

By: Representatives Frierson, Read, Janus

To: Marine Resources

HOUSE BILL NO. 659

1 AN ACT TO AMEND SECTION 49-15-37, MISSISSIPPI CODE OF 1972,
2 TO LIMIT THE COST OF RELAYING OPERATIONS; AND FOR RELATED
3 PURPOSES.

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

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

7 49-15-37. By order of the commission, the director, under
8 the direction and control of the commission, shall employ boats,
9 crews and laborers and shall cultivate the public reefs of the
10 state, and shall dredge the oysters in the Mississippi Sound from
11 places where they are too thick, and shall spread them on reefs
12 where they are too thin, and shall carry shells from the factories
13 and spread them in places where the oyster beds can be improved
14 and enlarged. The department may purchase other materials as may
15 be equally suitable for the propagation of oysters. The
16 department in cultivating the reefs, transplanting and spreading
17 oysters and shells and other suitable materials, may expend any
18 funds available for that purpose. In taking seed oysters, care
19 shall be used to not injure or destroy the merchantable oysters on
20 the reefs from which they are taken. The seed oysters shall be
21 tonged from the "conner" or seed reefs, unless it is practicable
22 and safe to dredge those oysters. The commission may, by orders
23 spread on its minutes, establish new bedding grounds at those
24 places within the boundaries of the state as it may determine, on
25 advice of the director, or on advice of technical governmental
26 experts, or competent aquatic biologists. On existing public
27 reefs in which oysters exist and in waters not of a safe sanitary

28 quality as determined by the department, the commission shall
29 prohibit any person, firm or corporation from taking oysters from
30 those areas. The commission shall from time to time remove the
31 oysters from the areas and re-lay or replant them in an approved
32 area for a period of time under Section 49-15-36 before they may
33 be harvested. The commission may transport the oysters to an
34 onshore, molluscan depuration facility for the purpose of proving
35 depuration technology and for other experimental purposes. In
36 connection with the testing of onshore, molluscan depuration
37 technology, the commission may sell or dispose of the re-layed
38 oysters in a manner consistent with all applicable state and
39 federal laws and regulations. Any funds received from the sale of
40 the oysters shall be used in a like manner as those funds received
41 under Section 49-15-38.

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

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

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

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

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

73 (c) Permittee must fulfill all permit requirements as
74 established by the commission;

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

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

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

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

89 Any person obtaining a permit to remove oysters from seed
90 grounds shall post a penal bond of One Hundred Dollars (\$100.00)
91 per leased acre with the commission to be forfeited upon any
92 violation of this section. The bond may be approved by the

93 director of the department if the director finds the bond to be
94 secured by sufficient property or sureties.

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

103 The commission shall regulate the taking of oysters from
104 contaminated seed areas and the subsequent depuration of the
105 oysters by off-bottom techniques to protect public health, while
106 at the same time fostering the utilization of the state's oyster
107 resources. The regulations shall include the setting of the
108 period of depuration for the oysters by the use of appropriate
109 techniques and provide for an employee of the department to be
110 present when the oysters are taken from contaminated seed areas,
111 transporting, holding and depositing on private lease grounds.
112 Any person, firm, corporation or private lease holder engaged in
113 the depuration of oysters by off-bottom techniques or onshore,
114 molluscan depuration facility shall pay to the department an
115 amount equal to the regular compensation of the employee of the
116 department for the time the employee actually spends performing
117 the duties, however said costs are not to exceed Two Hundred
118 Dollars (\$200.00) per 24 hour period.

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

122 The commission shall designate certain uncontaminated reefs
123 in the state as public reefs and shall remove oysters from water
124 bottoms which are not of a safe, sanitary quality for oyster

125 production for human consumption and shall transport the oysters
126 to the public reefs which shall be reserved for tonging only.

127 **SECTION 2.** This act shall take effect and be in force from
128 and after July 1, 2005.