

By: Representative Ladner

To: Marine Resources

HOUSE BILL NO. 1076

1 AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972,  
 2 TO DEFINE CERTAIN TERMS RELATING TO DERELICT VESSELS; TO PROVIDE  
 3 FOR JURISDICTION IN ACTIONS TO REMOVE DERELICT VESSELS; TO PROVIDE  
 4 CERTAIN REQUIREMENTS FOR THE REMOVAL OF DERELICT VESSELS; TO  
 5 PROVIDE CERTAIN REQUIREMENTS FOR THE NOTICE PROCESS FOR THE  
 6 REMOVAL OF DERELICT VESSELS; TO PROVIDE FOR THE PROCESS FOR  
 7 DETERMINING OWNERSHIP OF DERELICT VESSELS; TO PROVIDE FOR RECOVERY  
 8 OF COSTS ASSOCIATED WITH REMOVING DERELICT VESSELS; TO AUTHORIZE  
 9 CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF MARINE RESOURCES;  
 10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 49-27-71, Mississippi Code of 1972, is  
 13 amended as follows:

14 49-27-71. (1) **Definitions.** As used in the section, the  
 15 following words and phrases have the following meanings unless the  
 16 context clearly indicates otherwise:

17 \* \* \*

18 (a) "Abandoned vessel" means a vessel left unattended  
 19 for four (4) or more weeks after a hurricane, tropical storm, or  
 20 other natural event resulting in a declaration of emergency by the  
 21 Governor, or, in the absence of a hurricane, tropical storm, or



22 other natural event resulting in a declaration of emergency by the  
23 Governor, any of the following:

24 (i) A vessel left unattended that is moored,  
25 anchored, or otherwise in the waters of the state or on public  
26 property for a period of more than ten (10) days.

27 (ii) A vessel that is moored, anchored, or  
28 otherwise on or attached to private property for a period of more  
29 than ten (10) days without the consent of the owner or lessee of  
30 the property or of the public trust tidelands.

31 Upon notification from the owner of the vessel outlining the  
32 circumstances following a hurricane, tropical storm, or other  
33 natural event, the department may grant an exception to the time  
34 frames indicated above.

35 (b) "Department" means the Mississippi Department of  
36 Marine Resources.

37 (c) "Derelict vessel" means a vessel in the waters of  
38 the State of Mississippi that satisfies any of the following:

39 (i) Is aground without the ability to extricate  
40 itself absent mechanical assistance;

41 (ii) Is sunk or otherwise resting on the bottom of  
42 the waterway;

43 (iii) Is abandoned;

44 (iv) Is wrecked, junked, or in a substantially  
45 dismantled condition upon any waters of this state:



46 1. A vessel is "wrecked" if it is sunken or  
47 sinking; or remaining after a marine casualty, including, but not  
48 limited to, a boating accident, extreme weather, or fire.

49 2. A vessel is "junked" if it has been  
50 substantially stripped of vessel components, if vessel components  
51 have substantially degraded or been destroyed, or if the vessel  
52 has been discarded by the owner or operator. Attaching an  
53 outboard motor to a vessel that is otherwise junked will not cause  
54 the vessel to no longer be junked if such motor is not an  
55 effective means of propulsion.

56 3. A vessel is "substantially dismantled" if  
57 at least two (2) of the three (3) following vessel systems or  
58 components are missing, compromised, incomplete, inoperable, or  
59 broken:

60 (A) The steering system;

61 (B) The propulsion system; or

62 (C) The exterior hull integrity.

63 Attaching an outboard motor to a vessel that is otherwise  
64 substantially dismantled will not cause the vessel to no longer be  
65 substantially dismantled if such motor is not an effective means  
66 of propulsion;

67 (v) Docked, grounded, or beached upon the property  
68 of another without the consent of the owner of the property;



69 (vi) Is obstructing a waterway or within one  
70 hundred (100) yards of the boundaries of any state, county or  
71 municipal port;

72 (vii) Is endangering life or property;

73 (viii) Has broken loose or is in danger of  
74 breaking loose from its anchor, mooring, or ties; or

75 (iv) A vessel that is otherwise not seaworthy.

76 (d) "Documented vessel" means a vessel documented under  
77 46 USC, Chapter 121.

78 (e) "Effective means of propulsion" means a vessel,  
79 other than a barge, that is equipped with:

80 (i) A functioning motor, controls, and steering  
81 system; or

82 (ii) Rigging and sails that are present and in  
83 good working order, and a functioning steering system.

84 A vessel does not have an effective means of propulsion for  
85 safe navigation within seventy-two (72) hours after the vessel  
86 owner or operator received telephonic notice, in-person notice  
87 recorded on an agency-approved body camera, or written notice,  
88 which may be provided by facsimile, electronic mail, or other  
89 electronic means, stating such from a representative of the  
90 department, and the vessel owner or operator is unable to provide  
91 a receipt, proof of purchase, or other documentation of having  
92 ordered necessary parts for vessel repair. The department may  
93 adopt regulations to implement this paragraph.



94           (f) "Floating building or structure" means a floating  
95 entity, with or without accommodations built thereon, which is not  
96 primarily used as a means of transportation on water but which  
97 serves purposes or provides services typically associated with a  
98 structure or other improvement to real property. The term  
99 includes, but is not limited to, an entity used as a residence,  
100 place of business or office with public access; a hotel or motel;  
101 a restaurant or lounge; a clubhouse; a meeting facility; a storage  
102 or parking facility; or a mining platform, dredge, dragline, or  
103 similar facility or entity represented as such. Incidental  
104 movement upon water or resting partially or entirely on the bottom  
105 does not, in and of itself, preclude an entity from classification  
106 as a floating structure.

107           (g) "Gross negligence" means conduct so reckless or  
108 wanting in care that it constitutes a conscious disregard or  
109 indifference to the safety of the property to such conduct.

110           (h) "Moored" means a vessel that is anchored or affixed  
111 in some other way to the public trust tidelands, to leased  
112 tidelands, to private land, or within the riparian zone of a  
113 private or public landowner or leaseholder.

114           (i) "Registered" means a vessel documented under  
115 Section 59-21-5, Mississippi Code of 1972.

116           (j) "Unseaworthy" means a vessel that is not fit or  
117 safe for any normal perils of the sea or has no effective means of  
118 propulsion is included.



119           (k) "Vessel" means every description of watercraft,  
120 other than a seaplane, capable of being used as a means of  
121 transportation on the water. For the purposes of this section,  
122 vessels powered only by hand, foot, oars or paddles, are included.

123           For the purposes of this section, floatable buildings and  
124 structure, whether or not they are used for navigation, are  
125 included.

126           (l) "Waters of the state" means any waters located  
127 within Harrison, Hancock and Jackson Counties under the  
128 jurisdiction of the Mississippi Department of Marine Resources as  
129 established pursuant to Section 49-15-23, Mississippi Code of  
130 1972.

131           (m) "Willful misconduct" means conduct evidencing  
132 carelessness or negligence of such a degree or recurrence as to  
133 manifest culpability, wrongful intent, or evil design or to show  
134 an intentional and substantial disregard of the interests of the  
135 vessel owner.

136           (2) **Jurisdiction.** (a) In the waters of Harrison, Hancock  
137 and Jackson Counties, a person \* \* \*, firm, corporation, or other  
138 entity may not leave derelict or at-risk of being derelict, any  
139 vessel on the coastal wetlands, marine waters, or on public or  
140 privately owned lands without the owner's permission.

141           (b) The Department of Marine Resources has the  
142 authority to remove derelict vessels, whether located on private  
143 or public property.



144           (c) Vessels located in ports and harbors are subject to  
145 the provisions outlined in Title 50, Mississippi Code of 1972,  
146 Ports, Harbors, Landings and Watercraft.

147           (d) This section does not apply to vessels located in  
148 marinas, garages, or repair shops for repairs, improvements, or  
149 other work with knowledge of the owner and for which the costs or  
150 such services have been unpaid.

151           (e) Vessels deemed to be derelict pursuant to this  
152 chapter are exempt from the salvage provisions in Section 89-17-1  
153 et seq., Mississippi Code of 1972.

154           (3) **Penalties.** Violations of this act will be subject to  
155 the penalties as provided in Section 49-15-63.

156           ( \* \* \*4) **Standing.** \* \* \* A party with standing may  
157 initiate the derelict vessel procedures in this section. For  
158 purpose of this section, the following parties have standing:

159           (a) The owner of the property where the vessel came to  
160 rest or to which the vessel was made fast;

161           (b) Any harbormaster, police department, municipality  
162 or agent of the state that agrees to accept or process a derelict  
163 vessel; or

164           (c) Any professional marine salvager when the salvager  
165 is engaged by a person with standing.

166           (5) Landowner permission may be revoked at any time.

167           The landowner must provide the department sufficient proof  
168 that the vessel owner has been notified of the revocation of



169 landowner's permission or proof that the landowner cannot locate  
170 the owner of the vessel.

171 When a vessel is moored upon public trust tidelands that is  
172 not otherwise teased to another party, for a period of thirty (30)  
173 days or longer, permission must be granted by the Secretary of  
174 State's office.

175 ( \* \* \*6) **Notice.** Any party with standing, or his or her  
176 representative, may initiate the notice process by filing an  
177 application with the department to remove the derelict  
178 vessel \* \* \*. Upon receipt and review of the application, \* \* \*  
179 the department may initiate the following notice process:

180 (a) A department officer \* \* \* is authorized to board  
181 any vessel that has been reported to the department as being  
182 derelict or at-risk of being derelict to determine the condition  
183 of the vessel and in an attempt to establish ownership of the  
184 vessel.

185 (b) A department officer shall post notice, which must  
186 comply with the following requirements:

187 (i) Be posted on the vessel in a prominent  
188 location, visible to an approaching person;

189 (ii) Require the vessel owner to submit a plan for  
190 removal to the department within seven (7) days of the notice; and

191 ( \* \* \*iii) \* \* \* Include a space for the owner of  
192 the vessel to respond.





193 (c) If the registered owner responds with a signature  
194 in the space or otherwise provides a written response to the  
195 department requesting an extension of time, then the registered  
196 owner will have an additional five (5) days to \* \* \* submit the  
197 plan for removal.

198 (d) \* \* \* The department will notify the respondent of  
199 the approval or denial of the removal plan within seven (7)  
200 business days.

201 (e) If the respondent fails to comply with the approved  
202 removal plan and fails to submit a satisfactory reason as to why  
203 the vessel cannot be moved as planned, the department may present  
204 the removal plan and evidence of the owner's noncompliance to the  
205 chancery court.

206 (f) Upon presentation of the required evidence, the  
207 chancery court will issue an order allowing the department or its  
208 representative to remove the vessel from its current location and  
209 make whatever disposition is deemed appropriate, including, but  
210 not limited to, immediate disposal, storage pending disposal, use  
211 for official purposes, transfer to another state agency or other  
212 disposition.

213 (g) If the vessel is located in an area of coastal  
214 wetlands where emergent vegetation is present or where the vessel  
215 is embedded in the ground, a wetlands permit may be required prior  
216 to removal.



217           (h) Any party who acts in good faith and without  
218 malicious intent in the processing, storing or moving any derelict  
219 vessel pursuant to this section is immune from liability for  
220 damages to the vessel.

221           (7) **Determining ownership.** (a) Upon receipt of an  
222 application for the removal of a derelict vessel where no removal  
223 plan has been submitted by the owner, the department must attempt  
224 to contact the registered owner of the vessel and any lien holders  
225 of record by other available means.

226           (b) The department must inquire of the Mississippi  
227 Department of Wildlife, Fisheries and Parks (MDWFP) as to the  
228 status of the vessel in regard to the Mississippi Boating Law of  
229 1960, Section 59-21-1 et seq. or the United States Coast Guard as  
230 to the status of the vessel in regard to documentation under 46  
231 USC, Chapter 121.

232           (c) The inquiry must provide the description of the  
233 vessel, including the vessel registration number.

234           (d) The MDWFP is required to provide the requested  
235 information to the department within two (2) business days.

236           (e) The registered owner of a vessel must comply with  
237 Section 59-21-21 to change ownership. In the event a vessel owner  
238 fails to notify the MDWFP of a transfer of ownership and supply  
239 the new owner's contact information, the owner of the vessel  
240 according to MDWFP records is presumed to be the person to whom  
241 the vessel is registered.



242           (f) If there is no registered owner found, the  
243 department must make publication on the department's website and  
244 in a newspaper with general circulation for three (3) weeks,  
245 describing the vessel and the location.

246           ( \* \* \*8) **Derelict vessel removal.** (a) After the initial  
247 notice period described in subsection ( \* \* \*6) has lapsed \* \* \*  
248 and the department can show proof of inquiries to ascertain the  
249 vessel ownership under subsection (7) of this section, the  
250 department may obtain an order from the chancery court for the  
251 derelict vessel to be removed from its current location.

252           (b) \* \* \* The chancery court order may grant the  
253 department to make whatever disposition is deemed appropriate,  
254 including, but not limited to, immediate disposal of the vessel,  
255 storage pending disposal, use for official purposes, transfer to  
256 another state agency or other disposition.

257           (c) \* \* \* If the vessel is located in an area of  
258 coastal wetlands where emergent vegetation is present or where the  
259 vessel is embedded in the ground, a wetlands permit may be  
260 required prior to removal.

261           (d) Any person who acts in good faith and without  
262 malicious intent in the processing, \* \* \* storing or \* \* \* moving  
263 of any derelict vessel pursuant to this section is immune from  
264 civil liability for damage to the vessel.

265           ( \* \* \*9) **Emergency removal.** Any derelict vessel that is  
266 obstructing a waterway, is within any designated navigation



267 channel or within one hundred (100) yards of the boundaries of any  
268 state, county or municipal port may be declared a hazard to  
269 navigation and subject to immediate relocation, removal \* \* \*  
270 disposal, or other disposition by the department or other party  
271 with standing.

272 (a) Any derelict vessel that is leaking any hazardous  
273 substances, chemicals or fuels will be reported to the Mississippi  
274 Department of Environmental Quality (MDEQ) and may be declared an  
275 environmental hazard and subject to immediate relocation,  
276 removal \* \* \* disposal \* \* \* or other disposition by MDEQ, the  
277 department or other party with standing.

278 (b) The \* \* \* registered owner of a vessel removed in  
279 accordance with this subsection (9) \* \* \* is liable for the costs  
280 associated with the relocation, removal, salvage \* \* \* storage or  
281 disposal of the vessel and any damages to the flora and fauna  
282 within the affected area.

283 (c) Any funds derived from salvage or sale of a vessel  
284 pursuant to this section will be used to offset the costs to the  
285 department associated with the removal, salvage, storage or  
286 disposal of the vessel.

287 (d) Any funds derived from damages to the flora and  
288 fauna will be deposited into the Coastal Resource Management Fund.

289 (e) \* \* \* Any party who relocates or removes a vessel  
290 under this section is not liable for damages resulting from



291 relocation or removal unless the damage results from gross  
292 negligence or willful misconduct.

293 ( \* \* \* 10) **Cost recovery.** (a) \* \* \* The department may  
294 seek full cost recovery from the registered owner of the derelict  
295 vessel for any expense incurred as a result of, or incidental to,  
296 removing the vessel. The registered owner of the vessel is liable  
297 for the costs of removal, storage, disposal, and restoration of  
298 affected lands \* \* \*, attorneys' fees and all court costs \* \* \*.

299 (b) The owner of the vessel is also liable for a fine  
300 of Five Hundred Dollars (\$500.00) per day. \* \* \* The fines for  
301 emergency removal of vessels under subsection (9) of this section  
302 may be imposed by the Executive Director of the Department of  
303 Marine Resources upon the recommendation of the Advisory  
304 Commission on Marine Resources, under Section 49-15-401 et seq.  
305 The fines for removal of all other vessels may be imposed by the  
306 chancery court.

307 (c) Expenses incurred, including, but not limited to,  
308 finances, court costs, vessel removal, storage, disposal, restoration  
309 of affected lands, and attorneys' fees for derelict vessels will  
310 be imposed by the chancery court as outlined in subsection (11).

311 (d) If the registered owner should fail to pay fines  
312 imposed by the department in accordance with subsection (10)(b),  
313 an enforcement action will be filed with the chancery court which  
314 may result in the court issuing an order including, but not



315 limited, to the collection of fines, court costs, and/or any legal  
316 avenue the court finds appropriate to collect such funds.

317 (e) All proceeds from any activity related to the  
318 disposition of a vessel under this chapter will go into the  
319 Derelict Vessel Fund, a special fund within the Seafood Fund.  
320 However, any fines imposed for the damage to coastal wetlands will  
321 be placed in the Coastal Resource Management Fund.

322 ( \* \* \*<sup>11</sup>) **Court process.** (a) The chancery court of the  
323 county in which the vessel is located has jurisdiction over all  
324 matters concerning derelict vessels under this section, including  
325 injunctions and demands for damages. If the vessel is allowed to  
326 float and/or is otherwise moved to another county after notice has  
327 been provided under subsection (6) of this section, the county in  
328 which the vessel was first provided notice shall have continuing  
329 jurisdiction.

330 (b) If there is no response to the publication attempts  
331 under subsection (7)(e) of this section, the chancery court will  
332 issue an order to the department allowing the department to take  
333 possession of the vessel and make such use or disposition of the  
334 vessel as deemed appropriate under the circumstances. If the  
335 department determines that the vessel may be used for official  
336 purposes or otherwise sold, the MDWFP will issue a vessel  
337 registration number or a hull identification number to the  
338 department after proof of publication has been submitted.



339 ( \* \* \*c) The chancery court may, in its discretion,  
340 order damages up to Five Hundred Dollars (\$500.00) per day for  
341 every day the vessel was left abandoned or derelict, beginning on  
342 the day \* \* \* notice was posted on the vessel. \* \* \*

343 ( \* \* \*d) If the department or a party with standing  
344 desires to require the registered owner to remove the vessel, then  
345 he or she may apply to the chancery court for a writ of mandatory  
346 injunction ordering the registered owner to remove the vessel.  
347 The chancery court must allow a reasonable time for removal and  
348 restoration of the affected lands. The chancery court may order  
349 further damages not to exceed Five Hundred Dollars (\$500.00) per  
350 day for each day that the violation exists beyond the date set by  
351 the court in an injunction for the removal of the vessel and  
352 restoration of the affected lands.

353 ( \* \* \*e) Any court-ordered reimbursed costs or damages  
354 in excess of the actual costs of removal and restoration must be  
355 deposited in a special fund in the State Treasury known as the  
356 "Derelict Vessel Fund" administered by the department. Any funds  
357 deposited in the fund must be used to cover the administrative  
358 costs and removal costs incurred by the department for the removal  
359 of vessels. Any remaining funds must be used to cover the costs  
360 of removing additional derelict vessels. However, any fines  
361 imposed for the damage to coastal wetlands will be placed in the  
362 Coastal Resource Management Fund.



363 ( \* \* \*12) **Department authorities.** (a) The department is  
364 authorized to enter into contracts with individuals, firms and  
365 corporations, or agreements with other state agencies for the  
366 removal and/or temporary storage of vessels prior to removal. The  
367 salvage value, if any, of the vessel may be used to offset the  
368 costs of the removal of the vessel and the restoration of the  
369 affected area. The department may enter into noncompetitive  
370 contracts or agreements with any state or federal entity for the  
371 removal of vessels.

372 (b) The \* \* \* department may \* \* \* enter into  
373 interstate or intrastate \* \* \* agreements toward this end, and may  
374 seek and utilize aid from all federal, state, and local sources in  
375 this endeavor.

376 (c) The Department of Marine Resources shall adopt  
377 rules and regulations necessary and appropriate to carry out this  
378 section.

379 (d) The department may promulgate regulations to  
380 establish a derelict vessel prevention program to address vessels  
381 at risk of becoming derelict. Such program may, but is not  
382 required to, include:

383 (i) Removal, relocation, and destruction of  
384 vessels declared a public nuisance due to the lack of proper  
385 marine sanitation, derelict or at risk of becoming derelict, or  
386 lost or abandoned.





387           (ii) Creation of a vessel turn-in program allowing  
388 the owner of a vessel determined by the department to be at risk  
389 of becoming derelict, to turn the vessel and vessel title over to  
390 the department to be destroyed without penalty.

391           (iii) Providing for removal and destruction or  
392 other disposition of an abandoned vessel for which an owner cannot  
393 be identified or the owner of which is deceased and no heir is  
394 interested in acquiring the vessel.

395           (iv) Purchase of anchor line, anchors, and other  
396 equipment necessary for securing vessels at risk of becoming  
397 derelict.

398           (v) Creating or acquiring moorings designated for  
399 securing vessels at risk of becoming derelict.

400           ( \* \* \*e) The State of Mississippi, the Commission on  
401 Marine Resources, the department, and their employees and  
402 representatives shall not be liable for any damages resulting from  
403 the removal, towing, storage, sale or disposal of any vessel \* \* \*  
404 that is derelict or hazardous under this section.

405           (f) The department or any party with standing does not  
406 incur liability for any resulting damage to the vessel or any  
407 damage the vessel may cause to any property or person during the  
408 time frame between posting notice and vessel removal. If any  
409 damages occur during the period of time between notice and removal  
410 of the vessel, the registered vessel owner, according to MDWFP  
411 records, is presumed liable for all damages.



412           **SECTION 2.** This act shall take effect and be in force from  
413 and after July 1, 2022.

