

By: Senator(s) Hewes

To: Ports and Marine
ResourcesSENATE BILL NO. 2756
(As Sent to Governor)

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 49-15-17, MISSISSIPPI CODE OF
5 1972, TO PROVIDE FOR AN ARTIFICIAL REEF PROGRAM ACCOUNT WITHIN THE
6 SEAFOOD SPECIAL FUND; AND FOR RELATED PURPOSES. BE IT ENACTED BY
7 THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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

11 49-15-15. (1) In addition to any other powers and duties
12 authorized by law, the commission shall have the following powers
13 and duties regarding the regulation of seafood:

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

17 (b) To adopt, promulgate, amend or repeal, after due
18 notice and public hearing, in accordance with the Mississippi
19 Administrative Procedures Law and subject to the limitations in
20 subsection (2) of this section, rules and regulations authorized
21 under this chapter, including, but not limited to, rules and
22 regulations necessary for the protection, conservation or
23 propagation of all seafood in the waters under the territorial
24 jurisdiction of the State of Mississippi and for the regulation of
25 gill net and purse seine fishermen. All public hearings under
26 this chapter concerning the regulation of marine resources shall
27 be held in Hancock, Harrison or Jackson counties. Each rule or
28 regulation promulgated under this chapter shall immediately be
29 advertised one (1) time in a newspaper or newspapers having

30 general circulation in counties affected by that regulation. A
31 regulation shall become effective at 6:00 a.m. on the day after
32 its publication;

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

48 (d) To set standards of measure;

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

52 (f) To acquire and dispose of commission equipment and
53 facilities;

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

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

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

66 (j) To authorize the operation of double rigs in the

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

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

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

79 (m) To utilize the resources of the Gulf Coast Research
80 Laboratory to the fullest extent possible; * * *

81 (n) To develop a resource management plan to
82 preserve * * * seafood resources and to ensure a safe supply of
83 these resources;

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

87 (p) To suspend the issuance of licenses when necessary
88 to impose a moratorium to conserve a fishery resource; and

89 (q) To promote, construct, monitor and maintain
90 artificial fishing reefs in the marine waters of the State of
91 Mississippi and in adjacent federal waters; to accept grants and
92 donations of money or materials from public and private sources
93 for such reefs; and to apply for any federal permits necessary for
94 the construction or maintenance of artificial fishing reefs in
95 federal waters.

96 (2) The commission shall not adopt rules, regulations or
97 ordinances pertaining to marine resources which are more stringent
98 than federal regulations. In any case where federal laws and
99 regulations are silent on a matter pertaining to marine resources,

100 the laws and regulations of the State of Mississippi shall
101 control. The commission shall review all marine resource
102 ordinances for compliance with the no more stringent standard and
103 revise any ordinances more stringent than this standard no later
104 than December 31, 1992. This subsection shall not apply to rules,
105 regulations or ordinances pertaining to the wild stock of marine
106 fin fish.

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

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

117 SECTION 3. Section 49-15-17, Mississippi Code of 1972, is
118 amended as follows:

119 49-15-17. (1) (a) All monies received or obtained by the
120 commission under the provisions of this chapter shall be paid over
121 by the commission to the State Treasurer and shall be deposited
122 into the fund known as the "Seafood Fund." All revenues collected
123 through the department, to include, but not limited to, commercial
124 saltwater licenses and taxes, permits, fines and penalties, and
125 confiscated catches, shall be deposited into the department
126 operating account (Seafood Fund) and expended for the operation of
127 the department, as authorized by the Legislature.

128 (b) There is established a special account to be known
129 as the "Artificial Reef Program Account" within the seafood fund.
130 Any funds received from any public or private source for the
131 purpose of promoting, constructing, monitoring or maintaining
132 artificial reefs in the marine waters of the state or in federal

133 waters adjacent to the marine waters of the state shall be
134 credited to the account. Any unexpended funds remaining in the
135 account at the end of the fiscal year shall not lapse into the
136 seafood fund, but shall remain in the account. The department may
137 expend any funds in the account, subject to appropriation by the
138 Legislature, to accomplish the purpose of the account.

139 (2) The fund shall be treated as a special trust fund and
140 interest earned on the principal shall be credited to the fund.

141 (3) The secretary of the commission shall keep accurate
142 reports of monies handled as a part of the permanent records of
143 the commission, and the State Treasurer shall furnish the
144 secretary of the commission such forms as may be needed, and the
145 secretary shall account for such forms in his reports to the
146 treasurer.

147 SECTION 4. Section 49-15-303, Mississippi Code of 1972, is
148 amended as follows:

149 49-15-303. The commission shall have the following powers
150 and duties:

151 (a) To formulate the policy of the department regarding
152 marine resources within the jurisdiction of the department;

153 (b) To enter into and authorize the executive director
154 to execute contracts, grants and cooperative agreements with any
155 public or private institution, federal or state agency or any
156 subdivision thereof to carry out the duties of the commission;

157 (c) To adopt, amend or repeal any rules and regulations
158 necessary for the operation of the commission and the department
159 necessary for the protection, conservation and propagation of
160 seafood, and necessary for the management of commercial and
161 recreational taking of seafood; and

162 (d) To discharge * * * other duties and powers as are
163 necessary to implement state policy regarding marine resources.

164 SECTION 5. Section 49-15-305, Mississippi Code of 1972, is
165 amended as follows:

166 49-15-305. (1) The commission shall submit three (3)
167 nominees for the position of executive director to the Governor.
168 The Governor shall appoint the executive director from the list of
169 nominees with the advice and consent of the Senate. The
170 commission may remove the executive director from office for good
171 cause. The executive director shall be knowledgeable and
172 experienced in marine resources management.

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

175 (a) To supervise and direct all administrative,
176 inspection and technical activities and personnel of the
177 department;

178 (b) To employ qualified professional personnel in the
179 subject matter or fields, and any other technical and clerical
180 staff as may be required for the operation of the department;

181 (c) To coordinate all studies in the State of
182 Mississippi concerned with the supply, development, use and
183 conservation of marine resources;

184 (d) To prepare and deliver to the Legislature and the
185 Governor on or before January 1 of each year, and at any other
186 times as may be required by the Legislature or Governor, a full
187 report of the work of the department, including a detailed
188 statement of expenditures of the department and any
189 recommendations the department may have;

190 (e) To enter into cooperative agreements with any
191 federal or state agency or subdivision thereof, or any public or
192 private institution located inside or outside the State of
193 Mississippi, or any person, corporation or association in
194 connection with studies and investigations pertaining to marine
195 resources, provided the agreements do not have a financial cost in
196 excess of the amounts appropriated for the purposes by the
197 Legislature; and

198 (f) To carry out all regulations and rules adopted by

199 the commission and enforce all licenses and permits issued by the
200 department.

201 SECTION 6. Section 49-15-307, Mississippi Code of 1972, is
202 amended as follows:

203 49-15-307. The department shall have the following powers
204 and duties:

205 (a) To implement the policy of the commission regarding
206 marine resources within the jurisdiction of the department;

207 (b) To apply for, receive and expend any federal or
208 state funds or contributions, gifts, devises, bequests or funds
209 from any other source;

210 (c) To commission or conduct studies designed to
211 determine alternative methods of managing and conserving the
212 marine resources of this state in a manner to insure efficiency
213 and sustained productivity; * * *

214 (d) To issue permits and licenses authorized by law or
215 regulation;

216 (e) To equip and supply check stations, remote duty
217 stations and personnel for extended duty;

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

220 (g) To provide gear, insignias, and otherwise equip
221 personnel subject to the amount appropriated for those purposes;

222 and

223 (h) To discharge any other duties, responsibilities and
224 powers as are necessary to implement * * * this chapter.

225 SECTION 7. This act shall take effect and be in force from
226 and after its passage.