

By: Representative Ellington

To: Conservation and
Water Resources

HOUSE BILL NO. 1304

1 AN ACT TO REVISE LAWS REGULATING THE HARVEST OF SEAFOOD; TO
2 AMEND SECTION 49-15-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
3 ALL COMMERCIAL SEAFOOD LICENSES SHALL EXPIRE ON THE SAME DATE; TO
4 AMEND SECTION 49-15-34, MISSISSIPPI CODE OF 1972, TO DELETE THE
5 REQUIREMENT THAT THE COMMISSION ON MARINE RESOURCES SHALL INSPECT
6 CERTAIN SEAFOOD LANDINGS; TO AMEND SECTION 49-15-38, MISSISSIPPI
7 CODE OF 1972, TO REVISE REQUIREMENTS FOR THE RETENTION OF OYSTER
8 SHELLS; TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972, TO
9 REVISE THE FEE(S) CHARGED FOR OYSTER SHELL RETENTION; TO AMEND
10 SECTION 49-15-64.5, MISSISSIPPI CODE OF 1972, TO CLARIFY WHAT
11 METHODS MAY BE USED IN THE TAKING OF SALTWATER SHRIMP; TO AMEND
12 SECTION 49-15-80, MISSISSIPPI CODE OF 1972, TO CLARIFY WHAT
13 METHODS MAY BE USED IN THE CATCHING, TAKING OR TRANSPORTING OF
14 CERTAIN FISH; TO REVISE THE LICENSE REQUIREMENTS AND FEES CHARGED
15 FOR CATCHING, TAKING OR TRANSPORTING FISH IN STATE WATERS; AND FOR
16 RELATED PURPOSES.

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

18 SECTION 1. Section 49-15-29, Mississippi Code of 1972, is
19 amended as follows:

20 49-15-29. (1) The commission shall assess and collect,
21 license fees and taxes as authorized under this chapter.

22 (2) All commercial licenses provided for under this chapter
23 that relate to * * * seafood shall be purchased from May 1 through
24 April 30 at the fees herein provided. The licenses shall expire
25 on April 30 following the date of issuance.

26 (3) When an application for an original or renewal license
27 of any kind authorized by this chapter is received by the
28 commission, the commission shall determine whether the vessel or
29 related equipment subject to that license is owned and operated in
30 compliance with applicable federal and state laws. If the
31 commission determines that a vessel or its owner is not in
32 compliance with applicable federal and state laws, then no license
33 shall be issued or renewed for the operation of that vessel for a
34 period of one (1) year. All licenses shall be made available for

35 purchase at any building which is regularly operated by the
36 department or commission on the Mississippi Gulf Coast.

37 (4) The commission may authorize any person, other than a
38 salaried employee of the state to issue any license under this
39 chapter which the commission deems appropriate. The authorized
40 person may collect and retain for issuance of the license the sum
41 of One Dollar (\$1.00) in addition to the license fee provided in
42 this chapter. The commission shall establish the qualifications
43 of persons authorized to issue licenses under this section and
44 shall also establish the procedure for the issuance of that
45 license by the authorized person and the procedure for collection
46 of license fees by and from the authorized person.

47 SECTION 2. Section 49-15-34, Mississippi Code of 1972, is
48 amended as follows:

49 49-15-34. (1) The commission shall require all boats used
50 under regulation of this chapter which are also used in waters of
51 other states and required by those states to pay licenses or fees
52 for the same purposes as licenses and fees are required under this
53 chapter to purchase a license which reflects that the licensed
54 boats are used within and without the territorial waters of
55 Mississippi. Upon the issuance of that license, the licensed
56 boat, if used exclusively for commercial fishing or charter boats
57 which have been licensed and authorized by the United States Coast
58 Guard under 46 CFR Sections 24-26 and 46 CFR Sections 175-187,
59 shall be deemed to be in the business of interstate
60 transportation, but this shall in no way affect the collection of
61 other licenses and fees by the commission which would otherwise be
62 due under this chapter. The commission shall assess and collect
63 an annual license fee of Twenty Dollars (\$20.00) on each boat
64 engaged in operations under this subsection.

65 (2) Notwithstanding the provisions of this chapter, the
66 commission shall establish a transport permit to land seafood in
67 this state which is legally taken outside of the Mississippi
68 territorial waters without obtaining a license under this chapter.

69 The commission by regulation shall require the registration * * *
70 of those landings. The commission may establish a permit fee in
71 an amount not to exceed the amount of the license fee established
72 in Section 49-15-28(1). This subsection shall not be construed to

73 supersede Section 49-15-71.

74 SECTION 3. Section 49-15-38, Mississippi Code of 1972, is
75 amended as follows:

76 49-15-38. (1) (a) Unless otherwise permitted by the
77 commission, no oysters shall be taken from the reefs of this state
78 unless culled upon the natural reefs, and all oysters less than
79 three (3) inches from end to end, and all dead shells, shall be
80 replaced, scattered and broadcast immediately on the natural reefs
81 from which they are taken. It is unlawful for any captain or
82 person in charge of any vessel, or any canner, packer, commission
83 man, dealer or other person to purchase, sell or to have in that
84 person's possession or under that person's control any oysters off
85 the public reefs or private bedding grounds not culled according
86 to this section, or any oysters under the legal size. A ten
87 percent (10%) tolerance shall be allowed in relation to any
88 culling.

89 (b) The commission may authorize the culling of oysters
90 of a lesser measure. That authorization shall be in response to
91 special circumstances or extreme natural conditions affecting the
92 habitat, including, but not limited to, flooding. The department
93 may establish checkpoints in any area within its jurisdiction to
94 conduct inspections, collect fees and issue tags in the
95 enforcement of * * * this chapter and regulations adopted by the
96 commission.

97 (2) The commission shall acquire and replant shells, seed
98 oysters and other materials, when funding is available, for the
99 purpose of growing oysters. * * *

100 (3) Any person, firm or corporation failing or refusing
101 to * * * pay the shell retention fee required under Section
102 49-15-46 to the department when called for by the department, is
103 guilty of a misdemeanor and, upon conviction, shall be fined not
104 more than One Hundred Dollars (\$100.00) for each barrel of shells
105 they fail or refuse * * * to tender the shell retention fee. In
106 addition to the fine, the violator shall pay the reasonable value

107 of the oyster shells and shall be ineligible to be licensed for
108 any activity set forth in this chapter for a period of two (2)
109 years from the date of conviction.

110 (4) The * * * planting of oyster shells as provided under
111 this chapter shall be under the direction and supervision of the
112 executive director of the department. Planting and replanting of
113 oyster shells shall be coordinated by the Gulf Coast Research
114 Laboratory. The governing authorities of each county and
115 municipality bordering upon the Mississippi Sound may assist the
116 commission and the Gulf Coast Research Laboratory in the planting
117 and replanting of oyster shells. * * *

118 SECTION 4. Section 49-15-46, Mississippi Code of 1972, is
119 amended as follows:

120 49-15-46. (1) Each in-state vessel used to catch, take,
121 carry or transport oysters from the reefs of the State of
122 Mississippi, or engaged in transporting any oysters in any of the
123 waters within the territorial jurisdiction of the State of
124 Mississippi, for commercial use, shall annually, before beginning
125 operations, be licensed by the commission and pay the following
126 license fee:

127 (a) Fifty Dollars (\$50.00) on all vessels or boats
128 utilized for tonging oysters or gathering oysters by hand; or

129 (b) One Hundred Dollars (\$100.00) on all vessels or
130 boats utilized for dredging oysters or gathering oysters by hand.

131 (2) Each out-of-state vessel used to catch, take, carry or
132 transport oysters from the reefs of the State of Mississippi, or
133 engaged in transporting any oysters in any of the waters within
134 the territorial jurisdiction of the State of Mississippi, for
135 commercial use, must annually, before beginning operations, be
136 licensed by the commission and pay the following license fee:

137 (a) One Hundred Dollars (\$100.00) on all vessels or
138 boats utilized for tonging oysters; or

139 (b) Two Hundred Dollars (\$200.00) on all vessels or
140 boats utilized for dredging oysters.

141 (3) All oysters harvested in the State of Mississippi shall
142 be tagged. Tags shall be issued by the department and shall bear
143 the catcher's name, the date and origin of the catch, the shell
144 stock dealer's name and permit number. The department shall
145 number all tags issued and shall maintain a record of those tags.

146 The commission, in its discretion, may adopt any regulations
147 regarding the tagging of oysters and other shellfish.

148 (4) Each person catching or taking oysters from the waters
149 of the State of Mississippi for personal use shall obtain a permit
150 from the commission and pay an annual recreational oyster permit
151 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
152 permit shall not be offered for sale. The limits on the allowable
153 catch of oysters for recreational purposes shall be three (3)
154 sacks per week. The department shall issue tags of a
155 distinguishing color to designate recreationally harvested
156 oysters, which shall be tagged on the same day of harvest in the
157 manner prescribed in subsection (3) of this section for
158 commercially harvested oysters or by regulation of the commission.

159 (5) The commission shall assess and collect a shell
160 retention fee * * * for the shells taken from waters within the
161 territorial jurisdiction of the State of Mississippi * * * as
162 follows:

163 (a) Resident harvesters - Twenty Cents (20¢) per sack
164 paid to the department the day of harvest;

165 (b) Nonresident harvesters - One Dollar (\$1.00) per
166 sack paid to the department the day of harvest;

167 (c) Recreational harvesters - Twenty Cents (20¢) per
168 sack paid to the department the day of harvest;

169 (d) Initial oyster processor, dealer or factory first
170 purchasing the oysters - Twenty Cents (20¢) per sack paid to the
171 department no later than the tenth day of the month following the
172 purchase, on forms submitted by the department.

173 Funds received from the shell retention fee shall be paid
174 into a special fund in the State Treasury to be appropriated by

175 the Legislature for use by the commission to further oyster
176 production in this state, which includes annual plantings of
177 oysters and/or cultch materials.

178 During open seasons, oysters may be taken only by hands,
179 tongs and dredges.

180 SECTION 5. Section 49-15-64.5, Mississippi Code of 1972, is
181 amended as follows:

182 49-15-64.5. (1) (a) Each freight boat, ice boat and
183 catching boat used in catching or transporting saltwater shrimp
184 taken from the waters of the State of Mississippi for sale in
185 their fresh state, or for canning, packing, freezing or drying,
186 shall first obtain from the commission an annual privilege license
187 and pay a license fee at the following rates:

188 (i) Fifty Dollars (\$50.00) for resident boats or
189 vessels under thirty (30) feet in length in overall measurements
190 and One Hundred Dollars (\$100.00) for nonresident boats or vessels
191 under thirty (30) feet in length in overall measurements;

192 (ii) Seventy-five Dollars (\$75.00) for resident
193 boats or vessels between thirty (30) and forty-five (45) feet in
194 length in overall measurements and One Hundred Dollars (\$100.00)
195 for nonresident boats or vessels between thirty (30) and
196 forty-five (45) feet in length in overall measurements;

197 (iii) One Hundred Dollars (\$100.00) for resident
198 boats or vessels greater than forty-five (45) feet in length in
199 overall measurements and Two Hundred Dollars (\$200.00) for
200 nonresident boats or vessels greater than forty-five (45) feet in
201 length in overall measurements.

202 (b) Beginning September 15, 1994, no nonresident shall
203 be issued a commercial fishing license under this chapter for the
204 taking of saltwater shrimp using any type of net if that
205 nonresident's state of domicile prohibits the issuing of
206 commercial fishing licenses to residents of this state to engage
207 in like activity.

208 (2) Each recreational vessel engaging in shrimping with a

209 net having a corkline length of sixteen (16) feet or less shall
210 pay an annual resident license fee of Fifteen Dollars (\$15.00) or
211 an annual nonresident license fee of Thirty Dollars (\$30.00).

212 (3) Every freight boat, ice boat and catching boat used in
213 catching or transporting saltwater shrimp taken from the waters of
214 the State of Mississippi for sale in their fresh state, or for
215 canning, packing, freezing, drying or as bait shall register the
216 name of the captain of the vessel at the time that the vessel
217 obtains the annual privilege license provided for in this section.

218 The individual registered as the captain of the vessel may be
219 substituted after notification to and the approval of the deputy
220 director or the deputy director's designated representative. The
221 captain shall purchase a license entitled "captain license." This
222 license shall be purchased at the same time the vessel license is
223 purchased. The fee for a captain license shall be a minimum of
224 Ten Dollars (\$10.00).

225 (4) During open seasons and in open areas, saltwater shrimp
226 may be taken only with shrimp trawls, trawls, butterfly nets,
227 skimmer nets, beach seines and cast nets.

228 SECTION 6. Section 49-15-80, Mississippi Code of 1972, is
229 amended as follows:

230 49-15-80. (1) (a) All vessels to be used in catching or
231 transporting fish in the waters of the State of Mississippi for
232 commercial purposes shall, before beginning operations, obtain an
233 annual license from the commission and pay a license fee according
234 to the following schedule:

235 (i) * * * All resident vessels engaged in
236 commercial hook and line fishing shall be issued a separate annual
237 license by the commission at a fee of One Hundred Dollars
238 (\$100.00). All nonresident vessels engaged in commercial hook and
239 line fishing shall be issued a separate annual license by the
240 commission at a fee of Four Hundred Dollars (\$400.00).

241 1. Each individual engaged in limited
242 commercial hook and line fishing must obtain a limited commercial

243 hook and line fisherman license and pay the following license
244 fees: One Hundred Dollars (\$100.00) for a resident limited
245 commercial hook and line fisherman license; Four Hundred Dollars
246 (\$400.00) for a nonresident limited commercial hook and line
247 fisherman license. The limited commercial hook and line fisherman
248 license limits a fisherman to selling no more than fifty (50) fish
249 per day, and the fisherman is restricted to any applicable
250 recreational length, bag and possession limits. Each individual
251 aboard a duly licensed commercial hook and line vessel must
252 possess a limited commercial hook and line fisherman license.

253 2. Each individual engaged in commercial hook
254 and line fishing must obtain a commercial hook and line fisherman
255 license and pay the following license fees: Two Hundred Fifty
256 Dollars (\$250.00) for a resident commercial hook and line
257 fisherman license; One Thousand Dollars (\$1,000.00) for a
258 nonresident commercial hook and line fisherman license. Each
259 individual aboard a duly licensed commercial hook and line vessel
260 must possess a commercial hook and line fisherman license.

261 (ii) A resident fee of One Hundred Dollars
262 (\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),
263 on boats using trammel nets, gill nets or seines not more than one
264 thousand two hundred (1,200) feet in length.

265 (b) Beginning September 15, 1994, no nonresident shall
266 be issued a commercial fishing license under this chapter for the
267 taking of fish using any type of net if that nonresident's state
268 of domicile prohibits the issuing of commercial fishing licenses
269 to residents of this state to engage in like activity.

270 (2) Each factory or manufacturing establishment engaging in
271 the manufacture of oil, fish scrap, fish meal, fertilizer or other
272 products from menhaden, shall pay a license fee of Five Hundred
273 Dollars (\$500.00).

274 (3) Each boat or vessel engaging in the catching, taking or
275 transporting menhaden in the waters of the State of Mississippi,
276 the sum of One Hundred Dollars (\$100.00) and shall pay Fifty

277 Dollars (\$50.00) on each net, seine, trawl or purse net used in
278 catching or taking menhaden in the waters of the State of
279 Mississippi.

280 (4) During open seasons and in open areas, finfish may be
281 taken with hook and line, trawls, butterfly nets, skimmer trawls,
282 seines, gigs, spears, gill nets, trammel nets, cast nets and
283 minnow traps. Purse seines may be used only to harvest menhaden
284 or other species of fishes in the family Clupeidae.

285 SECTION 7. This act shall take effect and be in force from
286 and after July 1, 1999.