

By: Representatives Frierson, Janus

To: Marine Resources

HOUSE BILL NO. 1141

1 AN ACT TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A LICENSE FOR A CAPTAIN OF A COMMERCIAL OYSTER VESSEL;
3 TO AMEND SECTION 49-15-63, MISSISSIPPI CODE OF 1972, TO DELETE THE
4 REFERENCE TO SHRIMP BOAT CAPTAINS SO THE PENALTIES ARE APPLICABLE
5 TO CAPTAINS OF ALL SEAFOOD HARVESTING VESSELS; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 49-15-46, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-46. (1) Each * * * vessel used to catch, take, carry
11 or transport oysters from the reefs of the State of Mississippi,
12 or engaged in transporting any oysters in any of the waters within
13 the territorial jurisdiction of the State of Mississippi, for
14 commercial use, shall annually, before beginning operations, be
15 licensed by the commission and pay the following license fee:

16 (a) Fifty Dollars (\$50.00) on each in-state vessel or
17 boat utilized for tonging oysters or gathering oysters by
18 hand; * * *

19 (b) One Hundred Dollars (\$100.00) on each in-state
20 vessel or boat utilized for dredging oysters;

21 * * *

22 (c) One Hundred Dollars (\$100.00) on each out-of-state
23 vessel or boat utilized for tonging oysters or gathering oysters
24 by hand; or

25 (d) Two Hundred Dollars (\$200.00) on each out-of-state
26 vessel or boat utilized for dredging oysters.

27 (2) Each captain of each commercial vessel, used for either
28 tonging or dredging, shall purchase a license entitled "captain
29 license - oyster" for a fee not to exceed Ten Dollars (\$10.00).

30 (3) All oysters harvested in the State of Mississippi shall
31 be tagged. Tags shall be issued by the department and shall bear
32 the catcher's name, the date and origin of the catch, the shell
33 stock dealer's name and permit number. The department shall
34 number all tags issued and shall maintain a record of those tags.
35 The commission, in its discretion, may adopt any regulations
36 regarding the tagging of oysters and other shellfish.

37 (4) Each person catching or taking oysters from the waters
38 of the State of Mississippi for personal use shall obtain a permit
39 from the commission and pay an annual recreational oyster permit
40 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
41 permit shall not be offered for sale. The limits on the allowable
42 catch of oysters for recreational purposes shall be three (3)
43 sacks per week. The department shall issue tags of a
44 distinguishing color to designate recreationally harvested
45 oysters, which shall be tagged on the same day of harvest in the
46 manner prescribed in subsection (3) of this section for
47 commercially harvested oysters or by regulation of the commission.

48 (5) The commission shall assess and collect a shell
49 retention fee for the shells taken from waters within the
50 territorial jurisdiction of the State of Mississippi as follows:

51 (a) Commercial and recreational harvesters - Fifteen
52 Cents (15¢) per sack paid to the department on the day of harvest;

53 (b) Initial oyster processor, dealer or factory first
54 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the
55 department no later than the tenth day of the month following the
56 purchase, on forms submitted by the department;

57 (c) Commercial harvesters transporting their catch out
58 of the state - Fifty Cents (50¢) per sack paid to the department
59 on the day of harvest, in addition to the fees paid in paragraph
60 (5)(a); and

61 (d) Commercial harvesters not selling their oysters to
62 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the

63 department on the day of harvest, in addition to fees paid in
64 paragraph (5)(a).

65 Funds received from the shell retention fee shall be paid
66 into a special fund in the State Treasury to be appropriated by
67 the Legislature for use by the commission to further oyster
68 production in this state, which includes plantings of oysters
69 and/or cultch materials.

70 During open seasons, oysters may be taken only by hands,
71 tongs and dredges.

72 **SECTION 2.** Section 49-15-63, Mississippi Code of 1972, is
73 amended as follows:

74 49-15-63. (1) (a) Any person, firm or corporation
75 violating any of the provisions of this chapter or any ordinance
76 duly adopted by the commission, unless otherwise specifically
77 provided for herein, shall, on conviction, be fined not less than
78 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
79 (\$500.00), for the first offense, unless the first offense is
80 committed during a closed season, in which case the fine shall be
81 not less than Five Hundred Dollars (\$500.00), nor more than One
82 Thousand Dollars (\$1,000.00); and not less than Five Hundred
83 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
84 for the second offense when such offense is committed within a
85 period of three (3) years from the first offense; and not less
86 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
87 Dollars (\$4,000.00), or imprisonment in the county jail for a
88 period not exceeding thirty (30) days for any third or subsequent
89 offense when such offense is committed within a period of three
90 (3) years from the first offense.

91 (b) In addition, upon conviction of such third or
92 subsequent offense, it shall be the duty of the court to revoke
93 the license of the convicted party and of the boat or vessel used
94 in such offense, and no further license shall be issued to such
95 person and for said boat to engage in catching or taking of any

96 seafoods from the waters of the State of Mississippi for a period
97 of one (1) year following such conviction. Forfeiture of any
98 equipment or nets used in a second or subsequent offense may be
99 instituted pursuant to Sections 49-15-201 through 49-15-207. If
100 the person in possession of or using the nets in the violation is
101 not the owner or licensee of the nets, the department shall notify
102 the owner or licensee of the nets. The nets shall be subject to
103 forfeiture unless the nets were stolen and prosecution for the
104 theft is initiated. Equipment as used in this section shall not
105 mean boats or vessels.

106 (c) Any person convicted and sentenced under this
107 section for a second or subsequent offense shall not be considered
108 for reduction of sentence.

109 (d) Except as provided under subsection (5) of Section
110 49-15-45, any fines collected under this section shall be paid
111 into the Seafood Fund.

112 (e) In addition to any other penalties, the commission
113 may suspend the license of any person convicted of a violation of
114 this chapter and may suspend the license of any vessel used in the
115 violation for a period not to exceed five (5) days for the first
116 offense. For a second offense, the commission may suspend the
117 license of such person and vessel for a period not to exceed
118 thirty (30) days.

119 (2) For any violation of this chapter, the individual
120 registered as the captain * * * shall be subject to the penalties
121 provided in this chapter, if that individual is aboard the vessel.
122 If that individual is not aboard the vessel, the individual
123 designated as the substitute captain in accordance with Section
124 49-15-64.5 shall be subject to the penalties provided in this
125 chapter. If no individual is designated under Section 49-15-64.5,
126 the person, firm or corporation owning the vessel shall be subject
127 to the penalties provided for boat captains.

128 (3) All citations issued to boat operators for not
129 possessing the boat's registration card shall be dismissed, along
130 with all related court costs, upon the presentment of the boat's
131 proper registration card to the court or magistrate holding the
132 trial or hearing.

133 **SECTION 3.** This act shall take effect and be in force from
134 and after July 1, 2004.