

By: Representative Ellington

To: Conservation and
Water Resources

HOUSE BILL NO. 1410

1 AN ACT TO AMEND SECTION 49-15-3, MISSISSIPPI CODE OF 1972, TO
2 DEFINE CERTAIN TERMS; TO AMEND SECTION 49-15-15, MISSISSIPPI CODE
3 OF 1972, TO PROVIDE THAT THE COMMISSION SHALL DEVELOP ARTIFICIAL
4 REEFS; TO AMEND SECTION 49-15-96, MISSISSIPPI CODE OF 1972, TO
5 CLARIFY FAMILY NAMES OF CERTAIN FISH; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 49-15-3, Mississippi Code of 1972, is
8 amended as follows:

9 49-15-3. As used in this chapter, the term:

10 (a) "Commission" means the Mississippi Commission on
11 Marine Resources.

12 (b) "Department" means the Department of Marine
13 Resources.

14 (c) "Domicile" means a person's principal or primary
15 place of abode in which a person's habitation is fixed and to
16 which the person, whenever absent, has the present intention of
17 returning after a departure of absence therefrom, regardless of
18 the duration of the absence. The burden of proving domicile in
19 the State of Mississippi shall be on the person claiming that
20 status. A person holding a current driver's license shall be
21 deemed to be domiciled within the state issuing the license. If a
22 person does not hold a current driver's license the following
23 evidence may be considered in establishing, but is not necessarily
24 determinative of domicile: residence for income or other tax
25 purposes, homestead exemption receipt or other means prescribed by
26 the commission. In the case of minors, domicile of the parents
27 shall be used as evidence of the minor's domicile.

28 (d) "Game fish" means cobia, also known as ling or
29 lemonfish (*rachycentron canadum*). The cobia is classified as game
30 fish.

31 (e) "Illegal oysters" means:

32 (i) All untagged shell stock;

33 (ii) Shell oysters obtained from uncertified shops
34 or dealers or from an unlicensed catcher;

35 (iii) Oysters obtained from waters not declared
36 safe and sanitary by the department, except those oysters caught
37 by the commission for re-laying or under private leases pursuant
38 to Section 49-15-27;

39 (iv) Shucked oysters obtained from uncertified
40 shops or repackers.

41 (f) "Inspector" means the chief inspector, the
42 assistant chief inspector or any deputy inspector employed by the
43 Department of Wildlife, Fisheries and Parks.

44 (g) "Natural reefs" means any bottom under the
45 jurisdiction of the commission of one or more acres on which
46 oysters grow naturally, or have grown naturally, in a quantity
47 sufficient to warrant commercial fishing as a means of livelihood,
48 or have been used in such a manner within a period of ten (10)
49 years next preceding the time the bottoms may come up for
50 determination by the commission.

51 (h) "Resident" means a person, firm or corporation that
52 is domiciled in this state.

53 (i) "Seafood" means all oysters, saltwater fish,
54 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all
55 other species of marine or saltwater animal life existing or
56 living in the waters within the territorial jurisdiction of the
57 State of Mississippi.

58 (j) "Tonging reefs" means any bottom under the
59 jurisdiction of the commission designated by the commission as an
60 area in which oysters may only be taken by use of hand tongs.

61 (k) "Beach seine" means a single panel of netting to
62 which each end is attached to handles, that is pulled exclusively
63 by hand through the shallow water. Floats are attached to the
64 upper portion of the net and weights attached to the bottom
65 portion of the net, keeping the mouth of the net open and prevent
66 the fish to escape.

67 (l) "Butterfly net (wing net)" means a trawl with a
68 rigid frame holding open the trawl mouth rather than using trawl
69 doors.

70 (m) "Cast net" means any cast net or brille net or any
71 circular or conical weighted net designed to be thrown downward by
72 hand and withdrawn by an attached line.

73 (n) "Crab trap (pot)" means an enclosed framework of
74 wire with six (6) sides and with two (2) or more funnel shaped
75 openings where crabs enter to eat the bait and becoming entrapped.
76 The trap is baited from the bottom and is lowered to the water
77 bottom by an attached line, a float is attached to the line to
78 mark the location of the trap in the water.

79 (o) "Dip net" means a deep mesh bag which is fixed on a
80 frame and attached to a handle and used exclusively by hand.

81 (p) "Dredge" means any device which has metal frames
82 and a webbing of heavy rope or wire, the dredge is attached to a
83 chain or cable and pulled from a boat or vessel digging shellfish
84 from the sea bottom.

85 (q) "Drop net" means any device constructed of mesh
86 attached to a frame and forms a net basket, which is baited and
87 used to catch crabs.

88 (r) "Gig" means a fishing spear with or without barbs
89 propelled by hands.

90 (s) "Gill net" means any net, of one or more layers,
91 not customarily used for shrimp or menhaden fishing, with a mesh
92 of such size and design as to be used primarily to catch or
93 entangle fish by the gills or other bony projections.

94 (t) "Hook and line" means any device which is used to
95 entice fish by edible or artificial bait or lures to become caught
96 by a hook.

97 (u) "Limited commercial hook and line fisherman
98 license" limits the fishermen to selling no more than fifty (50)
99 fish per day and the fisherman is restricted to all applicable
100 recreational finfish length, bag and possession limits.

101 (v) "Minnow trap" means any device used to catch any
102 euryhaline species of minnow in the family Cyprinodontidae.

103 (w) "Purse seine" means any net or device commonly
104 known as a purse seine and/or ring net that can be pursed or
105 closed by means of a drawstring or other device that can be drawn
106 to close the bottom of the net, or the top of the net, or both.
107 Such nets are constructed of mesh of such size and design as not
108 to be used primarily to entangle commercial size fish by the gills
109 or other bony projections.

110 (x) "Push trawl" means a trawl that is spread by poles
111 suspended in a "V" configuration from the bow of the trawler.

112 (y) "Seine" means any net used to enclose or entrap
113 fish either in a bag or where its ends are pulled together on a
114 vessel or a shore and constructed with a mesh of such size and
115 design as not to be used primarily to ensnare or entangle
116 commercial size fish by the gills or other bony projections.

117 (z) "Spear" means any device which has a long sharply
118 pointed shaft and is propelled by hand, rubber bands or compressed
119 air through the water. Used by skin or scuba divers to spear fish
120 and retain the fish by wounding or killing.

121 (aa) "Shrimp trawl" means a conical shaped net dragged
122 along the bottom.

123 (bb) "Shoreline" means any point of land exposed at
124 mean low tide. shoreline shall refer to the mainland of
125 Mississippi and not any of the barrier islands in Mississippi's
126 marine waters.

127 (cc) "Skimmer trawl" means a trawl that extends from
128 the outrigger of a vessel with a cable and a lead weight holding
129 the trawl mouth open.

130 (dd) "Trammel net" means any device composed of layers
131 of netting material attached to one or more float lines or one or
132 more weighted bottom lines, with the layers of netting being
133 constructed of fine mesh and of larger mesh so that a fish
134 attempting to pass through the device pushes the smaller mesh
135 through the larger mesh creating a pocket or compartment in which
136 the fish is entrapped, entangled, or restricted.

137 (ee) "Trawl" means any net which is funnel shaped
138 pulled through the water or over the bottom with boards or other
139 means to spread the mouth of the net open while being fished.

140 (ff) "Tong" means a device to which rakes or heads are
141 attached to the ends of long handles or stays and operated by
142 hand.

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

145 49-15-15. (1) In addition to any other powers and duties
146 authorized by law, the commission shall have the following powers
147 and duties regarding the regulation of seafood:

148 (a) To exercise full jurisdiction and authority over
149 all marine aquatic life and to regulate any matters pertaining to
150 seafood, including cultivated seafood;

151 (b) To adopt, promulgate, amend or repeal, after due
152 notice and public hearing, in accordance with the Mississippi
153 Administrative Procedures Law and subject to the limitations in
154 subsection (2) of this section, rules and regulations authorized
155 under this chapter, including, but not limited to, rules and
156 regulations necessary for the protection, conservation or
157 propagation of all shrimp, oysters, commercial fish and crabs in
158 the waters under the territorial jurisdiction of the State of
159 Mississippi and for the regulation of gill net and purse seine

160 fishermen. All public hearings under this chapter concerning the
161 regulation of marine resources shall be held in Hancock, Harrison
162 or Jackson counties. Each rule or regulation promulgated under
163 this chapter shall immediately be advertised one (1) time in a
164 newspaper or newspapers having general circulation in counties
165 affected by that regulation. A regulation shall become effective
166 at 6:00 a.m. on the day after its publication;

167 (c) To regulate all seafood sanitation and processing
168 programs. In the three (3) coastal counties, the sanitation
169 program regulating processing plants and seafood sold in retail
170 stores operating in conjunction with a processing plant or seafood
171 market that primarily deals with seafood is under the exclusive
172 authority of the commission. The commission may also inspect and
173 regulate those areas of any seafood processing plant which process
174 freshwater species at any site where the department inspects
175 seafood processing plants. To effectively and efficiently
176 implement the state seafood sanitation program, the State Health
177 Officer and the executive director of the department shall enter
178 into a memorandum of understanding, which at a minimum, clearly
179 specifies the responsibilities of each agency in implementing the
180 seafood sanitation program, as well as the sharing of information
181 and communication and coordination between the agencies;

182 (d) To set standards of measure;

183 (e) To set requirements for employment of
184 nonenforcement commission employees whose compensation shall be
185 governed by the rules and regulations of the State Personnel
186 Board;

187 (f) To acquire and dispose of commission equipment and
188 facilities;

189 (g) To keep proper records of the commission, including
190 an official ordinance book which contains all rules and
191 regulations promulgated by the commission under this chapter;

192 (h) To enter into advantageous interstate and

193 intrastate agreements with proper officials, which directly or
194 indirectly result in the protection, propagation and conservation
195 of the seafood of the State of Mississippi, or continue any such
196 agreements now in existence;

197 (i) To arrange, negotiate or contract for the use of
198 available federal, state and local facilities which would aid in
199 the propagation, protection and conservation of the seafood of the
200 State of Mississippi;

201 (j) To authorize the operation of double rigs in the
202 waters lying between the mainland coast and the island chain, and
203 those rigs shall not exceed a length of twenty-five (25) feet at
204 the cork line, and to prescribe the length at the lead line for
205 each rig, net or try-trawl;

206 (k) To destroy or dispose of equipment or nets which
207 have been lawfully seized by the commission and which are not sold
208 under Section 49-15-65;

209 (l) To open, close and regulate fishing seasons for the
210 taking of shrimp, oysters, fish taken for commercial purposes and
211 crabs and set size, catching and taking regulations for all types
212 of seafood and culling regulations for oysters, except as
213 otherwise specifically provided by law;

214 (m) To utilize the resources of the Gulf Coast Research
215 Laboratory to the fullest extent possible; and

216 (n) To develop a resource management plan to preserve
217 our seafood resources and to ensure a safe supply of these
218 resources;

219 (o) To promote, construct, monitor and maintain
220 artificial fishing reefs in the marine waters of the State of
221 Mississippi and in federal waters adjacent thereto, and to accept
222 grants and donations of money or materials from public and private
223 sources for such reefs. The commission is further authorized to
224 apply for any federal permits necessary for the construction or
225 maintenance of artificial fishing reefs in federal waters.

226 (2) The commission shall not adopt rules, regulations or
227 ordinances pertaining to marine resources which are more stringent
228 than federal regulations. In any case where federal laws and
229 regulations are silent on a matter pertaining to marine resources,
230 the laws and regulations of the State of Mississippi shall
231 control. The commission shall review all marine resource
232 ordinances for compliance with the no more stringent standard and
233 revise any ordinances more stringent than this standard no later
234 than December 31, 1992. This subsection shall not apply to rules,
235 regulations or ordinances pertaining to the wild stock of marine
236 finfish.

237 SECTION 3. Section 49-15-96, Mississippi Code of 1972, is
238 amended as follows:

239 49-15-96. Vessels licensed under Section 49-15-64.5 may keep
240 and clean, tenderloin or fillet, for personal consumption only the
241 following types of fish which are caught in the shrimp nets or
242 trawls of the vessel: white trout * * *, ground mullet
243 (sciaenidae family) and flounder (bothidae and pleuronctide
244 families).

245 SECTION 4. This act shall take effect and be in force from
246 and after July 1, 1999.