

By: Senator(s) Posey

To: Wildlife and Fisheries

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2599

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A PERSON CANNOT USE A MOTORIZED VEHICLE IN THE BED OF
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 the right to fish and engage in water sports.
14 Such persons exercising the rights herein granted shall do so at
15 their own risk, and such persons shall not be entitled to recover
16 any damages against any owner of property along such public
17 waterways or anyone using such property with permission of the
18 owner for any injury to or death of persons or damage to property
19 arising out of the exercise of rights herein granted, other than
20 those damages which may be recovered for intentional or malicious
21 torts or for gross or willful negligence against the owner of
22 property, or anyone using such property with permission of the
23 owner. Nothing herein contained shall authorize anyone utilizing
24 such public waterways, under the authority granted hereby, to
25 trespass upon adjacent lands or, to launch or land any commercial
26 or pleasure craft along or from the shore of such waterways except
27 at places established by public or private entities for such

28 purposes. Nothing herein contained shall authorize any person
29 utilizing said public waterways, under the authority granted
30 hereby, to disturb the banks or beds of such waterways or the
31 discharge of any object or substance into such waters or upon or
32 across any lands adjacent thereto or to hunt or fish or go on or
33 across any adjacent lands under floodwaters beyond the natural
34 banks of the bed of the public waterway. Floodwater which has
35 overflowed the banks of a public waterway is not a part of the
36 public waterway.

37 The right of the public to use public waterways does not
38 include the use of motorized vehicles on the beds of the stream
39 without the written permission of the landowner. Any person who
40 uses a motorized vehicle on the bed of a stream without the
41 written permission of the landowner is guilty of a Class II
42 violation and upon conviction may be punished as provided in
43 Section 49-7-143.

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

55 The provisions of this section limiting the liability of
56 owners of property along public waterways and persons using such
57 property with permission of the owners shall not be construed to
58 limit any rights of claimants for damages under federal statutes
59 or acts applying to navigable streams or waterways or any other
60 civil causes of action subject to admiralty or maritime

61 jurisdiction, nor shall said provisions be construed to limit the
62 rights of any parties involved in litigation founded upon the
63 commercial or business usage of any navigable streams or
64 waterways.

65 This section shall apply only to natural flowing streams.

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