

By: Senator(s) Hewes

To: Ports and Marine  
ResourcesSENATE BILL NO. 2756  
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 49-15-15, 49-15-16, 49-15-303,  
2 49-15-305 AND 49-15-307, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
3 DUTIES OF THE COMMISSION, DEPARTMENT AND EXECUTIVE DIRECTOR OF  
4 MARINE RESOURCES; TO AMEND SECTION 49-15-29, MISSISSIPPI CODE OF  
5 1972, TO MAKE TECHNICAL REVISION RELATING TO COMMERCIAL LICENSES;  
6 TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972, TO CLARIFY  
7 TAKING OF OYSTERS BY HAND; AND FOR RELATED PURPOSES. BE IT  
8 ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9  
10 SECTION 1. Section 49-15-15, Mississippi Code of 1972, is  
11 amended as follows:

12 49-15-15. (1) In addition to any other powers and duties  
13 authorized by law, the commission shall have the following powers  
14 and duties regarding the regulation of seafood:

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

18 (b) To adopt, promulgate, amend or repeal, after due  
19 notice and public hearing, in accordance with the Mississippi  
20 Administrative Procedures Law and subject to the limitations in  
21 subsection (2) of this section, rules and regulations authorized  
22 under this chapter, including, but not limited to, rules and  
23 regulations necessary for the protection, conservation or  
24 propagation of all seafood in the waters under the territorial  
25 jurisdiction of the State of Mississippi and for the regulation of  
26 gill net and purse seine fishermen. All public hearings under  
27 this chapter concerning the regulation of marine resources shall  
28 be held in Hancock, Harrison or Jackson counties. Each rule or  
29 regulation promulgated under this chapter shall immediately be

30 advertised one (1) time in a newspaper or newspapers having  
31 general circulation in counties affected by that regulation. A  
32 regulation shall become effective at 6:00 a.m. on the day after  
33 its publication;

34 (c) To regulate all seafood sanitation and processing  
35 programs. In the three (3) coastal counties, the sanitation  
36 program regulating processing plants and seafood sold in retail  
37 stores operating in conjunction with a processing plant or seafood  
38 market that primarily deals with seafood is under the exclusive  
39 authority of the commission. The commission may also inspect and  
40 regulate those areas of any seafood processing plant which process  
41 freshwater species at any site where the department inspects  
42 seafood processing plants. To effectively and efficiently  
43 implement the state seafood sanitation program, the State Health  
44 Officer and the executive director of the department shall enter  
45 into a memorandum of understanding, which at a minimum, clearly  
46 specifies the responsibilities of each agency in implementing the  
47 seafood sanitation program, as well as the sharing of information  
48 and communication and coordination between the agencies;

49 (d) To set standards of measure;

50 (e) To set requirements for employment of  
51 nonenforcement commission employees whose compensation shall be  
52 governed by the rules and regulations of the State Personnel  
53 Board;

54 (f) To acquire and dispose of commission equipment and  
55 facilities;

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

59 (h) To enter into advantageous interstate and  
60 intrastate agreements with proper officials, which directly or  
61 indirectly result in the protection, propagation and conservation  
62 of the seafood of the State of Mississippi, or continue any such  
63 agreements now in existence;

64 (i) To arrange, negotiate or contract for the use of  
65 available federal, state and local facilities which would aid in  
66 the propagation, protection and conservation of the seafood of the

67 State of Mississippi;

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

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

76 (l) To open, close and regulate fishing seasons for the  
77 taking of shrimp, oysters, fish taken for commercial purposes and  
78 crabs and set size, catching and taking regulations for all types  
79 of seafood and culling regulations for oysters, except as  
80 otherwise specifically provided by law;

81 (m) To utilize the resources of the Gulf Coast Research  
82 Laboratory to the fullest extent possible; \* \* \*

83 (n) To develop a resource management plan to preserve  
84 our seafood resources and to ensure a safe supply of these  
85 resources;

86 (o) To prescribe types and forms of scientific permits  
87 for public educational or scientific institutions, federal and  
88 state agencies and consultants performing marine resource studies;  
89 and

90 (p) To suspend the issuance of licenses when necessary  
91 to impose a moratorium to conserve a fishery resource.

92 (2) The commission shall not adopt rules, regulations or  
93 ordinances pertaining to marine resources which are more stringent  
94 than federal regulations. In any case where federal laws and  
95 regulations are silent on a matter pertaining to marine resources,  
96 the laws and regulations of the State of Mississippi shall  
97 control. The commission shall review all marine resource  
98 ordinances for compliance with the no more stringent standard and  
99 revise any ordinances more stringent than this standard no later

100 than December 31, 1992. This subsection shall not apply to rules,  
101 regulations or ordinances pertaining to the wild stock of marine  
102 fin fish.

103 SECTION 2. Section 49-15-16, Mississippi Code of 1972, is  
104 amended as follows:

105 49-15-16. The commission \* \* \* may develop a limited entry  
106 fisheries management program for all resource groups. The  
107 commission may require a license for each resource group and shall  
108 establish the fees for such licenses. The commission may  
109 establish a means test or any other criteria to determine  
110 eligibility for licenses under the limited entry program. The  
111 commission may impose a moratorium on the issuance of licenses for  
112 a fishery resource.

113 SECTION 3. Section 49-15-29, Mississippi Code of 1972, is  
114 amended as follows:

115 49-15-29. (1) The commission shall assess and collect,  
116 license fees and taxes as authorized under this chapter.

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

121 (3) When an application for an original or renewal license  
122 of any kind authorized by this chapter is received by the  
123 commission, the commission shall determine whether the vessel or  
124 related equipment subject to that license is owned and operated in  
125 compliance with applicable federal and state laws. If the  
126 commission determines that a vessel or its owner is not in  
127 compliance with applicable federal and state laws, then no license  
128 shall be issued or renewed for the operation of that vessel for a  
129 period of one (1) year. All licenses shall be made available for  
130 purchase at any building which is regularly operated by the  
131 department or commission on the Mississippi Gulf Coast.

132 (4) The commission may authorize any person, other than a

133 salaried employee of the state to issue any license under this  
134 chapter which the commission deems appropriate. The authorized  
135 person may collect and retain for issuance of the license the sum  
136 of One Dollar (\$1.00) in addition to the license fee provided in  
137 this chapter. The commission shall establish the qualifications  
138 of persons authorized to issue licenses under this section and  
139 shall also establish the procedure for the issuance of that  
140 license by the authorized person and the procedure for collection  
141 of license fees by and from the authorized person.

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

144 49-15-46. (1) Each in-state vessel used to catch, take,  
145 carry or transport oysters from the reefs of the State of  
146 Mississippi, or engaged in transporting any oysters in any of the  
147 waters within the territorial jurisdiction of the State of  
148 Mississippi, for commercial use, shall annually, before beginning  
149 operations, be licensed by the commission and pay the following  
150 license fee:

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

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

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

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

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

165 (3) All oysters harvested in the State of Mississippi shall

166 be tagged. Tags shall be issued by the department and shall bear  
167 the catcher's name, the date and origin of the catch, the shell  
168 stock dealer's name and permit number. The department shall  
169 number all tags issued and shall maintain a record of those tags.

170 (4) Each person catching or taking oysters from the waters  
171 of the State of Mississippi for personal use shall obtain a permit  
172 from the commission and pay an annual recreational oyster permit  
173 fee of Ten Dollars (\$10.00). Oysters caught under a recreational  
174 permit shall not be offered for sale. The limits on the allowable  
175 catch of oysters for recreational purposes shall be three (3)  
176 sacks per week. The department shall issue tags of a  
177 distinguishing color to designate recreationally harvested  
178 oysters, which shall be tagged on the same day of harvest in the  
179 manner prescribed in subsection (3) of this section for  
180 commercially harvested oysters.

181 (5) The commission shall assess and collect a fee of Fifty  
182 Cents (50¢) per sack for the shells taken from waters within the  
183 territorial jurisdiction of the State of Mississippi, but  
184 processed in other states, in lieu of taking delivery of those  
185 shells. Funds received from the shell retention fee shall be paid  
186 into a special fund in the State Treasury to be appropriated by  
187 the Legislature for use by the commission to further oyster  
188 production in this state.

189 During open seasons, oysters may only be taken by hand, tongs  
190 and dredges.

191 SECTION 5. Section 49-15-303, Mississippi Code of 1972, is  
192 amended as follows:

193 49-15-303. The commission shall have the following powers  
194 and duties:

195 (a) To formulate the policy of the department regarding  
196 marine resources within the jurisdiction of the department;

197 (b) To enter into and authorize the executive director  
198 to execute contracts, grants and cooperative agreements with any

199 public or private institution, federal or state agency or any  
200 subdivision thereof to carry out the duties of the commission;

201 (c) To adopt, amend or repeal such rules and  
202 regulations necessary for the operation of the commission and the  
203 department necessary for the protection, conservation and  
204 propagation of seafood, and necessary for the management of  
205 commercial and recreational taking of seafood; and

206 (d) To discharge such other duties and powers as are  
207 necessary to implement state policy regarding marine resources.

208 SECTION 6. Section 49-15-305, Mississippi Code of 1972, is  
209 amended as follows:

210 49-15-305. (1) The commission shall submit three (3)  
211 nominees for the position of executive director to the Governor.  
212 The Governor shall appoint the executive director from the list of  
213 nominees with the advice and consent of the Senate. The  
214 commission may remove the executive director from office for good  
215 cause. The executive director shall be knowledgeable and  
216 experienced in marine resources management.

217 (2) The executive director of the department shall have the  
218 following powers and duties:

219 (a) To supervise and direct all administrative,  
220 inspection and technical activities and personnel of the  
221 department;

222 (b) To employ qualified professional personnel in the  
223 subject matter or fields, and such other technical and clerical  
224 staff as may be required for the operation of the department;

225 (c) To coordinate all studies in the State of  
226 Mississippi concerned with the supply, development, use and  
227 conservation of marine resources;

228 (d) To prepare and deliver to the Legislature and the  
229 Governor on or before January 1 of each year, and at such other  
230 times as may be required by the Legislature or Governor, a full  
231 report of the work of the department, including a detailed

232 statement of expenditures of the department and any  
233 recommendations the department may have;

234 (e) To enter into cooperative agreements with any  
235 federal or state agency or subdivision thereof, or any public or  
236 private institution located inside or outside the State of  
237 Mississippi, or any person, corporation or association in  
238 connection with studies and investigations pertaining to marine  
239 resources, provided the agreements do not have a financial cost in  
240 excess of the amounts appropriated for such purposes by the  
241 Legislature; and

242 (f) To carry out all regulations and rules adopted by  
243 the department and enforce all licenses and permits issued by the  
244 department.

245 SECTION 7. Section 49-15-307, Mississippi Code of 1972, is  
246 amended as follows:

247 49-15-307. The department shall have the following powers  
248 and duties:

249 (a) To formulate the policy of the department regarding  
250 marine resources within the jurisdiction of the department;

251 (b) To apply for, receive and expend any federal or  
252 state funds or contributions, gifts, devises, bequests or funds  
253 from any other source;

254 (c) To commission or conduct studies designed to  
255 determine alternative methods of managing and conserving the  
256 marine resources of this state in a manner to insure efficiency  
257 and sustained productivity; \* \* \*

258 (d) To issue permits and licenses authorized by law or  
259 regulation;

260 (e) To equip and supply check stations, remote duty  
261 stations and personnel or extended duty;

262 (f) To develop programs to enhance the marketing of the  
263 state's recreational and commercial marine resources;

264 (g) To provide gear, insignias, and otherwise equip



265 personnel subject to the amount appropriated for such purposes:

266 and

267           (h) To discharge such other duties, responsibilities  
268 and powers as are necessary to implement the provisions of this  
269 article.

270           SECTION 8. This act shall take effect and be in force from  
271 and after its passage.