

By: Representative Moak

To: Conservation and
Water Resources

HOUSE BILL NO. 142

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT FLOODWATER WHICH HAS OVERFLOWED THE BANKS OF A PUBLIC
3 WATERWAY SHALL BE CONSIDERED A PART OF THE PUBLIC WATERWAY AND IT
4 SHALL NOT BE UNLAWFUL TO HUNT OR FISH ON LANDS UNDER FLOODWATERS
5 ADJACENT TO THE NATURAL BANKS OF THE PUBLIC WATERWAY; AND FOR
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 51-1-4, Mississippi Code of 1972, is
9 amended as follows:

10 51-1-4. Such portions of all natural flowing streams in this
11 state having a mean annual flow of not less than one hundred (100)
12 cubic feet per second, as determined and designated on appropriate
13 maps by the Mississippi Department of Environmental Quality, shall
14 be public waterways of the state on which the citizens of this
15 state and other states shall have the right of free transport in
16 the stream and its bed and the right to fish and engage in water
17 sports. Such persons exercising the rights herein granted shall
18 do so at their own risk, and such persons shall not be entitled to
19 recover any damages against any owner of property along such
20 public waterways or anyone using such property with permission of
21 the owner for any injury to or death of persons or damage to
22 property arising out of the exercise of rights herein granted,
23 other than those damages which may be recovered for intentional or
24 malicious torts or for gross or willful negligence against the
25 owner of property, or anyone using such property with permission
26 of the owner. Nothing herein contained shall authorize anyone
27 utilizing such public waterways, under the authority granted
28 hereby, to trespass upon adjacent lands or, to launch or land any

29 commercial or pleasure craft along or from the shore of such
30 waterways except at places established by public or private
31 entities for such purposes. Nothing herein contained shall
32 authorize any person utilizing said public waterways, under the
33 authority granted hereby, to disturb the banks or beds of such
34 waterways or to discharge * * * any object or substance into such
35 waters or upon or across any lands adjacent thereto. However, it
36 shall not be unlawful to hunt or fish or go on or across any
37 adjacent lands under floodwaters beyond the natural banks of the
38 bed of the public waterway, and, for such purposes, floodwater
39 which has overflowed the banks of a public waterway shall be
40 considered a part of the public waterway.

41 Nothing herein contained shall be construed to prohibit the
42 construction of dams and reservoirs by the State of Mississippi or
43 any of its agencies or political subdivisions, or riparian owners,
44 in the manner now or hereafter authorized by law, or in any way to
45 affect the rights of riparian landowners along such waterways
46 except as specifically provided hereinabove or to amend or repeal
47 any law relating to pollution or water conservation, or to affect
48 in any manner the title to the banks and beds of any such stream
49 or the title to any minerals thereunder, or to restrict the mining
50 or extraction of such minerals or the right of ingress and egress
51 thereto.

52 The provisions of this section limiting the liability of
53 owners of property along public waterways and persons using such
54 property with permission of the owners shall not be construed to
55 limit any rights of claimants for damages under federal statutes
56 or acts applying to navigable streams or waterways or any other
57 civil causes of action subject to admiralty or maritime
58 jurisdiction, nor shall said provisions be construed to limit the
59 rights of any parties involved in litigation founded upon the
60 commercial or business usage of any navigable streams or
61 waterways.

62 This section shall apply only to natural flowing streams.

63 SECTION 2. This act shall take effect and be in force from
64 and after July 1, 1999.