

By: Senator(s) Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2872

1 AN ACT TO AMEND SECTION 49-15-37, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY RELAYING PROCESS FOR REMOVAL OF OYSTERS FROM
3 CONTAMINATED AREAS AND TO SPECIFY A MAXIMUM COST CHARGED BY THE
4 DEPARTMENT OF MARINE RESOURCES; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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