

By: Ellington

To: Conservation and
Water Resources

HOUSE BILL NO. 1266
(As Passed the House)

1 AN ACT TO AMEND SECTION 49-15-39, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE COMMISSION ON MARINE RESOURCES TO ALLOW DREDGING
3 ON AREAS DESIGNATED AS TONGING REEFS FOR A LIMITED TIME FOR THE
4 PROPER MANAGEMENT OF THE RESOURCE; TO AMEND SECTION 49-15-3,
5 MISSISSIPPI CODE OF 1972, IN CONFORMANCE THERETO; AND FOR RELATED
6 PURPOSES.

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

8 SECTION 1. Section 49-15-39, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-39. (1) It is unlawful for any person to catch or
11 take oysters by means of dredging in any of the waters designated
12 as tonging reefs by the commission.

13 (2) The commission shall designate certain areas as tonging
14 reefs. The commission shall mark the boundaries of the areas
15 designated by appropriate poles, stakes or buoys of material that
16 will not injure watercraft. The commission may authorize the
17 taking of oysters on reefs designated as tonging reefs by dredge,
18 drag or scoop if the commission finds that the dredging, dragging
19 or scooping is necessary to manage the resource properly. Any
20 dredging, dragging or scooping authorized under this section shall
21 be for a specific time period as provided by the commission.

22 (3) Unless otherwise authorized under this section, any boat
23 or vessel which catches or takes oysters by means of dredges,
24 drags or scoops, other than hand tongs, from any of the areas
25 described in this section, or with a dredge or dredges in the
26 water, shall have all oysters on board the boat or vessel * * *
27 declared to be contraband. The oysters shall be taken and
28 confiscated by the department or any marine law enforcement

29 officer without court procedure. The captain and crew of the boat
30 or vessel, promptly upon being ordered so to do, shall transport
31 the oysters to a point on the public reefs of the state where the
32 boat or vessel is found and there scatter the oysters according to
33 the instructions of the enforcement officers. Any person who
34 violates this section shall be punished as provided in Section
35 49-15-63.

36 SECTION 2. Section 49-15-3, Mississippi Code of 1972, is
37 amended as follows:

38 49-15-3. As used in this chapter, the term:

39 (a) "Commission" means the Mississippi Commission on
40 Marine Resources.

41 (b) "Department" means the Department of Marine
42 Resources.

43 (c) "Domicile" means a person's principal or primary
44 place of abode in which a person's habitation is fixed and to
45 which the person, whenever absent, has the present intention of
46 returning after a departure or absence therefrom, regardless of
47 the duration of the absence. The burden of proving domicile in
48 the State of Mississippi shall be on the person claiming that
49 status. A person holding a current driver's license shall be
50 deemed to be domiciled within the state issuing the license. If a
51 person does not hold a current driver's license the following
52 evidence may be considered in establishing, but is not necessarily
53 determinative of domicile: residence for income or other tax
54 purposes, homestead exemption receipt or other means prescribed by
55 the commission. In the case of minors, domicile of the parents
56 shall be used as evidence of the minor's domicile.

57 (d) "Game fish" means cobia, also known as ling or
58 lemonfish (*rachycentron canadum*). The cobia is classified as game
59 fish.

60 (e) "Illegal oysters" means:

61 (i) All untagged shell stock;

62 (ii) Shell oysters obtained from uncertified shops
63 or dealers or from an unlicensed catcher;

64 (iii) Oysters obtained from waters not declared
65 safe and sanitary by the department, except those oysters caught

66 by the commission for re-laying or under private leases pursuant
67 to Section 49-15-27;

68 (iv) Shucked oysters obtained from uncertified
69 shops or repackers.

70 (f) "Inspector" means the chief inspector, the
71 assistant chief inspector, deputy inspector, bureau director and
72 certified enforcement officer employed by the department.

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

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

82 (i) "Seafood" means all oysters, saltwater fish,
83 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all
84 other species of marine or saltwater animal life existing or
85 living in the waters within the territorial jurisdiction of the
86 State of Mississippi.

87 (j) "Tonging reefs" means any bottom under the
88 jurisdiction of the commission designated by the commission as an
89 area in which oysters may * * * be taken by use of hand tongs, as
90 provided in Section 49-15-39.

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