

By: Senator(s) Posey

To: Wildlife and Fisheries

SENATE BILL NO. 2599

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT A PERSON CAN NOT USE AN ALL TERRAIN VEHICLE IN OR ON  
3 PUBLIC WATERWAYS; AND FOR RELATED PURPOSES.

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

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

7 51-1-4. Such portions of all natural flowing streams in this  
8 state having a mean annual flow of not less than one hundred (100)  
9 cubic feet per second, as determined and designated on appropriate  
10 maps by the Mississippi Department of Environmental Quality, shall  
11 be public waterways of the state on which the citizens of this  
12 state and other states shall have the right of free transport in  
13 the stream and its bed and the right to fish and engage in water  
14 sports. Such persons exercising the rights herein granted shall  
15 do so at their own risk, and such persons shall not be entitled to  
16 recover any damages against any owner of property along such  
17 public waterways or anyone using such property with permission of  
18 the owner for any injury to or death of persons or damage to  
19 property arising out of the exercise of rights herein granted,  
20 other than those damages which may be recovered for intentional or  
21 malicious torts or for gross or willful negligence against the  
22 owner of property, or anyone using such property with permission  
23 of the owner. Nothing herein contained shall authorize anyone  
24 utilizing such public waterways, under the authority granted  
25 hereby, to trespass upon adjacent lands or, to launch or land any  
26 commercial or pleasure craft along or from the shore of such  
27 waterways except at places established by public or private

28 entities for such purposes. The right of the public to use the  
29 surface waters of public waterways does not include, without the  
30 written permission of the landowner, the operation of all terrain  
31 vehicles in or on such waterways. Nothing herein contained shall  
32 authorize any person utilizing said public waterways, under the  
33 authority granted hereby, to disturb the banks or beds of such  
34 waterways or the discharge of any object or substance into such  
35 waters or upon or across any lands adjacent thereto or to hunt or  
36 fish or go on or across any adjacent lands under floodwaters  
37 beyond the natural banks of the bed of the public waterway.  
38 Floodwater which has overflowed the banks of a public waterway is  
39 not a part of the public waterway.

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

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

61           This section shall apply only to natural flowing streams.

62           SECTION 2. This act shall take effect and be in force from  
63 and after July 1, 2001.