

By: Representatives Green, Warren

To: Judiciary A

HOUSE BILL NO. 81

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT CERTAIN LAKES AND OTHER BODIES OF WATER SHALL BE  
3 PUBLIC WATERWAYS, REGARDLESS OF THE MEAN ANNUAL FLOW OF WATER INTO  
4 OR THROUGH THE LAKES; AND FOR RELATED PURPOSES.

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

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

8 51-1-4. (1) Such portions of all natural flowing streams in  
9 this state having a mean annual flow of not less than one hundred  
10 (100) cubic feet per second, as determined and designated on  
11 appropriate maps by the Mississippi Department of Environmental  
12 Quality, shall be public waterways of the state on which the  
13 citizens of this state and other states shall have the right of  
14 free transport in the stream and its bed and the right to fish and  
15 engage in water sports. Such persons exercising the rights \* \* \*  
16 granted by this section shall do so at their own risk, and such  
17 persons shall not be entitled to recover any damages against any  
18 owner of property along such public waterways or anyone using such  
19 property with permission of the owner for any injury to or death  
20 of persons or damage to property arising out of the exercise of  
21 rights \* \* \* granted, by this section other than those damages  
22 which may be recovered for intentional or malicious torts or for  
23 gross or willful negligence against the owner of property, or  
24 anyone using such property with permission of the owner.

25 (2) Nothing \* \* \* contained in this section shall authorize  
26 anyone utilizing such public waterways, under the authority  
27 granted by this section, to trespass upon adjacent lands or, to  
28 launch or land any commercial or pleasure craft along or from the



29 shore of such waterways except at places established by public or  
30 private entities for such purposes.

31       (3) Nothing \* \* \* contained in this section shall authorize  
32 any person utilizing those public waterways, under the authority  
33 granted by this section, 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       (4) The right of the public to use public waterways does not  
41 include the use of motorized vehicles in the beds of a public  
42 waterway without the written permission of the landowner. Any  
43 person who uses a motorized vehicle in the bed of a public  
44 waterway without the written permission of the landowner may be  
45 punished as provided in Section 97-17-93.

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

57       (6) The provisions of this section limiting the liability of  
58 owners of property along public waterways and persons using such  
59 property with permission of the owners shall not be construed to  
60 limit any rights of claimants for damages under federal statutes  
61 or acts applying to navigable streams or waterways or any other



62 civil causes of action subject to admiralty or maritime  
63 jurisdiction, nor shall those provisions be construed to limit the  
64 rights of any parties involved in litigation founded upon the  
65 commercial or business usage of any navigable streams or  
66 waterways.

67 (7) This section shall apply only to natural flowing  
68 streams.

69 (8) Notwithstanding the provisions of subsections (1) and  
70 (7) of this section, each of the following lakes or other bodies  
71 of water shall be a public waterway for the purposes of this  
72 section, regardless of the mean annual flow of water into or  
73 through the lake or other body of water:

74 (a) A lake or other body of water that was a public  
75 waterway on or after July 1, 2000, by reason of being part of the  
76 main channel of a river, but that is no longer part of the main  
77 channel of the river because of a change in the course of the  
78 river; and

79 (b) A lake or other body of water that was a public  
80 waterway on or after July 1, 2000, by reason of being an  
81 intermediary water body in a river or stream along the course of  
82 the river or stream into its receiving body of water, but that is  
83 no longer fed by the river or stream because of a change in the  
84 course of the river or stream.

85 **SECTION 2.** This act shall take effect and be in force from  
86 and after July 1, 2003.

