

By: Representative Frierson

To: Marine Resources

HOUSE BILL NO. 355

1 AN ACT TO BRING FORWARD SECTIONS 49-15-3, 49-15-5, 49-15-7,
2 49-15-9, 49-15-11, 49-15-15, 49-15-16, 49-15-17, 49-15-18,
3 49-15-19, 49-15-21, 49-15-22, 49-15-23, 49-15-25, 49-15-27,
4 49-15-28, 49-15-29, 49-15-30, 49-15-31, 49-15-34, 49-15-35,
5 49-15-36, 49-15-37, 49-15-38, 49-15-39, 49-15-40, 49-15-41,
6 49-15-42, 49-15-43, 49-15-44, 49-15-45, 49-15-46, 49-15-61,
7 49-15-63, 49-15-64.1, 49-15-64.2, 49-15-64.3, 49-15-64.4,
8 49-15-64.5, 49-15-65, 49-15-67, 49-15-69, 49-15-71, 49-15-73,
9 49-15-74, 49-15-75, 49-15-76, 49-15-77, 49-15-78, 49-15-79,
10 49-15-80, 49-15-83, 49-15-84, 49-15-84.1, 49-15-86, 49-15-87,
11 49-15-89, 49-15-91, 49-15-92, 49-15-93, 49-15-94, 49-15-95,
12 49-15-96, 49-15-97, 49-15-100, 49-15-100.1, 49-15-100.3,
13 49-15-313, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF
14 AMENDMENT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 49-15-3, Mississippi Code of 1972, is
17 brought forward as follows:

18 49-15-3. As used in this chapter, the term:

19 (a) "Commission" means the Mississippi Commission on
20 Marine Resources.

21 (b) "Department" means the Department of Marine
22 Resources.

23 (c) "Domicile" means a person's principal or primary
24 place of abode in which a person's habitation is fixed and to
25 which the person, whenever absent, has the present intention of
26 returning after a departure of absence therefrom, regardless of
27 the duration of the absence. The burden of proving domicile in
28 the State of Mississippi shall be on the person claiming that
29 status. A person holding a current driver's license shall be
30 deemed to be domiciled within the state issuing the license. If a
31 person does not hold a current driver's license the following
32 evidence may be considered in establishing, but is not necessarily
33 determinative of domicile: residence for income or other tax

34 purposes, homestead exemption receipt or other means prescribed by
35 the commission. In the case of minors, domicile of the parents
36 shall be used as evidence of the minor's domicile.

37 (d) "Game fish" means cobia, also known as ling or
38 lemonfish (*rachycentron canadum*). The cobia is classified as game
39 fish.

40 (e) "Illegal oysters" means:

41 (i) All untagged shell stock;

42 (ii) Shell oysters obtained from uncertified shops
43 or dealers or from an unlicensed catcher;

44 (iii) Oysters obtained from waters not declared
45 safe and sanitary by the department, except those oysters caught
46 by the commission for re-laying or under private leases pursuant
47 to Section 49-15-27;

48 (iv) Shucked oysters obtained from uncertified
49 shops or repackers.

50 (f) "Inspector" means the chief inspector, the
51 assistant chief inspector, deputy inspector, bureau director and
52 certified enforcement officer employed by the department.

53 (g) "Natural reefs" means any bottom under the
54 jurisdiction of the commission of one or more acres on which
55 oysters grow naturally, or have grown naturally, in a quantity
56 sufficient to warrant commercial fishing as a means of livelihood,
57 or have been used in such a manner within a period of ten (10)
58 years next preceding the time the bottoms may come up for
59 determination by the commission.

60 (h) "Resident" means a person, firm or corporation that
61 is domiciled in this state.

62 (i) "Seafood" means all oysters, saltwater fish,
63 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all
64 other species of marine or saltwater animal life existing or
65 living in the waters within the territorial jurisdiction of the
66 State of Mississippi.

67 (j) "Tonging reefs" means any bottom under the
68 jurisdiction of the commission designated by the commission as an
69 area in which oysters may be taken by use of hand tongs, as
70 provided in Section 49-15-39.

71 **SECTION 2.** Section 49-15-5, Mississippi Code of 1972, is
72 brought forward as follows:

73 49-15-5. All seafoods existing or living in waters within
74 the territorial jurisdiction of the State of Mississippi not held
75 in private ownership legally acquired, and all beds and bottoms of
76 rivers, streams, bayous, lagoons, lakes, bays, sounds and inlets
77 bordering on or connecting with the Gulf of Mexico or Mississippi
78 Sound within such territorial jurisdiction, including all oysters
79 and other shell fish and parts thereof grown thereon, either
80 naturally or cultivated, shall be, continue, and remain the
81 property of the State of Mississippi, to be held in trust for the
82 people thereof until title thereto shall be legally divested in
83 the manner and form hereinafter authorized, and the same shall be
84 under the exclusive control of the commission until the right of
85 private ownership shall vest therein as hereinafter provided.

86 **SECTION 3.** Section 49-15-7, Mississippi Code of 1972, is
87 brought forward as follows:

88 49-15-7. All shells of dead oysters, clams and other
89 shellfish; and all of the oyster shells, clam shells, mussel
90 shells, dead reef shells, and cay shells, being upon or under the
91 bottom of, or under the tidewaters within the territorial
92 jurisdiction of the State of Mississippi, and all beds, banks and
93 accumulations of such shells within such territorial jurisdiction
94 on or under the bottoms of such waters, or surrounded by such
95 waters, being the property of the State of Mississippi are hereby
96 further declared to be the property of the State of Mississippi
97 under the jurisdiction of the commission.

98 **SECTION 4.** Section 49-15-9, Mississippi Code of 1972, is
99 brought forward as follows:

100 49-15-9. The sole right of planting, cultivating in racks or
101 other structures, and gathering oysters and erecting bathhouses
102 and other structures in front of any land bordering on the Gulf of
103 Mexico or Mississippi Sound or waters tributary thereto belongs to
104 the riparian owner and extends not more than seven hundred fifty
105 (750) yards from the shore, measuring from the average low water
106 mark, but where the distance from shore to shore is less than
107 fifteen hundred (1500) yards, the owners of either shore may plant
108 and gather to a line equidistant between the two (2) shores, but
109 no person shall plant in any natural channel so as to interfere
110 with navigation, and such riparian rights shall not include any
111 reef or natural oyster bed and does not extend beyond any channel.
112 A riparian owner shall comply with the Coastal Wetlands Protection
113 Act in exercising the use of these riparian rights. Stakes of such
114 frail materials as will not injure any watercraft may be set up to
115 designate the bounds of the plantation, but navigation shall not
116 be impeded thereby. The riparian owner shall clearly mark such
117 cultivation racks and other structures. The commission may adopt
118 regulations to require that the racks are adequately marked to
119 ensure the safety of users of public waters. Any oysters planted
120 by such riparian owner are the private property of such riparian
121 owner, subject to the right of the commission to adopt reasonable
122 rules and regulations as to the planting and gathering of such
123 oysters. All bathhouses, piers, wharfs, docks and pavilions, or
124 other structures owned by riparian owner are likewise the private
125 property of such owner, who shall be entitled to the exclusive
126 use, occupancy and possession thereof, and may abate any private
127 or public nuisance committed by any person or persons in the area
128 of his riparian ownership and may, for such purposes, resort to
129 any remedial action authorized by law. The governing authorities
130 of any municipality and the board of supervisors of any county are
131 authorized to adopt reasonable rules and regulations to protect
132 riparian owners in the enjoyment of their riparian rights, and for

133 such purposes may regulate the use of beaches, landings, and
134 riparian areas abutting or fronting on roads, streets or highways.

135 **SECTION 5.** Section 49-15-11, Mississippi Code of 1972, is
136 brought forward as follows:

137 49-15-11. (1) The Mississippi Department of Marine
138 Resources is hereby established and full power is vested in the
139 department to manage, control, supervise, enforce and direct any
140 matters pertaining to saltwater aquatic life and marine resources
141 under the jurisdiction of the commission. The Department of
142 Wildlife, Fisheries and Parks shall transfer all powers, duties,
143 employees, equipment, buildings, facilities, inventory and
144 resources of the marine law enforcement division to the Department
145 of Marine Resources.

146 (2) The Executive Director of the Department of Marine
147 Resources shall have the authority to internally reorganize the
148 Department of Marine Resources with persons meeting established
149 qualifications for comparable positions of duty and responsibility
150 including, but not limited to, the deputy director, division
151 chiefs, biologists and other personnel. For a period of one (1)
152 year after July 1, 1994, the personnel actions of the executive
153 director shall be exempt from State Personnel Board rules,
154 regulations and procedures in order to give the executive director
155 flexibility in making an orderly, effective and timely
156 reorganization of the Department of Marine Resources.

157 (3) Whenever the terms "Mississippi Marine Conservation
158 Commission," "Marine Conservation Commission," "Bureau of Marine
159 Resources" and "Mississippi Marine Resources Council" appear in
160 any state law, they shall mean the "Mississippi Commission on
161 Marine Resources."

162 **SECTION 6.** Section 49-15-15, Mississippi Code of 1972, is
163 brought forward as follows:

164 49-15-15. (1) In addition to any other powers and duties
165 authorized by law, the commission shall have the following powers
166 and duties regarding the regulation of seafood:

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

170 (b) To adopt, promulgate, amend or repeal, after due
171 notice and public hearing, in accordance with the Mississippi
172 Administrative Procedures Law and subject to the limitations in
173 subsection (2) of this section, rules and regulations authorized
174 under this chapter, including, but not limited to, rules and
175 regulations necessary for the protection, conservation or
176 propagation of all seafood in the waters under the territorial
177 jurisdiction of the State of Mississippi and for the regulation of
178 gill net and purse seine fishermen. All public hearings under
179 this chapter concerning the regulation of marine resources shall
180 be held in Hancock, Harrison or Jackson counties. Each rule or
181 regulation promulgated under this chapter shall immediately be
182 advertised one (1) time in a newspaper or newspapers having
183 general circulation in counties affected by that regulation. A
184 regulation shall become effective at 6:00 a.m. on the day after
185 its publication;

186 (c) To regulate all seafood sanitation and processing
187 programs. In the three (3) coastal counties, the sanitation
188 program regulating processing plants and seafood sold in retail
189 stores operating in conjunction with a processing plant or seafood
190 market that primarily deals with seafood is under the exclusive
191 authority of the commission. The commission may also inspect and
192 regulate those areas of any seafood processing plant which process
193 freshwater species at any site where the department inspects
194 seafood processing plants. To effectively and efficiently
195 implement the state seafood sanitation program, the State Health
196 Officer, the Commissioner of Agriculture and the executive

197 director of the department may enter into a memorandum of
198 understanding, which at a minimum, clearly specifies the
199 responsibilities of each agency in implementing the seafood
200 sanitation program, as well as the sharing of information and
201 communication and coordination between the agencies;

202 (d) To set standards of measure;

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

206 (f) To acquire and dispose of commission equipment and
207 facilities;

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

211 (h) To enter into advantageous interstate and
212 intrastate agreements with proper officials, which directly or
213 indirectly result in the protection, propagation and conservation
214 of the seafood of the State of Mississippi, or continue any such
215 agreements now in existence;

216 (i) To arrange, negotiate or contract for the use of
217 available federal, state and local facilities which would aid in
218 the propagation, protection and conservation of the seafood of the
219 State of Mississippi;

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

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

228 (l) To open, close and regulate fishing seasons for the
229 taking of shrimp, oysters, fish taken for commercial purposes and

230 crabs and set size, catching and taking regulations for all types
231 of seafood and culling regulations for oysters, except as
232 otherwise specifically provided by law;

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

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

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

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

242 (q) To promote, construct, monitor and maintain
243 artificial fishing reefs in the marine waters of the State of
244 Mississippi and in adjacent federal waters; to accept grants and
245 donations of money or materials from public and private sources
246 for such reefs; and to apply for any federal permits necessary for
247 the construction or maintenance of artificial fishing reefs in
248 federal waters.

249 (2) The commission shall not adopt rules, regulations or
250 ordinances pertaining to marine resources which are more stringent
251 than federal regulations. In any case where federal laws and
252 regulations are silent on a matter pertaining to marine resources,
253 the laws and regulations of the State of Mississippi shall
254 control. The commission shall review all marine resource
255 ordinances for compliance with the no more stringent standard and
256 revise any ordinances more stringent than this standard no later
257 than December 31, 1992. This subsection shall not apply to rules,
258 regulations or ordinances pertaining to the wild stock of marine
259 fin fish.

260 **SECTION 7.** Section 49-15-16, Mississippi Code of 1972, is
261 brought forward as follows:

262 49-15-16. The commission may develop a limited entry
263 fisheries management program for all resource groups. The
264 commission may require a license for each resource group and shall
265 establish the fees for such licenses. The commission may
266 establish a means test or any other criteria to determine
267 eligibility for licenses under the limited entry program. The
268 commission may impose a moratorium on the issuance of licenses for
269 a fishery resource.

270 **SECTION 8.** Section 49-15-17, Mississippi Code of 1972, is
271 brought forward as follows:

272 49-15-17. (1) (a) All monies received or obtained by the
273 commission under the provisions of this chapter shall be paid over
274 by the commission to the State Treasurer and shall be deposited
275 into the fund known as the "Seafood Fund." All revenues collected
276 through the department, to include, but not limited to, commercial
277 saltwater licenses and taxes, permits, fines and penalties, and
278 confiscated catches, shall be deposited into the department
279 operating account (Seafood Fund) and expended for the operation of
280 the department, as authorized by the Legislature.

281 (b) There is established a special account to be known
282 as the "Artificial Reef Program Account" within the Seafood Fund.
283 Any funds received from any public or private source for the
284 purpose of promoting, constructing, monitoring or maintaining
285 artificial reefs in the marine waters of the state or in federal
286 waters adjacent to the marine waters of the state shall be
287 credited to the account. Any unexpended funds remaining in the
288 account at the end of the fiscal year shall not lapse into the
289 Seafood Fund, but shall remain in the account. The department may
290 expend any funds in the account, subject to appropriation by the
291 Legislature, to accomplish the purpose of the account.

292 (c) There is established a special account to be known
293 as the "Coastal Preserve Account" within the Seafood Fund. Any
294 funds received from any public or private source for the purpose

295 of management, improvement and acquisition of coastal preserves in
296 the state and money required to be deposited pursuant to Sections
297 27-19-56.10 and 27-19-56.27, shall be credited to the account.
298 Any unexpended funds remaining in the account at the end of the
299 fiscal year shall not lapse into the Seafood Fund, but shall
300 remain in the account. The department may expend any funds in the
301 account, subject to appropriation by the Legislature, for the
302 management, improvement and acquisition of coastal preserves.

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

305 (3) The secretary of the commission shall keep accurate
306 reports of monies handled as a part of the permanent records of
307 the commission, and the State Treasurer shall furnish the
308 secretary of the commission such forms as may be needed, and the
309 secretary shall account for such forms in his reports to the
310 Treasurer.

311 **SECTION 9.** Section 49-15-18, Mississippi Code of 1972, is
312 brought forward as follows:

313 49-15-18. The executive director of the department shall
314 publish an abstract copy of this chapter and all subsequent
315 amendments to this chapter and all rules and regulations
316 promulgated by the commission under this chapter. The department
317 may distribute the publication to all persons requesting a copy
318 and to each licensee at the time of issuance of the license. New
319 regulations and amendments to this chapter may be supplied to each
320 licensee within a reasonable time after their promulgation or
321 passage. The department may charge a reasonable fee not to exceed
322 actual cost for its publications.

323 **SECTION 10.** Section 49-15-19, Mississippi Code of 1972, is
324 brought forward as follows:

325 49-15-19. The Attorney General shall be counsel and attorney
326 for the commission and department and shall provide legal services
327 as may be requested. The executive director is authorized to

328 employ legal counsel, after consultation with the Attorney
329 General, as may be necessary or appropriate for the operation of
330 the department.

331 **SECTION 11.** Section 49-15-21, Mississippi Code of 1972, is
332 brought forward as follows:

333 49-15-21. (1) The executive director shall appoint the
334 necessary enforcement officers for the administration of this
335 chapter. The salary of all enforcement officers employed shall be
336 as determined by the State Personnel Board. However, the members
337 of the Enforcement Officers' Reserve Unit created in subsection
338 (4) shall serve without pay, and shall not be employees of the
339 State of Mississippi for purposes of the State Personnel System,
340 the Workers' Compensation Law, the Public Employees' Retirement
341 System or the State Employees Life and Health Insurance Plan.

342 (2) All enforcement officers shall be experienced and
343 qualified persons thoroughly familiar with the seafood business
344 and shall be at least twenty-one (21) years of age and be a high
345 school graduate or its equivalent. The enforcement officers
346 shall diligently enforce all laws and regulations for the
347 protection, propagation, preservation or conservation of all
348 saltwater aquatic life of the State of Mississippi, and they are
349 hereby constituted peace officers of the State of Mississippi,
350 with full police power and jurisdiction to enforce all laws of
351 the State of Mississippi and all regulations adopted and
352 promulgated by the commission. Enforcement officers may
353 exercise such powers in any county of the State of Mississippi
354 and on any waters of the state, and they are hereby authorized
355 to carry firearms or other weapons, concealed or otherwise, and
356 they shall investigate all persons, corporations and otherwise
357 who are alleged to have violated any laws, and make affidavits,
358 arrests and serve papers of any court of competent jurisdiction,
359 in like manner as is provided for sheriffs and deputy sheriffs,
360 when the same shall be in connection with the enforcement of the

361 seafood laws of the State of Mississippi and such other laws and
362 regulations of this state as the commission may designate. The
363 enforcement officers may seize at any time aquatic life caught,
364 taken or transported in a manner contrary to the laws of this
365 state, and may confiscate and dispose of the same. Any net or
366 other paraphernalia used or employed in connection with a
367 violation may be seized, and forfeiture proceedings may be
368 instituted. Enforcement officers may draft the aid of captains,
369 crews and boats or licensed vessels to enforce this chapter and
370 may, without warrant, board and search vessels or vehicles. The
371 application for any license or permit from the commission to
372 catch, fish, take, transport or handle or process any form of
373 aquatic life, or the taking, catching, transporting or handling
374 or processing of any and all aquatic life in this state shall
375 constitute acquiescence and agreement upon the part of the
376 owners, captains and crews, employers and dealers to the
377 provisions of this chapter and the agreement that enforcement
378 officers may exercise the authority granted under the provisions
379 hereof.

380 (3) Prior to entering into performance of their duties or
381 delegations or as soon after appointment as possible, each
382 enforcement officer, at the expense of the commission, shall
383 attend and complete an appropriate curriculum in the field of law
384 enforcement at the Mississippi Law Enforcement Officers' Training
385 Academy or other law enforcement training program approved under
386 Section 45-6-7. However, members of the Enforcement Officers'
387 Reserve Unit created in subsection (4) of this section may attend
388 the Mississippi Law Enforcement Officers' Training Academy at the
389 expense of the commission if it deems the training necessary or
390 desirable. No enforcement officer shall be entitled to payment of
391 salary after the first six (6) months in office if he has either
392 failed to attend the academy or has failed to comply with other
393 qualifications or successfully complete any law enforcement

394 qualification examinations as the director deems necessary. The
395 enforcement officers shall, on a periodic basis, be required to
396 attend additional advanced courses in law enforcement in order
397 that they will be properly improved and trained in the modern,
398 technical advances of law enforcement.

399 (4) (a) There is hereby created an Enforcement Officers'
400 Reserve Unit, hereinafter termed "the reserve," to assist the
401 enforcement officers in the performance of their duties under this
402 chapter. The reserve shall consist of volunteers who are approved
403 by the Executive Director of the Department of Marine Resources or
404 his designee. The members of the reserve shall serve without pay.
405 Reserve officers shall be in such numbers as determined by the
406 enforcement needs, with the maximum strength of reserve officers
407 limited to the same number as enforcement officers.

408 (b) To be eligible for membership in the reserve, an
409 applicant must be twenty-one (21) years of age, be a high school
410 graduate or its equivalent, be in good physical condition, have a
411 Mississippi driver's license, be in good standing with the
412 community, be available for training and duty, not be a member of
413 any police, auxiliary police, civil defense, or private security
414 agency, have never been convicted of a felony, and have one (1) of
415 the following:

416 (i) An honorable discharge or honorable separation
417 certificate from one (1) of the United States military services;

418 (ii) Three (3) years of responsible post-high
419 school work experience that required the ability to deal
420 effectively with individuals and groups of persons;

421 (iii) Successful completion of sixty (60) semester
422 hours at an accredited college or university; or

423 (iv) The qualifications as are outlined in this
424 section for enforcement officers.

425 Members of the immediate family of enforcement officers shall
426 not be eligible for the reserve unless a special waiver is
427 granted.

428 Upon acceptance into the reserve, members shall receive a
429 temporary appointment for one (1) year. During this year of
430 temporary status, members must successfully complete the required
431 training and must qualify on the same firearms course as
432 enforcement officers.

433 (c) The reserve shall be under the leadership and
434 direction of the executive director or his designee. The training
435 of the reserve shall be conducted by an enforcement officer. The
436 reserve shall meet at least once each month for the purpose of
437 training and transacting any business as may come before it. The
438 executive director shall be notified in writing of all meetings of
439 the reserve and the time and place of the meetings shall be
440 recorded with the executive director. The executive director
441 shall prepare a reserve officer's manual with the advice and
442 consent of the commission. The manual shall include, but is not
443 limited to, the following: activities and operations, training,
444 administration and duties. During active service, the reserve
445 shall be under the direction of the executive director or his
446 designated representative. When a reserve officer is on active
447 duty and assigned to a specific enforcement officer, he shall be
448 under the direct supervision of that officer. Reserve officers
449 serve at the discretion of the executive director and may be
450 dismissed by him. Reserve officers shall furnish their own
451 uniforms and other personal equipment if the executive director
452 does not provide such items.

453 (d) The executive director may require members of the
454 Enforcement Officers' Reserve Unit to attend officer reserve
455 training programs conducted by county or municipal agencies.

456 (e) The executive director may issue uniforms to such
457 reserve officers and may authorize the issuance of any state

458 equipment necessary for the reserve officers to adequately assist
459 law enforcement officers. The executive director may develop a
460 reserve officer identification system to accomplish the issuance
461 of such items in accordance with the State Auditor guidelines.

462 (f) If the executive director determines that a member
463 of the Enforcement Officers' Reserve Unit may attend a training
464 program as authorized under this section, it shall require that
465 reserve officer to sign an agreement, prior to attending a
466 training program, which shall stipulate that if the reserve
467 officer accepts employment from any other public or private law
468 enforcement agency within three (3) years after completion of his
469 training program, the reserve officer or the respective hiring law
470 enforcement agency shall reimburse the department for the total
471 cost of his training program. By October 1 of each year, the
472 department shall provide the Conservation and Water Resources
473 Committee of the Mississippi House of Representatives and the
474 Ports and Marine Resources Committee of the Mississippi Senate a
475 listing which contains each name and the respective cost of
476 training each reserve officer received during the previous year.

477 **SECTION 12.** Section 49-15-22, Mississippi Code of 1972, is
478 brought forward as follows:

479 49-15-22. Each person employed as a marine patrol officer by
480 the Mississippi Department of Marine Resources who retires for
481 superannuation or for reason of disability under the Public
482 Employees' Retirement System may, upon his request, be allowed to
483 retain, as his personal property, one (1) side arm which was
484 issued to him during his service, if funds are available for this
485 purpose.

486 **SECTION 13.** Section 49-15-23, Mississippi Code of 1972, is
487 brought forward as follows:

488 49-15-23. (1) (a) The Mississippi Commission on Marine
489 Resources and the Commission on Wildlife, Fisheries and Parks are
490 hereby authorized and empowered to establish the dividing line

491 between salt and fresh waters, and when such line has been
492 established and notice thereof given as provided herein, it shall
493 be recognized in the courts in connection with any proceedings
494 under the game and fish laws of this state. Such line may be
495 changed from time to time by the Mississippi Commission on Marine
496 Resources and the Commission on Wildlife, Fisheries and Parks on
497 proper publication of such changes.

498 (b) In establishing the dividing line between salt and
499 fresh waters, no part of the Bay of St. Louis shall be declared to
500 be fresh water.

501 (c) In establishing the dividing line between salt and
502 fresh waters, none of the waters within the municipal boundaries
503 of the City of Pascagoula, as they existed on January 1, 1981,
504 shall be declared to be fresh water.

505 (d) In establishing the dividing line between salt and
506 fresh waters, no part of Bayou Cassotte and its tributaries, Bang
507 Bayou and its tributaries, Bayou Cumbest and its tributaries,
508 Crooked Bayou, Middle Bayou and that part of Heron Bayou with its
509 tributaries which lie in the State of Mississippi shall be
510 declared to be fresh water.

511 (2) Whenever any dividing line is established or changed as
512 above provided, notice shall be given to the public by publication
513 for three (3) weeks in a newspaper published and having general
514 circulation in the county or counties affected thereby, and a
515 description of the dividing line shall be filed in the office of
516 the chancery clerk of such counties or county.

517 **SECTION 14.** Section 49-15-25, Mississippi Code of 1972, is
518 brought forward as follows:

519 49-15-25. The commission may appoint an advisory council of
520 persons who may fairly be regarded as representative of all the
521 various segments of the industry. This council shall aid the
522 commission in formulating policies and discussing problems related

523 to the administration of this chapter and the advancement and
524 protection of the industry.

525 **SECTION 15.** Section 49-15-27, Mississippi Code of 1972, is
526 brought forward as follows:

527 49-15-27. The commission is hereby granted full and complete
528 authority to lease the bottoms within its jurisdiction upon the
529 following terms and conditions:

530 (1) All areas within the commission's jurisdiction, not
531 designated tonging reefs by this chapter, or hereinafter
532 designated tonging reefs by the commission; all areas not
533 designated natural reefs by the commission, and all areas not
534 within the boundaries of riparian property owners may be leased by
535 the commission.

536 (2) All individual lessees shall be residents of the
537 State of Mississippi, or if a firm or corporation, such firm or
538 corporation shall be organized under the laws of the State of
539 Mississippi.

540 (3) No individual, corporation, partnership or
541 association may lease less than five (5) acres nor more than one
542 hundred (100) acres; provided, however, that in the case of an
543 individual there shall not be counted towards such limitation any
544 lands leased by a corporation, partnership or association in which
545 such individual owns ten percent (10%) or less interest and, in
546 the case of a corporation, partnership or association, there shall
547 not be counted toward such limitation any lands leased by an
548 individual stockholder, partner or associate thereof who owns ten
549 percent (10%) or less interest in such corporation, partnership or
550 association.

551 (4) Individuals, firms or corporations desiring to
552 lease bottoms shall make application to the commission in writing,
553 describing the area to be leased, and the price proposed to be
554 paid therefor.

555 (5) The commission shall consider such applications in
556 the order in which each is filed and award, as promptly as
557 possible, and after advertising and receiving sealed bids as
558 provided herein, execute and deliver to the applicant a lease to
559 the area described in the application upon payment of the rent in
560 advance.

561 (6) Such leases shall be for a term of one (1) year,
562 with the right of lessee to renew the lease of an additional year,
563 and from year to year, at the same ground rental so long as lessee
564 actively cultivates and gathers oysters, and complies with the
565 provisions of this chapter, provided that no lease shall be
566 renewed for more than twenty-five (25) years total unless it is
567 rebid. In any such rebidding, if the successful bidder is someone
568 other than the lessee, the successful bidder shall, before taking
569 possession of the leased bottoms, pay to the lessee the fair
570 market value of the lessee's oysters in place as determined by the
571 commission. If the lessee is prevented from gathering oysters
572 from the area leased, by storm or other natural phenomenon, he,
573 nevertheless, may renew the lease if the grounds are actively
574 worked by lessee during the remaining term of his lease. No lease
575 may be transferred without approval by the commission of the
576 transfer.

577 (7) The commission shall fix a ground rental at not
578 less than One Dollar (\$1.00) per acre.

579 (8) The commission shall keep an accurate chart of the
580 areas within its jurisdiction and shall mark on such chart those
581 areas which are under lease. All leases shall be marked by
582 appropriate poles, stakes or buoys of such material as will not
583 injure watercraft, at the expense of the leaseholder. The
584 commission shall keep an accurate book, designated "Mississippi
585 Oyster Farms" which shall contain copies of all leases. If any
586 lease be cancelled or expired, such fact shall be noted on the
587 face of such lease. Lessees shall be "oyster farmers" for the

588 purposes of any grants, aid, subsidies or other assistance from
589 the federal government or other governmental or private agencies.

590 (9) All funds derived from leasing shall be paid into
591 the general fund of the State Treasury.

592 (10) All leases made by the commission under the
593 authority of this section shall be subject to the paramount right
594 of the state and any of its political subdivisions authorized by
595 law, to promote and develop ports, harbors, channels, industrial
596 or recreational projects, and all such leases shall contain a
597 provision that in the event such authorized public body shall
598 require the area so leased or any part thereof for such public
599 purposes, that the lease shall be terminated on reasonable notice
600 fixed by the commission in such lease. On the termination of any
601 lease, the lessees shall have the right to remove any oysters
602 within the leased area within such time as may be fixed by the
603 commission and in accordance with such reasonable rules and
604 regulations as the commission may adopt.

605 Any person convicted of taking oysters from leased land or
606 from waters that are not of a safe sanitary quality without a
607 permit as provided in Section 49-15-37 shall, on the first
608 offense, forfeit all equipment used, exclusive of any boat or
609 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
610 or sentenced not to exceed one (1) year in the county jail, or
611 both. Subsequent convictions shall be punishable by forfeiture of
612 all equipment, including any boat or boats; and a fine not to
613 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
614 years in prison, or both such fine and imprisonment.

615 No lease of any area shall be made unless and until the
616 commission shall have given at least fifteen (15) days' public
617 notice of its intention to lease such area, such notice to be
618 given by publication in a newspaper of general circulation in such
619 county. In the awarding of such leases, the commission is
620 authorized to exercise its discretion as to which bid is the

621 highest responsible bid, and such leases shall be awarded under
622 such conditions as will insure the maximum culture and propagation
623 of oysters.

624 The commission is enjoined to cooperate with the Jackson
625 County Port Authority, the Harrison County Development Commission,
626 the Municipal Port Commission and other port and harbor agencies,
627 so that oyster beds shall not be planted in close proximity to
628 navigable channels. The commission or lessee shall have no right
629 of action as against any such public body for damages accruing to
630 any natural reef or leased reef by any necessary improvement of
631 such channel in the interest of shipping, commerce, navigation or
632 other purpose authorized by law.

633 **SECTION 16.** Section 49-15-28, Mississippi Code of 1972, is
634 brought forward as follows:

635 49-15-28. (1) Each person buying or handling seafood
636 secured from commercial fishermen, or from other wholesale
637 dealers, for the purpose of resale, whether handling on a
638 commission basis or otherwise, and every resident person shipping
639 seafood out of the State of Mississippi on consignment or order,
640 except fishermen shipping their own catch, shall be considered a
641 wholesale dealer and shall obtain a license and pay an annual
642 license fee of One Hundred Dollars (\$100.00). The privilege of a
643 wholesaler shall also include the privilege of a retailer without
644 additional license. Where seafood is sold at retail in grocery
645 stores and meat markets which pay a city, county or state
646 privilege license for that operation, those grocery stores and
647 meat markets shall not be liable for the payment of the tax above
648 levied.

649 (2) Any factory or person engaged in the canning,
650 processing, freezing, drying or shipping of oysters, fish,
651 saltwater crabs or saltwater shrimp shall be considered a seafood
652 processor and shall obtain a license and pay an annual privilege
653 tax of Two Hundred Dollars (\$200.00). It is unlawful for any

654 factory or person to engage in the canning, processing, freezing,
655 drying or shipping of oysters, fish, saltwater crabs or saltwater
656 shrimp without first having obtained that license. The privilege
657 of a processor shall also include the privileges of a wholesaler
658 without additional license. The privilege tax license shall be
659 nontransferable and a license shall be required for each factory
660 or place of business. This license shall not apply to, nor shall
661 the payment of the annual privilege tax of Two Hundred Dollars
662 (\$200.00) be due by, a dealer in fresh seafoods who merely
663 preserves the seafood for future sale to prevent spoilage and is
664 in competition with other retailers who are not required to pay
665 this tax.

666 **SECTION 17.** Section 49-15-29, Mississippi Code of 1972, is
667 brought forward as follows:

668 49-15-29. (1) The commission shall assess and collect
669 license fees and taxes as authorized under this chapter.

670 (2) All commercial licenses provided for under this chapter
671 that relate to seafood shall be purchased from May 1 through April
672 30 at the fees provided in this chapter. The licenses shall
673 expire on April 30 following the date of issuance.

674 (3) When an application for an original or renewal license
675 of any kind authorized by this chapter is received by the
676 commission, the commission shall determine whether the vessel or
677 related equipment subject to that license is owned and operated in
678 compliance with applicable federal and state laws. If the
679 commission determines that a vessel or its owner is not in
680 compliance with applicable federal and state laws, then no license
681 shall be issued or renewed for the operation of that vessel for a
682 period of one (1) year. All licenses shall be made available for
683 purchase at any building which is regularly operated by the
684 department or commission on the Mississippi Gulf Coast.

685 (4) The commission may authorize any person, other than a
686 salaried employee of the state to issue any license under this

687 chapter which the commission deems appropriate. The authorized
688 person may collect and retain for issuance of the license the sum
689 of One Dollar (\$1.00) in addition to the license fee provided in
690 this chapter. The commission shall establish the qualifications
691 of persons authorized to issue licenses under this section and
692 shall also establish the procedure for the issuance of that
693 license by the authorized person and the procedure for collection
694 of license fees by and from the authorized person.

695 (5) The commission may design, establish, and administer a
696 program to provide for the purchase, by electronic means, of any
697 license, permit, registration or reservation issued by the
698 commission or department. Any actual costs associated to provide
699 these documents electronically may be added to the cost of the
700 electronic program.

701 **SECTION 18.** Section 49-15-30, Mississippi Code of 1972, is
702 brought forward as follows:

703 49-15-30. (1) The commission may promulgate rules and
704 regulations for nonresident permits in order to promote reciprocal
705 agreements with other states.

706 (2) The commission shall provide that residents of other
707 states bordering on the Gulf of Mexico who are applicants for a
708 commercial fishing license of any type as provided for in this
709 chapter shall pay the same fee or fees that a resident of this
710 state pays in this state for that license if the respective
711 applicant's domicile state does not charge a greater fee or fees
712 for a Mississippi resident than for a resident of any other state
713 to engage in a like activity in the other state. If the
714 applicant's domicile state does charge a greater fee or fees for
715 residents of Mississippi than for a resident of the applicant's
716 domicile state, then that applicant shall pay the same fee or fees
717 that the applicant's domicile state charges residents of
718 Mississippi.

719 (3) The commission shall require a nonresident to purchase
720 the same type and number of licenses and pay the same fees that
721 are required of Mississippi residents to engage in like activity
722 in the nonresident's state.

723 (4) If an applicant applies for a nonresident commercial
724 fishing license to engage in a certain activity and the
725 applicant's state does not issue a nonresident commercial fishing
726 license for that activity, then the commission shall not issue
727 such license to the applicant.

728 (5) Any nonresident who engages in the commercial taking of
729 seafood within the territorial waters of Mississippi without
730 having the required nonresident commercial license is guilty of a
731 misdemeanor and shall be fined Five Thousand Dollars (\$5,000.00)
732 and shall forfeit any equipment, gear or nets used in the offense.

733 **SECTION 19.** Section 49-15-31, Mississippi Code of 1972, is
734 brought forward as follows:

735 49-15-31. (1) The commission may construct, maintain and
736 operate all patrol stations, camps and related facilities as may
737 be deemed necessary by the commission.

738 (2) If a regulatory agency of a foreign state establishes a
739 station or checkpoint through which Mississippi residents must
740 pass for license, permit or catch inspection, or otherwise, the
741 department shall establish similar stations or checkpoints through
742 which residents of the foreign states shall be required to pass.

743 **SECTION 20.** Section 49-15-34, Mississippi Code of 1972, is
744 brought forward as follows:

745 49-15-34. (1) The commission shall require all boats used
746 under regulation of this chapter which are also used in waters of
747 other states and required by those states to pay licenses or fees
748 for the same purposes as licenses and fees are required under this
749 chapter to purchase a license which reflects that the licensed
750 boats are used inside and outside the territorial waters of
751 Mississippi. Upon the issuance of that license, the licensed

752 boat, if used exclusively for commercial fishing or charter boats
753 which have been licensed and authorized by the United States Coast
754 Guard under 46 CFR Sections 24-26 and 46 CFR Sections 175-187,
755 shall be deemed to be in the business of interstate
756 transportation, but this shall in no way affect the collection of
757 other licenses and fees by the commission which would otherwise be
758 due under this chapter. The commission shall assess and collect
759 an annual license fee of Twenty Dollars (\$20.00) on each boat
760 engaged in operations under this subsection.

761 (2) Notwithstanding the provisions of this chapter, the
762 commission shall establish a transport permit to land seafood in
763 this state which is legally taken outside of the Mississippi
764 territorial waters without obtaining a license under this chapter.
765 The commission by regulation shall require the registration of
766 those landings. The commission may establish a permit fee in an
767 amount not to exceed the amount of the license fee established in
768 Section 49-15-28(1). This subsection shall not be construed to
769 supersede Section 49-15-71.

770 **SECTION 21.** Section 49-15-35, Mississippi Code of 1972, is
771 brought forward as follows:

772 49-15-35. Upon the request of the boards of supervisors of
773 the respective coastal counties, the commission may adopt
774 ordinances prohibiting the taking and catching of menhaden within
775 certain limits of the coast line of the county so requesting, but
776 the commission shall not fix such limits except upon request of
777 the board of supervisors, and such limit shall not exceed two (2)
778 miles from the shoreline, or two (2) miles from the corporate
779 limit boundaries of any municipality bordering on the Mississippi
780 Sound.

781 **SECTION 22.** Section 49-15-36, Mississippi Code of 1972, is
782 brought forward as follows:

783 49-15-36. (1) The commission shall have full jurisdiction
784 and control of all public and natural oyster reefs and oyster
785 bottoms of the State of Mississippi.

786 (2) Public reefs may be opened for harvest of oysters during
787 the season on a rotating basis. If the commission determines that
788 a particular reef has been over-harvested or that a high
789 percentage of sublegal size oysters exist on a particular reef and
790 that harvest could damage future oyster crops, the commission may
791 close designated reef areas and keep them closed during the
792 season. Reefs open for harvest during the season shall be open
793 every Monday through Saturday, and subject to the availability of
794 funds, the reefs shall be open on Sunday.

795 (3) The commission shall promulgate regulations regarding
796 the closing of oyster reefs which are determined to be
797 contaminated or otherwise unfit for consumption. The waters of
798 reefs closed under this chapter shall be tested between five (5)
799 and ten (10) days after closure. When that testing indicates the
800 oysters on the closed reef are suitable for consumption, the reef
801 shall be opened for the taking of oysters as soon as notice of
802 that opening may be made to interested parties. The authority to
803 open or close oyster reefs under this chapter shall be solely
804 within the discretion of the commission, acting through the
805 department. The Gulf Coast Research Laboratory or other certified
806 laboratory shall cooperate with the department and shall conduct
807 necessary tests to determine the condition of oyster reefs at the
808 request of the department. The department may limit the sale of
809 oysters for human consumption, but all matters concerning the
810 harvesting of oysters shall be within the jurisdiction of the
811 commission.

812 (4) (a) The commission may issue special permits for the
813 purpose of catching oysters outside the open season or in areas
814 not normally open to harvest to those nonprofit organizations that
815 are tax exempt under Section 501(c) of the United States Internal

816 Revenue Code and which have on file with the State Tax Commission
817 a tax exemption letter issued by the United States Internal
818 Revenue Service.

819 (b) The commission shall promulgate rules and
820 regulations governing the taking of oysters by the nonprofit
821 organization and shall issue such regulations to all organizations
822 upon request and at the issuance of the special permit.

823 (5) The commission shall establish a reasonable period of
824 time for depuration of oysters replanted from contaminated waters.
825 That period of time shall be consistent with the maintenance of
826 the public health and may vary from time to time and from one reef
827 to another in accordance with environmental conditions.

828 **SECTION 23.** Section 49-15-37, Mississippi Code of 1972, is
829 brought forward as follows:

830 49-15-37. By order of the commission, the director, under
831 the direction and control of the commission, shall employ boats,
832 crews and laborers and shall cultivate the public reefs of the
833 state, and shall dredge the oysters in the Mississippi Sound from
834 places where they are too thick, and shall spread them on reefs
835 where they are too thin, and shall carry shells from the factories
836 and spread them in places where the oyster beds can be improved
837 and enlarged. The department may purchase other materials as may
838 be equally suitable for the propagation of oysters. The
839 department in cultivating the reefs, transplanting and spreading
840 oysters and shells and other suitable materials, may expend any
841 funds available for that purpose. In taking seed oysters, care
842 shall be used to not injure or destroy the merchantable oysters on
843 the reefs from which they are taken. The seed oysters shall be
844 tonged from the "conner" or seed reefs, unless it is practicable
845 and safe to dredge those oysters. The commission may, by orders
846 spread on its minutes, establish new bedding grounds at those
847 places within the boundaries of the state as it may determine, on
848 advice of the director, or on advice of technical governmental

849 experts, or competent aquatic biologists. On existing public
850 reefs in which oysters exist and in waters not of a safe sanitary
851 quality as determined by the department, the commission shall
852 prohibit any person, firm or corporation from taking oysters from
853 those areas. The commission shall from time to time remove the
854 oysters from the areas and re-lay or replant them in an approved
855 area for a period of time under Section 49-15-36 before they may
856 be harvested. The commission may transport the oysters to an
857 onshore, molluscan depuration facility for the purpose of proving
858 depuration technology and for other experimental purposes. In
859 connection with the testing of onshore, molluscan depuration
860 technology, the commission may sell or dispose of the re-layed
861 oysters in a manner consistent with all applicable state and
862 federal laws and regulations. Any funds received from the sale of
863 the oysters shall be used in a like manner as those funds received
864 under Section 49-15-38.

865 If the commission finds that onshore, molluscan depuration
866 technology proves to be successful, the commission may issue
867 permits to private enterprise which may locate depuration
868 facilities in Hancock, Harrison and Jackson Counties. The
869 commission shall promulgate rules and regulations for the taking
870 of oysters from reefs for transport to an onshore, molluscan
871 depuration facility and for the operation of the facilities. Each
872 depuration facility operated by private enterprise shall return
873 oyster shells to the oyster reefs for replanting under the proper
874 supervision of the department and under Section 49-15-38.

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

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

884 The commission may, upon certification of the department that
885 the water bottom from which oysters are to be removed is not of a
886 safe, sanitary quality for oyster production for human consumption
887 and has been unsafe for a period of at least one (1) year
888 immediately preceding certification, and upon complying with the
889 following requirements, permit the dredging of oysters from
890 contaminated public areas and re-laying the oysters to private
891 leased grounds in the State of Mississippi:

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

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

896 (c) Permittee must fulfill all permit requirements as
897 established by the commission;

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

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

902 (f) Permittee shall not move oysters from the
903 contaminated area without the presence of an employee of the
904 department at all times, from the dredging of the oysters from the
905 contaminated areas to their deposit on private leased grounds or
906 to an onshore, molluscan depuration facility.

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

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

915 violation of this section. The bond may be approved by the
916 director of the department if the director finds the bond to be
917 secured by sufficient property or sureties.

918 The commission shall regulate the amount and time of taking
919 of oysters from seed areas and shall supervise the removal,
920 planting and harvesting of oysters from the areas. The time set
921 for the taking of oysters from contaminated seed areas for
922 re-laying or replanting and the time set for the taking of oysters
923 from private leased grounds shall be separated by not less than a
924 period of time determined under Section 49-15-36 during which
925 neither activity may be allowed.

926 The commission shall regulate the taking of oysters from
927 contaminated seed areas and the subsequent depuration of the
928 oysters by off-bottom techniques to protect public health, while
929 at the same time fostering the utilization of the state's oyster
930 resources. The regulations shall include the setting of the
931 period of depuration for the oysters by the use of appropriate
932 techniques and provide for an employee of the department to be
933 present when the oysters are taken from contaminated seed areas
934 and deposited on private lease grounds. Any person, firm or
935 corporation engaged in the depuration of oysters by off-bottom
936 techniques or onshore, molluscan depuration facility shall pay to
937 the department an amount equal to the regular compensation of the
938 employee of the department for the time the employee actually
939 spends performing the duties.

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

943 The commission shall designate certain uncontaminated reefs
944 in the state as public reefs and shall remove oysters from water
945 bottoms which are not of a safe, sanitary quality for oyster
946 production for human consumption and shall transport the oysters
947 to the public reefs which shall be reserved for tonging only.

948 **SECTION 24.** Section 49-15-38, Mississippi Code of 1972, is
949 brought forward as follows:

950 49-15-38. (1) (a) Unless otherwise permitted by the
951 commission, no oysters shall be taken from the reefs of this state
952 unless culled upon the natural reefs, and all oysters less than
953 three (3) inches from end to end, and all dead shells, shall be
954 replaced, scattered and broadcast immediately on the natural reefs
955 from which they are taken. It is unlawful for any captain or
956 person in charge of any vessel, or any canner, packer, commission
957 man, dealer or other person to purchase, sell or to have in that
958 person's possession or under that person's control any oysters off
959 the public reefs or private bedding grounds not culled according
960 to this section, or any oysters under the legal size. A ten
961 percent (10%) tolerance shall be allowed in relation to any
962 culling.

963 (b) The commission may authorize the culling of oysters
964 of a lesser measure. That authorization shall be in response to
965 special circumstances or extreme natural conditions affecting the
966 habitat, including, but not limited to, flooding. The department
967 may establish checkpoints in any area within its jurisdiction to
968 conduct inspections, collect fees and issue tags in the
969 enforcement of this chapter and regulations adopted by the
970 commission.

971 (2) The commission shall acquire and replant shells, seed
972 oysters and other materials, when funding is available, for the
973 purpose of growing oysters.

974 (3) Any person, firm or corporation failing or refusing to
975 pay the shell retention fee required under Section 49-15-46 to the
976 department when called for by the department, is guilty of a
977 misdemeanor and, upon conviction, shall be fined not more than One
978 Hundred Dollars (\$100.00) for each barrel of shells for which they
979 fail or refuse to tender the shell retention fee. In addition to
980 the fine, the violator shall pay the reasonable value of the

981 oyster shells and shall be ineligible to be licensed for any
982 activity set forth in this chapter for a period of two (2) years
983 from the date of conviction.

984 (4) The planting of oyster shells as provided under this
985 chapter shall be under the direction and supervision of the
986 executive director of the department. Planting and replanting of
987 oyster shells shall be coordinated by the Gulf Coast Research
988 Laboratory. The governing authorities of each county and
989 municipality bordering upon the Mississippi Sound may assist the
990 commission and the Gulf Coast Research Laboratory in the planting
991 and replanting of oyster shells.

992 **SECTION 25.** Section 49-15-39, Mississippi Code of 1972, is
993 brought forward as follows:

994 49-15-39. (1) It is unlawful for any person to catch or
995 take oysters by means of dredging in any of the waters designated
996 as tonging reefs by the commission.

997 (2) The commission shall designate certain areas as tonging
998 reefs. The commission shall mark the boundaries of the areas
999 designated by appropriate poles, stakes or buoys of material that
1000 will not injure watercraft. The commission may authorize the
1001 taking of oysters on reefs designated as tonging reefs by dredge,
1002 drag or scoop if the commission finds that the dredging, dragging
1003 or scooping is necessary to manage the resource properly. Any
1004 dredging, dragging or scooping authorized under this section shall
1005 be for a specific time period as provided by the commission.

1006 (3) Unless otherwise authorized under this section, any boat
1007 or vessel which catches or takes oysters by means of dredges,
1008 drags or scoops, other than hand tongs, from any of the areas
1009 described in this section, or with a dredge or dredges in the
1010 water, shall have all oysters on board the boat or vessel declared
1011 to be contraband. The oysters shall be taken and confiscated by
1012 the department or any marine law enforcement officer without court
1013 procedure. The captain and crew of the boat or vessel, promptly

1014 upon being ordered so to do, shall transport the oysters to a
1015 point on the public reefs of the state where the boat or vessel is
1016 found and there scatter the oysters according to the instructions
1017 of the enforcement officers. Any person who violates this section
1018 shall be punished as provided in Section 49-15-63.

1019 **SECTION 26.** Section 49-15-40, Mississippi Code of 1972, is
1020 brought forward as follows:

1021 49-15-40. (1) The commission may support projects in the
1022 nature of digging or constructing canals or ditches to bring
1023 additional water to existing oyster reefs or beds in need of that
1024 water, or for the purpose of creating or establishing new oyster
1025 reefs or beds. All reefs created or established under this
1026 section shall be public reefs. The commission may expend any
1027 monies as it deems necessary and expedient to participate in the
1028 digging of those canals. The commission may also enter into
1029 interstate or intrastate efforts to support these projects and may
1030 seek and utilize aid from all federal, state and local sources in
1031 this endeavor. To aid in the construction of any canals or
1032 ditches, the commission may exercise the right of eminent domain
1033 in the manner provided by law.

1034 (2) The commission may construct, operate and maintain an
1035 onshore, molluscan depuration facility using any federal or
1036 special funds, other than general funds, for the purpose of
1037 testing and proving depuration technology of oysters and other
1038 molluscan shellfish. In connection with the construction,
1039 operation and maintenance of the facility, the commission may
1040 contract with any persons it deems necessary for the operation,
1041 testing, maintenance and evaluation of the facility, subject to
1042 the approval of the State Personnel Board. The commission may
1043 locate the facility on any available public properties, subject to
1044 the approval of the governing body of that jurisdiction and all
1045 other applicable state laws. Once depuration technology has been
1046 tested and proven for oysters, the commission may conduct any

1047 other tests and experiments with oysters or other shellfish as may
1048 be necessary to enhance production or quality of shellfish.

1049 (3) The commission may lease to political subdivisions of
1050 the State of Mississippi up to one thousand (1,000) acres of water
1051 bottoms for development of oyster reefs and those political
1052 subdivisions may permit residents of the State of Mississippi to
1053 harvest oysters from the reefs. The political subdivision may
1054 charge and receive a fee for each sack of oysters harvested. The
1055 commission shall consider and approve the application of a
1056 political subdivision after determining that (a) no conflicts
1057 exist with sites requested in applications filed before the
1058 application of the political subdivision; (b) a fair and
1059 reasonable rental payment has been set; and (c) the lease will
1060 insure the maximum culture and propagation of oysters.

1061 **SECTION 27.** Section 49-15-41, Mississippi Code of 1972, is
1062 brought forward as follows:

1063 49-15-41. It shall be unlawful for any person to fish, catch
1064 or take oysters from any of the oyster reefs in the State of
1065 Mississippi by the use of any tongs, dredge, rake or other
1066 mechanical device, during the hours between sunset and sunrise of
1067 each day.

1068 Violation of this section shall be punishable by a fine not
1069 to exceed Ten Thousand Dollars (\$10,000.00) and/or up to one (1)
1070 year in the county jail.

1071 **SECTION 28.** Section 49-15-42, Mississippi Code of 1972, is
1072 brought forward as follows:

1073 49-15-42. (1) All oysters caught in Mississippi territorial
1074 waters shall be tagged and unloaded in Mississippi. Before
1075 tagging and unloading, the oysters must be sacked or packaged in
1076 containers or by other methods approved by the department.
1077 However, a person is exempt from the unloading requirement if he
1078 is transporting the oysters to a state that has a reciprocity

1079 agreement with Mississippi exempting Mississippi residents from
1080 the unloading requirements of that state.

1081 (2) The driver of any vehicle used in the transporting of
1082 oysters in the shell from outside the territorial limits of the
1083 State of Mississippi, whether the vehicle is a boat or motor
1084 vehicle, shall possess an invoice, statement or other bill of
1085 lading which bears the name of the person, firm or corporation
1086 from whom the oysters were purchased, the name of the purchaser
1087 and the number of barrels or bushels of oysters which the vehicle
1088 or vessel contains.

1089 **SECTION 29.** Section 49-15-43, Mississippi Code of 1972, is
1090 brought forward as follows:

1091 49-15-43. Oysters for sale either wholesale or retail may be
1092 packaged in glass jars covered with a screw-type top or lid of the
1093 type customarily and heretofore used in the seafood industry in
1094 the State of Mississippi, but this section shall automatically be
1095 repealed if and when such type packaging becomes prohibited by any
1096 agency of the United States government for shipment in interstate
1097 commerce.

1098 **SECTION 30.** Section 49-15-44, Mississippi Code of 1972, is
1099 brought forward as follows:

1100 49-15-44. The commission shall prohibit the sale or
1101 possession of illegal oysters. It is unlawful for any person,
1102 firm or corporation to possess or to engage in the sale of oysters
1103 not certified in this state, or to shuck or repack for sale any
1104 illegal oysters, unless that person, firm or corporation possesses
1105 a bill of sale, valid permit or affidavit of another state,
1106 properly dated, evidencing the legality of the sale or possession
1107 of the oysters in that state. Any person in possession of illegal
1108 oysters shall be subject to civil or criminal prosecution and
1109 shall be fined not less than One Hundred Dollars (\$100.00) or
1110 punished as provided in Section 49-15-63.

1111 **SECTION 31.** Section 49-15-45, Mississippi Code of 1972, is
1112 brought forward as follows:

1113 49-15-45. (1) Any municipality bounded by the Gulf of Mexico
1114 or Mississippi Sound, which has wholly or partly within its
1115 corporate limits, or in the waters adjacent thereto, a public
1116 oyster reef reserved for catching oysters exclusively by use of
1117 hand tongs, is hereby authorized to aid and cooperate with the
1118 commission in enforcing all laws regulating the catching, taking
1119 and transporting of oysters, including all of the provisions of
1120 this chapter, and all regulations and ordinances of such
1121 commission relating to such oyster reefs.

1122 (2) Such municipality may, in its discretion, extend its
1123 corporate limits by continuing its boundaries at right angles to
1124 the shoreline, into the waters of the Mississippi Sound or Gulf of
1125 Mexico or waters tributary thereto to any line within the
1126 boundaries of the State of Mississippi, and may, by ordinance
1127 spread upon its minutes, provide that all violations of such laws
1128 and ordinances regulating the catching, taking and transporting of
1129 oysters shall be violations of the municipal ordinances and
1130 punishable as such.

1131 (3) In carrying out the provisions of this section such
1132 municipality may purchase, equip and maintain a suitable patrol
1133 boat and employ and pay the salaries of a crew to operate same and
1134 officers to enforce such laws and ordinances.

1135 (4) Neither prosecutions nor convictions by such municipality
1136 shall bar further prosecution and conviction by the commission or
1137 its officers for the same offense.

1138 (5) All fines collected by such municipality in enforcing the
1139 provisions of this chapter shall be paid into the general fund of
1140 the municipality and all costs and expenses incurred in connection
1141 with this chapter shall be paid out of the general fund of the
1142 municipality.

1143 (6) Officers employed or deputized by the municipality to
1144 carry out the provisions of this section shall have the right to
1145 make arrests without warrant for any violations of the laws,
1146 ordinances or regulations referred to in subsection (1) hereof,
1147 committed in the presence or in the view of such arresting
1148 officer.

1149 (7) Nothing herein contained shall be construed to authorize
1150 any municipality to adopt any ordinances regulating catching,
1151 taking or transporting oysters. The authority vested in such
1152 municipality under this section being limited to enforcement of
1153 statutes passed by the Legislature and ordinances and regulations
1154 adopted by the commission.

1155 **SECTION 32.** Section 49-15-46, Mississippi Code of 1972, is
1156 brought forward as follows:

1157 49-15-46. (1) Each vessel used to catch, take, carry or
1158 transport oysters from the reefs of the State of Mississippi, or
1159 engaged in transporting any oysters in any of the waters within
1160 the territorial jurisdiction of the State of Mississippi, for
1161 commercial use, shall annually, before beginning operations, be
1162 licensed by the commission and pay the following license fee:

1163 (a) Fifty Dollars (\$50.00) on each in-state vessel or
1164 boat utilized for tonging oysters or gathering oysters by hand;

1165 (b) One Hundred Dollars (\$100.00) on each in-state
1166 vessel or boat utilized for dredging oysters;

1167 (c) One Hundred Dollars (\$100.00) on each out-of-state
1168 vessel or boat utilized for tonging oysters or gathering oysters
1169 by hand; or

1170 (d) Two Hundred Dollars (\$200.00) on each out-of-state
1171 vessel or boat utilized for dredging oysters.

1172 (2) Each captain of each commercial vessel, used for either
1173 tonging or dredging, shall purchase a license entitled "captain
1174 license - oyster" for a fee not to exceed Ten Dollars (\$10.00).

1175 (3) All oysters harvested in the State of Mississippi shall
1176 be tagged. Tags shall be issued by the department and shall bear
1177 the catcher's name, the date and origin of the catch, the shell
1178 stock dealer's name and permit number. The department shall
1179 number all tags issued and shall maintain a record of those tags.
1180 The commission, in its discretion, may adopt any regulations
1181 regarding the tagging of oysters and other shellfish.

1182 (4) Each person catching or taking oysters from the waters
1183 of the State of Mississippi for personal use shall obtain a permit
1184 from the commission and pay an annual recreational oyster permit
1185 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
1186 permit shall not be offered for sale. The limits on the allowable
1187 catch of oysters for recreational purposes shall be three (3)
1188 sacks per week. The department shall issue tags of a
1189 distinguishing color to designate recreationally harvested
1190 oysters, which shall be tagged on the same day of harvest in the
1191 manner prescribed in subsection (3) of this section for
1192 commercially harvested oysters or by regulation of the commission.

1193 (5) The commission shall assess and collect a shell
1194 retention fee for the shells taken from waters within the
1195 territorial jurisdiction of the State of Mississippi as follows:

1196 (a) Commercial and recreational harvesters - Fifteen
1197 Cents (15¢) per sack paid to the department on the day of harvest;

1198 (b) Initial oyster processor, dealer or factory first
1199 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the
1200 department no later than the tenth day of the month following the
1201 purchase, on forms submitted by the department;

1202 (c) Commercial harvesters transporting their catch out
1203 of the state - Fifty Cents (50¢) per sack paid to the department
1204 on the day of harvest, in addition to the fees paid in paragraph
1205 (5)(a); and

1206 (d) Commercial harvesters not selling their oysters to
1207 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the

1208 department on the day of harvest, in addition to fees paid in
1209 paragraph (5)(a).

1210 Funds received from the shell retention fee shall be paid
1211 into a special fund in the State Treasury to be appropriated by
1212 the Legislature for use by the commission to further oyster
1213 production in this state, which includes plantings of oysters
1214 and/or cultch materials.

1215 During open seasons, oysters may be taken only by hands,
1216 tongs and dredges.

1217 **SECTION 33.** Section 49-15-61, Mississippi Code of 1972, is
1218 brought forward as follows:

1219 49-15-61. The governing body of any municipality or county
1220 on the Mississippi Sound having located therein a United States
1221 Department of Interior and wild life service facility are hereby
1222 authorized either severally or jointly to contribute to the cost
1223 of the construction and erection of a marine museum for the
1224 purpose of displaying aquatic products available in the
1225 Mississippi Sound and in the Gulf of Mexico. However, the United
1226 States Department of Interior shall contribute at least fifty
1227 percent (50%) of the cost of the construction and erection of such
1228 marine museum.

1229 **SECTION 34.** Section 49-15-63, Mississippi Code of 1972, is
1230 brought forward as follows:

1231 49-15-63. (1) (a) Any person, firm or corporation
1232 violating any of the provisions of this chapter or any ordinance
1233 duly adopted by the commission, unless otherwise specifically
1234 provided for herein, shall, on conviction, be fined not less than
1235 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
1236 (\$500.00), for the first offense, unless the first offense is
1237 committed during a closed season, in which case the fine shall be
1238 not less than Five Hundred Dollars (\$500.00), nor more than One
1239 Thousand Dollars (\$1,000.00); and not less than Five Hundred
1240 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),

1241 for the second offense when such offense is committed within a
1242 period of three (3) years from the first offense; and not less
1243 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
1244 Dollars (\$4,000.00), or imprisonment in the county jail for a
1245 period not exceeding thirty (30) days for any third or subsequent
1246 offense when such offense is committed within a period of three
1247 (3) years from the first offense.

1248 (b) In addition, upon conviction of such third or
1249 subsequent offense, it shall be the duty of the court to revoke
1250 the license of the convicted party and of the boat or vessel used
1251 in such offense, and no further license shall be issued to such
1252 person and for said boat to engage in catching or taking of any
1253 seafoods from the waters of the State of Mississippi for a period
1254 of one (1) year following such conviction. Forfeiture of any
1255 equipment or nets used in a second or subsequent offense may be
1256 instituted pursuant to Sections 49-15-201 through 49-15-207. If
1257 the person in possession of or using the nets in the violation is
1258 not the owner or licensee of the nets, the department shall notify
1259 the owner or licensee of the nets. The nets shall be subject to
1260 forfeiture unless the nets were stolen and prosecution for the
1261 theft is initiated. Equipment as used in this section shall not
1262 mean boats or vessels.

1263 (c) Any person convicted and sentenced under this
1264 section for a second or subsequent offense shall not be considered
1265 for reduction of sentence.

1266 (d) Except as provided under subsection (5) of Section
1267 49-15-45, any fines collected under this section shall be paid
1268 into the Seafood Fund.

1269 (e) In addition to any other penalties, the commission
1270 may suspend the license of any person convicted of a violation of
1271 this chapter and may suspend the license of any vessel used in the
1272 violation for a period not to exceed five (5) days for the first
1273 offense. For a second offense, the commission may suspend the

1274 license of such person and vessel for a period not to exceed
1275 thirty (30) days.

1276 (2) For any violation of this chapter, the individual
1277 registered as the captain shall be subject to the penalties
1278 provided in this chapter, if that individual is aboard the vessel.
1279 If that individual is not aboard the vessel, the individual
1280 designated as the substitute captain in accordance with Section
1281 49-15-64.5 shall be subject to the penalties provided in this
1282 chapter. If no individual is designated under Section 49-15-64.5,
1283 the person, firm or corporation owning the vessel shall be subject
1284 to the penalties provided for boat captains.

1285 (3) All citations issued to boat operators for not
1286 possessing the boat's registration card shall be dismissed, along
1287 with all related court costs, upon the presentment of the boat's
1288 proper registration card to the court or magistrate holding the
1289 trial or hearing.

1290 **SECTION 35.** Section 49-15-64.1, Mississippi Code of 1972, is
1291 brought forward as follows:

1292 49-15-64.1. The shrimp season shall open on the first
1293 Wednesday of June. The shrimp season shall be closed from January
1294 1 until it is opened the first Wednesday of June, except south of
1295 the intercoastal waterway. The shrimp season shall be closed
1296 south of the intercoastal waterway from May 1 until it is opened
1297 the first Wednesday of June. For the purposes of this section
1298 only, that portion of the intercoastal waterway that extends from
1299 a point south of Long Beach to a point south of Point Clear is
1300 described as follows:

1301 Begin at green buoy or beacon number 1 which is located
1302 approximately three (3) miles north of West Point on Cat
1303 Island, thence extending southwesterly to buoy or beacon
1304 number 4P, thence southwesterly to Pass Marianne Light,
1305 thence southwesterly to buoy or beacon number 15P at the
1306 northernmost point of Merrill Coquille, thence

1307 southwesterly to buoy or beacon number 17P, thence
1308 southwesterly to buoy or beacon number 22, thence
1309 westerly to Lighthouse Point and continuing westward
1310 following the meandering of the shoreline to the
1311 boundary line of the state.

1312 The commission, by majority vote, may open the season at an
1313 earlier or later date in designated areas only after sampling
1314 areas within its jurisdiction where shrimp may be caught for the
1315 purpose of determining the count of shrimp per pound. The
1316 commission may also, by majority vote, close certain designated
1317 areas where the shrimp count is found, by sampling, to be in
1318 excess of sixty-eight (68) per pound. The following waters are
1319 protective and staging areas for young shrimp, and are permanently
1320 closed to commercial and recreational shrimping activities:

1321 All waters north of a line beginning at a point
1322 one-half mile due South of the shoreline at the
1323 Mississippi-Alabama state boundary; thence running
1324 westerly following the meanderings of the shoreline
1325 one-half mile therefrom to Light "5" in the Bayou
1326 Casotte Channel; thence running northerly to Light "7"
1327 in the Bayou Casotte Channel; thence running westerly
1328 following the meanderings of the shoreline one-half mile
1329 therefrom to the intersection with the Pascagoula
1330 Channel; thence running northwesterly to Beacon "50" in
1331 the Pascagoula Channel; thence running southwesterly to
1332 Beacon "49" in the Pascagoula Channel; thence running in
1333 the most direct line to the northeast point of Singing
1334 River Island; thence running westerly along the north
1335 shoreline to the northwest point of Singing River
1336 Island; thence running northwesterly to a point one-half
1337 mile due south of the mouth of Graveline Bayou; thence
1338 running westerly following the meanderings of the
1339 shoreline one-half mile therefrom to Beacon "18" in the

1340 Biloxi Bay Channel; thence running northwesterly to
1341 Beacon "22" in the Biloxi Bay Channel; thence running
1342 northwesterly to Beacon "26" in the Biloxi Bay Channel;
1343 thence running westerly to Beacon "34", exclusive of the
1344 Biloxi Channel itself; thence running westerly to Beacon
1345 "30" in the Biloxi Channel, exclusive of the Biloxi
1346 Channel itself; and thence running due South to a point
1347 on the north shore of Deer Island; thence running
1348 westerly following the north shore of Deer Island to the
1349 westernmost tip; thence running westerly in the most
1350 direct line to Biloxi Beacon "8"; thence running
1351 westerly following the meanderings of the shoreline at a
1352 distance of one-half mile therefrom to a point on the
1353 centerline of the CSX Railroad Bridge over St. Louis
1354 Bay; thence running westerly along the centerline of
1355 said bridge to a point one-half mile south of the
1356 western abutment; thence running southwesterly following
1357 the meanderings of the shoreline, at a distance of
1358 one-half mile therefrom, to a point one-half mile due
1359 East of the mouth of Bayou Caddy; thence running due
1360 West to the mouth of Bayou Caddy; thence running
1361 southwesterly following the meanderings of the shoreline
1362 to the southernmost point of the Mississippi shoreline
1363 on the east bank of the mouth of the Pearl River thence
1364 following the meanderings of the east bank of the Pearl
1365 River to a point where the east bank of the Pearl River
1366 intersects the centerline of the Highway 90 bridge;
1367 thence westerly along the centerline of the Highway 90
1368 bridge to a point that intersects the
1369 Mississippi-Louisiana state boundary.

1370 The redesignation of beacon numbers by the United States
1371 Coast Guard shall not alter the description of the boundary
1372 described in this section.

1373 **SECTION 36.** Section 49-15-64.2, Mississippi Code of 1972, is
1374 brought forward as follows:

1375 49-15-64.2. Any person, licensed live bait dealers, licensed
1376 live bait shrimpers and licensed commercial shrimpers shall be
1377 allowed to take shrimp in the bays of Bay St. Louis, Biloxi and
1378 Pascagoula with a cast net, but shall not take more than fifty
1379 (50) pounds of shrimp per person per day. The cast net shall not
1380 exceed twelve (12) feet in length.

1381 **SECTION 37.** Section 49-15-64.3, Mississippi Code of 1972, is
1382 brought forward as follows:

1383 49-15-64.3. (1) It is unlawful for any person, firm or
1384 corporation to take, catch or have in their possession within
1385 territorial waters of the State of Mississippi shrimp of a size
1386 weighing in the raw state less than one (1) pound to each
1387 sixty-eight (68) shrimp, except when a valid permit or affidavit
1388 of another state identifies the catch as having been taken in
1389 non-Mississippi waters, or except in case of live bait shrimp.

1390 (2) It is unlawful to take, catch or have in possession live
1391 bait shrimp of a size weighing in the raw state less than one (1)
1392 pound to each one hundred (100) shrimp. This provision may be
1393 changed by a two-thirds (2/3) vote of the commission. The
1394 commission may adopt rules, regulations, guidelines and other
1395 operation criteria in conjunction with licensing live bait dealers
1396 and live bait catcher boats as it deems appropriate to ensure that
1397 only bona fide operations will be licensed. The commission shall
1398 consult with existing live bait dealers and live bait catcher boat
1399 operators before adoption of any regulations and before any future
1400 changes. The commission shall hold a public hearing in the county
1401 affected by the regulation, but if more than one (1) county is
1402 affected, then the commission shall hold a public hearing in
1403 Harrison County. The commission shall notify each live bait
1404 licensee of the public hearing at least ten (10) days prior to the

1405 hearing, by first class mail at the last known address of the
1406 licensee.

1407 (3) If a live bait dealer or live bait catcher boat is
1408 convicted of a violation of this chapter or a duly adopted
1409 ordinance of the commission, the commission may, in addition to
1410 punishment duly adjudicated, revoke the license of the vessel or
1411 dealer to whom it is issued for a period not exceeding two (2)
1412 weeks following conviction of the first offense, not exceeding six
1413 (6) months following conviction of the second offense, and up to
1414 one (1) year following conviction of the third and subsequent
1415 offenses, if the subsequent offenses are committed within three
1416 (3) years of the first offense. Upon the revocation of the
1417 license, the commission may require the posting of a cash
1418 performance bond not to exceed One Thousand Dollars (\$1,000.00)
1419 before the reissuance of that revoked license. The commission may
1420 require the forfeiture of that bond upon the subsequent conviction
1421 of any violation of this chapter or a duly adopted ordinance of
1422 the commission. If a person who posts bond under this section
1423 desires to no longer engage in the live bait business, that person
1424 shall certify that fact to the commission who shall return the
1425 bond. If that person desires to again engage in the live bait
1426 business, a cash performance bond may be required before the
1427 issuance of a license.

1428 **SECTION 38.** Section 49-15-64.4, Mississippi Code of 1972, is
1429 brought forward as follows:

1430 49-15-64.4. (1) Each live bait catcher boat engaged in
1431 taking live bait shrimp shall pay an annual privilege tax of One
1432 Hundred Dollars (\$100.00) for each boat engaged in those
1433 operations. The operations shall not exceed two (2) boats per
1434 license.

1435 (2) Each "live bait dealer" engaging in selling or otherwise
1436 dispensing live bait to sport fishermen shall pay an annual
1437 privilege tax of Fifty Dollars (\$50.00) and must make written

1438 application to the commission providing the name of the
1439 applicant's "live bait catcher boat," the name of the captain of
1440 that "live bait catcher boat," the dealer's Mississippi state
1441 sales tax number and a sworn statement that dead shrimp will not
1442 be sold in containers having a volume in excess of sixteen (16)
1443 ounces. Licensed live bait catcher boats and licensed live bait
1444 dealers shall not operate as commercial shrimpers or commercial
1445 shrimp dealers or otherwise engage in commercial shrimping
1446 operations. Live bait dealers shall only sell or otherwise
1447 dispose of bait shrimp when alive or dead with heads attached
1448 solely as bait to recreational fishermen or other licensed live
1449 bait dealers as regulated by the commission. Only licensed
1450 commercial shrimpers may transport shrimp across the state line
1451 for the purpose of selling or delivering live bait to another
1452 state. Any person, firm or corporation found guilty of purchasing
1453 shrimp from a live bait camp or live bait catcher boat, other than
1454 for the purpose described in this section, shall be fined Five
1455 Thousand Dollars (\$5,000.00) for the first offense and shall be
1456 fined Ten Thousand Dollars (\$10,000.00) and forfeit all seafood
1457 licenses for a second or subsequent offense. In addition, each
1458 application for a "live bait dealer" license shall contain a
1459 statement of the operating hours, at least eight (8) per
1460 twenty-four-hour period, and the location of the camp which must
1461 be accessible to the general public by public road and navigable
1462 waters. Applications for "live bait dealers" license must be
1463 completed and submitted to the commission between the first day of
1464 January and the last day of April of each year. Any "live bait
1465 dealer" desiring to engage in the catching of live shrimp in one
1466 (1) location and then transporting them to the dealer's licensed
1467 live bait camp by truck shall first make written application to
1468 the commission providing the make and model of the truck, a
1469 Mississippi license tag number and shall be responsible for its
1470 adherence to all regulations duly adopted by the commission for

1471 the transportation of live bait shrimp. Upon receipt of the
1472 application, the commission shall verify that the applicant is in
1473 compliance with all applicable laws and regulations and after that
1474 verification the commission shall issue a permit authorizing the
1475 transportation of live shrimp.

1476 **SECTION 39.** Section 49-15-64.5, Mississippi Code of 1972, is
1477 brought forward as follows:

1478 49-15-64.5. (1) (a) Each freight boat, ice boat and
1479 catching boat used in catching or transporting saltwater shrimp
1480 taken from the waters of the State of Mississippi for sale in
1481 their fresh state, or for canning, packing, freezing or drying,
1482 shall first obtain from the commission an annual privilege license
1483 and pay a license fee at the following rates:

1484 (i) Fifty Dollars (\$50.00) for resident boats or
1485 vessels under thirty (30) feet in length in overall measurements
1486 and One Hundred Dollars (\$100.00) for nonresident boats or vessels
1487 under thirty (30) feet in length in overall measurements;

1488 (ii) Seventy-five Dollars (\$75.00) for resident
1489 boats or vessels between thirty (30) and forty-five (45) feet in
1490 length in overall measurements and One Hundred Dollars (\$100.00)
1491 for nonresident boats or vessels between thirty (30) and
1492 forty-five (45) feet in length in overall measurements;

1493 (iii) One Hundred Dollars (\$100.00) for resident
1494 boats or vessels greater than forty-five (45) feet in length in
1495 overall measurements and Two Hundred Dollars (\$200.00) for
1496 nonresident boats or vessels greater than forty-five (45) feet in
1497 length in overall measurements.

1498 (b) Beginning September 15, 1994, no nonresident shall
1499 be issued a commercial fishing license under this chapter for the
1500 taking of saltwater shrimp using any type of net if that
1501 nonresident's state of domicile prohibits the issuing of
1502 commercial fishing licenses to residents of this state to engage
1503 in like activity.

1504 (2) Each recreational vessel engaging in shrimping with a
1505 net having a corkline length of sixteen (16) feet or less shall
1506 pay an annual resident license fee of Fifteen Dollars (\$15.00) or
1507 an annual nonresident license fee of Thirty Dollars (\$30.00).

1508 (3) Every freight boat, ice boat and catching boat used in
1509 catching or transporting saltwater shrimp taken from the waters of
1510 the State of Mississippi for sale in their fresh state, or for
1511 canning, packing, freezing, drying or as bait shall register the
1512 name of the captain of the vessel at the time that the vessel
1513 obtains the annual privilege license provided for in this section.
1514 The individual registered as the captain of the vessel may be
1515 substituted after notification to and the approval of the deputy
1516 director or the deputy director's designated representative. The
1517 captain shall purchase a license entitled "captain license." This
1518 license shall be purchased at the same time the vessel license is
1519 purchased. The fee for a captain license shall be a minimum of
1520 Ten Dollars (\$10.00).

1521 (4) During open seasons and in open areas, saltwater shrimp
1522 may be taken only with shrimp trawls, trawls, butterfly nets,
1523 skimmer nets, push trawls, beach seines and cast nets.

1524 **SECTION 40.** Section 49-15-65, Mississippi Code of 1972, is
1525 brought forward as follows:

1526 49-15-65. The justice courts of the respective counties or
1527 county courts shall have original jurisdiction of any prosecution
1528 or suit brought under authority of this chapter, or of any
1529 violation of any ordinance duly enacted by the commission.
1530 However, from each decision or judgment, whether from a fine or
1531 imprisonment, there shall be allowed an appeal, and such appeals
1532 and trials shall be had as now provided by law.

1533 **SECTION 41.** Section 49-15-67, Mississippi Code of 1972, is
1534 brought forward as follows:

1535 49-15-67. Any person aggrieved by an order of the commission
1536 may file a written petition with the commission, setting forth the

1537 grounds of complaint and the commission shall thereupon fix the
1538 time and place for a hearing to be held, notifying the petitioner
1539 thereof. At such hearing, the petitioner and any other interested
1540 parties may appear and submit evidence. Following the hearing, if
1541 the party presenting the petition is still dissatisfied with the
1542 decision of the commission, the commission's order may be appealed
1543 to the circuit court upon proper appeal filed within ten (10) days
1544 after the final order of determination issued by the commission.
1545 The manner of taking the appeal shall be by bill of exceptions to
1546 the Circuit Court of Harrison County, Mississippi, which bill of
1547 exceptions shall be signed by the person acting as the chairman of
1548 the commission. The clerk of the commission thereof shall
1549 transmit the bill of exceptions to the circuit court on or before
1550 the first day of the next succeeding term, or at once if the court
1551 be in session; and the court shall hear and determine the same on
1552 the case as presented by the bill of exceptions as an appellate
1553 court and shall affirm or reverse the judgment. If the judgment
1554 be reversed, the circuit court shall render such judgment as the
1555 commission ought to have rendered, and certify the same to the
1556 commission, and costs shall be awarded as in other cases.

1557 **SECTION 42.** Section 49-15-69, Mississippi Code of 1972, is
1558 brought forward as follows:

1559 49-15-69. (1) Any resident citizen of the State of
1560 Mississippi (a) who is not over sixteen (16) years of age; or (b)
1561 who is sixty-five (65) years of age or more; or (c) who has been
1562 adjudged to have a service-connected one hundred percent (100%)
1563 disability, shall not be required to purchase or possess a license
1564 or permit, except as provided by subsection (2) of this section,
1565 or to pay any fee or charge when fishing for or taking for
1566 personal, noncommercial use the following: (a) crabs, (b) shrimps,
1567 or (c) oysters.

1568 (2) The commission is hereby directed to promulgate and
1569 publish rules and regulations to implement the policy set forth in

1570 subsection (1) of this section. Such rules shall provide that
1571 persons exempted under subsection (1) of this section shall apply
1572 to the department for certification as to age or disability and
1573 shall be required to carry a certification card issued by the
1574 commission while engaged in taking above-mentioned marine life.

1575 **SECTION 43.** Section 49-15-71, Mississippi Code of 1972, is
1576 brought forward as follows:

1577 49-15-71. (1) It is unlawful for any boat or vessel
1578 carrying or using a purse seine to have on board such boat or
1579 vessel any quantity of redfish within the territorial jurisdiction
1580 of the State of Mississippi.

1581 (2) It is unlawful for any person, firm or corporation to
1582 catch, take or land redfish below minimum legal size as
1583 established by regulations promulgated by the commission and in
1584 accordance with the Red Drum Fishery Management Plan. The
1585 department shall develop a redfish management plan and the
1586 commission shall promulgate regulations to implement the plan
1587 after conducting a public hearing relating to the plan and
1588 regulations. Beginning on July 1, 1998, and every four (4) years
1589 thereafter, the commission shall review the plan and regulations
1590 promulgated under the plan, and upon a determination that
1591 revisions are appropriate, the commission shall amend the plan or
1592 regulations, or both, in a manner to effectuate the desired
1593 changes.

1594 (3) Any person who violates the provisions of this section
1595 is guilty of a misdemeanor and shall be fined in the amount of One
1596 Hundred Dollars (\$100.00) for each redfish possessed in violation
1597 of this section. All nets used in violating this section are
1598 hereby declared contraband and shall be subject to seizure and
1599 forfeiture. If the person in possession of or using the nets in
1600 the violation is not the owner or licensee of the nets, the
1601 department shall notify the owner or licensee of the nets. The
1602 nets shall be subject to forfeiture unless the nets were stolen

1603 and prosecution for the theft is initiated. It shall be the duty
1604 of the court to order the forfeiture of any nets used in violating
1605 the provisions of this section. The fine imposed upon a person
1606 convicted under this section shall not be suspended or reduced.
1607 The master and owner of any vessel upon which redfish is possessed
1608 in violation of this section shall be jointly and severally liable
1609 for the penalty imposed herein.

1610 (4) For the purposes of this section, the term "redfish"
1611 means red drum or sciaenops ocellatus.

1612 **SECTION 44.** Section 49-15-73, Mississippi Code of 1972, is
1613 brought forward as follows:

1614 49-15-73. It shall be unlawful for any person to use or
1615 employ any aircraft in the airspace of this state to assist in the
1616 harvesting of redfish as defined in Section 49-15-71. Aircraft
1617 employed in any manner contrary to the provisions of this section
1618 shall not be registered, hangered, maintained, provisioned or
1619 serviced within this state, excepting in an emergency in which the
1620 lives of the pilot or crew of such aircraft are at risk. A person
1621 convicted of a violation of this section shall be punished as
1622 provided in Section 49-15-63, Mississippi Code of 1972. In
1623 addition to the penalty prescribed by such section, any aircraft
1624 and any equipment utilized in the taking of redfish contrary to
1625 the provisions of this section shall be subject to confiscation
1626 under this section.

1627 **SECTION 45.** Section 49-15-74, Mississippi Code of 1972, is
1628 brought forward as follows:

1629 49-15-74. The commission shall establish open season for
1630 menhaden not later than the third Monday in April and ending no
1631 sooner than the second Tuesday in October.

1632 **SECTION 46.** Section 49-15-75, Mississippi Code of 1972, is
1633 brought forward as follows:

1634 49-15-75. (1) It shall be unlawful for any person, firm or
1635 corporation using a purse seine or having a purse seine aboard a

1636 boat or vessel within the territorial waters of the State of
1637 Mississippi to catch in excess of five percent (5%) by weight in
1638 any single set of the net or to possess in excess of ten percent
1639 (10%) by weight of the total catch any of the following species:
1640 spotted seatrout (*Cynoscion nebulosus*); bluefish (*Pomatomus*
1641 *saltatrix*); Spanish mackerel (*Scomberomorus maculatus*); king
1642 mackerel (*Scomberomorus cavalla*); dolphin (*Corphaena hippurus*);
1643 pompano (*Trachinotus carolinus*); cobia (*Rachycentron canadum*); or
1644 jack crevalle (*Caranx hippos*).

1645 (2) A person, firm or corporation convicted of a violation
1646 of this section shall be punished as provided in Section 49-15-63,
1647 Mississippi Code of 1972.

1648 **SECTION 47.** Section 49-15-76, Mississippi Code of 1972, is
1649 brought forward as follows:

1650 49-15-76. (1) It is unlawful for any person to sell, barter
1651 or trade or to offer for sale, barter or trade any game fish
1652 enumerated in Chapter 15 of Title 49, Mississippi Code of 1972.

1653 (2) Cobia may be sold in this state if the cobia is
1654 purchased from a state in which it may lawfully be caught and
1655 sold. Any individual, partnership, corporation or other entity
1656 which sells cobia in this state shall maintain documentation
1657 showing the state of purchase and date of purchase of cobia for a
1658 period of sixty (60) days from the date of purchase of the cobia.
1659 The Department of Marine Resources or any other law enforcement
1660 agency with which the department has a cooperating agreement may
1661 require any seller of cobia to document the date and state of
1662 purchase.

1663 (3) Any person who cultivates a game fish as permitted under
1664 the Mississippi Aquaculture Act of 1988 may sell the game fish in
1665 accordance with the marine aquaculture program.

1666 (4) A person who violates this section shall be punished as
1667 provided in Section 49-15-63.

1668 **SECTION 48.** Section 49-15-77, Mississippi Code of 1972, is
1669 brought forward as follows:

1670 49-15-77. (1) It is unlawful for any person, firm or
1671 corporation to catch, take or carry away any saltwater fish by or
1672 with any trammel nets, purse seines, seines, fish traps or other
1673 like contrivances except permitted eel traps, in any area of the
1674 State of Mississippi within one hundred (100) feet of the mouth of
1675 any river, bayou, creek, canal, stream, tributary, lake, bay,
1676 inlet or other water source entering into areas defined as salt
1677 waters under the jurisdiction of the commission.

1678 (2) A person, firm or corporation convicted of a violation
1679 of this section shall be punished as provided in Section
1680 49-15-100(2), Mississippi Code of 1972.

1681 **SECTION 49.** Section 49-15-78, Mississippi Code of 1972, is
1682 brought forward as follows:

1683 49-15-78. (1) It is unlawful for a person to use a gill
1684 net, trammel net, entanglement net, or like contrivances for the
1685 taking of fish in marine waters within one-half (1/2) mile of the
1686 shoreline.

1687 (2) A violation of this section is punishable by the
1688 penalties provided in Section 49-15-100, Mississippi Code of 1972.

1689 **SECTION 50.** Section 49-15-79, Mississippi Code of 1972, is
1690 brought forward as follows:

1691 49-15-79. (1) It is unlawful for any person, firm or
1692 corporation to use or attempt to use a purse seine for the taking
1693 of fish or to have such seine in the water within one (1) mile of
1694 the shoreline of the County of Hancock or Harrison in the State of
1695 Mississippi. The Boards of Supervisors of Hancock, Harrison and
1696 Jackson Counties shall have the authority to submit proposed
1697 regulations to the commission to regulate within their respective
1698 counties the use of and trammel nets. The commission may
1699 consider all such proposals submitted by the boards of supervisors
1700 in formulating regulations to be promulgated under this section.

1701 (2) A person, firm or corporation convicted of a violation
1702 of this section or regulations promulgated under this section
1703 shall be punished by the penalties provided in Section
1704 49-15-100(2), Mississippi Code of 1972.

1705 **SECTION 51.** Section 49-15-80, Mississippi Code of 1972, is
1706 brought forward as follows:

1707 49-15-80. (1) (a) All vessels to be used in catching or
1708 transporting fish in the waters of the State of Mississippi for
1709 commercial purposes shall, before beginning operations, obtain an
1710 annual license from the commission and pay a license fee according
1711 to the following schedule:

1712 (i) All resident vessels engaged in commercial
1713 hook and line or gig fishing shall be issued an annual license by
1714 the commission at a fee of One Hundred Dollars (\$100.00). All
1715 nonresident vessels engaged in commercial hook and line or gig
1716 fishing shall be issued an annual license by the commission at a
1717 fee of Four Hundred Dollars (\$400.00). Each individual engaged in
1718 commercial hook and line or gig fishing must obtain a commercial
1719 fisherman license subject to the following license fees: One
1720 Hundred Dollars (\$100.00) for a resident commercial fisherman
1721 license; or Four Hundred Dollars (\$400.00) for a nonresident
1722 commercial fisherman license. If a duly licensed commercial hook
1723 and line or gig fishing vessel is engaged in commercial fishing,
1724 each individual aboard must possess a commercial fisherman
1725 license.

1726 (ii) A resident fee of One Hundred Dollars
1727 (\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),
1728 on boats using trammel nets, gill nets or seines not more than one
1729 thousand two hundred (1,200) feet in length.

1730 (b) Beginning September 15, 1994, no nonresident shall
1731 be issued a commercial fishing license under this chapter for the
1732 taking of fish using any type of net if that nonresident's state

1733 of domicile prohibits the issuing of commercial fishing licenses
1734 to residents of this state to engage in like activity.

1735 (2) Each factory or manufacturing establishment engaging in
1736 the manufacture of oil, fish scrap, fish meal, fertilizer or other
1737 products from menhaden, shall pay a license fee of Five Hundred
1738 Dollars (\$500.00).

1739 (3) Each boat or vessel engaging in the catching, taking or
1740 transporting menhaden in the waters of the State of Mississippi,
1741 the sum of One Hundred Dollars (\$100.00) and shall pay Fifty
1742 Dollars (\$50.00) on each net, seine, trawl or purse net used in
1743 catching or taking menhaden in the waters of the State of
1744 Mississippi.

1745 **SECTION 52.** Section 49-15-83, Mississippi Code of 1972, is
1746 brought forward as follows:

1747 49-15-83. Nothing in Sections 49-15-71 through 49-15-81
1748 shall be interpreted to circumvent or diminish the powers of the
1749 commission in the exercise of its jurisdiction and authority as
1750 provided under this chapter.

1751 **SECTION 53.** Section 49-15-84, Mississippi Code of 1972, is
1752 brought forward as follows:

1753 49-15-84. (1) The commission shall coordinate with the Gulf
1754 Coast Research Laboratory in the development of an ordinance for
1755 the purpose of taking *Callinectes sapidus* (blue crab) or allied
1756 species. The ordinance shall include provisions for the
1757 establishment of size limits for individual or market use as well
1758 as establishing legal harvest size for the cultivating of peeler
1759 crabs and soft-shell crabs.

1760 (2) The commission shall establish specifications for crab
1761 traps and shall require buoys of adequate size which are
1762 identified as to the owner of the buoys and traps. Recreational
1763 crabbers may use no more than six (6) crab traps per household.
1764 The taking of crabs with drop nets is permitted without a license.

1765 (3) It is unlawful to catch, hold or have in possession any
1766 female sponge crab or any female crab bearing visible eggs at any
1767 time. It is not unlawful to catch those crabs unintentionally, if
1768 the crabs are immediately returned to the water.

1769 **SECTION 54.** Section 49-15-84.1, Mississippi Code of 1972, is
1770 brought forward as follows:

1771 49-15-84.1. (1) The commission may establish a closed
1772 season for the use of crab traps in the public waters of this
1773 state. The commission may designate the closed season as not less
1774 than ten (10) days nor more than thirty (30) days per year. Any
1775 crab trap remaining in the public waters after the expiration to
1776 the seventh day of a closed season may be considered as abandoned
1777 under the regulations established by the commission.

1778 (2) The commission shall adopt rules to govern the removal
1779 and disposal of abandoned crab traps as necessary to enhance:

1780 (a) The conservation and management of crab resources;

1781 (b) Boating safety;

1782 (c) The cleanliness of the beds and bottoms of the
1783 public waters of the state; and

1784 (d) Enforcement of this chapter.

1785 (3) Abandoned crab traps are litter and are subject to
1786 immediate removal and disposal.

1787 **SECTION 55.** Section 49-15-86, Mississippi Code of 1972, is
1788 brought forward as follows:

1789 49-15-86. (1) Each person catching or taking any saltwater
1790 crabs in the waters of the State of Mississippi for commercial
1791 purposes shall obtain a license from the commission and shall pay
1792 an annual resident license fee of Seventy-five Dollars (\$75.00) or
1793 an annual nonresident license fee of Two Hundred Dollars (\$200.00)
1794 on each boat used therefor.

1795 (2) The commission may require a recreational crabber's
1796 license for an administrative fee not to exceed Five Dollars
1797 (\$5.00).

1798 **SECTION 56.** Section 49-15-87, Mississippi Code of 1972, is
1799 brought forward as follows:

1800 49-15-87. (a) "Peeler crab" means a blue crab having a new
1801 soft shell fully developed under the hard shell and having a
1802 definite white, pink or red line or rim on the outer edge of the
1803 back fin or flipper.

1804 (b) "Soft-shell crab" means a peeler crab which has recently
1805 shed its hard shell.

1806 **SECTION 57.** Section 49-15-89, Mississippi Code of 1972, is
1807 brought forward as follows:

1808 49-15-89. It shall be unlawful for any person to catch,
1809 destroy, confine, hold or have in his possession, whether for
1810 individual use or for market, any of the genus callinectes sapidus
1811 (blue crab) or allied species, of a smaller size than five (5)
1812 inches measured from the tip of one (1) lateral spine across the
1813 back of the shell to the tip of the opposite lateral spine;
1814 provided that peeler crabs and soft-shell crabs are exempt from
1815 these limitations. Conservation officers may inspect any catch
1816 for violations of any of the provisions of Sections 49-15-83
1817 through 49-15-91.

1818 **SECTION 58.** Section 49-15-91, Mississippi Code of 1972, is
1819 brought forward as follows:

1820 49-15-91. The commission may establish a maximum number of
1821 crab pots allowable per licensee.

1822 **SECTION 59.** Section 49-15-92, Mississippi Code of 1972, is
1823 brought forward as follows:

1824 49-15-92. (1) Any person who steals, takes and carries away
1825 crab traps or the property of another used to catch saltwater
1826 crabs, upon conviction, shall be fined not less than One Hundred
1827 Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or
1828 imprisoned for not more than ninety (90) days, or both, for the
1829 first offense; for the second offense, when the offense is
1830 committed within three (3) years of the first offense, shall be

1831 fined not less than Five Hundred Dollars (\$500.00) nor more than
1832 One Thousand Dollars (\$1,000.00); for the third and subsequent
1833 offenses when committed within three (3) years of the first
1834 offense, shall be fined not less than Two Thousand Dollars
1835 (\$2,000.00) nor more than Four Thousand Dollars (\$4,000.00) or
1836 imprisoned for not more than six (6) months.

1837 (2) Any person, firm or corporation convicted and sentenced
1838 under this section for a second or subsequent offense shall not be
1839 considered for a reduction of the fine.

1840 (3) In addition to the penalties in subsection (1), any
1841 person who steals, removes, takes or carries away the crabs from
1842 another person's crab traps shall also pay restitution to the
1843 owner of the traps for the crabs taken.

1844 (4) This section shall not apply to any person who removes
1845 crab traps that are illegally placed or in an illegal location.
1846 This section shall not apply to any person who catches abandoned
1847 crab traps in a shrimp trawl, keeps the crab traps aboard the
1848 vessel and properly disposes of the crab traps.

1849 **SECTION 60.** Section 49-15-93, Mississippi Code of 1972, is
1850 brought forward as follows:

1851 49-15-93. Any person violating any provision of Sections
1852 49-15-83 through 49-15-91 shall be guilty of a misdemeanor and
1853 upon conviction shall be punished as provided by Section 49-15-63,
1854 Mississippi Code of 1972.

1855 **SECTION 61.** Section 49-15-94, Mississippi Code of 1972, is
1856 brought forward as follows:

1857 49-15-94. It is unlawful for any person to use a purse seine
1858 to catch mullet during the roe mullet season. A violation of this
1859 subsection is punishable by the penalties provided in Section
1860 49-15-100(2) for the unlawful use of gill or trammel nets.

1861 **SECTION 62.** Section 49-15-95, Mississippi Code of 1972, is
1862 brought forward as follows:

1863 49-15-95. (1) It is unlawful to use brill and cast nets
1864 greater than twelve (12) feet in radius in the marine waters of
1865 the state.

1866 (2) The commission shall not prohibit the use of brill and
1867 cast nets in the waters designated in subsection (1) of this
1868 section. No person shall catch more than fifty (50) pounds of
1869 shrimp per day using brill and cast nets as provided by this
1870 section.

1871 **SECTION 63.** Section 49-15-96, Mississippi Code of 1972, is
1872 brought forward as follows:

1873 49-15-96. Vessels licensed under Section 49-15-64.5 may keep
1874 in whole, for personal consumption only the following types of
1875 fish which are caught in the shrimp nets or trawls of the vessel:
1876 white trout; croaker, black drum, and ground mullet (Family
1877 Sciaenidae); sheepshead (Family Sparidae); gafftopsail catfish
1878 (Family Ariidae); and flounder (Family Bothidae and Family
1879 Pleuronectidae). The cumulative total of fish shall not exceed
1880 twenty-five (25) pounds. In addition, a vessel may keep three (3)
1881 dozen blue crabs (portunidae family). This exemption for personal
1882 consumption does not apply to fish or crabs that are otherwise
1883 illegal to possess or catch.

1884 **SECTION 64.** Section 49-15-97, Mississippi Code of 1972, is
1885 brought forward as follows:

1886 49-15-97. (1) It shall be unlawful for any commercial
1887 fisherman, firm or corporation to operate a vessel during the
1888 hours of sunset to sunrise when the season or time for such
1889 fishing is closed or in an area that is closed to fishing without
1890 using or displaying lights which comply with all federal
1891 regulations applicable to that vessel operated by the fisherman,
1892 firm or corporation.

1893 (2) For the purpose of this section, the term "commercial
1894 fisherman" shall mean a commercially licensed boat, commercially
1895 licensed fisherman or any person in possession of commercial

1896 fishing gear who would be subject to regulation under Chapter 15
1897 of Title 49, Mississippi Code of 1972.

1898 (3) Any person, firm or corporation that violates this
1899 section shall be guilty of a misdemeanor and upon conviction
1900 thereof shall be fined not less than Two Hundred Fifty Dollars
1901 (\$250.00) or more than Five Hundred Dollars (\$500.00) for the
1902 first offense; and not less than Five Hundred Dollars (\$500.00) or
1903 more than One Thousand Dollars (\$1,000.00) for the second offense
1904 when the second offense is committed within a period of three (3)
1905 years after the date on which the first offense was committed; and
1906 not less than Two Thousand Dollars (\$2,000.00) or more than Four
1907 Thousand Dollars (\$4,000.00) or imprisonment in the county jail
1908 for a period of not more than thirty (30) days for a third or
1909 subsequent offense when that offense is committed within a period
1910 of three (3) years after the date on which the first offense was
1911 committed.

1912 Any fine or sentence, or both, imposed upon a person for a
1913 second, third or subsequent offense under this section shall not
1914 be suspended or reduced.

1915 **SECTION 65.** Section 49-15-100, Mississippi Code of 1972, is
1916 brought forward as follows:

1917 49-15-100. (1) It is unlawful for any person, firm or
1918 corporation to set a gill or trammel net in the marine waters of
1919 the state north of Highway 90.

1920 (2) (a) For a first offense, a violation of this section is
1921 punishable by a fine of not less than Two Thousand Dollars
1922 (\$2,000.00), nor more than Four Thousand Dollars (\$4,000.00) and
1923 the department may initiate forfeiture proceedings for the net and
1924 catch. For subsequent violations, a person is subject to a fine
1925 of not less than Four Thousand Dollars (\$4,000.00), nor more than
1926 Ten Thousand Dollars (\$10,000.00) and shall forfeit nets and
1927 catch. If the person in possession of or using the nets in the
1928 violation is not the owner or licensee of the nets, the department

1929 shall notify the owner or licensee of the nets. The nets shall be
1930 subject to forfeiture unless the nets were stolen and prosecution
1931 for the theft is initiated.

1932 (b) The penalties for a violation of this section shall
1933 not be suspended or reduced.

1934 **SECTION 66 Section 49-15-100.1**, Mississippi Code of 1972, is
1935 brought forward as follows:

1936 49-15-100.1. It is unlawful for any person, firm or
1937 corporation to set a gill or trammel net in the marine waters of
1938 the state north of Highway 90. Any person, firm or corporation
1939 violating this section shall be punished as provided for under
1940 Section 49-15-100 and in addition shall forfeit vessel, motor and
1941 equipment used in the violation. If the person in possession of
1942 or using the nets in the violation is not the owner or licensee of
1943 the nets, the department shall notify the owner or licensee of the
1944 nets. The nets shall be subject to forfeiture unless the nets
1945 were stolen and prosecution for the theft is initiated.

1946 **SECTION 67. Section 49-15-100.3**, Mississippi Code of 1972,
1947 is brought forward as follows:

1948 49-15-100.3. The possession of a gill net, trammel net or
1949 like contrivance, or any other equipment prohibited for use in the
1950 taking or harvesting of seafood under this chapter on a vessel on
1951 the marine waters of this state where the use of the net,
1952 contrivance or equipment is prohibited, shall constitute prima
1953 facie evidence that an offense has been committed to take or
1954 harvest seafood with nets, contrivances or equipment prohibited by
1955 this chapter, unless the vessel is:

1956 (a) Anchored or moored at a permanent facility
1957 intended for the mooring of vessels;

1958 (b) Traveling directly between a marina, harbor or
1959 public boat launching facility and a United States Coast Guard
1960 marked and maintained navigation channel; or

1961 (c) Traveling within a United States Coast Guard marked
1962 and maintained navigation channel.

1963 **SECTION 68.** Section 49-15-313, Mississippi Code of 1972, is
1964 brought forward as follows:

1965 49-15-313. (1) Any resident between the ages of sixteen
1966 (16) and sixty-five (65) years, as defined in Section 49-7-3,
1967 fishing in the marine waters of the state, shall obtain a
1968 saltwater sports fishing license for a fee of Four Dollars
1969 (\$4.00). This license shall be valid in any waters south of
1970 Interstate 10. Any resident citizen who is blind, paraplegic or a
1971 multiple amputee, or who has been adjudged by the Veterans
1972 Administration as having a total service-connected disability, or
1973 has been adjudged totally disabled by the Social Security
1974 Administration shall not be required to purchase or have in his
1975 possession a saltwater sports fishing license while engaged in
1976 such activities. Any resident exempt under this section shall
1977 have on his person while fishing proof of residency and age or
1978 disability.

1979 (2) The commission shall prescribe the forms, types and fees
1980 for nonresident saltwater sports fishing licenses except that the
1981 fee for a nonresident saltwater sports fishing license shall not
1982 be less than Twenty Dollars (\$20.00). The commission shall
1983 require a nonresident to purchase a nonresident freshwater fishing
1984 license and a nonresident saltwater sports fishing license if the
1985 nonresident's state requires both licenses for a nonresident to
1986 fish in its marine waters.

1987 (3) All resident vessels engaged in charter boat fishing,
1988 party boat fishing, head boat and guide boat fishing shall be
1989 issued a separate annual license by the commission at a fee of Two
1990 Hundred Dollars (\$200.00). All nonresident vessels engaged in
1991 charter boat fishing, party boat fishing, head boat and guide boat
1992 fishing shall be issued a separate annual license by the
1993 commission. In addition to other requirements for charter license

1994 eligibility, captains must show proof of participation in a
1995 Department of Transportation approved random drug testing program
1996 and proof of liability insurance as a charter boat captain. Crew
1997 members and customers of the licensed vessels shall not be
1998 required to purchase an individual resident or nonresident
1999 saltwater fishing license while sponsored by the licensed vessels.
2000 An operator of a licensed vessel shall be required to report the
2001 number of customers to the department as required by the
2002 commission and the information shall be kept confidential and
2003 shall not be released, except to other fisheries management
2004 agencies or as statistical data. All nonresident vessels engaged
2005 in saltwater sport fishing tournaments, not to exceed an aggregate
2006 of twenty (20) days per calendar year, shall not be required to
2007 purchase an annual license as provided under this subsection.

2008 (4) The saltwater sports fishing license is required for all
2009 recreational methods of finfish harvest.

2010 (5) Any resident who purchases a lifetime sportsman's
2011 license, in accordance with Section 49-7-153, shall be entitled to
2012 fish in the marine salt waters of the state and shall be exempt
2013 from the purchase of a sport saltwater fishing license.

2014 (6) Any person authorized to issue a license may collect and
2015 retain, for each saltwater fishing license issued, the additional
2016 fee authorized under Section 49-7-17.

2017 (7) The fees collected from the sale of resident and
2018 nonresident saltwater sports fishing licenses shall be deposited
2019 into the Seafood Fund and shall be used solely for the management
2020 of marine resources.

2021 (8) Participants in the Very Special Fishing Olympics are
2022 exempt from this section.

2023 (9) July 4 of each year is designated as "Free Saltwater
2024 Sports Fishing Day." Any person may saltwater sport fish without
2025 a license on the "Free Saltwater Sports Fishing Day."

2026 (10) The department may exempt participants in an organized
2027 fishing event conducted by a qualified nonprofit charitable,
2028 governmental or civic organization from the requirements of this
2029 section for one (1) day per year if the organization files an
2030 exemption application with the department and the application is
2031 approved by the department.

2032 **SECTION 69.** This act shall take effect and be in force from
2033 and after July 1, 2005.