

By: Ellington

To: Conservation and  
Water ResourcesHOUSE BILL NO. 1266  
(As Sent to Governor)

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; TO AMEND SECTION  
6 49-15-46, MISSISSIPPI CODE OF 1972, TO REQUIRE A SHELL FEE FOR  
7 OYSTERS SHIPPED OUT OF STATE; AND FOR RELATED PURPOSES.

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

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

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

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

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

29 confiscated by the department or any marine law enforcement  
30 officer without court procedure. The captain and crew of the boat  
31 or vessel, promptly upon being ordered so to do, shall transport  
32 the oysters to a point on the public reefs of the state where the  
33 boat or vessel is found and there scatter the oysters according to  
34 the instructions of the enforcement officers. Any person who  
35 violates this section shall be punished as provided in Section  
36 49-15-63.

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

39 49-15-3. As used in this chapter, the term:

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

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

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

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

61 (e) "Illegal oysters" means:

62 (i) All untagged shell stock;

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

65 (iii) Oysters obtained from waters not declared

66 safe and sanitary by the department, except those oysters caught  
67 by the commission for re-laying or under private leases pursuant  
68 to Section 49-15-27;

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

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

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

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

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

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

92 SECTION 3. Section 49-15-46, Mississippi Code of 1972, is  
93 amended as follows:[LTR1]

94 49-15-46. (1) Each in-state vessel used to catch, take,  
95 carry or transport oysters from the reefs of the State of  
96 Mississippi, or engaged in transporting any oysters in any of the  
97 waters within the territorial jurisdiction of the State of  
98 Mississippi, for commercial use, shall annually, before beginning

99 operations, be licensed by the commission and pay the following  
100 license fee:

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

103 (b) One Hundred Dollars (\$100.00) on all vessels or  
104 boats utilized for dredging oysters.

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

111 (a) One Hundred Dollars (\$100.00) on all vessels or  
112 boats utilized for tonging oysters or gathering oysters by hand;  
113 or

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

116 (3) All oysters harvested in the State of Mississippi shall  
117 be tagged. Tags shall be issued by the department and shall bear  
118 the catcher's name, the date and origin of the catch, the shell  
119 stock dealer's name and permit number. The department shall  
120 number all tags issued and shall maintain a record of those tags.

121 The commission, in its discretion, may adopt any regulations  
122 regarding the tagging of oysters and other shellfish.

123 (4) Each person catching or taking oysters from the waters  
124 of the State of Mississippi for personal use shall obtain a permit  
125 from the commission and pay an annual recreational oyster permit  
126 fee of Ten Dollars (\$10.00). Oysters caught under a recreational  
127 permit shall not be offered for sale. The limits on the allowable  
128 catch of oysters for recreational purposes shall be three (3)  
129 sacks per week. The department shall issue tags of a  
130 distinguishing color to designate recreationally harvested  
131 oysters, which shall be tagged on the same day of harvest in the

132 manner prescribed in subsection (3) of this section for  
133 commercially harvested oysters or by regulation of the commission.

134 (5) The commission shall assess and collect a shell  
135 retention fee for the shells taken from waters within the  
136 territorial jurisdiction of the State of Mississippi as follows:

137 (a) Commercial and recreational harvesters - Fifteen  
138 Cents (15¢) per sack paid to the department on the day of harvest;  
139 and

140 (b) Initial oyster processor, dealer or factory first  
141 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the  
142 department no later than the tenth day of the month following the  
143 purchase, on forms submitted by the department.

144 (c) Commercial harvesters transporting their catch out  
145 of the state - Fifty Cents (50¢) per sack paid to the department  
146 on the day of harvest.

147 Funds received from the shell retention fee shall be paid  
148 into a special fund in the State Treasury to be appropriated by  
149 the Legislature for use by the commission to further oyster  
150 production in this state, which includes plantings of oysters  
151 and/or cultch materials.

152 During open seasons, oysters may be taken only by hands,  
153 tongs and dredges.

154 SECTION 4. This act shall take effect and be in force from  
155 and after July 1, 2000.