

By: Hewes

To: Ports and Marine Resources

SENATE BILL NO. 2598
(As Sent to Governor)

1 AN ACT TO RECODIFY A SECTION REGARDING REMOVAL OF DERELICT
2 VESSELS TO THE COASTAL WETLANDS PROTECTION LAW; TO CREATE A NEW
3 CODE SECTION TO BE CODIFIED IN CHAPTER 27, TITLE 49, MISSISSIPPI
4 CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF MARINE RESOURCES TO
5 REMOVE DERELICT VESSELS FROM MANMADE CANAL WITH A NAVIGABLE
6 CONNECTION TO COASTAL WETLANDS; AND FOR RELATED PURPOSES.

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

8 SECTION 1. (1) (a) The department may remove from the
9 coastal wetlands, as defined in Section 49-27-5(a), Mississippi
10 Code of 1972, or from any private or manmade canal with a
11 navigable connection to coastal wetlands, any vessel which is
12 derelict, and has been determined by the department to be a public
13 safety or environmental hazard, having been relinquished, deserted
14 or left by the owner with the intention of abandoning the vessel.

15 Any vessel submerged in or on the coastal wetlands or submerged
16 in any private or manmade canal with a navigable connection to
17 coastal wetlands, in excess of ninety (90) days is declared
18 abandoned and a derelict vessel. For the purposes of this
19 section, no vessel submerged more than one hundred (100) years
20 will be considered derelict.

21 (b) Any owner or operator of a derelict vessel shall be
22 liable to the State of Mississippi for the restoration of all
23 affected coastal wetlands and all costs associated with the
24 removal of the vessel.

25 (2) (a) If the last known owner or operator of a derelict
26 vessel is ascertainable, the owner or operator shall be notified
27 by certified mail to remove the derelict vessel and restore the
28 affected coastal wetlands within thirty (30) days of the date of

29 the notice. Failure to remove the vessel may result in the
30 imposition of the damages provided in subsection (3).

31 (b) When the owner or operator of the derelict vessel
32 is unknown or cannot be located after diligent search and inquiry,
33 notice shall be given by publishing in a newspaper having general
34 circulation in the county where the derelict vessel is located the
35 intent to remove and dispose of the derelict vessel. The notice
36 shall be published once a week for three consecutive weeks. The
37 derelict vessel may be removed ten (10) days after the last date
38 of publication.

39 (c) The municipality or county where the vessel is
40 located may remove the derelict vessel or request the department
41 to contract for the removal of the derelict vessel. The cost of
42 the removal of the derelict vessel shall be paid by the
43 municipality or the county where the vessel is located. If the
44 county or municipality can not pay the cost of removal, the
45 department may pay the cost of removal, if funds are available.

46 (d) Any derelict vessel salvaged may be destroyed or
47 otherwise disposed of without additional notice to the owner or
48 operator and the value thereof, if any, applied as an offset to
49 the cost of the removal of the derelict vessel and restoration of
50 the affected coastal wetlands.

51 (e) If an owner or operator is subsequently identified,
52 the owner or operator shall be liable for double the cost of the
53 removal of the derelict vessel and the restoration of the affected
54 coastal wetlands, attorneys fees and all costs of court. Upon
55 recovery of these damages, the county, municipality or department,
56 as the case may be, shall be reimbursed the costs of the removal
57 of the derelict vessel and restoration of the coastal wetlands.

58 (f) In addition to providing notice by publication or
59 to the known owner or operator, notice shall be sent by mail to
60 the Mississippi Department of Archives and History for a
61 determination as to whether the vessel to be removed is of
62 archaeological, historical or architectural significance under the
63 state antiquities law. The Department of Archives and History
64 shall respond within thirty (30) days to the notice and advise
65 whether or not the vessel should be preserved.

66 (3) The chancery court of the county where the vessel is
67 located shall have jurisdiction and by writ of mandatory
68 injunction, order the removal of the derelict vessel by the owner
69 or operator. The chancery court shall allow a reasonable time for
70 completion of the restoration of the coastal wetlands and removal
71 of the derelict vessel. The chancery court may, in its
72 discretion, order as damages a sum not to exceed Five Hundred
73 Dollars (\$500.00) per day for each day such violation has existed.

74 The chancery court may further order as damages a sum not to
75 exceed Five Hundred Dollars (\$500.00) per day for each day that
76 the violation exists beyond the date set by the court in its
77 injunction for the removal of the vessel and the restoration of
78 the coastal wetlands. Additionally, the owner or operator shall
79 be liable for reasonable attorneys' fees and all costs of court.

80 (4) Any reimbursed cost of removal and any fines and damages
81 collected in excess of the cost of the removal of the derelict
82 vessel and the restoration of the affected coastal wetlands shall
83 be deposited in a special fund in the State Treasury to be known
84 as the "Derelict Vessel Fund." The fund shall be administered by
85 the department. Any funds deposited in the fund shall be used to
86 cover the administrative costs and removal costs incurred by the
87 department for the removal of derelict vessels. Any remaining
88 funds shall be used as a match for municipal and county funds to
89 cover the costs of removing additional derelict vessels.

90 (5) The department is authorized to enter into contracts
91 with individuals, firms and corporations for the removal of
92 derelict vessels. The salvage value, if any, of the derelict
93 vessel may be used to offset the cost of the removal of the vessel
94 and the restoration of the coastal wetlands.

95 (6) The commission shall adopt rules and regulations
96 necessary and appropriate to carry out the provisions of this
97 section. The commission may also enter into interstate or
98 intrastate efforts toward this end, and may seek and utilize aid

99 from all federal, state and local sources in this endeavor.

100 (7) The State of Mississippi, the department and their
101 employees and representatives shall not be liable for any damage
102 resulting from the removal, sale or disposal of any vessel
103 declared a derelict vessel pursuant to this section.

104 SECTION 2. The provisions of Section 1 of this act shall be
105 codified in Chapter 27, Title 49, Mississippi Code of 1972.

106 SECTION 3. Section 49-15-13, Mississippi Code of 1972, which
107 authorizes the Department of Marine Resources to remove derelict
108 vessels from coastal wetlands, is repealed.

109 SECTION 4. This act shall take effect and be in force from
110 and after its passage.