

By: Representative Guice

To: Marine Resources

HOUSE BILL NO. 785

1 AN ACT TO AMEND SECTION 49-15-3, MISSISSIPPI CODE OF 1972, TO
2 ADD TO THE LAW WHICH PROVIDES DEFINITIONS FOR THE REGULATION OF
3 MARINE RESOURCES THE CLASSIFICATIONS OF A MARINA; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 49-15-3, Mississippi Code of 1972, is
7 amended as follows:

8 49-15-3. As used in this chapter, the term:

9 (a) "Commission" means the Mississippi Commission on
10 Marine Resources.

11 (b) "Department" means the Department of Marine
12 Resources.

13 (c) "Domicile" means a person's principal or primary
14 place of abode in which a person's habitation is fixed and to
15 which the person, whenever absent, has the present intention of
16 returning after a departure of absence therefrom, regardless of
17 the duration of the absence. The burden of proving domicile in
18 the State of Mississippi shall be on the person claiming that
19 status. A person holding a current driver's license shall be
20 deemed to be domiciled within the state issuing the license. If a
21 person does not hold a current driver's license the following
22 evidence may be considered in establishing, but is not necessarily
23 determinative of domicile: residence for income or other tax
24 purposes, homestead exemption receipt or other means prescribed by
25 the commission. In the case of minors, domicile of the parents
26 shall be used as evidence of the minor's domicile.

27 (d) "Game fish" means cobia, also known as ling or
28 lemonfish (*rachycentron canadum*). The cobia is classified as game
29 fish.

30 (e) "Illegal oysters" means:

31 (i) All untagged shell stock;

32 (ii) Shell oysters obtained from uncertified shops
33 or dealers or from an unlicensed catcher;

34 (iii) Oysters obtained from waters not declared
35 safe and sanitary by the department, except those oysters caught
36 by the commission for re-laying or under private leases pursuant
37 to Section 49-15-27;

38 (iv) Shucked oysters obtained from uncertified
39 shops or repackers.

40 (f) "Inspector" means the chief inspector, the
41 assistant chief inspector, deputy inspector, bureau director and
42 certified enforcement officer employed by the department.

43 (g) "Natural reefs" means any bottom under the
44 jurisdiction of the commission of one or more acres on which
45 oysters grow naturally, or have grown naturally, in a quantity
46 sufficient to warrant commercial fishing as a means of livelihood,
47 or have been used in such a manner within a period of ten (10)
48 years next preceding the time the bottoms may come up for
49 determination by the commission.

50 (h) "Resident" means a person, firm or corporation that
51 is domiciled in this state.

52 (i) "Seafood" means all oysters, saltwater fish,
53 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all
54 other species of marine or saltwater animal life existing or
55 living in the waters within the territorial jurisdiction of the
56 State of Mississippi.

57 (j) "Tonging reefs" means any bottom under the
58 jurisdiction of the commission designated by the commission as an

59 area in which oysters may be taken by use of hand tongs, as
60 provided in Section 49-15-39.

61 (k) "Marina" means a facility providing mooring spaces
62 for boats that may provide supplies and services including
63 electricity, freshwater, fuel, or sewage collection facilities.

64 (l) "Public marina" means a marina that offers mooring
65 spaces and docking facilities for lease by the general public.
66 Public marinas include recreational and commercial marinas, and
67 they require a "C" for commercial or "I" for industrial use
68 designation.

69 (m) "Private single-family or multi-family marina"
70 means a marina that is part of an adjacent single-family home
71 subdivision or multi-family family condominium or apartment
72 development that provides mooring spaces and docking facilities
73 restricted for use by only home owners or tenants of the adjacent
74 development. Mooring and berthing spaces may not exceed the
75 number of individual homes, condominiums or apartments in the
76 adjacent development. Private single-family and multi-family
77 marinas with twenty (20) or fewer mooring spaces are compatible
78 with a "G" for general use designation. Private single-family and
79 multi-family marinas with more than twenty (20) mooring spaces
80 require a "C" for commercial use designation. No commercial
81 activity shall be allowed on a private single-family or
82 multi-family marina.

83 (n) "Yacht club marina" means a marina that restricts
84 mooring spaces and docking facilities to members only of a private
85 association organization. Yacht clubs require a "C" for
86 commercial or "I" for industrial use designation.

87 **SECTION 2.** This act shall take effect and be in force from
88 and after July 1, 2004.