

By: Senator(s) Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2789
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 49-15-27, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MINIMUM RENTAL FOR OYSTER BOTTOM LEASES; TO REQUIRE
3 THE COMMISSION ON MARINE RESOURCES TO AWARD LEASES WITHIN A TIME
4 CERTAIN; TO REQUIRE LEASE RENTAL FEES TO BE PAID INTO THE SEAFOOD
5 FUND; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 49-15-27, Mississippi Code of 1972, is
8 amended as follows:

9 49-15-27. The commission is hereby granted full and complete
10 authority to lease the bottoms within its jurisdiction upon the
11 following terms and conditions:

12 (1) All areas within the commission's jurisdiction, not
13 designated tonging reefs by this chapter, or hereinafter
14 designated tonging reefs by the commission; all areas not
15 designated natural reefs by the commission, and all areas not
16 within the boundaries of riparian property owners may be leased by
17 the commission.

18 (2) All individual lessees shall be residents of the State
19 of Mississippi, or if a firm or corporation, such firm or
20 corporation shall be organized under the laws of the State of
21 Mississippi.

22 (3) No individual, corporation, partnership or association
23 may lease less than five (5) acres nor more than one hundred (100)
24 acres; provided, however, that in the case of an individual there
25 shall not be counted towards such limitation any lands leased by a
26 corporation, partnership or association in which such individual
27 owns ten percent (10%) or less interest and, in the case of a
28 corporation, partnership or association, there shall not be

29 counted toward such limitation any lands leased by an individual
30 stockholder, partner or associate thereof who owns ten percent
31 (10%) or less interest in such corporation, partnership or
32 association.

33 (4) Individuals, firms or corporations desiring to lease
34 bottoms shall make application to the commission in writing,
35 describing the area to be leased, and the price proposed to be
36 paid therefor.

37 (5) The commission shall consider such applications in the
38 order in which each is filed and may award, within sixty (60)
39 days, * * * a lease to the area described in the application upon
40 payment of the rent in advance.

41 (6) Such leases shall be for a term of one (1) year, with
42 the right of lessee to renew the lease of an additional year, and
43 from year to year, at the same ground rental so long as lessee
44 actively cultivates and gathers oysters, and complies with the
45 provisions of this chapter, provided that no lease shall be
46 renewed for more than twenty-five (25) years total. * * * No
47 lease may be transferred without approval by the commission of the
48 transfer.

49 (7) The commission shall fix a ground rental at not less
50 than Five Dollars (\$5.00) per acre.

51 (8) The commission shall keep an accurate chart of the areas
52 within its jurisdiction and shall mark on such chart those areas
53 which are under lease. All leases shall be marked by appropriate
54 poles, stakes or buoys of such material as will not injure
55 watercraft, at the expense of the leaseholder. The commission
56 shall keep an accurate book, designated "Mississippi Oyster Farms"
57 which shall contain copies of all leases. If any lease be
58 cancelled or expire, such fact shall be noted on the face of such
59 lease. Lessees shall be "oyster farmers" for the purposes of any
60 grants, aid, subsidies or other assistance from the federal
61 government or other governmental or private agencies.

62 (9) All funds derived from leasing shall be paid into the
63 Seafood Fund under 49-15-17, for use by the commission to further
64 oyster production in this state, which includes plantings of
65 oysters and cultch materials.

66 (10) All leases made by the commission under the authority
67 of this section shall be subject to the paramount right of the
68 state and any of its political subdivisions authorized by law, to
69 promote and develop ports, harbors, channels, industrial or
70 recreational projects, and all such leases shall contain a
71 provision that in the event such authorized public body shall
72 require the area so leased or any part thereof for such public
73 purposes, that the lease shall be terminated on reasonable notice
74 fixed by the commission in such lease. On the termination of any
75 lease, the lessees shall have the right to remove any oysters
76 within the leased area within such time as may be fixed by the
77 commission and in accordance with such reasonable rules and
78 regulations as the commission may adopt.

79 Any person convicted of taking oysters from leased land or
80 from waters that are not of a safe sanitary quality without a
81 permit as provided in Section 49-15-37 shall, on the first
82 offense, forfeit all equipment used, exclusive of any boat or
83 boats; and be fined not to exceed two thousand dollars (\$2,000.00)
84 or sentenced not to exceed one (1) year in the county jail, or
85 both. Subsequent convictions shall be punishable by forfeiture of
86 all equipment, including any boat or boats; and a fine not to
87 exceed five thousand dollars (\$5,000.00) or not to exceed two (2)
88 years in prison, or both such fine and imprisonment.

89 No lease of any area shall be made unless and until the
90 commission shall have given at least fifteen (15) days' public
91 notice of its intention to lease such area, such notice to be
92 given by publication in a newspaper of general circulation in such
93 county. * * *

94 The commission is enjoined to cooperate with the Jackson
95 County Port Authority, the Harrison County Development Commission,
96 the municipal port commission and other port and harbor agencies,
97 so that oyster beds shall not be planted in close proximity to
98 navigable channels. The commission or lessee shall have no right
99 of action as against any such public body for damages accruing to
100 any natural reef or leased reef by any necessary improvement of
101 such channel in the interest of shipping, commerce, navigation or
102 other purpose authorized by law.

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