HOUSE BILL NO. 690

AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FLOODWATER WHICH HAS OVERFLOWED THE BANKS OF A PUBLIC WATERWAY SHALL BE CONSIDERED A PART OF THE PUBLIC WATERWAY AND IT SHALL NOT BE UNLAWFUL TO HUNT OR FISH ON LANDS UNDER FLOODWATERS ADJACENT TO THE NATURAL BANKS OF THE PUBLIC WATERWAY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 51-1-4, Mississippi Code of 1972, is amended as follows:

51-1-4. Such portions of all natural flowing streams in this state having a mean annual flow of not less than one hundred (100) cubic feet per second, as determined and designated on appropriate maps by the Mississippi Department of Environmental Quality, shall be public waterways of the state on which the citizens of this state and other states shall have the right of free transport in the stream and its bed and the right to fish and engage in water sports. Such persons exercising the rights herein granted shall do so at their own risk, and such persons shall not be entitled to recover any damages against any owner of property along such public waterways or anyone using such property with permission of the owner for any injury to or death of persons or damage to property arising out of the exercise of rights herein granted, other than those damages which may be recovered for intentional or malicious torts or for gross or willful negligence against the owner of property, or anyone using such property with permission of the owner. Nothing herein contained shall authorize anyone utilizing such public waterways, under the authority granted hereby, to trespass upon adjacent lands or, to launch or land any commercial or pleasure craft along or from the shore of such
waterways except at places established by public or private entities for such purposes. Nothing herein contained shall authorize any person utilizing said public waterways, under the authority granted hereby, to disturb the banks or beds of such waterways or to discharge any object or substance into such waters or upon or across any lands adjacent thereto. However, it shall not be unlawful to hunt or fish or go on or across any adjacent lands under floodwaters beyond the natural banks of the bed of the public waterway, and, for such purposes, floodwater which has overflowed the banks of a public waterway shall be considered a part of the public waterway.

Nothing herein contained shall be construed to prohibit the construction of dams and reservoirs by the State of Mississippi or any of its agencies or political subdivisions, or riparian owners, in the manner now or hereafter authorized by law, or in any way to affect the rights of riparian landowners along such waterways except as specifically provided hereinabove or to amend or repeal any law relating to pollution or water conservation, or to affect in any manner the title to the banks and beds of any such stream or the title to any minerals thereunder, or to restrict the mining or extraction of such minerals or the right of ingress and egress thereto.

The provisions of this section limiting the liability of owners of property along public waterways and persons using such property with permission of the owners shall not be construed to limit any rights of claimants for damages under federal statutes or acts applying to navigable streams or waterways or any other civil causes of action subject to admiralty or maritime jurisdiction, nor shall said provisions be construed to limit the rights of any parties involved in litigation founded upon the commercial or business usage of any navigable streams or waterways.

This section shall apply only to natural flowing streams.
SECTION 2. This act shall take effect and be in force from and after July 1, 2001.