

By: Representative Mims

To: Judiciary A

HOUSE BILL NO. 635

1 AN ACT TO AMEND SECTION 97-17-93, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT LANDOWNERS OR LESSEES SHALL NOT BE LIABLE TO A
3 TRESPASSER FOR INJURIES; TO AMEND SECTION 51-1-4, MISSISSIPPI CODE
4 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 97-17-93, Mississippi Code of 1972, is
7 amended as follows:

8 97-17-93. (1) Any person who knowingly enters the lands of
9 another without the permission of or without being accompanied by
10 the landowner or the lessee of the land, or the agent of such
11 landowner or lessee, shall be guilty of a misdemeanor and, upon
12 conviction, shall be punished for the first offense by a fine of
13 not less than One Hundred Fifty Dollars (\$150.00) nor more than
14 Two Hundred Fifty Dollars (\$250.00). Upon conviction of any
15 person for a second or subsequent offense, the offenses being
16 committed within five (5) years of the last offense, such person
17 shall be punished by a fine of not less than Two Hundred Fifty
18 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00),
19 and may be imprisoned in the county jail for a period of not less
20 than ten (10) nor more than thirty (30) days, or by both such fine
21 and imprisonment. This section shall not apply to the landowner's
22 or lessee's family, guests, or agents, to a surveyor as provided
23 in Section 73-13-103, or to persons entering upon such lands for
24 lawful business purposes.

25 (2) (a) It shall be the duty of sheriffs, deputy sheriffs,
26 constables and conservation officers to enforce this section.

27 (b) Such officers shall enforce this section by issuing
28 a citation to those charged with trespassing under this section.

29 (3) The provisions of this section are supplementary to the
30 provisions of any other statute of this state.

31 (4) A prosecution under the provisions of this section shall
32 be dismissed upon the request of the landowner, lessee of the land
33 or agent of such landowner or lessee, as the case may be.

34 (5) A landowner or lessee shall not be liable for any
35 injuries to a trespasser.

36 **SECTION 2.** Section 51-1-4, Mississippi Code of 1972, is
37 amended as follows:

38 51-1-4. (1) Such portions of all natural flowing streams in
39 this state having a mean annual flow of not less than one hundred
40 (100) cubic feet per second, as determined and designated on
41 appropriate maps by the Mississippi Department of Environmental
42 Quality, shall be public waterways of the state on which the
43 citizens of this state and other states shall have the right of
44 free transport in the stream and its bed and the right to fish and
45 engage in water sports. Such persons exercising the rights
46 granted by this section shall do so at their own risk, and such
47 persons shall not be entitled to recover any damages against any
48 owner of property along such public waterways or anyone using such
49 property with permission of the owner for any injury to or death
50 of persons or damage to property arising out of the exercise of
51 rights granted by this section * * *.

52 (2) Nothing contained in this section shall authorize anyone
53 utilizing such public waterways, under the authority granted by
54 this section, to trespass upon adjacent lands or, to launch or
55 land any commercial or pleasure craft along or from the shore of
56 such waterways except at places established by public or private
57 entities for such purposes.

58 (3) Nothing contained in this section shall authorize any
59 person utilizing those public waterways, under the authority
60 granted by this section, to disturb the banks or beds of such
61 waterways or the discharge of any object or substance into such

62 waters or upon or across any lands adjacent thereto or to hunt or
63 fish or go on or across any adjacent lands under floodwaters
64 beyond the natural banks of the bed of the public waterway.
65 Floodwater which has overflowed the banks of a public waterway is
66 not a part of the public waterway.

67 (4) The right of the public to use public waterways does not
68 include the use of motorized vehicles in the beds of a public
69 waterway without the written permission of the landowner. Any
70 person who uses a motorized vehicle in the bed of a public
71 waterway without the written permission of the landowner may be
72 punished as provided in Section 97-17-93.

73 (5) Nothing contained in this section shall be construed to
74 prohibit the construction of dams and reservoirs by the State of
75 Mississippi or any of its agencies or political subdivisions, or
76 riparian owners, in the manner now or hereafter authorized by law,
77 or in any way to affect the rights of riparian landowners along
78 such waterways except as specifically provided hereinabove or to
79 amend or repeal any law relating to pollution or water
80 conservation, or to affect in any manner the title to the banks
81 and beds of any such stream or the title to any minerals
82 thereunder, or to restrict the mining or extraction of such
83 minerals or the right of ingress and egress thereto.

84 (6) The provisions of this section limiting the liability of
85 owners of property along public waterways and persons using such
86 property with permission of the owners shall not be construed to
87 limit any rights of claimants for damages under federal statutes
88 or acts applying to navigable streams or waterways or any other
89 civil causes of action subject to admiralty or maritime
90 jurisdiction, nor shall those provisions be construed to limit the
91 rights of any parties involved in litigation founded upon the
92 commercial or business usage of any navigable streams or
93 waterways.

94 (7) This section shall apply only to natural flowing
95 streams.

96 (8) Any lake hydrologically connected to a natural flowing
97 stream and listed as a public waterway under subsection (1) on
98 July 1, 2000, and subsequently removed from that list before July
99 1, 2001, by the Commission on Environmental Quality because the
100 lake did not meet the requirements of subsection (1), shall be
101 presumed to be a public waterway until a court of competent
102 jurisdiction determines otherwise. Nothing in this subsection
103 shall be construed to determine the property rights in the bed or
104 banks of the lake, the right of ingress or egress across private
105 property to the lake, or mineral interests.

106 **SECTION 3.** This act shall take effect and be in force from
107 and after July 1, 2007.