

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 81

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

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

26 (2) Nothing * * * contained in this section shall authorize

27 anyone utilizing such public waterways, under the authority
28 granted by this section, to trespass upon adjacent lands or, to
29 launch or land any commercial or pleasure craft along or from the
30 shore of such waterways except at places established by public or
31 private entities for such purposes.

32 (3) Nothing * * * contained in this section shall authorize
33 any person utilizing those public waterways, under the authority
34 granted by this section, to disturb the banks or beds of such
35 waterways or the discharge of any object or substance into such
36 waters or upon or across any lands adjacent thereto or to hunt or
37 fish or go on or across any adjacent lands under floodwaters
38 beyond the natural banks of the bed of the public waterway.
39 Floodwater which has overflowed the banks of a public waterway is
40 not a part of the public waterway.

41 (4) The right of the public to use public waterways does not
42 include the use of motorized vehicles in the beds of a public
43 waterway without the written permission of the landowner. Any
44 person who uses a motorized vehicle in the bed of a public
45 waterway without the written permission of the landowner may be
46 punished as provided in Section 97-17-93.

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

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

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

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

70 (8) Any lake hydrologically connected to a natural flowing
71 stream and listed as a public waterway under subsection (1) on
72 July 1, 2000, and subsequently removed from that list before July
73 1, 2001, by the Commission on Environmental Quality because the
74 lake did not meet the requirements of subsection (1), shall be
75 presumed to be a public waterway until a court of competent
76 jurisdiction determines otherwise. Nothing in this subsection
77 shall be construed to determine the property rights in the bed or
78 banks of the lake, the right of ingress or egress across private
79 property to the lake, or mineral interests.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A CERTAIN LAKE SHALL BE PRESUMED TO BE A PUBLIC
3 WATERWAY, REGARDLESS OF THE MEAN ANNUAL FLOW OF WATER INTO OR
4 THROUGH THE LAKE UNTIL A COURT OF COMPETENT JURISDICTION
5 DETERMINES OTHERWISE; AND FOR RELATED PURPOSES.