

By: Representative Ellington

To: Conservation and
Water ResourcesHOUSE BILL NO. 1304
(As Sent to Governor)

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; TO
16 AMEND SECTION 49-15-63, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
17 LICENSE REVOCATION FOR THIRD AND SUBSEQUENT VIOLATIONS OF SEAFOOD
18 LAWS SHALL APPLY TO THE CONVICTED PARTY AND TO THE BOAT INVOLVED
19 IN THE SEAFOOD VIOLATION AND TO PROVIDE THAT CERTAIN INDIVIDUALS
20 CAPTAINING OR OWNING SALTWATER SHRIMP VESSELS SHALL BE SUBJECT TO
21 PENALTIES; AND FOR RELATED PURPOSES.

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

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

25 49-15-29. (1) The commission shall assess and collect,
26 license fees and taxes as authorized under this chapter.

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

31 (3) When an application for an original or renewal license
32 of any kind authorized by this chapter is received by the
33 commission, the commission shall determine whether the vessel or
34 related equipment subject to that license is owned and operated in
35 compliance with applicable federal and state laws. If the
36 commission determines that a vessel or its owner is not in

37 compliance with applicable federal and state laws, then no license
38 shall be issued or renewed for the operation of that vessel for a
39 period of one (1) year. All licenses shall be made available for
40 purchase at any building which is regularly operated by the
41 department or commission on the Mississippi Gulf Coast.

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

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

54 49-15-34. (1) The commission shall require all boats used
55 under regulation of this chapter which are also used in waters of
56 other states and required by those states to pay licenses or fees
57 for the same purposes as licenses and fees are required under this
58 chapter to purchase a license which reflects that the licensed
59 boats are used inside and outside the territorial waters of
60 Mississippi. Upon the issuance of that license, the licensed
61 boat, if used exclusively for commercial fishing or charter boats
62 which have been licensed and authorized by the United States Coast
63 Guard under 46 CFR Sections 24-26 and 46 CFR Sections 175-187,
64 shall be deemed to be in the business of interstate
65 transportation, but this shall in no way affect the collection of
66 other licenses and fees by the commission which would otherwise be
67 due under this chapter. The commission shall assess and collect
68 an annual license fee of Twenty Dollars (\$20.00) on each boat
69 engaged in operations under this subsection.

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

74 The commission by regulation shall require the registration * * *

75 of those landings. The commission may establish a permit fee in
76 an amount not to exceed the amount of the license fee established
77 in Section 49-15-28(1). This subsection shall not be construed to
78 supersede Section 49-15-71.

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

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

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

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

105 (3) Any person, firm or corporation failing or refusing
106 to * * * pay the shell retention fee required under Section
107 49-15-46 to the department when called for by the department, is
108 guilty of a misdemeanor and, upon conviction, shall be fined not

109 more than One Hundred Dollars (\$100.00) for each barrel of shells
110 for which they fail or refuse * * * to tender the shell retention
111 fee. In addition to the fine, the violator shall pay the
112 reasonable value of the oyster shells and shall be ineligible to
113 be licensed for any activity set forth in this chapter for a
114 period of two (2) years from the date of conviction.

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

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

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

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

134 (b) One Hundred Dollars (\$100.00) on all vessels or
135 boats utilized for dredging oysters.

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

142 (a) One Hundred Dollars (\$100.00) on all vessels or

143 boats utilized for tonging oysters or gathering oysters by hand;
144 or

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

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

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

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

165 (5) The commission shall assess and collect a shell
166 retention fee * * * for the shells taken from waters within the
167 territorial jurisdiction of the State of Mississippi * * * as
168 follows:

169 (a) Commercial and recreational harvesters - Fifteen
170 Cents (15¢) per sack paid to the department on the day of harvest;
171 and

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

176 Funds received from the shell retention fee shall be paid

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

181 During open seasons, oysters may be taken only by hands,
182 tongs and dredges.

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

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

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

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

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

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

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

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

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

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

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

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

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

245 a commercial hook and line fisherman license and pay the following
246 license fees: One Hundred Dollars (\$100.00) for a resident
247 commercial hook and line fisherman license; or Four Hundred
248 Dollars (\$400.00) for a nonresident commercial hook and line
249 fisherman license. If a duly licensed commercial hook and line
250 vessel is engaged in commercial fishing, each individual aboard
251 must possess a commercial hook and line fisherman license.

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

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

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

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

271 SECTION 7. Section 49-15-63, Mississippi Code of 1972, is
272 amended as follows:

273 49-15-63. (1) (a) Any person, firm or corporation
274 violating any of the provisions of this chapter or any ordinance
275 duly adopted by the commission, unless otherwise specifically
276 provided for herein, shall, on conviction, be fined not less than
277 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
278 (\$500.00), for the first offense, unless the first offense is

279 committed during a closed season, in which case the fine shall be
280 not less than Five Hundred Dollars (\$500.00), nor more than One
281 Thousand Dollars (\$1,000.00); and not less than Five Hundred
282 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
283 for the second offense when such offense is committed within a
284 period of three (3) years from the first offense; and not less
285 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
286 Dollars (\$4,000.00), or imprisonment in the county jail for a
287 period not exceeding thirty (30) days for any third or subsequent
288 offense when such offense is committed within a period of three
289 (3) years from the first offense.

290 (b) In addition, upon conviction of such third or
291 subsequent offense, it shall be the duty of the court to revoke
292 the license of the convicted party and of the boat or vessel used
293 in such offense, and no further license shall be issued to such
294 person and for said boat to engage in catching or taking of any
295 seafoods from the waters of the State of Mississippi for a period
296 of one (1) year following such conviction. Forfeiture of any
297 equipment or nets used in a second or subsequent offense may be
298 instituted pursuant to Sections 49-7-251 through 49-7-257. If the
299 person in possession of or using the nets in the violation is not
300 the owner or licensee of the nets, the department shall notify the
301 owner or licensee of the nets. The nets shall be subject to
302 forfeiture unless the nets were stolen and prosecution for the
303 theft is initiated. Equipment as used in this section shall not
304 mean boats or vessels.

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

308 (d) Except as provided under subsection (5) of Section
309 49-15-45, any fines collected under this section shall be paid
310 into the Seafood Fund.

311 (2) For any violation of this chapter, the individual
312 registered as the captain of a freight boat, ice boat or catching

313 boat used in catching or transporting of saltwater shrimp shall be
314 subject to the penalties provided in this chapter, if that
315 individual is aboard the vessel. If that individual is not aboard
316 the vessel, the individual designated as the substitute captain in
317 accordance with Section 49-15-64.5 shall be subject to the
318 penalties provided in this chapter. If no individual is
319 designated under Section 49-15-64.5, the person, firm or
320 corporation owning the vessel shall be subject to the penalties
321 provided for boat captains.

322 (3) All citations issued to boat operators for not
323 possessing the boat's registration card shall be dismissed, along
324 with all related court costs, upon the presentment of the boat's
325 proper registration card to the court or magistrate holding the
326 trial or hearing.

327 SECTION 8. This act shall take effect and be in force from
328 and after July 1, 1999.