

By: Gollott

To: Ports and Marine
Resources

SENATE BILL NO. 2483

1 AN ACT TO AMEND SECTION 49-15-63, MISSISSIPPI CODE OF 1972,
2 TO REVISE GENERAL PENALTY FOR VIOLATION COMMITTED MORE THAN ONCE;
3 TO AMEND SECTION 49-15-64, MISSISSIPPI CODE OF 1972, TO REVISE
4 PENALTY FOR SHRIMPING DURING CLOSED SEASON; TO AMEND SECTION
5 49-15-15, MISSISSIPPI CODE OF 1972, TO REQUIRE REGULATIONS TO BE
6 WRITTEN IN PLAIN ENGLISH; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 49-15-63, Mississippi Code of 1972, is
9 amended as follows:[LTR1]

10 49-15-63. (1) (a) Any person, firm or corporation
11 violating any of the provisions of this chapter or any ordinance
12 duly adopted by the commission, unless otherwise specifically
13 provided for herein, may, on conviction, be fined not less than
14 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
15 (\$500.00), for the first offense, unless the first offense is
16 committed during a closed season, in which case the fine may be
17 not less than Five Hundred Dollars (\$500.00), nor more than One
18 Thousand Dollars (\$1,000.00); and not less than Five Hundred
19 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
20 for the second offense when the same offense is committed within a
21 period of three (3) years from the first offense; and not less
22 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
23 Dollars (\$4,000.00), or imprisonment in the county jail for a

24 period not exceeding thirty (30) days for any third or subsequent
25 offense when the same offense is committed within a period of
26 three (3) years from the first offense.

27 (b) In addition, upon conviction of a third or
28 subsequent offense, * * * the court may revoke the license of the
29 convicted party * * *, and no further license may be issued to
30 such person * * * to engage in catching or taking of any seafood
31 from the waters of the State of Mississippi for a period of one
32 (1) year following such conviction. Forfeiture of any equipment
33 or nets used in a second or subsequent offense may be instituted
34 pursuant to Sections 49-7-251 through 49-7-257. If the person in
35 possession of or using the nets in the violation is not the owner
36 or licensee of the nets, the department shall notify the owner or
37 licensee of the nets. The nets shall be subject to forfeiture
38 unless the nets were stolen and prosecution for the theft is
39 initiated. Equipment as used in this section shall not mean boats
40 or vessels.

41 * * *

42 (c) Except as provided under subsection (5) of Section
43 49-15-45, any fines collected under this section shall be paid
44 into the Seafood Fund.

45 (2) For any violation of this chapter, the individual
46 registered as the captain of a freight boat, ice boat or catching
47 boat used in catching or transporting of saltwater shrimp shall be
48 subject to the penalties provided in this chapter, if that
49 individual is aboard the vessel. If that individual is not aboard
50 the vessel, the individual designated as the substitute captain in
51 accordance with Section 49-15-64.5 shall be subject to the
52 penalties provided in this chapter. If no individual is
53 designated under Section 49-15-64.5, the person, firm or
54 corporation owning the vessel shall be subject to the penalties

55 provided for boat captains.

56 (3) All citations issued to boat operators for not
57 possessing the boat's registration card shall be dismissed, along
58 with all related court costs, upon the presentment of the boat's
59 proper registration card to the court or magistrate holding the
60 trial or hearing.

61 SECTION 2. Section 49-15-64, Mississippi Code of 1972, is
62 amended as follows:[LTR2]

63 49-15-64. Any operator, firm or corporation engaged in
64 commercial shrimping during the closed season shall be guilty of a
65 misdemeanor and, upon conviction, shall be punished by a fine of
66 not less than Five Hundred Dollars (\$500.00) nor more than One
67 Thousand Dollars (\$1,000.00). Upon an arrest for a violation of
68 this section, monies for the sale of catch and nets may be
69 confiscated. Any catch shall be sold by the fisherman * * * at
70 the average wholesale price being paid for shrimp. The sale shall
71 be at a place of the fisherman choosing as long as the place is
72 located in the State of Mississippi and the catch is paid for by a
73 money order or cashier's check payable to the appropriate law
74 enforcement agency. The arresting officer may escort the
75 fisherman and have another person from the law enforcement agency
76 meet them at the place of sale. The monies derived from the sale
77 shall be held in escrow pending disposition of the charge. If a
78 conviction is obtained, the monies held in escrow shall be
79 forfeited. The monies so forfeited shall be paid to the
80 department, to be paid into the seafood fund. If the operator,
81 firm or corporation is acquitted of the charge or if the charge is
82 dismissed, then the monies obtained from the sale shall be paid to

83 the proper operator, firm or corporation. Forfeiture of
84 confiscated nets and paraphernalia shall be instituted pursuant to
85 Sections 49-7-251 through 49-7-257. If the person in possession
86 of or using the nets in the violation is not the owner or licensee
87 of the nets, the department shall notify the owner or licensee of
88 the nets. The nets shall be subject to forfeiture unless the nets
89 were stolen and prosecution for the theft is initiated.

90 The commission may issue special permits for the purpose of
91 catching shrimp prior to the official opening of shrimp season, to
92 those nonprofit organizations that are tax exempt under Section
93 501(c) of the United States Internal Revenue Code and which have
94 on file with the State Tax Commission a tax exemption letter
95 issued by the United States Internal Revenue Service. However,
96 until January 1, 1992, the requirement that a nonprofit
97 organization have on file with the State Tax Commission a tax
98 exemption letter issued by the United States Internal Revenue
99 Service shall be considered as having been met if the organization
100 has actually made application for such exemption and has on file
101 with the State Tax Commission a copy of its application.

102 The commission shall promulgate rules and regulations
103 governing the taking of shrimp by the nonprofit organization and
104 shall issue such regulations to all organizations upon request and
105 at the issuance of the special permit.

106 A GPS (Global Positioning System) coordinates reading is
107 required for any violation occurring after sundown for shrimping
108 in closed waters.

109 SECTION 3. Section 49-15-15, Mississippi Code of 1972, is
110 amended as follows:[LTR3]

111 49-15-15. (1) In addition to any other powers and duties
112 authorized by law, the commission shall have the following powers
113 and duties regarding the regulation of seafood:

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

117 (b) To adopt, promulgate, amend or repeal, after due
118 notice and public hearing, in accordance with the Mississippi
119 Administrative Procedures Law and subject to the limitations in
120 subsection (2) of this section, rules and regulations authorized
121 under this chapter, including, but not limited to, rules and
122 regulations necessary for the protection, conservation or
123 propagation of all seafood in the waters under the territorial
124 jurisdiction of the State of Mississippi and for the regulation of
125 gill net and purse seine fishermen. All public hearings under
126 this chapter concerning the regulation of marine resources shall
127 be held in Hancock, Harrison or Jackson counties. Each rule or
128 regulation promulgated under this chapter shall immediately be
129 advertised one (1) time in a newspaper or newspapers having
130 general circulation in counties affected by that regulation. A
131 regulation shall become effective at 6:00 a.m. on the day after
132 its publication;

133 (c) To regulate all seafood sanitation and processing
134 programs. In the three (3) coastal counties, the sanitation
135 program regulating processing plants and seafood sold in retail
136 stores operating in conjunction with a processing plant or seafood
137 market that primarily deals with seafood is under the exclusive
138 authority of the commission. The commission may also inspect and

139 regulate those areas of any seafood processing plant which process
140 freshwater species at any site where the department inspects
141 seafood processing plants. To effectively and efficiently
142 implement the state seafood sanitation program, the State Health
143 Officer and the executive director of the department shall enter
144 into a memorandum of understanding, which at a minimum, clearly
145 specifies the responsibilities of each agency in implementing the
146 seafood sanitation program, as well as the sharing of information
147 and communication and coordination between the agencies;

148 (d) To set standards of measure;

149 (e) To set requirements for employment of commission
150 employees whose compensation shall be governed by the rules and
151 regulations of the State Personnel Board;

152 (f) To acquire and dispose of commission equipment and
153 facilities;

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

157 (h) To enter into advantageous interstate and
158 intrastate agreements with proper officials, which directly or
159 indirectly result in the protection, propagation and conservation
160 of the seafood of the State of Mississippi, or continue any such
161 agreements now in existence;

162 (i) To arrange, negotiate or contract for the use of
163 available federal, state and local facilities which would aid in
164 the propagation, protection and conservation of the seafood of the
165 State of Mississippi;

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

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

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

174 (l) To open, close and regulate fishing seasons for the
175 taking of shrimp, oysters, fish taken for commercial purposes and
176 crabs and set size, catching and taking regulations for all types
177 of seafood and culling regulations for oysters, except as
178 otherwise specifically provided by law;

179 (m) To utilize the resources of the Gulf Coast Research
180 Laboratory to the fullest extent possible;

181 (n) To develop a resource management plan to preserve
182 seafood resources and to ensure a safe supply of these resources;

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

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

188 (q) To promote, construct, monitor and maintain
189 artificial fishing reefs in the marine waters of the State of
190 Mississippi and in adjacent federal waters; to accept grants and
191 donations of money or materials from public and private sources
192 for such reefs; and to apply for any federal permits necessary for
193 the construction or maintenance of artificial fishing reefs in
194 federal waters.

195 (2) The commission shall not adopt rules, regulations or
196 ordinances pertaining to marine resources which are more stringent
197 than federal regulations. In any case where federal laws and
198 regulations are silent on a matter pertaining to marine resources,
199 the laws and regulations of the State of Mississippi shall
200 control. The commission shall review all marine resource
201 ordinances for compliance with the no more stringent standard and
202 revise any ordinances more stringent than this standard no later
203 than December 31, 1992. This subsection shall not apply to rules,
204 regulations or ordinances pertaining to the wild stock of marine
205 fin fish.

206 (3) All regulations shall be clearly written in plain
207 English.

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