

By: Senator(s) Seymour

To: Wildlife, Fisheries and
Parks; Accountability,
Efficiency, Transparency

SENATE BILL NO. 2535

1 AN ACT TO AMEND SECTION 49-4-3, MISSISSIPPI CODE OF 1972, TO
 2 REDEFINE "COMMISSION" TO MEAN THE MISSISSIPPI ADVISORY COMMISSION
 3 ON WILDLIFE, FISHERIES AND PARKS, WHICH SHALL OPERATE ONLY AS AN
 4 ADVISORY COMMISSION TO THE DEPARTMENT OF WILDLIFE, FISHERIES AND
 5 PARKS; TO AMEND SECTION 49-4-4, MISSISSIPPI CODE OF 1972, TO
 6 RECONSTITUTE THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS AS AN
 7 ADVISORY COMMISSION; TO AMEND SECTION 49-4-6, MISSISSIPPI CODE OF
 8 1972, TO PROVIDE THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
 9 WILDLIFE, FISHERIES AND PARKS SHALL SERVE AT THE WILL AND PLEASURE
 10 OF THE GOVERNOR; TO AMEND SECTIONS 49-1-43 AND 49-1-43.1,
 11 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A CONSERVATION OFFICER
 12 MUST HAVE PROBABLE CAUSE TO CONDUCT A SEARCH WITHOUT A WARRANT; TO
 13 AMEND SECTIONS 49-4-7, 49-4-13, 49-4-37, 49-4-39 AND 49-4-41,
 14 MISSISSIPPI CODE OF 1972, TO CONFORM; TO BRING FORWARD SECTION
 15 49-4-31, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
 16 AMENDMENT; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 49-4-3, Mississippi Code of 1972, is
 19 amended as follows:

20 49-4-3. For the purposes of this chapter, the following
 21 words shall have the meanings ascribed herein, unless the context
 22 otherwise requires:

23 (a) "Department" means the Mississippi Department of
 24 Wildlife, Fisheries and Parks.



25 (b) "Commission" means the Mississippi Advisory
26 Commission on Wildlife, Fisheries and Parks, which shall operate
27 only as an advisory commission to the Department of Wildlife,
28 Fisheries and Parks.

29 (c) "Executive director" means the chief officer of the
30 department.

31 **SECTION 2.** Section 49-4-4, Mississippi Code of 1972, is
32 amended as follows:

33 49-4-4. (1) There is hereby created the Mississippi
34 Advisory Commission on Wildlife, Fisheries and Parks, to be
35 composed of five (5) persons appointed by the Governor, with the
36 advice and consent of the Senate, for a term of five (5) years.
37 One (1) person shall be appointed from each congressional
38 district. The initial terms of the members shall be one (1), two
39 (2), three (3), four (4) and five (5) years, respectively.
40 Thereafter, all terms shall be for five (5) years. An appointment
41 to fill a vacancy which arises for reasons other than by
42 expiration of a term of office shall be made from the respective
43 congressional district for the unexpired term only.

44 (2) The commission shall elect from its membership a
45 chairman who shall preside over meetings and a vice chairman who
46 shall preside in the absence of the chairman or when the chairman
47 shall be excused.

48 (3) The commission shall adopt rules and regulations
49 governing times and places for meetings * * *. Any member who



50 shall not attend three (3) consecutive regular meetings of the
51 commission shall be subject to removal by a majority vote of the
52 commission members.

53 (4) The members of the commission shall receive no annual
54 salary but shall receive per diem compensation as authorized by
55 law for each day devoted to the discharge of official duties and
56 shall be entitled to reimbursement for all actual and necessary
57 expenses incurred in the discharge of their duties, including
58 mileage as authorized by law.

59 The commission shall be composed of persons with a
60 demonstrated history of involvement in at least one (1) of the
61 matters of jurisdiction of the commission and whose employment and
62 activities are not in conflict. All of the commissioners shall be
63 an active outdoorsman holding a resident hunting or fishing
64 license in at least five (5) of the ten (10) years preceding
65 appointment. A member shall not have a record of conviction of
66 violation of fish or game laws and regulations within five (5)
67 years preceding appointment or a record of any felony conviction.

68 (5) The commission shall have the power to * * * advise the
69 executive director on the adoption, amendment and repeal of such
70 regulations and rules as may be necessary for the operation of the
71 department.

72 (6) The commission shall have the power and authority
73 to * * * advise the executive director on the issuance of all
74 licenses and permits under the jurisdiction of the department.



75 (7) In the furtherance of its duties and responsibilities,
76 the commission may conduct hearings, gather testimony and perform
77 other functions required to carry out its powers and duties as
78 prescribed by statute.

79 (8) The commission shall have * * * the power * * * to
80 advise the executive director with respect to conserving, managing
81 and developing wildlife and fishery resources except for saltwater
82 aquatic life and marine resources under the jurisdiction of the
83 Mississippi Commission on Marine Resources.

84 **SECTION 3.** Section 49-4-6, Mississippi Code of 1972, is
85 amended as follows:

86 49-4-6. (1) There is hereby created the Mississippi
87 Department of Wildlife, Fisheries and Parks, whose principal
88 office shall be located in Jackson, Mississippi.

89 (2) The department shall be headed by an executive director
90 who shall be appointed by the Governor. * * * The Governor shall
91 appoint the executive director * * *, who shall serve at the will
92 and pleasure of the Governor, with the advice and consent of the
93 Senate. The executive director may assign those powers and duties
94 as deemed appropriate to carry out the department's lawful
95 functions. * * * The executive director may be removed from
96 office only by * * * the Governor's approval of the removal. * * *

97 (3) The executive director shall appoint heads, who will
98 serve at the pleasure of the executive director.



99 (4) The executive director shall have the authority to
100 organize the department as deemed appropriate to carry out the
101 responsibilities of the department. The organizational charts of
102 the department shall be presented annually with the budget request
103 of the Governor for review by the Legislature.

104 (5) The executive director shall develop and implement a
105 merit promotion system for all sworn law enforcement officers.
106 Promotion to higher rank shall be based on an individual's merit
107 and length of service. The executive director shall implement the
108 merit promotion system before July 1, 1995.

109 **SECTION 4.** Section 49-1-43, Mississippi Code of 1972, is
110 amended as follows:

111 49-1-43. (1) The director shall have general supervision
112 and control of all conservation officers, and shall enforce all
113 the laws and regulations of the state relating to wild animals,
114 birds and fish, and shall exercise all necessary powers incident
115 thereto not specifically conferred on the department.

116 (2) The director * * * shall make to the Governor and the
117 Legislature a report covering the operation of the department for
118 the preceding fiscal year.

119 (3) It shall be the duty of all conservation officers to
120 enforce, and to obey and carry out all instructions and directions
121 of the department with respect to the enforcement of the laws and
122 regulations relating to wild animals, birds and fish.



123 (4) The director and each conservation officer shall have
124 power, and it shall be the duty of the director and of each
125 conservation officer:

126 (a) To execute all warrants and search warrants for a
127 violation of the laws and regulations relating to wild animals,
128 birds and fish and to serve subpoenas issued for the examination
129 and investigation or trial of offenses against any of the laws or
130 regulations;

131 (b) To search where the conservation officer has
132 probable cause to believe * * * that animals, birds or fish, or
133 any parts thereof, or the nest or eggs of birds, or spawn or eggs
134 of fish are possessed in violation of law or regulation and in
135 such case to examine, without warrant, the contents of any boat,
136 car, automobile or other vehicle, box, locker, basket, creel,
137 crate, game bag or other package, to ascertain whether any law or
138 regulation for the protection of animals, birds or fish have been
139 or are being violated, and to use such force as may be necessary
140 for the purpose of such examination and inspection;

141 (c) With a search warrant to search and examine the
142 contents of any dwelling house, room, building or premises of any
143 person suspected of violating any law or regulation, to seize all
144 animals, birds or fish, or parts thereof, or nests or eggs of
145 birds taken in violation of law or regulation, or showing evidence
146 of illegal taking and to seize and confiscate all devices
147 illegally used in taking animals, birds or fish;



148 (d) To arrest, without warrant, any person committing
149 or attempting to commit a misdemeanor, felony or a breach of the
150 peace within his presence or view and to pursue and so arrest any
151 person committing an offense in any place in the state where the
152 person may go or be; to aid and assist any peace officer of this
153 state or any other state if requested, in manhunts or natural
154 disasters within the state; and

155 (e) To exercise other powers of peace officers in the
156 enforcement of game laws or regulations or of a judgment for the
157 violation thereof, as are not herein specifically provided.

158 (5) In all cases of arrest without warrant, the person
159 making such arrest must inform the accused of the object and cause
160 of the arrest, except when he is in the actual commission of the
161 offense or is arrested on pursuit.

162 (6) No conservation officer shall compromise or settle out
163 of court any violation of this chapter, or any law or regulation
164 for the protection of wild animals, birds or fish.

165 (7) Nothing in this section shall be construed as granting
166 conservation officers general police powers.

167 (8) Citations issued by a conservation officer for any
168 violation of the laws for the protection of wild animals, birds
169 and fish, the trespass laws, the litter laws, and the boating laws
170 shall be issued on a uniform citation form consisting of an
171 original and at least two (2) copies. Such citation shall show,
172 among other necessary information, the name of the issuing



173 officer, the name of the court in which the cause is to be heard,
174 and the date and time the person charged with a violation is to
175 appear to answer the charge. The uniform citation form shall make
176 a provision on it for information that will constitute a complaint
177 charging the offense for which the citation was issued and, when
178 duly sworn to and filed with a court of competent jurisdiction,
179 prosecution may proceed under that complaint.

180 **SECTION 5.** Section 49-1-43.1, Mississippi Code of 1972, is
181 amended as follows:

182 49-1-43.1. (1) A conservation officer may enter in or upon
183 public or private lands or waters where game or fish are known to
184 range in the performance of his duties to enforce the wildlife
185 laws of the state and the conservation officer shall not be
186 subject to criminal liability for trespass while performing such
187 duties.

188 (2) The provisions of subsection (1) of this section shall
189 not authorize a conservation officer to engage in any conduct in
190 violation of a person's constitutional right against unreasonable
191 searches and seizures nor expand or enlarge upon the powers and
192 duties of a conservation officer as specifically provided for
193 under Section 49-1-43. To enter in or upon private lands or
194 waters, a conservation officer must have probable cause to believe
195 that a violation of the wildlife laws of the state is occurring or
196 has occurred on such private lands or waters.



197 **SECTION 6.** Section 49-4-7, Mississippi Code of 1972, is
198 amended as follows:

199 49-4-7. The * * * department may establish and appoint
200 advisory committees for Parks and Recreation and Wildlife and
201 Fisheries. The advisory committees shall aid the * * * department
202 in formulating policies, discussing problems and considering other
203 matters related to these areas as designated by the * * *
204 department.

205 The department is designated as the single state agency to
206 receive and expend any federal funds made available for matters
207 within the jurisdiction of the department.

208 The department shall be responsible for conserving, managing,
209 developing and protecting the wildlife and freshwater fisheries
210 resources of the state. The department shall coordinate all
211 functions of state government related to wildlife and fisheries
212 resources that are within the jurisdiction of the department.

213 **SECTION 7.** Section 49-4-13, Mississippi Code of 1972, is
214 amended as follows:

215 49-4-13. Effective July 1, 1979, the executive director of
216 the Department of Wildlife, Fisheries and Parks shall have the
217 following powers and duties:

218 (a) To supervise and direct all administrative and
219 technical activities of the department;

220 (b) To employ, * * * with the advice of the commission,
221 qualified professional personnel in the subject matter or fields,



222 and such other technical and clerical staff as may be required for
223 the operation of the department;

224 (c) To coordinate all studies in the State of
225 Mississippi concerned with the supply, development, use and
226 conservation of wildlife, fisheries and parks;

227 (d) To prepare and deliver to the Legislature and the
228 Governor on or before January 1 of each year, and at such other
229 times as may be required by the Legislature or Governor, a full
230 report of the work of the department, including a detailed
231 statement of expenditures of the department and any
232 recommendations the department may have;

233 (e) To enter into cooperative agreements with any
234 federal or state agency or subdivision thereof, or any public or
235 private institution located inside or outside the State of
236 Mississippi, or any person, corporation or association in
237 connection with studies and investigations pertaining to wildlife,
238 fisheries and parks, provided the agreements do not have a
239 financial cost in excess of the amounts appropriated for such
240 purposes by the Legislature;

241 (f) In his discretion, to enter into an affinity
242 relationship with a credit card issuer and to expend funds derived
243 therefrom to improve wildlife management areas; and

244 (g) To carry out all regulations and rules adopted by
245 the * * * department and enforce all licenses and permits issued
246 by the * * * department.



247 **SECTION 8.** Section 49-4-37, Mississippi Code of 1972, is
248 amended as follows:

249 49-4-37. (1) The Department of Wildlife, Fisheries and
250 Parks may establish and operate a fish hatchery in North
251 Mississippi at a site to be determined by the department with
252 the * * * advice of the commission to enable the department to
253 adequately stock public lakes and streams in North Mississippi.
254 For such purpose, the department shall use those funds that are
255 made available by any agency of the state or federal government,
256 an appropriation by the Legislature or any other source. The
257 department is designated as the governing authority of any such
258 fish hatchery and the operation and maintenance of the fish
259 hatchery shall meet the standards of the department and state law
260 regarding the operation of a fish hatchery. The department may
261 accept funds from any source and those funds shall be used to pay
262 the maintenance, operational and administrative expenses of the
263 fish hatchery.

264 (2) The Tombigbee River Valley Water Management District is
265 authorized to transfer to the Department of Wildlife, Fisheries
266 and Parks fee title of no more than eighty (80) acres of approved
267 replacement land to be surveyed from the following tract of land:

268 The Northeast Quarter of the Northwest Quarter of
269 Section 20, Township 12, Range 8, Monroe County,
270 Mississippi, containing 40 acres more or less.



271 All that land in the Northeast Quarter; north of a
272 line starting at monument stamped "LA-42A"; and running
273 northeasterly to a monument stamped "LA-43", Section 20,
274 Township 12, Range 8, Monroe County, Mississippi,
275 containing 105.42 acres more or less.

276 The land shall be transferred once an acceptable lease
277 agreement between the Mississippi Department of Wildlife,
278 Fisheries and Parks and the U.S. Army Corps of Engineers is
279 secured and the department is given the authority and
280 appropriation to construct a fish hatchery.

281 (3) The Mississippi Department of Wildlife, Fisheries and
282 Parks shall have the authority to transfer the land necessary to
283 reach the equal value for lands offered by the U.S. Army Corps of
284 Engineers for the construction of a fish hatchery.

285 **SECTION 9.** Section 49-4-39, Mississippi Code of 1972, is
286 amended as follows:

287 49-4-39. The commission may * * * advise the department
288 concerning hunting, fishing and wildlife viewing, guide and
289 outfitter services. The commission shall * * * also advise the
290 department concerning the following powers and duties of the
291 department:

- 292 (a) Prescribe the form and type of licenses;
293 (b) Establish fees for the types of licenses; the fee
294 for guide services licenses not to exceed One Hundred Fifty



295 Dollars (\$150.00); the fee for outfitters licenses not to exceed
296 Two Hundred Fifty Dollars (\$250.00); and

297 (c) To exercise all powers and make any regulations
298 necessary to regulate such services.

299 **SECTION 10.** Section 49-4-41, Mississippi Code of 1972, is
300 amended as follows:

301 49-4-41. (1) (a) The Advisory Commission on Wildlife,
302 Fisheries and Parks shall * * * advise the department concerning
303 the regulation of the feeding of wild animals and game birds
304 outside of wildlife enclosures, and the department shall have
305 plenary authority in matters related to such feeding of wild
306 animals and game birds.

307 (b) The authority to regulate feeding shall not apply
308 to planted food plots and natural habitat management.

309 (c) The authority to regulate feeding under this
310 section shall not apply to wildlife enclosures.

311 (2) The * * * department may take any action it deems
312 necessary and may use its emergency powers to prevent, control or
313 eradicate disease resulting from the feeding of wild animals and
314 game birds.

315 (3) A violation of this section or any regulation of
316 the * * * department promulgated to prevent, control or eradicate
317 disease is a Class II violation and is punishable as provided in
318 Section 49-7-143.



319 **SECTION 11.** Section 49-4-31, Mississippi Code of 1972, is
320 brought forward as follows:

321 49-4-31. (1) Upon notification by a duly authorized law
322 enforcement officer of a death or injury that occurred by use of a
323 weapon by any person engaged in hunting, a hunter safety officer
324 of the department shall immediately initiate an investigation of
325 the incident and shall submit a report to the executive director
326 of the department. The executive director shall submit the report
327 to the commission. If the commission determines there is probable
328 cause to believe that the incident occurred as a result of
329 culpable negligence on the part of the person causing the death or
330 injury, the commission shall notify the district attorney of the
331 circuit court district in which the incident occurred.

332 (2) A law enforcement officer may request that the person
333 who causes serious bodily injury or death to another person by use
334 of a weapon submit to a chemical test for determining the presence
335 of alcohol or other drugs.

336 **SECTION 12.** This act shall take effect and be in force from
337 and after July 1, 2023.

