

By: Representative Chaney

To: Conservation and
Water Resources

HOUSE BILL NO. 1277

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 DELETE THE PROVISIONS WHICH EXCLUDE FLOODWATERS FROM THOSE
3 PORTIONS OF PUBLIC WATERWAYS SUBJECT TO HUNTING AND FISHING
4 RIGHTS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 51-1-4, Mississippi Code of 1972, is
7 amended as follows:

8 51-1-4. Such portions of all natural flowing streams in this
9 state having a mean annual flow of not less than one hundred (100)
10 cubic feet per second, as determined and designated on appropriate
11 maps by the Mississippi Department of Environmental Quality, shall
12 be public waterways of the state on which the citizens of this
13 state and other states shall have the right of free transport in
14 the stream and its bed and the right to fish and engage in water
15 sports. Such persons exercising the rights herein granted shall
16 do so at their own risk, and such persons shall not be entitled to
17 recover any damages against any owner of property along such
18 public waterways or anyone using such property with permission of
19 the owner for any injury to or death of persons or damage to
20 property arising out of the exercise of rights herein granted,
21 other than those damages which may be recovered for intentional or
22 malicious torts or for gross or willful negligence against the
23 owner of property, or anyone using such property with permission
24 of the owner. Nothing herein contained shall authorize anyone
25 utilizing such public waterways, under the authority granted
26 hereby, to trespass upon adjacent lands or, to launch or land any
27 commercial or pleasure craft along or from the shore of such

28 waterways except at places established by public or private
29 entities for such purposes. * * *

30 Nothing herein contained shall be construed to prohibit the
31 construction of dams and reservoirs by the State of Mississippi or
32 any of its agencies or political subdivisions, or riparian owners,
33 in the manner now or hereafter authorized by law, or in any way to
34 affect the rights of riparian landowners along such waterways
35 except as specifically provided hereinabove or to amend or repeal
36 any law relating to pollution or water conservation, or to affect
37 in any manner the title to the banks and beds of any such stream
38 or the title to any minerals thereunder, or to restrict the mining
39 or extraction of such minerals or the right of ingress and egress
40 thereto.

41 The provisions of this section limiting the liability of
42 owners of property along public waterways and persons using such
43 property with permission of the owners shall not be construed to
44 limit any rights of claimants for damages under federal statutes
45 or acts applying to navigable streams or waterways or any other
46 civil causes of action subject to admiralty or maritime
47 jurisdiction, nor shall said provisions be construed to limit the
48 rights of any parties involved in litigation founded upon the
49 commercial or business usage of any navigable streams or
50 waterways.

51 This section shall apply only to natural flowing streams.

52 SECTION 2. This act shall take effect and be in force from
53 and after July 1, 1999.