

By: Senator(s) Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2887

1 AN ACT TO AMEND SECTION 49-15-313, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE CHARTER BOATS ENGAGED IN ECOTOURISM TO MEET THE SAME
3 REQUIREMENTS AS CHARTER BOATS ENGAGED IN FISHING; TO AMEND SECTION
4 49-15-3, MISSISSIPPI CODE OF 1972, TO DEFINE ECOTOURISM; TO AMEND
5 SECTION 49-15-301, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 49-15-313, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-313. (1) Any resident between the ages of sixteen
11 (16) and sixty-five (65) years, as defined in Section 49-7-3,
12 fishing in the marine waters of the state, shall obtain a
13 saltwater sports fishing license for a fee of Four Dollars
14 (\$4.00). This license shall be valid in any waters south of
15 Interstate 10. Any resident citizen who is blind, paraplegic or a
16 multiple amputee, or who has been adjudged by the Veterans
17 Administration as having a total service-connected disability, or
18 has been adjudged totally disabled by the Social Security
19 Administration shall not be required to purchase or have in his
20 possession a saltwater sports fishing license while engaged in
21 such activities. Any resident exempt under this section shall
22 have on his person while fishing proof of residency and age or
23 disability.

24 (2) The commission shall prescribe the forms, types and fees
25 for nonresident saltwater sports fishing licenses except that the
26 fee for a nonresident saltwater sports fishing license shall not
27 be less than Twenty Dollars (\$20.00). The commission shall
28 require a nonresident to purchase a nonresident freshwater fishing
29 license and a nonresident saltwater sports fishing license if the

30 nonresident's state requires both licenses for a nonresident to
31 fish in its marine waters.

32 (3) All resident vessels engaged in charter boat fishing,
33 party boat fishing, head boat fishing, * * * guide boat fishing,
34 or ecotourism shall be issued a separate annual license by the
35 commission at a fee of Two Hundred Dollars (\$200.00). All
36 nonresident vessels engaged in charter boat fishing, party boat
37 fishing, head boat fishing, * * * guide boat fishing, or
38 ecotourism shall be issued a separate annual license by the
39 commission for a fee as provided under Section 49-15-30,
40 Mississippi Code of 1972, but the fee shall be at least Four
41 Hundred Dollars (\$400.00). In addition to other requirements for
42 charter license eligibility, captains must show proof of
43 participation in a Department of Transportation approved random
44 drug testing program and proof of liability insurance as a charter
45 boat captain. Crew members and customers of the licensed vessels
46 shall not be required to purchase an individual resident or
47 nonresident saltwater fishing license while sponsored by the
48 licensed vessels. An operator of a licensed vessel shall be
49 required to report the number of customers to the department as
50 required by the commission and the information shall be kept
51 confidential and shall not be released, except to other fisheries
52 management agencies or as statistical data. All nonresident
53 vessels engaged in saltwater sport fishing tournaments, not to
54 exceed an aggregate of twenty (20) days per calendar year, shall
55 not be required to purchase an annual license as provided under
56 this subsection.

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

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

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

66 (7) The fees collected from the sale of resident and
67 nonresident saltwater sports fishing licenses shall be deposited
68 into the Seafood Fund and shall be used solely for the management
69 of marine resources.

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

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

75 (10) The department may exempt participants in an organized
76 fishing event conducted by a qualified nonprofit charitable,
77 governmental or civic organization from the requirements of this
78 section for one (1) day per year if the organization files an
79 exemption application with the department and the application is
80 approved by the department.

81 **SECTION 2.** Section 49-15-3, Mississippi Code of 1972, is
82 amended as follows:

83 49-15-3. As used in this chapter, the term:

84 (a) "Commission" means the Mississippi Commission on
85 Marine Resources.

86 (b) "Department" means the Department of Marine
87 Resources.

88 (c) "Domicile" means a person's principal or primary
89 place of abode in which a person's habitation is fixed and to
90 which the person, whenever absent, has the present intention of
91 returning after a departure of absence therefrom, regardless of
92 the duration of the absence. The burden of proving domicile in
93 the State of Mississippi shall be on the person claiming that
94 status. A person holding a current driver's license shall be
95 deemed to be domiciled within the state issuing the license. If a

96 person does not hold a current driver's license the following
97 evidence may be considered in establishing, but is not necessarily
98 determinative of domicile: residence for income or other tax
99 purposes, homestead exemption receipt or other means prescribed by
100 the commission. In the case of minors, domicile of the parents
101 shall be used as evidence of the minor's domicile.

102 (d) "Ecotourism" means travel on a vessel for hire
103 powered by motor to areas of natural or ecological interest for
104 the purpose of observing nature.

105 (e) "Game fish" means cobia, also known as ling or
106 lemonfish (*rachycentron canadum*). The cobia is classified as game
107 fish.

108 (f) "Illegal oysters" means:

109 (i) All untagged shell stock;

110 (ii) Shell oysters obtained from uncertified shops
111 or dealers or from an unlicensed catcher;

112 (iii) Oysters obtained from waters not declared
113 safe and sanitary by the department, except those oysters caught
114 by the commission for relaying or under private leases pursuant to
115 Section 49-15-27;

116 (iv) Shucked oysters obtained from uncertified
117 shops or repackers.

118 (g) "Inspector" means the chief inspector, the
119 assistant chief inspector, deputy inspector, bureau director and
120 certified enforcement officer employed by the department.

121 (h) "Natural reefs" means any bottom under the
122 jurisdiction of the commission of one or more acres on which
123 oysters grow naturally, or have grown naturally, in a quantity
124 sufficient to warrant commercial fishing as a means of livelihood,
125 or have been used in such a manner within a period of ten (10)
126 years next preceding the time the bottoms may come up for
127 determination by the commission.

128 (i) "Resident" means a person, firm or corporation that
129 is domiciled in this state.

130 (j) "Seafood" means all oysters, saltwater fish,
131 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all
132 other species of marine or saltwater animal life existing or
133 living in the waters within the territorial jurisdiction of the
134 State of Mississippi.

135 (k) "Tonging reefs" means any bottom under the
136 jurisdiction of the commission designated by the commission as an
137 area in which oysters may be taken by use of hand tongs, as
138 provided in Section 49-15-39.

139 **SECTION 3.** Section 49-15-301, Mississippi Code of 1972, is
140 amended as follows:

141 49-15-301. (1) The Mississippi Commission on Marine
142 Resources is hereby established and full power is vested in the
143 commission to regulate all matters pertaining to all saltwater
144 aquatic life and marine resources. The commission shall
145 administer the Coastal Wetlands Protection Law and the Public
146 Trust Tidelands Act. The power and duties of the commission shall
147 be exercised through the Department of Marine Resources.

148 (2) On July 1, 2002, the commission shall be reconstituted.
149 The terms of the nonseafood industry member and the member of the
150 Commission on Wildlife, Fisheries and Parks shall expire July 1,
151 2002. The remaining five (5) members serving on July 1, 2002
152 shall compose the reconstituted commission and shall continue to
153 serve until the expiration of their terms. The reconstituted
154 Mississippi Commission on Marine Resources shall consist of five
155 (5) members to be appointed as follows:

156 (a) The Governor shall appoint five (5) members who
157 shall be residents of Jackson, Harrison and Hancock Counties with
158 the advice and consent of the Senate. The Governor shall appoint
159 at least one (1) member from each county but not more than two (2)
160 members from any one (1) county. The members designated in

161 subparagraphs (i), (ii) and (iv) must be a resident of the county
162 where the business he is appointed to represent is located.

163 (b) The commission shall be composed as follows:

164 (i) One (1) member shall be a commercial seafood
165 processor.

166 (ii) One (1) member shall be a commercial
167 fisherman.

168 (iii) One (1) member shall be a recreational
169 sports fisherman.

170 (iv) One (1) member shall be a charter boat
171 operator.

172 (v) One (1) member shall be a member of an
173 incorporated nonprofit environmental organization.

174 (c) Of the initial members appointed by the Governor,
175 the members designated in subparagraphs (i), (ii) and (iii) shall
176 serve for an initial term of two (2) years and one (1) member
177 shall be appointed from each county. The members designated in
178 subparagraphs (iv) and (v) shall serve an initial term of four (4)
179 years. All terms after the initial terms shall be for a period of
180 four (4) years.

181 (d) Any vacancy in the office of an appointed member of
182 the commission shall be filled by appointment by the Governor for
183 the balance of the unexpired term.

184 (3) Each member shall have a demonstrated history of
185 involvement in the matter of jurisdiction for which he is
186 appointed to represent and his employment and activities must not
187 conflict with the matter of jurisdiction represented. A member
188 shall not have a record of conviction of violation of fish and
189 game or seafood laws or regulations within the five (5) years
190 preceding his appointment or a record of any felony conviction.
191 After July 1, 1999, if a member is convicted of a violation of the
192 seafood laws during his term, his office shall be deemed vacant

193 and the Governor shall fill the vacancy as provided in this
194 section.

195 (4) The commission shall elect a chairman who shall preside
196 at all meetings of the commission, and the commission shall also
197 elect a vice chairman who shall serve in the absence or inability
198 of the chairman.

199 (5) Each member shall be paid actual and necessary expenses
200 incurred in attending meetings of the commission and in performing
201 his duties away from his domicile under assignment by the
202 commission. In addition, members shall receive the per diem
203 authorized in Section 25-3-69, Mississippi Code of 1972.

204 (6) The commission shall adopt rules and regulations
205 governing times and places of meetings and shall adopt bylaws
206 governing the manner of conducting its business. Each member
207 shall take the oath prescribed by Section 268 of the Mississippi
208 Constitution of 1890 and shall, before assuming office, enter into
209 bond in the amount of Thirty Thousand Dollars (\$30,000.00), to be
210 approved by the Secretary of State conditioned according to law
211 and payable to the State of Mississippi.

212 (7) The commission shall not take any action, except by vote
213 in meeting assembled, and such action shall be included in the
214 minutes of the commission. A majority of the members shall
215 constitute a quorum of the commission.

216 (8) The commission, through the Department of Marine
217 Resources, shall devise a plan to make licenses available in each
218 coastal county.

219 (9) (a) There is hereby created a marine resources
220 technical advisory council composed of the Executive Director of
221 the Gulf Coast Research Lab, or his designee; the Executive
222 Director of the Department of Environmental Quality, or his
223 designee; and the Executive Director of the Department of
224 Wildlife, Fisheries and Parks, or his designee.

225 (b) The council shall give technical assistance to the
226 commission.

227 (10) For purposes of this section the following definitions
228 apply:

229 (a) "Charter boat operator" means an individual who
230 operates a vessel for hire guiding sports fishermen or ecotourism
231 trips for a fee and is duly licensed to engage in such activity in
232 the State of Mississippi.

233 (b) "Commercial fisherman" means a fisherman who sells,
234 barter or exchanges any or all of his catch or who is paid for
235 attempting to catch marine species, and is duly licensed to engage
236 in commercial fishing.

237 (c) "Commercial seafood processor" means an individual
238 who engages in the business of purchasing seafood products and
239 preparing them for resale and who is duly licensed to engage in
240 such commercial activity in the State of Mississippi.

241 (d) "Incorporated environmental nonprofit organization"
242 means an organization duly incorporated in any state as a
243 nonprofit organization and whose stated goals and purposes are the
244 conservation of natural resources.

245 (e) "Recreational sports fisherman" means an individual
246 who catches or harvests marine species only for recreation or
247 personal consumption and not for sale. The individual must
248 possess a saltwater sports fishing license, be a member of an
249 incorporated nonprofit sports fishing organization and not possess
250 a commercial fishing or seafood processor license.

251 **SECTION 4.** This act shall take effect and be in force from
252 and after July 1, 2005.