

By: Senator(s) Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2823

1 AN ACT TO AMEND SECTION 49-15-37, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE REQUIREMENT THAT OYSTERS MUST BE RELAYED IN THE  
3 PRESENCE OF A CONSERVATION OFFICER AND ALLOW RELAYING IN THE  
4 PRESENCE OF AN EMPLOYEE OF THE DEPARTMENT OF MARINE RESOURCES; AND  
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 49-15-37, Mississippi Code of 1972, is  
8 amended as follows:

9 49-15-37. By order of the commission, the director, under  
10 the direction and control of the commission, shall employ boats,  
11 crews and laborers and shall cultivate the public reefs of the  
12 state, and shall dredge the oysters in the Mississippi Sound from  
13 places where they are too thick, and shall spread them on reefs  
14 where they are too thin, and shall carry shells from the factories  
15 and spread them in places where the oyster beds can be improved  
16 and enlarged. The department may purchase other materials as may  
17 be equally suitable for the propagation of oysters. The  
18 department in cultivating the reefs, transplanting and spreading  
19 oysters and shells and other suitable materials, may expend any  
20 funds available for that purpose. In taking seed oysters, care  
21 shall be used to not injure or destroy the merchantable oysters on  
22 the reefs from which they are taken. The seed oysters shall be  
23 tonged from the "conner" or seed reefs, unless it is practicable  
24 and safe to dredge those oysters. The commission may, by orders  
25 spread on its minutes, establish new bedding grounds at those  
26 places within the boundaries of the state as it may determine, on  
27 advice of the director, or on advice of technical governmental  
28 experts, or competent aquatic biologists. On existing public

29 reefs in which oysters exist and in waters not of a safe sanitary  
30 quality as determined by the department, the commission shall  
31 prohibit any person, firm or corporation from taking oysters from  
32 those areas. The commission shall from time to time remove the  
33 oysters from the areas and re-lay or replant them in an approved  
34 area for a period of time under Section 49-15-36 before they may  
35 be harvested. The commission may transport the oysters to an  
36 onshore, molluscan depuration facility for the purpose of proving  
37 depuration technology and for other experimental purposes. In  
38 connection with the testing of onshore, molluscan depuration  
39 technology, the commission may sell or dispose of the re-layed  
40 oysters in a manner consistent with all applicable state and  
41 federal laws and regulations. Any funds received from the sale of  
42 the oysters shall be used in a like manner as those funds received  
43 under Section 49-15-38.

44 If the commission finds that onshore, molluscan depuration  
45 technology proves to be successful, the commission may issue  
46 permits to private enterprise which may locate depuration  
47 facilities in Hancock, Harrison and Jackson Counties. The  
48 commission shall promulgate rules and regulations for the taking  
49 of oysters from reefs for transport to an onshore, molluscan  
50 depuration facility and for the operation of the facilities. Each  
51 depuration facility operated by private enterprise shall return  
52 oyster shells to the oyster reefs for replanting under the proper  
53 supervision of the department and under Section 49-15-38.

54 The commission may issue permits to persons to remove oysters  
55 by dredging or otherwise from water bottoms which are not of a  
56 safe sanitary quality for oysters for human consumption even  
57 though those areas may have been reserved for tonging only in  
58 Section 49-15-39. These areas shall be designated as seed  
59 grounds, and permits to persons shall be issued only for the  
60 purpose of transplanting oysters to privately leased Mississippi

61 territorial waters. The commission may permit the transplanting  
62 of these seed oysters by a duly authorized public agency.

63 The commission may, upon certification of the department that  
64 the water bottom from which oysters are to be removed is not of a  
65 safe, sanitary quality for oyster production for human consumption  
66 and has been unsafe for a period of at least one (1) year  
67 immediately preceding certification, and upon complying with the  
68 following requirements, permit the dredging of oysters from  
69 contaminated public areas and re-laying the oysters to private  
70 leased grounds in the State of Mississippi:

71 (a) Permittee must hold valid lease of oyster bedding  
72 grounds in the State of Mississippi;

73 (b) Permittee must be bonded in compliance with the  
74 permit system established by the commission;

75 (c) Permittee must fulfill all permit requirements as  
76 established by the commission;

77 (d) Permittee shall not move oysters from one (1)  
78 contaminated area to another contaminated area;

79 (e) Permittee shall move oysters only to an area leased  
80 by the commission after April 13, 1977; and

81 (f) Permittee shall not move oysters from the  
82 contaminated area without the presence of an employee of the  
83 department at all times, from the dredging of the oysters from the  
84 contaminated areas to their deposit on private leased grounds or  
85 to an onshore, molluscan depuration facility.

86 Harvesting of oysters shall be permitted only during daylight  
87 hours and with the most efficient gear possible consistent with  
88 conservation requirements of not damaging the reefs. This shall  
89 include permission to use two (2) dredges per boat on contaminated  
90 areas and on private leased grounds.

91 Any person obtaining a permit to remove oysters from seed  
92 grounds shall post a penal bond of One Hundred Dollars (\$100.00)  
93 per leased acre with the commission to be forfeited upon any

94 violation of this section. The bond may be approved by the  
95 director of the department if the director finds the bond to be  
96 secured by sufficient property or sureties.

97 The commission shall regulate the amount and time of taking  
98 of oysters from seed areas and shall supervise the removal,  
99 planting and harvesting of oysters from the areas. The time set  
100 for the taking of oysters from contaminated seed areas for  
101 re-laying or replanting and the time set for the taking of oysters  
102 from private leased grounds shall be separated by not less than a  
103 period of time determined under Section 49-15-36 during which  
104 neither activity may be allowed.

105 The commission shall regulate the taking of oysters from  
106 contaminated seed areas and the subsequent depuration of the  
107 oysters by off-bottom techniques to protect public health, while  
108 at the same time fostering the utilization of the state's oyster  
109 resources. The regulations shall include the setting of the  
110 period of depuration for the oysters by the use of appropriate  
111 techniques and provide for an employee of the department to be  
112 present when the oysters are taken from contaminated seed areas  
113 and deposited on private lease grounds. Any person, firm or  
114 corporation engaged in the depuration of oysters by off-bottom  
115 techniques or onshore, molluscan depuration facility shall pay to  
116 the department an amount equal to the regular compensation of the  
117 employee of the department for the time the employee actually  
118 spends performing the duties.

119 Only persons who have been residents of Mississippi for at  
120 least five (5) years shall be eligible to obtain permits for  
121 removal of oysters from seed grounds.

122 The commission shall designate certain uncontaminated reefs  
123 in the state as public reefs and shall remove oysters from water  
124 bottoms which are not of a safe, sanitary quality for oyster  
125 production for human consumption and shall transport the oysters  
126 to the public reefs which shall be reserved for tonging only.

127           **SECTION 2.** This act shall take effect and be in force from  
128 and after its passage.