

By: Representative Ishee

To: Marine Resources

HOUSE BILL NO. 1425

1 AN ACT TO AMEND SECTIONS 49-15-321 AND 49-15-15, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT MATERIALS REMAINING FROM PUBLIC OR
3 PRIVATE PROJECTS MAY BE MADE AVAILABLE TO PRESERVE OR CREATE
4 FISHING REEFS OR ANY OTHER ARTIFICIAL REEF; TO BRING FORWARD
5 SECTION 49-15-17, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
6 AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 49-15-321, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-321. The commission is hereby authorized to establish
11 sanctuaries to protect the state's fishing resources. The
12 establishment of a sanctuary shall be based on overall public
13 interest and prudent fisheries management and research. The
14 commission shall establish nursery grounds in the estuaries and
15 bays sufficient to protect the state's fishing resources. Any
16 materials remaining from public and private projects may be used
17 by the commission to create and protect the state's fishing
18 resources, including artificial fishing reefs.

19 It shall be unlawful to engage in any activity prohibited by
20 the commission in a designated sanctuary or nursery area.

21 **SECTION 2.** Section 49-15-15, Mississippi Code of 1972, is
22 amended as follows:

23 49-15-15. (1) In addition to any other powers and duties
24 authorized by law, the commission shall have the following powers
25 and duties regarding the regulation of seafood:

26 (a) To exercise full jurisdiction and authority over
27 all marine aquatic life and to regulate any matters pertaining to
28 seafood, including cultivated seafood;

29 (b) To adopt, promulgate, amend or repeal, after due
30 notice and public hearing, in accordance with the Mississippi
31 Administrative Procedures Law and subject to the limitations in
32 subsection (2) of this section, rules and regulations authorized
33 under this chapter, including, but not limited to, rules and
34 regulations necessary for the protection, conservation or
35 propagation of all seafood in the waters under the territorial
36 jurisdiction of the State of Mississippi and for the regulation of
37 gill net and purse seine fishermen. All public hearings under
38 this chapter concerning the regulation of marine resources shall
39 be held in Hancock, Harrison or Jackson counties. Each rule or
40 regulation promulgated under this chapter shall immediately be
41 advertised one (1) time in a newspaper or newspapers having
42 general circulation in counties affected by that regulation. A
43 regulation shall become effective at 6:00 a.m. on the day after
44 its publication;

45 (c) To regulate all seafood sanitation and processing
46 programs. In the three (3) coastal counties, the sanitation
47 program regulating processing plants and seafood sold in retail
48 stores operating in conjunction with a processing plant or seafood
49 market that primarily deals with seafood is under the exclusive
50 authority of the commission. The commission may also inspect and
51 regulate those areas of any seafood processing plant which process
52 freshwater species at any site where the department inspects
53 seafood processing plants. To effectively and efficiently
54 implement the state seafood sanitation program, the State Health
55 Officer, the Commissioner of Agriculture and the executive
56 director of the department may enter into a memorandum of
57 understanding, which at a minimum, clearly specifies the
58 responsibilities of each agency in implementing the seafood
59 sanitation program, as well as the sharing of information and
60 communication and coordination between the agencies;

61 (d) To set standards of measure;

62 (e) To set requirements for employment of commission
63 employees whose compensation shall be governed by the rules and
64 regulations of the State Personnel Board;

65 (f) To acquire and dispose of commission equipment and
66 facilities;

67 (g) To keep proper records of the commission, including
68 an official ordinance book which contains all rules and
69 regulations promulgated by the commission under this chapter;

70 (h) To enter into advantageous interstate and
71 intrastate agreements with proper officials, which directly or
72 indirectly result in the protection, propagation and conservation
73 of the seafood of the State of Mississippi, or continue any such
74 agreements now in existence;

75 (i) To arrange, negotiate or contract for the use of
76 available federal, state and local facilities which would aid in
77 the propagation, protection and conservation of the seafood of the
78 State of Mississippi;

79 (j) To authorize the operation of double rigs in the
80 waters lying between the mainland coast and the island chain, and
81 those rigs shall not exceed a length of twenty-five (25) feet at
82 the cork line, and to prescribe the length at the lead line for
83 each rig, net or try-trawl;

84 (k) To destroy or dispose of equipment or nets which
85 have been lawfully seized by the commission and which are not sold
86 under Section 49-15-65;

87 (l) To open, close and regulate fishing seasons for the
88 taking of shrimp, oysters, fish taken for commercial purposes and
89 crabs and set size, catching and taking regulations for all types
90 of seafood and culling regulations for oysters, except as
91 otherwise specifically provided by law;

92 (m) To utilize the resources of the Gulf Coast Research
93 Laboratory to the fullest extent possible;

94 (n) To develop a resource management plan to preserve
95 seafood resources and to ensure a safe supply of these resources;

96 (o) To prescribe types and forms of scientific permits
97 for public educational or scientific institutions, federal and
98 state agencies and consultants performing marine resource studies;

99 (p) To suspend the issuance of licenses when necessary
100 to impose a moratorium to conserve a fishery resource; and

101 (q) To promote, construct, monitor and maintain
102 artificial fishing reefs in the marine waters of the State of
103 Mississippi and in adjacent federal waters; to accept grants and
104 donations of money or materials from public and private sources
105 for such reefs; to require any materials remaining from public and
106 private projects to be used to create artificial fishing reefs;
107 and to apply for any federal permits necessary for the
108 construction or maintenance of artificial fishing reefs in federal
109 waters.

110 (2) The commission shall not adopt rules, regulations or
111 ordinances pertaining to marine resources which are more stringent
112 than federal regulations. In any case where federal laws and
113 regulations are silent on a matter pertaining to marine resources,
114 the laws and regulations of the State of Mississippi shall
115 control. The commission shall review all marine resource
116 ordinances for compliance with the no more stringent standard and
117 revise any ordinances more stringent than this standard no later
118 than December 31, 1992. This subsection shall not apply to rules,
119 regulations or ordinances pertaining to the wild stock of marine
120 fin fish.

121 **SECTION 3.** Section 49-15-17, Mississippi Code of 1972, is
122 brought forward as follows:

123 49-15-17. (1) (a) All monies received or obtained by the
124 commission under the provisions of this chapter shall be paid over
125 by the commission to the State Treasurer and shall be deposited
126 into the fund known as the "Seafood Fund." All revenues collected

127 through the department, to include, but not limited to, commercial
128 saltwater licenses and taxes, permits, fines and penalties, and
129 confiscated catches, shall be deposited into the department
130 operating account (Seafood Fund) and expended for the operation of
131 the department, as authorized by the Legislature.

132 (b) There is established a special account to be known
133 as the "Artificial Reef Program Account" within the Seafood Fund.
134 Any funds received from any public or private source for the
135 purpose of promoting, constructing, monitoring or maintaining
136 artificial reefs in the marine waters of the state or in federal
137 waters adjacent to the marine waters of the state shall be
138 credited to the account. Any unexpended funds remaining in the
139 account at the end of the fiscal year shall not lapse into the
140 Seafood Fund, but shall remain in the account. The department may
141 expend any funds in the account, subject to appropriation by the
142 Legislature, to accomplish the purpose of the account.

143 (c) There is established a special account to be known
144 as the "Coastal Preserve Account" within the Seafood Fund. Any
145 funds received from any public or private source for the purpose
146 of management, improvement and acquisition of coastal preserves in
147 the state and money required to be deposited pursuant to Sections
148 27-19-56.10 and 27-19-56.27, shall be credited to the account.
149 Any unexpended funds remaining in the account at the end of the
150 fiscal year shall not lapse into the Seafood Fund, but shall
151 remain in the account. The department may expend any funds in the
152 account, subject to appropriation by the Legislature, for the
153 management, improvement and acquisition of coastal preserves.

154 (2) The fund shall be treated as a special trust fund and
155 interest earned on the principal shall be credited to the fund.

156 (3) The secretary of the commission shall keep accurate
157 reports of monies handled as a part of the permanent records of
158 the commission, and the State Treasurer shall furnish the
159 secretary of the commission such forms as may be needed, and the

160 secretary shall account for such forms in his reports to the
161 Treasurer.

162 **SECTION 4.** This act shall take effect and be in force from
163 and after July 1, 2004.