

By: Representatives Bowles, Clarke,
Frierson, Horne, Stevens

To: Conservation and
Water Resources

HOUSE BILL NO. 961

1 AN ACT TO AMEND SECTION 49-15-29, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT RENEWALS OF FISHING VESSEL LICENSES BE MADE
3 EFFECTIVE 30 DAYS AFTER THE EXPIRATION OF THE CURRENT LICENSE IN
4 CASES WHERE THE CAPTAIN OR CAPTAINS OF SUCH VESSEL WERE FOUND
5 GUILTY OF VIOLATING FISHING LAWS OR REGULATIONS THREE OR MORE
6 TIMES IN THE 12 MONTHS PRECEDING THE APPLICATION FOR A RENEWAL; TO
7 AMEND SECTION 49-15-80, MISSISSIPPI CODE OF 1972, IN CONFORMITY
8 THERETO; TO AMEND SECTION 49-15-38, MISSISSIPPI CODE OF 1972, TO
9 REQUIRE THE DEPARTMENT OF MARINE RESOURCES TO SET THE AMOUNT OF
10 SHELLS IT INTENDS TO USE TO RESTORE OYSTER REEFS ON AN ANNUAL
11 BASIS, AND TO ALLOW THE SALE OF UNNECESSARY SHELLS BY OYSTER
12 PROCESSORS, FACTORIES AND DEALERS; TO AMEND SECTION 49-15-64,
13 MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY FOR COMMERCIAL
14 SHRIMPING DURING CLOSED SEASON TO A FINE OF NOT LESS THAN
15 \$1,000.00 NOR MORE THAN \$2,000.00; AND FOR RELATED PURPOSES.

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

17 SECTION 1. Section 49-15-29, Mississippi Code of 1972, is
18 amended as follows:

19 49-15-29. (1) The commission shall assess and collect,
20 license fees and taxes as authorized under this chapter.

21 (2) All commercial licenses provided for under this chapter
22 that relate to the taking of seafood shall be purchased from May 1
23 through April 30 at the fees herein provided. The licenses shall
24 expire on April 30 following the date of issuance.

25 (3) When an application for an original or renewal license
26 of any kind authorized by this chapter is received by the
27 commission, the commission shall determine whether the vessel or
28 related equipment subject to that license is owned and operated in
29 compliance with applicable federal and state laws. If the
30 commission determines that a vessel or its owner is not in
31 compliance with applicable federal and state laws, then no license
32 shall be issued or renewed for the operation of that vessel for a

33 period of one (1) year. All licenses shall be made available for
34 purchase at any building which is regularly operated by the
35 department or commission on the Mississippi Gulf Coast.

36 (4) The commission may authorize any person, other than a
37 salaried employee of the state to issue any license under this
38 chapter which the commission deems appropriate. The authorized
39 person may collect and retain for issuance of the license the sum
40 of One Dollar (\$1.00) in addition to the license fee provided in
41 this chapter. The commission shall establish the qualifications
42 of persons authorized to issue licenses under this section and
43 shall also establish the procedure for the issuance of that
44 license by the authorized person and the procedure for collection
45 of license fees by and from the authorized person.

46 (5) In any case in which the commission determines that a
47 vessel has been captained by a person or persons who have been
48 found guilty of violating provisions of this chapter, or any
49 commission regulations, three (3) or more times in the twelve (12)
50 months immediately preceding the application for renewal of a
51 license, the commission shall grant a license with an effective
52 date of thirty (30) days after the expiration of the current
53 license of the vessel.

54 SECTION 2. Section 49-15-38, Mississippi Code of 1972, is
55 amended as follows:

56 49-15-38. (1) (a) Unless otherwise permitted by the
57 commission, no oysters shall be taken from the reefs of this state
58 unless culled upon the natural reefs, and all oysters less than
59 three (3) inches from end to end, and all dead shells, shall be
60 replaced, scattered and broadcast immediately on the natural reefs
61 from which they are taken. It is unlawful for any captain or
62 person in charge of any vessel, or any canner, packer, commission
63 man, dealer or other person to purchase, sell or to have in that
64 person's possession or under that person's control any oysters off
65 the public reefs or private bedding grounds not culled according
66 to this section, or any oysters under the legal size. A ten
67 percent (10%) tolerance shall be allowed in relation to any
68 culling.

69 (b) The commission may authorize the culling of oysters

70 of a lesser measure. That authorization shall be in response to
71 special circumstances or extreme natural conditions affecting the
72 habitat, including, but not limited to, flooding. The department
73 may establish checkpoints in any area within its jurisdiction to
74 conduct inspections in the enforcement of regulations under this
75 chapter.

76 (2) The commission shall acquire and replant shells, seed
77 oysters and other materials, when funding is available, for the
78 purpose of growing oysters. Except as provided in this section,
79 all oyster shells produced from oysters taken from the public
80 reefs of the State of Mississippi are the nontransferable property
81 of the State of Mississippi, and all persons, firms or
82 corporations dealing in or canning oysters taken from the public
83 reefs of the state shall deliver to the commission all oyster
84 shells taken or processed by that person, firm or corporation.
85 The delivery of the oyster shells shall be at the place of
86 business of the oyster processor, dealer or factory. The
87 commission shall order the delivered oyster shells to be spread on
88 the public reefs of this state to improve the oyster beds.

89 (3) Any person failing or refusing to deliver the shells or
90 pay the shell retention fee required under Section 49-15-46 to the
91 department when called for by the department, is guilty of a
92 misdemeanor and, upon conviction, shall be fined not more than One
93 Hundred Dollars (\$100.00) for each barrel of shells they fail or
94 refuse to deliver, or to tender the shell retention fee. In
95 addition to the fine, the violator shall pay the reasonable value
96 of the oyster shells and shall be ineligible to be licensed for
97 any activity set forth in this chapter. Any person who fails to
98 remit to the department the proper monthly payment for the sale of
99 shells shall be guilty of a misdemeanor and shall be fined an
100 amount of not more than Five Hundred Dollars (\$500.00).

101 (4) The collection and planting of oyster shells as provided
102 under this chapter shall be under the direction and supervision of

103 the executive director of the department. Planting and replanting
104 of oyster shells shall be coordinated by the Gulf Coast Research
105 Laboratory. The governing authorities of each county and
106 municipality bordering upon the Mississippi Sound may assist the
107 commission and the Gulf Coast Research Laboratory in the planting
108 and replanting of oyster shells. The commission shall construe
109 this section to require the return of a maximum amount of shells
110 to the reefs, and shall allow the retention of shells only in
111 cases where the collection or return of the shells is impractical
112 or not feasible.

113 (5) By June 1 of each year, the Department of Marine
114 Resources shall notify all interested parties by a newspaper of
115 general circulation on the Mississippi Gulf Coast of the total
116 percentage of oyster shells from the upcoming fiscal year's catch
117 it intends to return to the oyster reefs in the upcoming fiscal
118 year. Further, the department shall convert this percentage to an
119 estimated number based on the previous year's catch and inform all
120 processors, factories and dealers of the number of shells each
121 must deliver to the department during the upcoming fiscal year.
122 All dealers, factories and processors may sell the remainder of
123 shells into which they come into possession, but shall remit to
124 the Department of Marine Resources an amount equal to fifty
125 percent (50%) of the sale price for such shells. Remittances
126 shall be made to the department at the end of each month. The
127 department may audit the records of any dealer, factory or
128 processor to insure compliance with this section.

129 SECTION 3. Section 49-15-64, Mississippi Code of 1972, is
130 amended as follows:

131 49-15-64. Any operator, firm or corporation engaged in
132 commercial shrimping during the closed season shall be guilty of a
133 misdemeanor and, upon conviction, shall be punished by a fine of
134 not less than One Thousand Dollars (\$1,000.00) nor more than Two
135 Thousand Dollars (\$2,000.00).

136 Upon an arrest for a violation of this section, catch and
137 nets may be confiscated. Any catch may be sold by the law
138 enforcement agency making the arrest at the average wholesale
139 price being paid for shrimp. The monies derived from the sale
140 shall be held in escrow pending disposition of the charge. If a
141 conviction is obtained, the monies held in escrow shall be
142 forfeited. The monies so forfeited shall be paid to the
143 department, to be paid into the seafood fund. If the operator,
144 firm or corporation is acquitted of the charge or if the charge is
145 dismissed, then the monies obtained from the sale shall be paid to
146 the proper operator, firm or corporation. Forfeiture of
147 confiscated nets and paraphernalia shall be instituted pursuant to
148 Sections 49-7-251 through 49-7-257. If the person in possession
149 of or using the nets in the violation is not the owner or licensee
150 of the nets, the department shall notify the owner or licensee of
151 the nets. The nets shall be subject to forfeiture unless the nets
152 were stolen and prosecution for the theft is initiated.

153 The commission may issue special permits for the purpose of
154 catching shrimp prior to the official opening of shrimp season, to
155 those nonprofit organizations that are tax exempt under Section
156 501(c) of the United States Internal Revenue Code and which have
157 on file with the State Tax Commission a tax exemption letter
158 issued by the United States Internal Revenue Service. However,
159 until January 1, 1992, the requirement that a nonprofit
160 organization have on file with the State Tax Commission a tax
161 exemption letter issued by the United States Internal Revenue
162 Service shall be considered as having been met if the organization
163 has actually made application for such exemption and has on file
164 with the State Tax Commission a copy of its application.

165 The commission shall promulgate rules and regulations
166 governing the taking of shrimp by the nonprofit organization and
167 shall issue such regulations to all organizations upon request and
168 at the issuance of the special permit.

169 SECTION 4. Section 49-15-80, Mississippi Code of 1972, is
170 amended as follows:

171 49-15-80. (1) (a) All vessels to be used in catching or
172 transporting fish in the waters of the State of Mississippi for
173 commercial purposes shall, before beginning operations, obtain an
174 annual license from the commission and pay a license fee according
175 to the following schedule:

176 (i) Twenty-five Dollars (\$25.00) on boats used for
177 commercial hook and line fishing. All vessels engaged in
178 commercial hook and line fishing shall be issued a separate annual
179 license by the commission at a fee of One Hundred Dollars
180 (\$100.00) and crew members shall not be subject to the additional
181 licensing requirements outlined in this section.

182 (ii) A resident fee of One Hundred Dollars
183 (\$100.00) or a nonresident fee of Three Hundred Dollars (\$300.00)
184 on boats using trammel nets, gill nets or seines not more than one
185 thousand two hundred (1,200) feet in length.

186 (b) Beginning September 15, 1994, no nonresident shall
187 be issued a commercial fishing license under this chapter for the
188 taking of fish using any type of net if that nonresident's state
189 of domicile prohibits the issuing of commercial fishing licenses
190 to residents of this state to engage in like activity.

191 (2) Each factory or manufacturing establishment engaging in
192 the manufacture of oil, fish scrap, fish meal, fertilizer or other
193 products from menhaden, shall pay a license fee of Five Hundred
194 Dollars (\$500.00).

195 (3) Each boat or vessel engaging in the catching, taking or
196 transporting menhaden in the waters of the State of Mississippi,
197 the sum of One Hundred Dollars (\$100.00) and shall pay Fifty
198 Dollars (\$50.00) on each net, seine, trawl or purse net used in
199 catching or taking menhaden in the waters of the State of
200 Mississippi.

201 (4) All vessel licenses shall be issued and renewed in

202 conformity with the provisions of this section and Section
203 49-15-29.

204 SECTION 5. This act shall take effect and be in force from
205 and after July 1, 1999.