

By: Bowles

To: Game and Fish

HOUSE BILL NO. 396

1 AN ACT TO AMEND SECTION 25-43-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE MISSISSIPPI COMMISSION ON WILDLIFE, FISHERIES AND
3 PARKS SHALL BE REQUIRED TO PRESENT ALL NEW REGULATIONS OR RULES OR
4 CHANGES TO RULES OR REGULATIONS TO CERTAIN LEGISLATIVE COMMITTEES;
5 TO AMEND SECTION 49-4-4, MISSISSIPPI CODE OF 1972, IN CONFORMITY
6 THERETO; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 25-43-7, Mississippi Code of 1972, is
9 amended as follows:

10 25-43-7. (1) Prior to the adoption, amendment or repeal of
11 any rule, the agency shall give at least thirty (30) days' notice
12 of its intended action. The notice shall include a statement of
13 either the terms or substance of the intended action or a
14 description of the subjects and issues involved, and the manner in
15 which interested persons may present their views thereon. The
16 notice shall be filed with the office of the Secretary of State
17 and mailed by the agency to all persons who have made timely
18 request of the agency for advance notice of its rule-making
19 proceedings. The Secretary of State shall furnish copies at the
20 request of any person and shall be reimbursed by the requesting
21 person for the expense of providing such service.

22 (2) In accordance with the provisions of this chapter and in
23 addition to the provisions of subsection (1) of this section,

24 before the Commission on Wildlife, Fisheries and Parks may adopt,
25 amend or repeal any of its rules or regulations, the commission
26 shall present all of the proposed new rules or regulations or the
27 proposed repeal or amendment of any rules or regulations to both
28 the Game and Fish Committee of the Mississippi House of
29 Representatives and the Wildlife and Fisheries Committee of the
30 Mississippi Senate no later than thirty (30) days after the first
31 day of the next regular session of the Mississippi Legislature.

32 (3) If an agency finds that an imminent peril to the public
33 health, safety or welfare requires adoption of a rule upon fewer
34 than thirty (30) days' notice and states in writing its reasons
35 for that finding, it may proceed without prior notice of hearing
36 or upon any abbreviated notice and hearing that it finds
37 practicable to adopt an emergency rule. The rule may be effective
38 for a period of not longer than one hundred twenty (120) days,
39 renewable once for a period not exceeding ninety (90) days, but
40 the adoption of an identical rule under subsection (1) of this
41 section is not precluded. Rules adopted pursuant to this
42 subsection (3) by the Commission on Wildlife, Fisheries and Parks
43 may remain effective until thirty (30) days after the first day of
44 the next regular session of the Mississippi Legislature.

45 (4) No rule hereafter adopted is valid unless adopted in
46 substantial compliance with this section. A proceeding to contest
47 any rule on the ground of noncompliance with the procedural
48 requirements of this section must be commenced within one (1) year
49 from the effective date of the rule.

50 SECTION 2. Section 49-4-4, Mississippi Code of 1972, is
51 amended as follows:

52 49-4-4. (1) There is hereby created the Mississippi
53 Commission on Wildlife, Fisheries and Parks, to be composed of
54 five (5) persons appointed by the Governor, with the advice and

55 consent of the Senate, for a term of five (5) years. One (1)
56 person shall be appointed from each congressional district. The
57 initial terms of the members shall be one (1), two (2), three (3),
58 four (4) and five (5) years, respectively. Thereafter, all terms
59 shall be for five (5) years. An appointment to fill a vacancy
60 which arises for reasons other than by expiration of a term of
61 office shall be made from the respective congressional district
62 for the unexpired term only. The members serving on the
63 predecessor Commission on Wildlife Conservation on June 30, 1989,
64 shall continue to serve as members of the successor Commission on
65 Wildlife, Fisheries and Parks until the expiration of the term of
66 their appointment to the predecessor commission.

67 (2) The commission shall elect from its membership a
68 chairman who shall preside over meetings and a vice chairman who
69 shall preside in the absence of the chairman or when the chairman
70 shall be excused.

71 (3) The commission shall adopt rules and regulations
72 governing times and places for meetings and governing the manner
73 of conducting its business. Each member of the commission shall
74 take the oath prescribed by Section 268 of the Constitution, and
75 shall enter into bond in the amount of Thirty Thousand Dollars
76 (\$30,000.00) to be approved by the Secretary of State, conditioned
77 according to law, and payable to the State of Mississippi before
78 assuming the duties of office. Any member who shall not attend
79 three (3) consecutive regular meetings of the commission shall be
80 subject to removal by a majority vote of the commission members.

81 (4) The members of the commission shall receive no annual
82 salary but shall receive per diem compensation as authorized by

83 law for each day devoted to the discharge of official duties and
84 shall be entitled to reimbursement for all actual and necessary
85 expenses incurred in the discharge of their duties, including
86 mileage as authorized by law.

87 The commission shall be composed of persons with extensive
88 knowledge of or practical experience in at least one (1) of the
89 matters of jurisdiction of the commission. In addition, one (1)
90 of the commissioners shall be knowledgeable and experienced in
91 marine fisheries management, and at least three (3) of the
92 commissioners shall be knowledgeable and experienced in the
93 management of game and freshwater fisheries.

94 (5) The commission shall have the power to adopt, amend and
95 repeal such regulations and rules, in accordance with the
96 provisions of Section 25-43-7, as may be necessary for the
97 operation of the department.

98 (6) The commission shall have the power and authority to
99 issue all licenses and permits under the jurisdiction of the
100 department.

101 (7) In the furtherance of its duties and responsibilities,
102 the commission may conduct hearings, gather testimony and perform
103 other functions required to carry out its powers and duties as
104 prescribed by statute.

105 SECTION 3. This act shall take effect and be in force from
106 and after July 1, 2000.