

By: Representatives Frierson, Janus

To: Marine Resources

## HOUSE BILL NO. 1140

1 AN ACT TO AMEND SECTION 49-15-36, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE COMMISSION ON MARINE RESOURCES TO REGULATE THE  
3 NUMBER OF DAYS IN A WEEK AN OYSTER REEF MAY BE OPEN FOR HARVEST;  
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 49-15-36, Mississippi Code of 1972, is  
7 amended as follows:

8 49-15-36. (1) The commission shall have full jurisdiction  
9 and control of all public and natural oyster reefs and oyster  
10 bottoms of the State of Mississippi.

11 (2) Public reefs may be opened for harvest of oysters during  
12 the season on a rotating basis. If the commission determines that  
13 a particular reef has been over-harvested or that a high  
14 percentage of sublegal size oysters exist on a particular reef and  
15 that harvest could damage future oyster crops, the commission may  
16 close designated reef areas and keep them closed during the  
17 season. The commission may regulate the days of the week that  
18 particular reefs may open for harvest and may authorize any  
19 management measures it deems necessary and appropriate to regulate  
20 the harvesting of oysters.

21 (3) The commission shall promulgate regulations regarding  
22 the closing of oyster reefs which are determined to be  
23 contaminated or otherwise unfit for consumption. The waters of  
24 reefs closed under this chapter shall be tested between five (5)  
25 and ten (10) days after closure. When that testing indicates the  
26 oysters on the closed reef are suitable for consumption, the reef  
27 shall be opened for the taking of oysters as soon as notice of  
28 that opening may be made to interested parties. The authority to

29 open or close oyster reefs under this chapter shall be solely  
30 within the discretion of the commission, acting through the  
31 department. The Gulf Coast Research Laboratory or other certified  
32 laboratory shall cooperate with the department and shall conduct  
33 necessary tests to determine the condition of oyster reefs at the  
34 request of the department. The department may limit the sale of  
35 oysters for human consumption, but all matters concerning the  
36 harvesting of oysters shall be within the jurisdiction of the  
37 commission.

38 (4) (a) The commission may issue special permits for the  
39 purpose of catching oysters outside the open season or in areas  
40 not normally open to harvest to those nonprofit organizations that  
41 are tax exempt under Section 501(c) of the United States Internal  
42 Revenue Code and which have on file with the State Tax Commission  
43 a tax exemption letter issued by the United States Internal  
44 Revenue Service.

45 (b) The commission shall promulgate rules and  
46 regulations governing the taking of oysters by the nonprofit  
47 organization and shall issue such regulations to all organizations  
48 upon request and at the issuance of the special permit.

49 (5) The commission shall establish a reasonable period of  
50 time for depuration of oysters replanted from contaminated waters.  
51 That period of time shall be consistent with the maintenance of  
52 the public health and may vary from time to time and from one reef  
53 to another in accordance with environmental conditions.

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