

By: Representative Ellington

To: Conservation and  
Water ResourcesHOUSE BILL NO. 1304  
(As Passed the House)

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 \* \* \* provided in this chapter. The licenses  
25 shall expire 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 inside and outside 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 for which they fail or refuse \* \* \* to tender the shell retention  
106 fee. In addition to the fine, the violator shall pay the

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

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 gathering oysters by hand;  
139 or

140 (b) Two Hundred Dollars (\$200.00) on all vessels or

141 boats utilized for dredging oysters.

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

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

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

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

164 (a) Resident commercial harvesters - Fifteen Cents  
165 (15¢) per sack paid to the department on the day of harvest;

166 (b) Nonresident commercial harvesters - One Dollar  
167 (\$1.00) per sack paid to the department on the day of harvest;

168 (c) Recreational harvesters - Fifteen Cents (15¢) per  
169 sack paid to the department on the day of harvest;

170 (d) Initial oyster processor, dealer or factory first  
171 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the  
172 department no later than the tenth day of the month following the  
173 purchase, on forms submitted by the department.

174 Funds received from the shell retention fee shall be paid

175 into a special fund in the State Treasury to be appropriated by  
176 the Legislature for use by the commission to further oyster  
177 production in this state, which includes annual plantings of  
178 oysters and/or cultch materials.

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

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

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

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

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

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

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

209           (2) Each recreational vessel engaging in shrimping with a  
210 net having a corkline length of sixteen (16) feet or less shall  
211 pay an annual resident license fee of Fifteen Dollars (\$15.00) or  
212 an annual nonresident license fee of Thirty Dollars (\$30.00).

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

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

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

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

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

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

243 a commercial hook and line fisherman license and pay the following  
244 license fees: One Hundred Dollars (\$100.00) for a resident  
245 commercial hook and line fisherman license; or Four Hundred  
246 Dollars (\$400.00) for a nonresident commercial hook and line  
247 fisherman license. Each individual aboard a duly licensed  
248 commercial hook and line vessel must possess a commercial hook and  
249 line fisherman license.

250 (ii) A resident fee of One Hundred Dollars  
251 (\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),  
252 on boats using trammel nets, gill nets or seines not more than one  
253 thousand two hundred (1,200) feet in length.

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

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

263 (3) Each boat or vessel engaging in the catching, taking or  
264 transporting menhaden in the waters of the State of Mississippi,  
265 the sum of One Hundred Dollars (\$100.00) and shall pay Fifty  
266 Dollars (\$50.00) on each net, seine, trawl or purse net used in  
267 catching or taking menhaden in the waters of the State of  
268 Mississippi.

269 (4) During open seasons and in open areas, finfish may be  
270 taken with hook and line, trawls, butterfly nets, skimmer trawls,  
271 seines, gigs, spears, gill nets, trammel nets, cast nets and  
272 minnow traps.

273 (5) Purse seines may be used only to harvest menhaden or  
274 other species of fishes in the family Clupeidae. Sections  
275 49-15-71, 49-15-75 and 49-15-94 shall apply to the harvesting of  
276 menhaden or other species of fishes in the family Clupeidae by use



277 of purse seines.

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