

By: Senator(s) Wiggins

To: Ports and Marine Resources

SENATE BILL NO. 2076

1 AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE MUNICIPALITIES, LAW ENFORCEMENT OR OTHER PUBLIC  
3 ENTITIES TO INITIATE AND UTILIZE THE DERELICT VESSEL REMOVAL  
4 PROCEDURES WITHOUT FIRST FILING APPLICATION WITH THE MISSISSIPPI  
5 DEPARTMENT OF MARINE RESOURCES AND TO PROVIDE FOR THE DEPOSIT OF  
6 ANY COURT ORDERED REIMBURSED COSTS OR DAMAGES FOR SUCH REMOVAL;  
7 AND FOR RELATED PURPOSES.

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

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

11 49-27-71. (1) **Definitions.** As used in the section, unless  
12 the context clearly indicates otherwise:

13 (a) "Derelict" means (i) grounded; (ii) allowed to  
14 remain in an unseaworthy or dilapidated condition; or (iii)  
15 submerged or in immediate danger of sinking. A ship submerged for  
16 one hundred (100) years or more is not derelict.

17 (b) "Vessel" means vessels and, for purposes of this  
18 section, also includes floatable buildings and structures, whether  
19 or not they are used for navigation.



20           (2) **Jurisdiction.** In the waters of Harrison, Hancock and  
21 Jackson Counties, a person must not leave derelict any vessel on  
22 the coastal wetlands, marine waters, or on public or privately  
23 owned lands without the owner's permission.

24           (3) **Standing.** Only a party with standing may initiate the  
25 derelict vessel procedures in this section. For purpose of this  
26 section, the following parties have standing:

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

29                   (b) Any harbormaster, police department, municipality  
30 or agent of the state that agrees to accept or process a derelict  
31 vessel; or

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

34           (4) **Notice.** Any party with standing may initiate the notice  
35 process by filing an application to remove the derelict vessel  
36 with the department. Upon receipt of the application, and review,  
37 the department may initiate the following notice process:

38                   (a) A department officer will post notice on the vessel  
39 in a prominent location so as to be visible to an approaching  
40 person, requiring the vessel to be removed within seven (7) days  
41 of the notice.

42                   (b) The notice must include a space for the owner of  
43 the vessel to respond.



44 (c) If the owner responds with a signature in the space  
45 or written response to the department requesting an extension of  
46 time, then the owner will have an additional five (5) days to  
47 remove the vessel.

48 (d) The department must attempt to contact the owner of  
49 the vessel and any lien holders of record by other available  
50 means. The owner is presumed to be the person to whom the vessel  
51 is registered.

52 (e) Any party with standing identified in subsection  
53 (3)(b) of this section may initiate and utilize the above notice  
54 procedures in the same manner as the department and its officers,  
55 with or without first filing an application with the department.

56 (5) **Derelict vessel removal.** (a) After the initial notice  
57 period described in subsection (4) has lapsed, the derelict vessel  
58 may be removed by the department or the party with standing.

59 (b) Prior to disposition of the vessel, the department  
60 or the party with standing must inquire of the Department of  
61 Wildlife, Fisheries and Parks as to the status of the vessel in  
62 regard to the Mississippi Boating Law of 1960, Section 59-21-1 et  
63 seq. The inquiry must provide the description of the vessel,  
64 including the vessel registration number. Upon request of the  
65 Department of Wildlife, Fisheries and Parks, satisfactory evidence  
66 must be furnished as to dereliction in compliance with this  
67 section. The Department of Wildlife, Fisheries and Parks will



68 advise the inquirer of proper registration procedures, where  
69 indicated, depending on the method of disposition of the vessel.

70 (c) On registration, title to the derelict vessel vests  
71 with the person or governmental agency that registered it. No  
72 liabilities incurred by the vessel or the vessel owner transfer  
73 along with the title. Any vessel transferred under this  
74 subsection may be disposed of without additional notice to the  
75 original owner of the vessel. Any value retrieved from the sale  
76 or disposal of the vessel offsets the costs of removal and storage  
77 attributed to the original owner.

78 (d) Any person who acts in good faith and without  
79 malicious intent in the processing, storage or movement of any  
80 derelict vessel pursuant to this section is immune from civil  
81 liability for damage to the vessel.

82 (6) **Emergency removal.** Any derelict vessel within any  
83 designated navigation channel or within one hundred (100) yards of  
84 the boundaries of any state, county or municipal port may be  
85 declared a hazard to navigation and subject to immediate removal  
86 and disposal by the department or any party with standing  
87 identified in subsection (3)(b) of this section. Any derelict  
88 vessel that is leaking any hazardous substances, chemicals or  
89 fuels may be declared an environmental hazard and subject to  
90 immediate removal and disposal by the department or any party with  
91 standing identified in subsection (3)(b) of this section. The  
92 owners of a vessel removed in accordance with this subsection are



93 liable for the costs associated with the salvage and disposal of  
94 the vessel and any damages to the flora and fauna within the  
95 affected area. The department or any party with standing  
96 identified in subsection (3)(b) of this section is not liable for  
97 damages resulting from relocation or removal unless the damage  
98 results from gross negligence or willful misconduct.

99       (7) **Cost recovery.** (a) Any party with standing may seek  
100 full cost recovery from the owner of the derelict vessel for any  
101 expense incurred as a result of, or incidental to, removing the  
102 vessel. The owner of the vessel is liable for the costs of  
103 removal, storage and restoration of affected lands. If ownership  
104 of the vessel transfers under subsection (5)(c), then the original  
105 owner is liable for double the costs of removal, storage,  
106 restoration of affected lands, attorneys' fees, and all costs of  
107 court.

108       (b) The owner of the vessel is also liable for a fine  
109 of Five Hundred Dollars (\$500.00) per day. However, no fine will  
110 be charged if the vessel is reclaimed by the owner and all  
111 expenses paid before the title transfers under this section.

112       (8) **Court process.** (a) The chancery court of the county in  
113 which the vessel is located has jurisdiction over all matters  
114 concerning derelict vessels under this section, including  
115 injunctions and demands for damages.

116       (b) The chancery court may, in its discretion, order  
117 damages up to Five Hundred Dollars (\$500.00) per day for every day



118 the vessel was left abandoned or derelict, beginning on the day of  
119 the first posting of notice. If the vessel was removed prior to  
120 the title transferring under subsection (5), then no such damages  
121 will be assessed. The vessel owner is liable for reasonable  
122 attorneys' fees and all costs of court.

123 (c) If a party with standing desires to require the  
124 owner to remove the vessel, then he may apply to the chancery  
125 court for a writ of mandatory injunction ordering the owner to  
126 remove the vessel. The chancery court must allow a reasonable  
127 time for removal and restoration of the affected lands. The  
128 chancery court may order further damages not to exceed Five  
129 Hundred Dollars (\$500.00) per day for each day that the violation  
130 exists beyond the date set by the court in an injunction for the  
131 removal of the vessel and restoration of the affected lands.

132 (d) Except as provided in paragraph (e) of this  
133 subsection, any court-ordered reimbursed costs or damages in  
134 excess of the actual costs of removal and restoration must be  
135 deposited in a special fund in the State Treasury known as the  
136 "Derelict Vessel Fund" administered by the department. Any funds  
137 deposited in the fund must be used to cover the administrative  
138 costs and removal costs incurred by the department for the removal  
139 of vessels. Any remaining funds must be used to cover the costs  
140 of removing additional derelict vessels.

141 (e) Any court-ordered reimbursed costs or damages in  
142 excess of the actual costs of removal and restoration recovered by



143 a party with standing identified in subsection (3)(b) of this  
144 section must be deposited into a fund maintained by that party  
145 with standing.

146 (9) **Department authorities.** (a) The department \* \* \* and  
147 any party with standing identified in subsection (3)(b) of this  
148 section are authorized to enter into contracts with individuals,  
149 firms and corporations for the removal of vessels. The salvage  
150 value, if any, of the vessel may be used to offset the costs of  
151 the removal of the vessel and the restoration of the affected  
152 area. The department and any party with standing identified in  
153 subsection (3)(b) of this section may enter into noncompetitive  
154 contracts or agreements with any state or federal entity for the  
155 removal of vessels.

156 (b) The Commission on Marine Resources shall adopt  
157 rules and regulations necessary and appropriate to carry out this  
158 section. The commission may also enter into interstate or  
159 intrastate efforts toward this end, and may seek and utilize aid  
160 from all federal, state, and local sources in this endeavor.

161 (c) The State of Mississippi, the Commission on Marine  
162 Resources, the department, any party with standing identified in  
163 subsection (3)(b) of this section, and their employees and  
164 representatives shall not be liable for any damages resulting from  
165 the removal, sale or disposal of any vessel declared derelict or  
166 hazardous under this section.



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

