

By: Representative Ellington

To: Conservation and
Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1216

1 AN ACT TO AMEND SECTION 49-15-39, MISSISSIPPI CODE OF 1972,
2 TO REVISE PENALTIES FOR DREDGING; TO AMEND SECTION 49-15-63,
3 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT LICENSE REVOCATION FOR
4 THIRD AND SUBSEQUENT VIOLATIONS OF SEAFOOD LAWS SHALL APPLY TO THE
5 CONVICTED PARTY AND TO THE BOAT INVOLVED IN THE SEAFOOD VIOLATION;
6 AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 49-15-39, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-39. (1) It is unlawful for any person to catch or
11 take oysters by means of dredging in any of the waters designated
12 as tonging reefs by the commission.

13 (2) The commission shall designate certain areas as tonging
14 reefs. The commission shall mark the boundaries of the areas
15 designated by appropriate poles, stakes or buoys of material that
16 will not injure watercraft, and the boundaries, when designated by
17 the commission, shall be final unless shown to be incorrect by a
18 proceeding which may be brought by any person interested in the
19 chancery court of the county adjacent to the area.

20 (3) If any boat or vessel catches or takes oysters by means
21 of dredges, drags or scoops, other than hand tongs, from any of
22 the areas described in this section, or with a dredge or dredges
23 in the water, then all oysters on board the boat or vessel are
24 hereby declared to be contraband and shall be taken and
25 confiscated by the department or any marine law enforcement
26 officer without court procedure. The captain and crew of the boat
27 or vessel, promptly upon being ordered so to do, shall transport
28 the oysters to a point on the public reefs of the state where the

29 boat or vessel is found and there scatter the oysters according to
30 the instructions of the enforcement officers. Any person, firm or
31 corporation who violates this section, upon conviction, shall be
32 punished as follows:

33 (a) For the first offense, by a fine of not less than
34 Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
35 (\$1,000.00) unless the first offense is committed during a closed
36 season, in which case the fine shall be not less than One Thousand
37 Dollars (\$1,000.00) nor more than Two Thousand Dollars
38 (\$2,000.00);

39 (b) For the second offense, when such offense is
40 committed within a period of three (3) years from the first
41 offense, by a fine of not less than One Thousand Dollars
42 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00);

43 (c) For the third or subsequent offense, when such
44 offense is committed within a period of three (3) years from the
45 first offense, by a fine of Five Thousand Dollars (\$5,000.00) or
46 imprisonment in the county jail for up to thirty (30) days and by
47 license revocation and equipment forfeiture as prescribed in
48 Section 49-15-63(1)(b).

49 SECTION 2. Section 49-15-63, Mississippi Code of 1972, is
50 amended as follows:

51 49-15-63. (1) (a) Any person, firm or corporation
52 violating any of the provisions of this chapter or any ordinance
53 duly adopted by the commission, unless otherwise specifically
54 provided for herein, shall, on conviction, be fined not less than
55 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
56 (\$500.00), for the first offense, unless the first offense is
57 committed during a closed season, in which case the fine shall be
58 not less than Five Hundred Dollars (\$500.00), nor more than One
59 Thousand Dollars (\$1,000.00); and not less than Five Hundred
60 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
61 for the second offense when such offense is committed within a
62 period of three (3) years from the first offense; and not less
63 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
64 Dollars (\$4,000.00), or imprisonment in the county jail for a
65 period not exceeding thirty (30) days for any third or subsequent

66 offense when such offense is committed within a period of three
67 (3) years from the first offense.

68 (b) In addition, upon conviction of such third or
69 subsequent offense, it shall be the duty of the court to revoke
70 the license of the convicted party and of the boat or vessel used
71 in such offense, and no further license shall issue to such person
72 and for said boat to engage in catching or taking of any seafoods
73 from the waters of the State of Mississippi for a period of one
74 (1) year following such conviction. Forfeiture of any equipment
75 or nets used in a second or subsequent offense may be instituted
76 pursuant to Sections 49-7-251 through 49-7-257. If the person in
77 possession of or using the nets in the violation is not the owner
78 or licensee of the nets, the department shall notify the owner or
79 licensee of the nets. The nets shall be subject to forfeiture
80 unless the nets were stolen and prosecution for the theft is
81 initiated. Equipment as used in this section shall not mean boats
82 or vessels.

83 (c) Any person convicted and sentenced under this
84 section for a second or subsequent offense shall not be considered
85 for suspension or other reduction of sentence.

86 (d) Except as provided under subsection (5) of Section
87 49-15-45, any fines collected under this section shall be paid
88 into the Seafood Fund.

89 (2) All citations issued to boat operators for not
90 possessing the boat's registration card shall be dismissed, along
91 with all related court costs, upon the presentment of the boat's
92 proper registration card to the court or magistrate holding the
93 trial or hearing.

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