

By: Representative Ellington

To: Conservation and
Water ResourcesHOUSE BILL NO. 1216
(As Passed the House)

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 TO PROVIDE THAT CERTAIN INDIVIDUALS CAPTAINING OR OWNING
7 SALTWATER SHRIMP VESSELS SHALL BE SUBJECT TO PENALTIES; AND FOR
8 RELATED PURPOSES.

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

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

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

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

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

the oysters to a point on the public reefs of the state where the boat or vessel is found and there scatter the oysters according to the instructions of the enforcement officers. Any person, firm or corporation who violates this section, upon conviction, shall be punished as follows:

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

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

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

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

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

67 period not exceeding thirty (30) days for any third or subsequent
68 offense when such offense is committed within a period of three
69 (3) years from the first offense.

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

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

88 (d) Except as provided under subsection (5) of Section
89 49-15-45, any fines collected under this section shall be paid
90 into the Seafood Fund.

91 (2) For any violation of this chapter, the individual
92 registered as the captain of a freight boat, ice boat or catching
93 boat used in catching or transporting of saltwater shrimp shall be
94 subject to the penalties provided in this chapter, if that
95 individual is aboard the vessel. If that individual is not aboard
96 the vessel, the individual designated as the substitute captain in
97 accordance with Section 49-15-64.5 shall be subject to the
98 penalties provided in this chapter. If no individual is
99 designated under Section 49-15-64.5, the person, firm or

100 corporation owning the vessel shall be subject to the penalties
101 provided for boat captains.

102 (3) All citations issued to boat operators for not
103 possessing the boat's registration card shall be dismissed, along
104 with all related court costs, upon the presentment of the boat's
105 proper registration card to the court or magistrate holding the
106 trial or hearing.

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