

House Amendments to Senate Bill No. 2076

TO THE SECRETARY OF THE SENATE:

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

AMENDMENT NO. 1

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

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 for
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. The
167 landowner must provide the department sufficient proof that the
168 vessel owner has been notified of the revocation of landowner's
169 permission or proof that the landowner cannot locate the owner of
170 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) of
311 this section.

312 (d) If the registered owner should fail to pay fines
313 imposed by the department in accordance with paragraph (b) of this
314 subsection, an enforcement action will be filed with the chancery
315 court which may result in the court issuing an order, including,
316 but not limited to, the collection of fines, court costs, and/or
317 any legal avenue the court finds appropriate to collect such
318 funds.

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

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

332 (b) If there is no response to the publication attempts
333 under subsection (7) (e) of this section, the chancery court will
334 issue an order to the department allowing the department to take
335 possession of the vessel and make such use or disposition of the

336 vessel as deemed appropriate under the circumstances. If the
337 department determines that the vessel may be used for official
338 purposes or otherwise sold, the MDWFP will issue a vessel
339 registration number or a hull identification number to the
340 department after proof of publication has been submitted.

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

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

355 (* * *e) Any court-ordered reimbursed costs or damages
356 in excess of the actual costs of removal and restoration must be
357 deposited in a special fund in the State Treasury known as the
358 "Derelict Vessel Fund" administered by the department. Any funds
359 deposited in the fund must be used to cover the administrative
360 costs and removal costs incurred by the department for the removal
361 of vessels. Any remaining funds must be used to cover the costs

362 of removing additional derelict vessels. However, any fines
363 imposed for the damage to coastal wetlands will be placed in the
364 Coastal Resource Management Fund.

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

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

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

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

385 (i) Removal, relocation, and destruction of
386 vessels declared a public nuisance due to the lack of proper

387 marine sanitation, derelict or at risk of becoming derelict, or
388 lost or abandoned.

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

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

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

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

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

407 (f) The department or any party with standing does not
408 incur liability for any resulting damage to the vessel or any
409 damage the vessel may cause to any property or person during the
410 time frame between posting notice and vessel removal. If any
411 damages occur during the period of time between notice and removal

412 of the vessel, the registered vessel owner, according to MDWFP
413 records, is presumed liable for all damages.

414 **SECTION 2.** This act shall take effect and be in force from
415 and after July 1, 2022, and shall stand repealed on June 30, 2022.

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

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.

HR43\SB2076A.J

Andrew Ketchings
Clerk of the House of Representatives