

By: Representatives Patterson, Dedeaux

To: Marine Resources

## HOUSE BILL NO. 1314

1 AN ACT TO REQUIRE AN OPERATOR, FIRM OR CORPORATION ENGAGED IN  
2 COMMERCIAL SHRIMPING OR A PROCESSOR, DISTRIBUTOR, WHOLESALER OR  
3 RETAILER OF SHRIMP TO LABEL SHRIMP WITH THE COUNTRY OF ORIGIN AND  
4 OCEAN OF ORIGIN; TO RESTRICT THE USE OF THE TERM "GULF SHRIMP"; TO  
5 PROVIDE PENALTIES FOR SHRIMP WITH A FALSE LABEL OR WITHOUT THE  
6 REQUIRED LABEL OR AN INCORRECT LABEL; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) No shrimp shall be offered for direct retail  
9 sale for human consumption by any operator, firm or corporation  
10 engaged in commercial shrimping or by any processor, distributor,  
11 wholesaler or retailer of shrimp unless the shrimp is labeled with  
12 the country of origin and ocean of origin. For purposes of this  
13 section, the following terms shall have the meanings ascribed in  
14 this subsection:

15 (a) "Country of origin" means the country of the port  
16 where the shrimp is first brought in from a freight boat, ice boat  
17 or catching boat.

18 (b) "Ocean of origin" means the body of water in which  
19 the shrimp is harvested.

20 (c) "False label" means that the "country of origin" or  
21 "ocean of origin" listed on a label is not the true "country of  
22 origin" or "ocean of origin."

23 (d) "Gulf shrimp" means a shrimp product that is  
24 harvested from the Gulf of Mexico or the Mississippi Sound.

25 (2) Any person selling gulf shrimp or any other shrimp  
26 exclusively and directly to the consumer may have on his premises  
27 a sign reasonably visible to the consumer identifying the shrimp,  
28 rather than labeling each individual container or package of  
29 shrimp.

30 (3) Any retailer selling shrimp not wrapped or in a  
31 container may comply with this article by placing a sign on the  
32 display case or refrigeration unit reasonably visible to the  
33 consumer, giving notice of the origin of the shrimp.

34 (4) Any advertising as to any shrimp product shall state the  
35 country of origin and ocean of origin shrimp product, as defined  
36 in this section. The term "gulf shrimp" shall not be used as a  
37 common name or in the label name of a shrimp product, except as  
38 provided in this section.

39 (5) (a) When a complaint is made against a person for  
40 violation of any of the provisions of this section, the complaint  
41 shall be filed with the Mississippi Department of Marine Resources  
42 or the Mississippi Department of Agriculture and Commerce. The  
43 Executive Director of the Department of Marine Resources or the  
44 Director of the Regulatory Division of the Department of  
45 Agriculture and Commerce, or a designee, shall act as reviewing  
46 officer. The reviewing officer shall cause to be delivered to the  
47 accused, in the manner described in this subsection, a copy of the  
48 complaint and any supporting documents along with a summons  
49 requiring the accused to respond to the allegations within thirty  
50 (30) days after service of the summons and complaint upon the  
51 accused. The accused shall file with the department a written  
52 response to the complaint and any supporting documents within the  
53 thirty-day period. The accused may be notified by serving a copy  
54 of the summons and complaint on the accused or any of his  
55 officers, agents or employees by personal service or by certified  
56 mail. Upon the expiration of the thirty-day period, the reviewing  
57 officer shall review the complaint, the written response of the  
58 accused, if any, and all supporting documents offered by the  
59 parties in support of their respective positions. The reviewing  
60 officer's decision shall be based solely on the documents provided  
61 by the parties. If the reviewing officer determines that the  
62 complaint lacks merit, he may dismiss the complaint. If he finds

63 that there are reasonable grounds showing that a violation of the  
64 statutes or regulations has been committed, he may impose any or  
65 all of the following penalties upon the accused: (i) levy a fine  
66 of Ten Cents (10¢) per pound for shrimp that does not have a label  
67 as required in subsection (1) of this section; (ii) levy a fine of  
68 One Dollar (\$1.00) per pound for all shrimp on which is placed a  
69 false label; (iii) issue a stop-sale order; (iv) require the  
70 accused to relabel any shrimp that he is offering for sale and  
71 which is not labeled in accordance with the provisions of this  
72 section; or (v) seize any shrimp that is not in compliance with  
73 this section, and destroy, sell or otherwise dispose of the  
74 shrimp, and apply the proceeds of any such sale to the costs and  
75 any penalties levied, with the balance to be paid to the accused.  
76 The reviewing officer's decision shall be in writing, and it shall  
77 be delivered to the accused by any of the methods described herein  
78 for service of the summons and complaint on the accused.

79 (b) Either the accused or the department may appeal the  
80 decision of the reviewing officer to the Department of Marine  
81 Resources or the Commissioner of Agriculture and Commerce by  
82 filing a notice of appeal with the department in which the  
83 complaint was filed within thirty (30) days of receipt of the  
84 reviewing officer's decision. If no appeal is taken from the  
85 order of the reviewing officer within the allotted time, the order  
86 shall then become final. In the event of an appeal, the executive  
87 director, director or his designee, shall conduct a full  
88 evidentiary hearing relative to the charges. The executive  
89 director or director may issue subpoenas to require the attendance  
90 of witnesses and the production of documents. Compliance with  
91 such subpoenas may be enforced by any court of general  
92 jurisdiction in this state. The testimony of witnesses shall be  
93 upon oath or affirmation, and they shall be subject to  
94 cross-examination. The proceedings shall be recorded by a court  
95 reporter. The commissioner shall have all the powers of the

96 reviewing officer described herein, and the commissioner may  
97 affirm, reverse or modify the order of the reviewing officer. The  
98 commissioner's decision shall be in writing, and it shall be  
99 delivered to the parties in the same manner that the summons and  
100 complaint may be served upon the accused.

101 (c) Either the accused or the department in which the  
102 complaint was filed may appeal the decision of the commissioner to  
103 the circuit court of the county of residence of the accused, or if  
104 the accused is a nonresident of the State of Mississippi, to the  
105 Circuit Court of the First Judicial District of Hinds County,  
106 Mississippi. The appellant has the obligation of having the  
107 record transcribed and filed with the circuit court. The appeal  
108 shall otherwise be governed by all applicable laws and rules  
109 affecting appeals to the circuit court. If no appeal is perfected  
110 within the required time, the decision of the commissioner, or his  
111 designee, shall then become final.

112 (d) The decision of the circuit court may then be  
113 appealed by either party to the Mississippi Supreme Court in  
114 accordance with the existing laws and rules affecting such  
115 appeals.

116 (e) Where any violation of this section occurs, or is  
117 about to occur, that presents a clear and present danger to the  
118 public health, safety or welfare requiring immediate action, any  
119 of the Department of Marine Resources' enforcement officers or the  
120 Department of Agriculture and Commerce's field inspectors and any  
121 other authorized persons, may issue an order to be effective  
122 immediately, before notice and a hearing, that imposes any or all  
123 of the penalties described in this subsection against the accused.  
124 The order shall be served upon the accused in the same manner that  
125 the summons and complaint may be served upon him. The accused  
126 shall then have thirty (30) days after service of the order upon  
127 him within which to request an informal administrative review  
128 before the reviewing officer, or his designee, as described

129 herein. The accused shall include within his request all  
130 documents that support his position. The department may also  
131 submit any documents that support its position. If the accused  
132 makes such a request within such time, the reviewing officer, or  
133 his designee, shall review the documents provided by the parties  
134 and render a written decision within thirty (30) days after such  
135 request is made. Upon the making of such a request, the procedure  
136 described in this section shall be followed, except that there is  
137 no need for a complaint to be filed against the accused. If the  
138 accused does not request an administrative review within such time  
139 frame, then he shall have waived his right to an administrative  
140 review.

141 (f) Any fines collected from enforcement of this  
142 section shall be deposited to the agency that collects the  
143 penalties, except as provided in subparagraph (e) of this  
144 subsection.

145 **SECTION 2.** The provisions of Section 1 of this act shall be  
146 codified as a separate section in Chapter 15, Title 49,  
147 Mississippi Code of 1972.

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