

By: Representative Compretta

To: Conservation and  
Water Resources

HOUSE BILL NO. 1206

1 AN ACT TO AMEND SECTIONS 49-15-15 AND 49-15-44, MISSISSIPPI  
2 CODE OF 1972, TO REGULATE THE SALE OF CERTAIN OYSTERS; AND FOR  
3 RELATED PURPOSES.

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

5 SECTION 1. Section 49-15-15, Mississippi Code of 1972, is  
6 amended as follows:

7 49-15-15. (1) In addition to any other powers and duties  
8 authorized by law, the commission shall have the following powers  
9 and duties regarding the regulation of seafood:

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

13 (b) To adopt, promulgate, amend or repeal, after due  
14 notice and public hearing, in accordance with the Mississippi  
15 Administrative Procedures Law and subject to the limitations in  
16 subsection (2) of this section, rules and regulations authorized  
17 under this chapter, including, but not limited to, rules and  
18 regulations necessary for the protection, conservation or  
19 propagation of all shrimp, oysters, commercial fish and crabs in  
20 the waters under the territorial jurisdiction of the State of  
21 Mississippi and for the regulation of gill net and purse seine  
22 fishermen. All public hearings under this chapter concerning the  
23 regulation of marine resources shall be held in Hancock, Harrison  
24 or Jackson counties. Each rule or regulation promulgated under  
25 this chapter shall immediately be advertised one (1) time in a  
26 newspaper or newspapers having general circulation in counties

27 affected by that regulation. A regulation shall become effective  
28 at 6:00 a.m. on the day after its publication;

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

44 (d) To set standards of measure;

45 (e) To set requirements for employment of  
46 nonenforcement commission employees whose compensation shall be  
47 governed by the rules and regulations of the State Personnel  
48 Board;

49 (f) To acquire and dispose of commission equipment and  
50 facilities;

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

54 (h) To enter into advantageous interstate and  
55 intrastate agreements with proper officials, which directly or  
56 indirectly result in the protection, propagation and conservation  
57 of the seafood of the State of Mississippi, or continue any such  
58 agreements now in existence;

59 (i) To arrange, negotiate or contract for the use of  
60 available federal, state and local facilities which would aid in  
61 the propagation, protection and conservation of the seafood of the  
62 State of Mississippi;

63

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

69  
70           (k) To destroy or dispose of equipment or nets which  
71 have been lawfully seized by the commission and which are not sold  
72 under Section 49-15-65;

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

78           (m) To utilize the resources of the Gulf Coast Research  
79 Laboratory to the fullest extent possible; and

80           (n) To develop a resource management plan to preserve  
81 our seafood resources and to ensure a safe supply of these  
82 resources.

83           (o) To enforce the provisions of Section 49-15-44.

84           (2) The commission shall not adopt rules, regulations or  
85 ordinances pertaining to marine resources which are more stringent  
86 than federal regulations. In any case where federal laws and  
87 regulations are silent on a matter pertaining to marine resources,  
88 the laws and regulations of the State of Mississippi shall  
89 control. The commission shall review all marine resource  
90 ordinances for compliance with the no more stringent standard and  
91 revise any ordinances more stringent than this standard no later  
92 than December 31, 1992. This subsection shall not apply to rules,  
93 regulations or ordinances pertaining to the wild stock of marine  
94 fin fish.

95           SECTION 2. Section 49-15-44, Mississippi Code of 1972, is  
96 amended as follows:

97           49-15-44. (1) The commission shall prohibit the sale or  
98 possession of illegal oysters. It is unlawful for any person,  
99 firm or corporation to possess or to engage in the sale of oysters  
100 not certified in this state, or to shuck or repack for sale any  
101 illegal oysters, unless that person, firm or corporation possesses  
102 a bill of sale, valid permit or affidavit of another state,  
103 properly dated, evidencing the legality of the sale or possession  
104 of the oysters in that state. Any person in possession of illegal  
105 oysters shall be subject to civil or criminal prosecution and  
106 shall be fined not less than One Hundred Dollars (\$100.00) or  
107 punished as provided in Section 49-15-63.

108           (2) It shall be unlawful for any person, firm, corporation  
109 or other business entity acting as a seafood dealer, seafood  
110 processor or an oyster shellstock shipper to purchase for resale,  
111 trade or barter oyster products, whether processed or unprocessed  
112 originating from the territorial waters of Mississippi or from any  
113 other state landing oyster products in the State of Mississippi  
114 with the intent to transport or have transported through  
115 interstate or intrastate commerce without holding in its  
116 possession a valid certification or permit showing compliance with  
117 all regulations of the Mississippi Shellfish Sanitation Program.

118           SECTION 3. This act shall take effect and be in force from  
119 and after July 1, 1999.