

By: Representative Ellington

To: Conservation and
Water Resources

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 REVISE THE GENERAL PENALTIES
4 REGARDING SEAFOOD VIOLATIONS; AND FOR RELATED PURPOSES.

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

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

8 49-15-39. (1) It is unlawful for any person to catch or
9 take oysters by means of dredging in any of the waters designated
10 as tonging reefs by the commission.

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

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

28 the instructions of the enforcement officers. Any person, firm or
29 corporation who violates this section, upon conviction, shall be
30 fined not less than One Thousand Dollars (\$1,000.00) nor than Five
31 Thousand Dollars (\$5,000.00).

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

34 49-15-63. (1) Any person, firm or corporation violating any
35 of the provisions of this chapter or any ordinance duly adopted by
36 the commission, unless otherwise specifically provided for herein,
37 shall, on conviction, be fined not less than One Hundred Dollars
38 (\$100.00), nor more than Five Hundred Dollars (\$500.00), for the
39 first offense, unless the first offense is committed during a
40 closed season, in which case the fine shall be not less than Five
41 Hundred Dollars (\$500.00), nor more than One Thousand Dollars
42 (\$1,000.00); and not less than Five Hundred Dollars (\$500.00), nor
43 more than One Thousand Dollars (\$1,000.00), for the second offense
44 when such offense is committed within a period of three (3) years
45 from the first offense; and not less than Two Thousand Dollars
46 (\$2,000.00) nor more than Four Thousand Dollars (\$4,000.00), or
47 imprisonment in the county jail for a period not exceeding thirty
48 (30) days for any third or subsequent offense when such offense is
49 committed within a period of three (3) years from the first
50 offense and also upon conviction of such third or subsequent
51 offense, it shall be the duty of the court to revoke the license
52 of the convicted party and of the boat or vessel used in such
53 offense, and no further license shall issue to such person and for
54 said boat to engage in catching or taking of any seafoods from the
55 waters of the State of Mississippi for a period of one (1) year
56 following such conviction. Forfeiture of any equipment or nets
57 used in a second or subsequent offense may be instituted pursuant
58 to Sections 49-7-251 through 49-7-257. If the person in
59 possession of or using the nets in the violation is not the owner
60 or licensee of the nets, the department shall notify the owner or
61 licensee of the nets. The nets shall be subject to forfeiture
62 unless the nets were stolen and prosecution for the theft is
63 initiated. Equipment as used in this section shall not mean boats
64 or vessels. Any person convicted and sentenced under this section

65 for a second or subsequent offense shall not be considered for
66 suspension or other reduction of sentence. Except as provided
67 under subsection (5) of Section 49-15-45, any fines collected
68 under this section shall be paid into the Seafood Fund.

69 (2) All citations issued to boat operators for not
70 possessing the boat's registration card shall be dismissed, along
71 with all related court costs, upon the presentment of the boat's
72 proper registration card to the court or magistrate holding the
73 trial or hearing.

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