; and

1 to prevent abuses in the practice of soil science by untrained or unprincipled individuals.
2 This action recommends itself through benefits to the people of this state and promotion
3 of the public welfare. These benefits are in the field of soil science as related to on-site
4 disposal of domestic waste water (septic systems), land treatment of various waste waters,
5 byproducts, and residual solids on land, bioremediation, erosion and sedimentation, soil
6 productivity, protection of surface and ground water, identification of wetlands and unique
7 natural resources, and other soil matters of concern to the people of the state.

8 43-43B-3.

9 As used in this chapter, the term:

10 (1) 'Board' means the State Licensing Board for Professional Soil Scientists.

11 (2) 'License' means a certificate issued by the board to an individual who satisfies the
12 requirements established for a licensed soil scientist under this chapter and the rules and
13 regulations adopted pursuant to this chapter.

14 (3) 'Licensed soil scientist' means a person who is licensed as a soil scientist under this
15 chapter.

16 (4) 'Public practice of soil science' means any service or work, the adequate performance
17 of which requires education in the physical, chemical, and biological sciences, as well as
18 soil science; training and experience in the application of special knowledge of these
19 sciences to the use and management of soils by accepted principles and methods;
20 investigation, evaluation, and consultation in the use and management of soils; and in
21 which the performance is related to the public welfare by safeguarding life, health,
22 property, and the environment. The term includes, but is not limited to, investigating and
23 evaluating the interaction between water, soil, nutrients, plants, and other living
24 organisms that are used to prepare soil scientists' reports for subsurface ground
25 absorption systems, including infiltration galleries; land application of residuals such as
26 sludge, septage, and other wastes; spray irrigation of waste water; soil remediation at
27 conventional rates; land application of agricultural products and processing residues;
28 bioremediation and volatilization; soil erodibility and sedimentation; and identification
29 of hydric soil and redoximorphic features.

30 (5) 'Responsible charge of work' means the independent control and direction, by the use
31 of initiative, skill, and independent judgment, of soil science work or the supervision of
32 such work.

33 (6) 'Soil' means the unconsolidated mineral or organic matter on the surface of the earth
34 that has been subjected to and influenced by genetic and environmental factors of parent
35 material, climate (including water and temperature effects), microorganisms, and
36 topography, all acting over time and producing a product that differs from the material

1 from which it is derived in many physical, chemical, biological, and morphological
2 properties and characteristics.

3 (7) 'Soil science' means the science dealing with soils as an environmental resource. Soil
4 science includes soil characterization, classification, and mapping; the physical, chemical,
5 hydrologic, mineralogical, biological, and microbiological analysis of soil; and the
6 assessment, analysis, modeling, testing, evaluation, and use of soil for the benefit of
7 mankind. Soil science does not include design or creative works, the adequate
8 performance of which requires extensive geological, engineering, land surveying,
9 forestry, or landscape architecture education, training, and experience or requires
10 registration as a geologist under Chapter 19 of this title, professional engineer or land
11 surveyor under Chapter 15 of this title, or forester under Part 2 of Article 1 of Chapter 6
12 of Title 12 or licensing as a landscape architect under Chapter 23 of this title.

13 (8) 'Soil scientist-in-training' means a person who has passed the examination and
14 satisfied all other requirements for licensure under this chapter except for the professional
15 work experience requirement.

16 (9) 'Subordinate' means any person who assists a licensed soil scientist in the practice of
17 soil science without assuming the responsible charge of work.

18 43-43B-4.

19 This chapter does not apply to the following individuals:

20 (1) An officer or employee of:

21 (A) The federal government;

22 (B) The state government; or

23 (C) Any local government

24 while such officer or employee is providing soil science services for the officer's or
25 employee's employer;

26 (2) An individual engaged solely in soil science research or the instruction of soil
27 science;

28 (3) An individual not engaged in the public practice of soil science;

29 (4) A professional engineer registered under Chapter 15 of this title who applies soil
30 science to the practice of engineering;

31 (5) A professional geologist registered under Chapter 19 of this title who applies soil
32 science to the practice of geology;

33 (6) A professional forester registered under Part 2 of Article 1 of Chapter 6 of Title 12
34 who applies soil science to the practice of forestry;

1 (7) A person who is a certified professional in erosion and sediment control (CPESC) or
2 soil conservationist who uses soil science in making land use decisions for the
3 conservation of soil and water resources;

4 (8) A professional wetlands specialist who applies soil science to make wetland
5 delineations or determinations; or

6 (9) A person who conducts soil sampling solely for the purpose of determining plant
7 nutrient and lime application rates for gardening and agricultural purposes.

8 43-43B-5.

9 (a) The State Licensing Board for Professional Soil Scientists is created, whose duty it
10 shall be to administer this chapter. The board shall be comprised of:

11 (1) Five members who shall be eligible for licensure under this chapter and who on and
12 after July 1 of the year following the effective date of this chapter shall be soil scientists
13 licensed under this chapter, one of whom shall be an academic soil scientist, one a
14 governmental soil scientist, one a salaried company soil scientist, one an independent or
15 consultant soil scientist, and one a soil scientist at large;

16 (2) A sixth member who shall be appointed from the public at large and who shall have
17 no connection whatsoever with the practice of professional soil science; and

18 (3) The commissioner of human resources, ex officio, or his or her designated agent.

19 (b) The members of the board provided for in paragraphs (1) and (2) of subsection (a) of
20 this Code section shall be appointed by the Governor, subject to approval as to
21 qualifications by the commissioner of human resources and confirmation by the Senate, for
22 terms of five years and until their successors are appointed and qualified. On the expiration
23 of the term of any member, the member's successor shall be appointed in the same manner
24 as regular appointments.

25 (c) Each member of the board shall be a citizen of the United States and a resident of the
26 State of Georgia.

27 (d) No person shall serve as a member of the board for more than one consecutive
28 five-year term.

29 (e) The Governor may remove any member of the board the same as provided by Code
30 Section 43-1-17. Vacancies in the membership of the board shall be filled for the unexpired
31 term by appointment by the Governor as provided for in this chapter.

32 (f) The members of the board shall, before entering upon the discharge of their duty,
33 subscribe to and file with the office of the Governor the required oath of office, whereupon
34 the Governor shall issue to each appointee a certificate of appointment.

35 (g) Each member of the board shall be reimbursed as provided for in subsection (f) of
36 Code Section 43-1-2.

1 43-43B-6.

2 (a) In addition to other powers and duties specified in this chapter, the board shall:

3 (1) Promulgate, adopt, amend, and repeal all rules and regulations necessary for its
4 government and for carrying this chapter into effect for the regulation of proceedings
5 before the board. The board and all of its rules, regulations, and procedures are subject
6 to and shall comply with Chapter 13 of Title 50, the 'Georgia Administrative Procedure
7 Act';

8 (2) Adopt and have an official seal;

9 (3) Elect from its membership a chairperson, a vice chairperson, and any other officers
10 deemed necessary who shall hold office for a term of one year;

11 (4) Issue, renew, refuse to renew, deny, suspend, revoke, and reinstate licenses or
12 otherwise discipline licensees under this chapter;

13 (5) Initiate investigations for the purpose of discovering violations of this chapter;

14 (6) Hold hearings on all matters properly brought before the board and, in conjunction
15 therewith, to administer oaths, receive evidence, make necessary findings, and enter
16 orders consistent with the findings. The board may designate one or more of its members
17 as its hearing officer;

18 (7) Adopt a code of professional conduct;

19 (8) Establish and receive fees as required by this chapter;

20 (9) Examine and determine the qualifications and fitness of applicants for licenses to
21 practice soil science in this state;

22 (10) Bring proceedings in the courts for the enforcement of this chapter or any rules or
23 regulations promulgated pursuant to this chapter;

24 (11) Establish reasonable standards for continuing professional education for soil
25 scientists; provided, however, that no examination shall be required for a renewal of a
26 license; and

27 (12) Have such other powers and duties as are necessary to effectuate the purposes of
28 this chapter.

29 (b) The board shall not be under the jurisdiction of the director of the professional
30 licensing boards division within the Office of the Secretary of State but shall be an
31 independent state agency attached to the Department of Human Resources for
32 administrative purposes only as provided by Code Section 50-4-3. The board shall have
33 with respect to all matters within its jurisdiction as provided under this chapter the same
34 powers, duties, and functions as professional licensing boards as provided in Chapter 1 of
35 this title.

1 43-43B-7.

2 All appeals from a decision of the board, all documents or applications required by law to
3 be filed with the board, and any notice or legal process to be served upon the board shall
4 be filed with or served upon the division director at his or her office.

5 43-43B-8.

6 An application for licensing as a soil scientist shall be made under oath and shall show the
7 applicant's education and a detailed summary of the applicant's professional work
8 experience as a soil scientist. The application shall be accompanied by an application fee
9 fixed by the board.

10 43-43B-9.

11 (a) To be eligible for a license as a soil scientist in this state, an applicant shall meet each
12 of the following minimum qualifications:

13 (1) Be of good ethical character;

14 (2) Hold at least a bachelor's degree in science from an accredited college or university
15 with a major in soil science or a related field of science. Such degree shall include a
16 minimum of 30 semester hours or equivalent quarter credit hours in agricultural,
17 biological, chemical, physical, or earth sciences, with a minimum of 15 semester credit
18 hours or equivalent quarter credit hours in soil science courses;

19 (3) Have at least four years of professional work experience as a soil scientist under the
20 supervision of a licensed soil scientist or a soil scientist who is eligible for licensure
21 under this chapter. An applicant may substitute an advanced degree in soil science for a
22 portion of the professional work experience requirement. The board, in its discretion, may
23 allow an applicant to substitute a master's degree in soil science for one year of
24 professional work experience and to substitute a doctoral degree in soil science for two
25 years of professional work experience. The board, in its discretion, may allow an
26 applicant to substitute experience gained through teaching upper-level soil science
27 courses at the college or university level or research in soil science for all or any portion
28 of the professional work experience requirement if the board finds the teaching or
29 research to be equivalent to the responsible charge of work by a soil scientist; and

30 (4) Successfully pass such examinations as are established by the board and which are
31 designed to demonstrate that the applicant has the necessary knowledge and skill to
32 exercise the responsibilities of the public practice of soil science.

33 (b) The board shall designate an applicant who meets all the requirements for a license
34 under this chapter except the professional work experience requirement as a soil

1 scientist-in-training. A soil scientist-in-training may apply for a license upon completion
2 of the professional work experience requirement.

3 (c)(1) The board shall waive examination requirements for licensing for an individual
4 who, on the effective date of this chapter, is certified as a soil scientist or soil classifier
5 by:

6 (A) The American Registry of Certified Professionals in Agronomy, Crops, and Soils
7 (ARCP ACS); or

8 (B) The Department of Human Resources.

9 (2) Examinations shall be held at least annually.

10 (3) The board shall determine the fee for and the scope, form, and content of the
11 examinations provided for under this chapter.

12 (d) A person holding a license to engage in the practice of soil science on the basis of
13 comparable licensing requirements issued to him or her by a proper authority of another
14 state, territory, or possession of the United States or the District of Columbia and who, in
15 the opinion of the board, otherwise meets the requirements of this chapter based on verified
16 evidence may be licensed upon application without further examination.

17 43-43B-10.

18 (a) The board shall issue a license, upon payment of the license fee set by the board, to any
19 applicant who, in the opinion of the board, has satisfactorily met the requirements of this
20 chapter.

21 (b) All licenses shall be renewable biennially at such time as may be designated by the
22 board. All applications for renewal shall be filed with the board prior to the expiration date,
23 accompanied by the renewal fee prescribed by the board. A license which has expired for
24 failure to renew may only be reinstated after application and payment of the prescribed
25 reinstatement fee within six months of the expiration date, provided that the applicant
26 meets such requirements as the board may establish by rule.

27 (c) A new license to replace any license that is lost, destroyed, or mutilated may be issued
28 subject to the rules of the board and payment of a fee set by the board.

29 43-43B-11.

30 (a) The board shall have the authority to refuse to grant a license to an applicant therefor
31 or to revoke or suspend the license of a person licensed by the board or to otherwise
32 discipline a person licensed by the board the same as provided in Code Section 43-1-19 for
33 professional licensing boards.

34 (b) The action by the board in granting or refusing to grant or renew a license under this
35 chapter or in revoking or suspending or in refusing to revoke or suspend such a license may

1 be appealed in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
2 Procedure Act,' to the superior court of the county of domicile of the board; provided,
3 however, that if the findings of the board are supported by any evidence, such findings
4 shall be accepted by the court.

5 43-43B-12.

6 Each licensee under this chapter may use a seal of such design as is authorized by the
7 board, bearing the licensee's name and the legend 'Licensed Professional Soil Scientist.'
8 All drawings, reports, or other papers or documents involving the practice of soil science,
9 as defined in this chapter, which shall have been prepared or approved by a licensed soil
10 scientist or a subordinate employee under his or her direction for the use of or for delivery
11 to any person or for public record within this state shall be signed by him or her and
12 impressed with the seal provided for in this Code section or the seal of a nonresident
13 practicing under this chapter, either of which shall indicate his or her responsibility for
14 them.

15 43-43B-13.

16 The board shall keep a record and shall publish annually a roster showing the names, places
17 of business, and residence addresses of all soil scientists licensed under this chapter. Copies
18 of such roster shall be made available to the public upon request and payment of a
19 reasonable fee, established by the board, for copying.

20 43-43B-14.

21 The board shall prepare and adopt by rule a code of professional conduct that shall be made
22 known in writing to every licensee and applicant for licensing under this chapter and shall
23 be published by the board. Publication of the code of professional conduct shall be due
24 notice to all licensees of its contents. The board may revise and amend such code of
25 professional conduct. Prior to adoption of any revision or amendments, all licensed
26 members and the public shall receive due notice and an opportunity to be heard.

27 43-43B-15.

28 Any person may file written charges of violations of this chapter or any rules adopted
29 pursuant to this chapter with the board against any licensee. Any charges or allegations
30 shall be in writing, shall be sworn to by the person making them, and shall be filed with
31 the board. The board shall investigate all reasonably valid complaints.

1 43-43B-16.

2 On and after January 1 of the year following the effective date of this chapter, this state and
3 its political subdivisions, such as a county, a municipality, or a legally constituted board,
4 district, commission, or authority, shall contract for soil science services only with persons
5 licensed under this chapter or with a firm employing a licensed soil scientist.

6 43-43B-17.

7 (a) This chapter shall not prohibit one or more soil scientists from practicing through the
8 medium of a sole proprietorship, partnership, limited liability company, or corporation. In
9 a partnership, limited liability company, or corporation whose primary activity consists of
10 soil science services, at least one partner, member, or officer shall be a licensed soil
11 scientist.

12 (b) This chapter shall not prevent or prohibit an individual, firm, company, association, or
13 corporation whose principal business is other than the public practice of soil science from
14 employing a unlicensed soil scientist to perform nonpublic soil science services necessary
15 to the conduct of its business.

16 (c) This chapter shall not be construed to prevent or to affect:

17 (1) The practice of any profession or trade for which a license is required under any other
18 provision of this Code;

19 (2) The practice of registered professional engineers from lawfully practicing soils
20 mechanics, foundation engineering, and other professional engineering as provided in this
21 title; or

22 (3) The practice of a person who is not a resident of and has no established place of
23 business in this state or who has recently become a resident of this state practicing or
24 offering to practice the profession of soil science in this state for more than 30 days in
25 any calendar year if the person shall have filed with the board an application for a license
26 and shall have paid the fee required by this chapter. Such practice shall continue only for
27 such time as the board requires for the consideration of the applicant for licensing.

28 43-43B-18.

29 (a) It shall be unlawful for any person other than a licensed soil scientist or a subordinate
30 under the soil scientist's direction and not otherwise exempt under this chapter to conduct
31 or participate in any practice of soil science or prepare any soil science reports, maps, or
32 documents related to the public welfare or the safeguarding of life, health, property, or the
33 environment.

34 (b) It shall be unlawful for any person, including a soil scientist-in-training or a
35 subordinate, to practice, or offer to practice, soil science in this state or to use in connection

1 with his or her name, otherwise assume, or advertise any title or description tending to
2 convey the impression that he or she is a licensed soil scientist unless that person has been
3 duly licensed or is exempted under the provisions of this chapter.

4 (c) It shall be unlawful for anyone other than a licensed soil scientist to stamp or seal any
5 soils related plans, maps, reports, or other soils related documents with the seal or stamp
6 of a licensed soil scientist or use in any manner the title 'soil scientist' unless that person
7 is licensed under this chapter.

8 (d) It shall be unlawful for any person to affix his or her signature to, stamp, or seal any
9 soils related plans, maps, reports, or other soils related documents after the license of the
10 person has expired or been suspended or revoked.

11 (e) It shall be unlawful for a licensed soil scientist to prepare plats and maps so as to
12 engage in the practice of land surveying as defined in Code Section 43-15-2 unless the
13 licensed soil scientist is also a registered land surveyor under Chapter 15 of this title.

14 (f) It shall be unlawful for a licensed soil scientist to engage in the design of engineering
15 works and systems unless the licensed soil scientist is also a registered professional
16 engineer under Chapter 15 of this title.

17 (g) It shall be unlawful for a licensed soil scientist to engage in the practice of geology
18 unless the licensed soil scientist is also a registered geologist under Chapter 19 of this title.

19 (h) Subsections (a) and (b) of this Code section shall apply only to acts committed on or
20 after January 1 of the year following the effective date of this chapter.

21 43-43B-19.

22 (a) A person who:

23 (1) Willfully practices soil science or offers to practice soil science for any other person
24 in this state without being licensed and who is not otherwise exempt in accordance with
25 the provisions of this chapter;

26 (2) Presents or attempts to use as his or her own the license or the seal of any other soil
27 scientist;

28 (3) Gives any false or forged evidence in the course of applying for a license under this
29 chapter;

30 (4) Impersonates a licensed soil scientist;

31 (5) Practices or attempts to practice at any time while his or her license is suspended or
32 revoked; or

33 (6) Commits any other act made unlawful by this chapter

34 shall be guilty of a misdemeanor.

35 (b) Paragraph (1) of subsection (a) of this Code section shall apply only to acts committed
36 on or after January 1 of the year following the effective date of this chapter."

1 **SECTION 2.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 3.**

5 All laws and parts of laws in conflict with this Act are repealed.