

House Amendments to Senate Bill No. 2783

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 2

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

15 49-15-27. The commission, with the approval of the Executive
16 Director of the Department of Marine Resources, is hereby granted
17 full and complete authority to * * * authorize the leasing of the
18 bottoms within its jurisdiction upon the following terms and
19 conditions:

20 (1) All areas within the commission's jurisdiction, not
21 designated tonging reefs by this chapter, or hereinafter
22 designated tonging reefs by the commission; all areas not
23 designated natural reefs by the commission, and all areas not
24 within the boundaries of riparian property owners may be leased by
25 the * * * Secretary of State.

26 (2) The commission, with the approval of the Executive
27 Director of the Department of Marine Resources, has the authority
28 to re-designate natural/public reefs and establish a regulatory
29 program for the purpose of private leases; however, only those

30 reefs classified as nonproducing reefs on July 1, 2019, may be
31 placed under a private lease. For the purposes of the section, a
32 "nonproducing reef" is any reef that has not had any oysters taken
33 for harvest within three (3) years of July 1, 2019.

34 (* * *3) All individual lessees shall be residents of the
35 State of Mississippi, or if a firm or corporation, such firm or
36 corporation shall be organized under the laws of the State of
37 Mississippi and owned by a majority of Mississippi residents.

38 (* * *4) No individual, corporation, partnership or
39 association may lease less than five (5) acres nor more than five
40 hundred (500) acres; however, in the case of an individual there
41 shall not be counted towards such limitation any lands leased by a
42 corporation, partnership or association in which such individual
43 owns ten percent (10%) or less interest and, in the case of a
44 corporation, partnership or association, there shall not be
45 counted toward such limitation any lands leased by an individual
46 stockholder, partner or associate thereof who owns ten percent
47 (10%) or less interest in such corporation, partnership or
48 association.

49 (* * *5) Individuals, firms or corporations desiring to
50 lease bottoms shall make application to the commission in writing,
51 describing the area to be leased.

52 (* * *6) The commission shall consider bottom leasing
53 applications in the order in which each is filed and the Secretary
54 of State may award, within sixty (60) days, a lease to the area
55 described in the application upon payment of the rent in advance.

56 (* * *7) Such leases shall be for a term of five (5) years,
57 with the right of lessee to renew the lease for an additional five
58 (5) years, and continue to renew at five-year intervals, at the
59 same ground rental rate so long as lessee actively cultivates and
60 gathers oysters, and complies with the provisions of this chapter.
61 No lease may be transferred without approval by the commission of
62 the transfer.

63 (* * *8) The commission shall fix a ground rental at not
64 less than Five Dollars (\$5.00) per acre.

65 (* * *9) The commission shall keep an accurate chart of the
66 areas within its jurisdiction and shall mark on such chart those
67 areas which are under lease. All leases shall be marked by
68 appropriate poles, stakes or buoys of such material as will not
69 injure watercraft, at the expense of the leaseholder. The
70 commission shall keep an accurate book, designated "Mississippi
71 Oyster Farms" which shall contain copies of all leases. If any
72 lease be cancelled or expire, such fact shall be noted on the face
73 of such lease. Lessees shall be "oyster farmers" for the purposes
74 of any grants, aid, subsidies or other assistance from the federal
75 government or other governmental or private agencies.

76 (* * *10) All funds derived from leasing shall be paid into
77 the Seafood Fund under Section 49-15-17, for use by the commission
78 to further oyster production in this state, which includes
79 plantings of oysters and cultch materials.

80 (* * *11) All leases made by the commission under the
81 authority of this section shall be subject to the paramount right

82 of the state and any of its political subdivisions authorized by
83 law, to promote and develop ports, harbors, channels, industrial
84 or recreational projects, and all such leases shall contain a
85 provision that in the event such authorized public body shall
86 require the area so leased or any part thereof for such public
87 purposes, that the lease shall be terminated on reasonable notice
88 fixed by the commission in such lease. On the termination of any
89 lease, the lessees shall have the right to remove any oysters
90 within the leased area within such time as may be fixed by the
91 commission and in accordance with such reasonable rules and
92 regulations as the commission may adopt.

93 Any person convicted of taking oysters from leased land or
94 from waters that are not of a safe sanitary quality without a
95 permit as provided in Section 49-15-37 shall, on the first
96 offense, forfeit all equipment used, exclusive of any boat or
97 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
98 or sentenced not to exceed one (1) year in the county jail, or
99 both. Subsequent convictions shall be punishable by forfeiture of
100 all equipment, including any boat or boats; and a fine not to
101 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
102 years in prison, or both such fine and imprisonment.

103 The commission is enjoined to cooperate with the Jackson
104 County Port Authority, the Harrison County Development Commission,
105 the municipal port commission and other port and harbor agencies,
106 so that oyster beds shall not be planted in close proximity to
107 navigable channels. The commission or lessee shall have no right

108 of action as against any such public body for damages accruing to
109 any natural reef or leased reef by any necessary improvement of
110 such channel in the interest of shipping, commerce, navigation or
111 other purpose authorized by law.

112 **SECTION 2.** Section 49-15-78, Mississippi Code of 1972, is
113 amended as follows:

114 49-15-78. (1) (a) It is unlawful for a person to use a
115 gill net, trammel net, entanglement net, or like contrivances for
116 the taking of * * * finfish in marine waters within one-half (1/2)
117 mile of the shoreline.

118 (b) For the purposes of this section, the phrase "like
119 contrivances" means any net that is similar in form, function,
120 purpose or use to a gill net, trammel net or entanglement net.

121 (c) It is unlawful for a person to use a haul seine net
122 for the taking of fish in marine waters within one-half (1/2) mile
123 of the shoreline of Cat Island.

124 (d) The provisions of this section shall not apply to
125 hand seines, cast nets or brill nets.

126 (2) A violation of this section is punishable by the
127 penalties provided in Section 49-15-100 * * *.

128 **SECTION 3.** This act shall take effect and be in force from
129 and after July 1, 2019.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 49-15-27, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE COMMISSION ON MARINE RESOURCES, WITH THE APPROVAL

3 OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF MARINE RESOURCES,
4 TO RE-DESIGNATE NATURAL/PUBLIC REEFS AND ESTABLISH A REGULATORY
5 PROGRAM FOR THE PURPOSE OF PRIVATE LEASES; TO LIMIT THE AMOUNT OF
6 REEFS THAT MAY BE PLACED UNDER A PRIVATE LEASE; TO AMEND SECTION
7 49-15-78, MISSISSIPPI CODE OF 1972, TO PROHIBIT THE USE OF A HAUL
8 SEINE NET FOR THE TAKING OF FISH IN MARINE WATERS WITHIN ONE-HALF
9 MILE OF THE SHORELINE OF CAT ISLAND; TO PROVIDE THE DEFINITION FOR
10 THE PHRASE "LIKE CONTRIVANCES"; TO EXEMPT CAST NETS, BRILL NETS
11 AND HAND SEINES; AND FOR RELATED PURPOSES.

HR31\SB2783A.2J

Andrew Ketchings
Clerk of the House of Representatives