

By: Representative Ladner

To: Marine Resources

HOUSE BILL NO. 1281

1 AN ACT TO AMEND SECTION 49-15-27, MISSISSIPPI CODE OF 1972,
 2 TO CLARIFY THE AUTHORITY OF THE MISSISSIPPI DEPARTMENT OF MARINE
 3 RESOURCES TO LEASE BOTTOM LAND FOR OYSTER GROWING OR HARVESTING;
 4 TO REPEAL SECTION 49-15-40.1, MISSISSIPPI CODE OF 1972, WHICH
 5 CREATED A PILOT PROGRAM UNDER THE MISSISSIPPI DEPARTMENT OF MARINE
 6 RESOURCES FOR BOTTOM LAND LEASING FOR OYSTER PRODUCTION; TO AMEND
 7 SECTION 49-15-36, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
 8 RELATED PURPOSES.

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

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

12 49-15-27. The department is hereby granted full and complete
 13 authority to lease the bottoms within its jurisdiction upon the
 14 following terms and conditions:

15 (1) All areas within the department's jurisdiction, not
 16 designated * * * state-owned reefs by this chapter, or hereinafter
 17 designated tonging reefs by the department * * *, and all areas
 18 not within the boundaries of riparian property owners may be
 19 leased by the department.

20 (2) All individual lessees shall be residents of the State
 21 of Mississippi, or if a firm or corporation, such firm or



22 corporation shall be organized under the laws of the State of
23 Mississippi.

24 (3) No individual, corporation, partnership or association
25 may lease less than one (1) acre nor more than * * * one thousand
26 (1,000) acres; however, in the case of an individual there shall
27 not be counted towards such limitation any lands leased by a
28 corporation, partnership or association in which such individual
29 owns ten percent (10%) or less interest and, in the case of a
30 corporation, partnership or association, there shall not be
31 counted toward such limitation any lands leased by an individual
32 stockholder, partner or associate thereof who owns ten percent
33 (10%) or less interest in such corporation, partnership or
34 association.

35 (4) Individuals, firms or corporations desiring to lease
36 bottoms shall make application to the department in writing,
37 describing the area to be leased.

38 (5) The department shall consider bottom leasing
39 applications in the order in which each is filed and may award,
40 within sixty (60) days, a lease to the area described in the
41 application upon payment of the rent in advance.

42 (6) Such leases shall be for a term of five (5) years, with
43 the right of lessee to renew the lease for an additional five (5)
44 years, and continue to renew at five-year intervals, at the same
45 ground rental rate so long as lessee actively cultivates and
46 gathers oysters, and complies with the provisions of this chapter.



47 No lease may be transferred without approval by the department of
48 the transfer.

49 (7) The department shall fix a ground rental at not less
50 than * * * Two Dollars (\$2.00) and not more than Twenty Dollars
51 (\$20.00) per acre.

52 (8) The department shall keep an accurate chart of the areas
53 within its jurisdiction and shall mark on such chart those areas
54 which are under lease. All leases shall be marked by appropriate
55 poles, stakes or buoys of such material as will not injure
56 watercraft, at the expense of the leaseholder. The department
57 shall keep an accurate book, designated "Mississippi Oyster Farms"
58 which shall contain copies of all leases. If any lease be
59 cancelled or expire, such fact shall be noted on the face of such
60 lease. Lessees shall be "oyster farmers" for the purposes of any
61 grants, aid, subsidies or other assistance from the federal
62 government or other governmental or private agencies.

63 (9) All funds derived from leasing shall be paid into the
64 Seafood Fund under Section 49-15-17, for use by the department to
65 further oyster production in this state, which includes plantings
66 of oysters and cultch materials.

67 (10) All leases made by the department under the authority
68 of this section shall be subject to the paramount right of the
69 state and any of its political subdivisions authorized by law, to
70 promote and develop ports, harbors, channels, industrial or
71 recreational projects, and all such leases shall contain a



72 provision that in the event such authorized public body shall
73 require the area so leased or any part thereof for such public
74 purposes, that the lease shall be terminated on reasonable notice
75 fixed by the department in such lease. On the termination of any
76 lease, the lessees shall have the right to remove any oysters
77 within the leased area within such time as may be fixed by the
78 department and in accordance with such reasonable rules and
79 regulations as the department may adopt.

80 Any person convicted of taking oysters from leased land or
81 from waters that are not of a safe sanitary quality without a
82 permit as provided in Section 49-15-37 shall, on the first
83 offense, forfeit all equipment used, exclusive of any boat or
84 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
85 or sentenced not to exceed one (1) year in the county jail, or
86 both. Subsequent convictions shall be punishable by forfeiture of
87 all equipment, including any boat or boats; and a fine not to
88 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
89 years in prison, or both such fine and imprisonment.

90 The department is enjoined to cooperate with the Jackson
91 County Port Authority, the Harrison County Development Commission,
92 the municipal port commission and other port and harbor agencies,
93 so that oyster beds shall not be planted in close proximity to
94 navigable channels. The department or lessee shall have no right
95 of action as against any such public body for damages accruing to
96 any natural reef or leased reef by any necessary improvement of



97 such channel in the interest of shipping, commerce, navigation or
98 other purpose authorized by law.

99 **SECTION 2.** Section 49-15-40.1, Mississippi Code of 1972,
100 which provides a pilot program under the Mississippi Department of
101 Marine Resources for bottom land leasing for oyster production, is
102 repealed.

103 **SECTION 3.** Section 49-15-36, Mississippi Code of 1972, is
104 amended as follows:

105 49-15-36. (1) The Department of Marine Resources shall have
106 full jurisdiction and control of all public and natural oyster
107 reefs and oyster bottoms of the State of Mississippi.

108 (2) Public reefs may be opened for harvest of oysters during
109 the season on a rotating basis. If the department determines that
110 a particular reef has been overharvested or that a high percentage
111 of sublegal size oysters exist on a particular reef and that
112 harvest could damage future oyster crops, the department may close
113 designated reef areas and keep them closed during the season.

114 (3) The department shall promulgate regulations regarding
115 the closing of oyster reefs to protect the public health. When
116 that testing indicates the oysters on the closed reef are suitable
117 for consumption, the reef shall be opened for the taking of
118 oysters as soon as notice of that opening may be made to
119 interested parties. The authority to open or close oyster reefs
120 under this chapter shall be solely within the discretion of the
121 department. The Gulf Coast Research Laboratory or other certified



122 laboratory shall cooperate with the department and shall conduct
123 necessary tests to determine the condition of oyster reefs at the
124 request of the department. The department may limit the sale of
125 oysters for human consumption.

126 (4) (a) The department may issue special permits for the
127 purpose of catching oysters outside the open season or in areas
128 not normally open to harvest to those nonprofit organizations that
129 are tax exempt under Section 501(c) of the United States Internal
130 Revenue Code and which have on file with the Department of Revenue
131 a tax exemption letter issued by the United States Internal
132 Revenue Service.

133 (b) The department shall promulgate rules and
134 regulations governing the taking of oysters by the nonprofit
135 organization and shall issue such regulations to all organizations
136 upon request and at the issuance of the special permit.

137 (5) The department shall establish a reasonable period of
138 time for depuration of oysters replanted from restricted waters.
139 That period of time shall be consistent with the maintenance of
140 the public health and may vary from time to time and from one reef
141 to another in accordance with environmental conditions.

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143 **SECTION 4.** This act shall take effect and be in force from
144 and after July 1, 2023.

