

By: Senator(s) Hewes

To: Ports and Marine
ResourcesCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2756

1 AN ACT TO AMEND SECTIONS 49-15-15, 49-15-16, 49-15-303,
2 49-15-305 AND 49-15-307, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
3 DUTIES OF THE COMMISSION, DEPARTMENT AND EXECUTIVE DIRECTOR OF
4 MARINE RESOURCES; TO AMEND SECTION 49-15-29, MISSISSIPPI CODE OF
5 1972, TO MAKE TECHNICAL REVISION RELATING TO COMMERCIAL LICENSES;
6 TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972, TO CLARIFY
7 TAKING OF OYSTERS BY HAND; AND FOR RELATED PURPOSES. BE IT
8 ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9
10 SECTION 1. Section 49-15-15, Mississippi Code of 1972, is
11 amended as follows:

12 49-15-15. (1) In addition to any other powers and duties
13 authorized by law, the commission shall have the following powers
14 and duties regarding the regulation of seafood:

15 (a) To exercise full jurisdiction and authority over
16 all marine aquatic life and to regulate any matters pertaining to
17 seafood, including cultivated seafood;

18 (b) To adopt, promulgate, amend or repeal, after due
19 notice and public hearing, in accordance with the Mississippi
20 Administrative Procedures Law and subject to the limitations in
21 subsection (2) of this section, rules and regulations authorized
22 under this chapter, including, but not limited to, rules and
23 regulations necessary for the protection, conservation or
24 propagation of all seafood in the waters under the territorial
25 jurisdiction of the State of Mississippi and for the regulation of
26 gill net and purse seine fishermen. All public hearings under
27 this chapter concerning the regulation of marine resources shall
28 be held in Hancock, Harrison or Jackson counties. Each rule or
29 regulation promulgated under this chapter shall immediately be

30 advertised one (1) time in a newspaper or newspapers having
31 general circulation in counties affected by that regulation. A
32 regulation shall become effective at 6:00 a.m. on the day after
33 its publication;

34 (c) To regulate all seafood sanitation and processing
35 programs. In the three (3) coastal counties, the sanitation
36 program regulating processing plants and seafood sold in retail
37 stores operating in conjunction with a processing plant or seafood
38 market that primarily deals with seafood is under the exclusive
39 authority of the commission. The commission may also inspect and
40 regulate those areas of any seafood processing plant which process
41 freshwater species at any site where the department inspects
42 seafood processing plants. To effectively and efficiently
43 implement the state seafood sanitation program, the State Health
44 Officer and the executive director of the department shall enter
45 into a memorandum of understanding, which at a minimum, clearly
46 specifies the responsibilities of each agency in implementing the
47 seafood sanitation program, as well as the sharing of information
48 and communication and coordination between the agencies;

49 (d) To set standards of measure;

50 (e) To set requirements for employment of
51 nonenforcement commission employees whose compensation shall be
52 governed by the rules and regulations of the State Personnel
53 Board;

54 (f) To acquire and dispose of commission equipment and
55 facilities;

56 (g) To keep proper records of the commission, including
57 an official ordinance book which contains all rules and
58 regulations promulgated by the commission under this chapter;

59 (h) To enter into advantageous interstate and
60 intrastate agreements with proper officials, which directly or
61 indirectly result in the protection, propagation and conservation
62 of the seafood of the State of Mississippi, or continue any such
63 agreements now in existence;

64 (i) To arrange, negotiate or contract for the use of
65 available federal, state and local facilities which would aid in
66 the propagation, protection and conservation of the seafood of the

67 State of Mississippi;

68 (j) To authorize the operation of double rigs in the
69 waters lying between the mainland coast and the island chain, and
70 those rigs shall not exceed a length of twenty-five (25) feet at
71 the cork line, and to prescribe the length at the lead line for
72 each rig, net or try-trawl;

73 (k) To destroy or dispose of equipment or nets which
74 have been lawfully seized by the commission and which are not sold
75 under Section 49-15-65;

76 (l) To open, close and regulate fishing seasons for the
77 taking of shrimp, oysters, fish taken for commercial purposes and
78 crabs and set size, catching and taking regulations for all types
79 of seafood and culling regulations for oysters, except as
80 otherwise specifically provided by law;

81 (m) To utilize the resources of the Gulf Coast Research
82 Laboratory to the fullest extent possible; * * *

83 (n) To develop a resource management plan to preserve
84 our seafood resources and to ensure a safe supply of these
85 resources;

86 (o) To prescribe types and forms of scientific permits
87 for public educational or scientific institutions, federal and
88 state agencies and consultants performing marine resource studies;
89 and

90 (p) To suspend the issuance of licenses when necessary
91 to impose a moratorium to conserve a fishery resource.

92 (2) The commission shall not adopt rules, regulations or
93 ordinances pertaining to marine resources which are more stringent
94 than federal regulations. In any case where federal laws and
95 regulations are silent on a matter pertaining to marine resources,
96 the laws and regulations of the State of Mississippi shall
97 control. The commission shall review all marine resource
98 ordinances for compliance with the no more stringent standard and
99 revise any ordinances more stringent than this standard no later

100 than December 31, 1992. This subsection shall not apply to rules,
101 regulations or ordinances pertaining to the wild stock of marine
102 fin fish.

103 SECTION 2. Section 49-15-16, Mississippi Code of 1972, is
104 amended as follows:

105 49-15-16. The commission * * * may develop a limited entry
106 fisheries management program for all resource groups. The
107 commission may require a license for each resource group and shall
108 establish the fees for such licenses. The commission may
109 establish a means test or any other criteria to determine
110 eligibility for licenses under the limited entry program. The
111 commission may impose a moratorium on the issuance of licenses for
112 a fishery resource.

113 SECTION 3. Section 49-15-29, Mississippi Code of 1972, is
114 amended as follows:

115 49-15-29. (1) The commission shall assess and collect,
116 license fees and taxes as authorized under this chapter.

117 (2) All commercial licenses provided for under this chapter
118 that relate to * * * seafood shall be purchased from May 1 through
119 April 30 at the fees herein provided. The licenses shall expire
120 on April 30 following the date of issuance.

121 (3) When an application for an original or renewal license
122 of any kind authorized by this chapter is received by the
123 commission, the commission shall determine whether the vessel or
124 related equipment subject to that license is owned and operated in
125 compliance with applicable federal and state laws. If the
126 commission determines that a vessel or its owner is not in
127 compliance with applicable federal and state laws, then no license
128 shall be issued or renewed for the operation of that vessel for a
129 period of one (1) year. All licenses shall be made available for
130 purchase at any building which is regularly operated by the
131 department or commission on the Mississippi Gulf Coast.

132 (4) The commission may authorize any person, other than a

133 salaried employee of the state to issue any license under this
134 chapter which the commission deems appropriate. The authorized
135 person may collect and retain for issuance of the license the sum
136 of One Dollar (\$1.00) in addition to the license fee provided in
137 this chapter. The commission shall establish the qualifications
138 of persons authorized to issue licenses under this section and
139 shall also establish the procedure for the issuance of that
140 license by the authorized person and the procedure for collection
141 of license fees by and from the authorized person.

142 SECTION 4. Section 49-15-46, Mississippi Code of 1972, is
143 amended as follows:

144 49-15-46. (1) Each in-state vessel used to catch, take,
145 carry or transport oysters from the reefs of the State of
146 Mississippi, or engaged in transporting any oysters in any of the
147 waters within the territorial jurisdiction of the State of
148 Mississippi, for commercial use, shall annually, before beginning
149 operations, be licensed by the commission and pay the following
150 license fee:

151 (a) Fifty Dollars (\$50.00) on all vessels or boats
152 utilized for tonging oysters or gathering oysters by hand; or

153 (b) One Hundred Dollars (\$100.00) on all vessels or
154 boats utilized for dredging oysters or gathering oysters by hand.

155 (2) Each out-of-state vessel used to catch, take, carry or
156 transport oysters from the reefs of the State of Mississippi, or
157 engaged in transporting any oysters in any of the waters within
158 the territorial jurisdiction of the State of Mississippi, for
159 commercial use, must annually, before beginning operations, be
160 licensed by the commission and pay the following license fee:

161 (a) One Hundred Dollars (\$100.00) on all vessels or
162 boats utilized for tonging oysters; or

163 (b) Two Hundred Dollars (\$200.00) on all vessels or
164 boats utilized for dredging oysters.

165 (3) All oysters harvested in the State of Mississippi shall

166 be tagged. Tags shall be issued by the department and shall bear
167 the catcher's name, the date and origin of the catch, the shell
168 stock dealer's name and permit number. The department shall
169 number all tags issued and shall maintain a record of those tags.

170 (4) Each person catching or taking oysters from the waters
171 of the State of Mississippi for personal use shall obtain a permit
172 from the commission and pay an annual recreational oyster permit
173 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
174 permit shall not be offered for sale. The limits on the allowable
175 catch of oysters for recreational purposes shall be three (3)
176 sacks per week. The department shall issue tags of a
177 distinguishing color to designate recreationally harvested
178 oysters, which shall be tagged on the same day of harvest in the
179 manner prescribed in subsection (3) of this section for
180 commercially harvested oysters.

181 (5) The commission shall assess and collect a fee of Fifty
182 Cents (50¢) per sack for the shells taken from waters within the
183 territorial jurisdiction of the State of Mississippi, but
184 processed in other states, in lieu of taking delivery of those
185 shells. Funds received from the shell retention fee shall be paid
186 into a special fund in the State Treasury to be appropriated by
187 the Legislature for use by the commission to further oyster
188 production in this state.

189 During open seasons, oysters may only be taken by hand, tongs
190 and dredges.

191 SECTION 5. Section 49-15-303, Mississippi Code of 1972, is
192 amended as follows:

193 49-15-303. The commission shall have the following powers
194 and duties:

195 (a) To formulate the policy of the department regarding
196 marine resources within the jurisdiction of the department;

197 (b) To enter into and authorize the executive director
198 to execute contracts, grants and cooperative agreements with any

199 public or private institution, federal or state agency or any
200 subdivision thereof to carry out the duties of the commission;

201 (c) To adopt, amend or repeal such rules and
202 regulations necessary for the operation of the commission and the
203 department necessary for the protection, conservation and
204 propagation of seafood, and necessary for the management of
205 commercial and recreational taking of seafood; and

206 (d) To discharge such other duties and powers as are
207 necessary to implement state policy regarding marine resources.

208 SECTION 6. Section 49-15-305, Mississippi Code of 1972, is
209 amended as follows:

210 49-15-305. (1) The commission shall submit three (3)
211 nominees for the position of executive director to the Governor.
212 The Governor shall appoint the executive director from the list of
213 nominees with the advice and consent of the Senate. The
214 commission may remove the executive director from office for good
215 cause. The executive director shall be knowledgeable and
216 experienced in marine resources management.

217 (2) The executive director of the department shall have the
218 following powers and duties:

219 (a) To supervise and direct all administrative,
220 inspection and technical activities and personnel of the
221 department;

222 (b) To employ qualified professional personnel in the
223 subject matter or fields, and such other technical and clerical
224 staff as may be required for the operation of the department;

225 (c) To coordinate all studies in the State of
226 Mississippi concerned with the supply, development, use and
227 conservation of marine resources;

228 (d) To prepare and deliver to the Legislature and the
229 Governor on or before January 1 of each year, and at such other
230 times as may be required by the Legislature or Governor, a full
231 report of the work of the department, including a detailed

232 statement of expenditures of the department and any
233 recommendations the department may have;

234 (e) To enter into cooperative agreements with any
235 federal or state agency or subdivision thereof, or any public or
236 private institution located inside or outside the State of
237 Mississippi, or any person, corporation or association in
238 connection with studies and investigations pertaining to marine
239 resources, provided the agreements do not have a financial cost in
240 excess of the amounts appropriated for such purposes by the
241 Legislature; and

242 (f) To carry out all regulations and rules adopted by
243 the department and enforce all licenses and permits issued by the
244 department.

245 SECTION 7. Section 49-15-307, Mississippi Code of 1972, is
246 amended as follows:

247 49-15-307. The department shall have the following powers
248 and duties:

249 (a) To formulate the policy of the department regarding
250 marine resources within the jurisdiction of the department;

251 (b) To apply for, receive and expend any federal or
252 state funds or contributions, gifts, devises, bequests or funds
253 from any other source;

254 (c) To commission or conduct studies designed to
255 determine alternative methods of managing and conserving the
256 marine resources of this state in a manner to insure efficiency
257 and sustained productivity; * * *

258 (d) To issue permits and licenses authorized by law or
259 regulation;

260 (e) To equip and supply check stations, remote duty
261 stations and personnel or extended duty;

262 (f) To develop programs to enhance the marketing of the
263 state's recreational and commercial marine resources;

264 (g) To provide gear, insignias, and otherwise equip

265 personnel subject to the amount appropriated for such purposes:

266 and

267 (h) To discharge such other duties, responsibilities
268 and powers as are necessary to implement the provisions of this
269 article.

270 SECTION 8. This act shall take effect and be in force from
271 and after its passage.