

By: Senator(s) Thompson, Moran

To: Ports and Marine
Resources

SENATE BILL NO. 2544

1 AN ACT RELATING TO THE REGULATION OF SEAFOOD AND OYSTERS BY
2 THE MISSISSIPPI DEPARTMENT OF MARINE RESOURCES; TO BRING FORWARD
3 SECTIONS 49-15-5, 49-15-7, 49-15-36, 49-15-37, 49-15-38, 49-15-39,
4 49-15-40, 49-15-41, 49-15-42, 49-15-43, 49-15-44, 49-15-45,
5 49-15-46, 49-15-47 AND 49-15-49, MISSISSIPPI CODE OF 1972,
6 RELATING TO THE DECLARATION THAT SEAFOOD IN THE TERRITORIAL
7 JURISDICTION OF THE STATE OF MISSISSIPPI NOT IN PRIVATE OWNERSHIP
8 IS THE PROPERTY OF THE STATE AND THE GENERAL JURISDICTION OF THE
9 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES TO REGULATE OYSTER
10 REEFS AND BOTTOMS AND THE TAKING OF OYSTERS AND THE ESTABLISHMENT
11 OF NEW OYSTER BEDS; TO REPEAL SECTION 49-15-40.1, MISSISSIPPI CODE
12 OF 1972, WHICH AUTHORIZES THE MISSISSIPPI DEPARTMENT OF MARINE
13 RESOURCES TO CONDUCT A PILOT PROGRAM FOR BOTTOM LAND LEASING FOR
14 OYSTER PRODUCTION IN WATERS ADJACENT TO HANCOCK COUNTY; AND FOR
15 RELATED PURPOSES.

16 **SECTION 1.** Section 49-15-5, Mississippi Code of 1972, is
17 brought forward as follows:

18 49-15-5. All seafoods existing or living in waters within
19 the territorial jurisdiction of the State of Mississippi not held
20 in private ownership legally acquired, and all beds and bottoms of
21 rivers, streams, bayous, lagoons, lakes, bays, sounds and inlets
22 bordering on or connecting with the Gulf of Mexico or Mississippi
23 Sound within such territorial jurisdiction, including all oysters
24 and other shell fish and parts thereof grown thereon, either



25 naturally or cultivated, shall be, continue, and remain the
26 property of the State of Mississippi, to be held in trust for the
27 people thereof until title thereto shall be legally divested in
28 the manner and form hereinafter authorized, and the same shall be
29 under the exclusive control of the commission until the right of
30 private ownership shall vest therein as hereinafter provided.

31 **SECTION 2.** Section 49-15-7, Mississippi Code of 1972, is
32 brought forward as follows:

33 49-15-7. All shells of dead oysters, clams and other
34 shellfish; and all of the oyster shells, clam shells, mussel
35 shells, dead reef shells, and cay shells, being upon or under the
36 bottom of, or under the tidewaters within the territorial
37 jurisdiction of the State of Mississippi, and all beds, banks and
38 accumulations of such shells within such territorial jurisdiction
39 on or under the bottoms of such waters, or surrounded by such
40 waters, being the property of the State of Mississippi are hereby
41 further declared to be the property of the State of Mississippi
42 under the jurisdiction of the commission.

43 **SECTION 3.** Section 49-15-36, Mississippi Code of 1972, is
44 brought forward as follows:

45 49-15-36. (1) The Department of Marine Resources shall have
46 full jurisdiction and control of all public and natural oyster
47 reefs and oyster bottoms of the State of Mississippi.

48 (2) Public reefs may be opened for harvest of oysters during
49 the season on a rotating basis. If the department determines that



50 a particular reef has been overharvested or that a high percentage
51 of sublegal size oysters exist on a particular reef and that
52 harvest could damage future oyster crops, the department may close
53 designated reef areas and keep them closed during the season.

54 (3) The department shall promulgate regulations regarding
55 the closing of oyster reefs to protect the public health. When
56 that testing indicates the oysters on the closed reef are suitable
57 for consumption, the reef shall be opened for the taking of
58 oysters as soon as notice of that opening may be made to
59 interested parties. The authority to open or close oyster reefs
60 under this chapter shall be solely within the discretion of the
61 department. The Gulf Coast Research Laboratory or other certified
62 laboratory shall cooperate with the department and shall conduct
63 necessary tests to determine the condition of oyster reefs at the
64 request of the department. The department may limit the sale of
65 oysters for human consumption.

66 (4) (a) The department may issue special permits for the
67 purpose of catching oysters outside the open season or in areas
68 not normally open to harvest to those nonprofit organizations that
69 are tax exempt under Section 501(c) of the United States Internal
70 Revenue Code and which have on file with the Department of Revenue
71 a tax exemption letter issued by the United States Internal
72 Revenue Service.

73 (b) The department shall promulgate rules and
74 regulations governing the taking of oysters by the nonprofit



75 organization and shall issue such regulations to all organizations
76 upon request and at the issuance of the special permit.

77 (5) The department shall establish a reasonable period of
78 time for depuration of oysters replanted from restricted waters.
79 That period of time shall be consistent with the maintenance of
80 the public health and may vary from time to time and from one reef
81 to another in accordance with environmental conditions.

82 (6) The department is authorized to conduct a pilot program
83 for bottom land leasing for oyster production as provided in
84 Section 49-15-40.1.

85 **SECTION 4.** Section 49-15-37, Mississippi Code of 1972, is
86 brought forward as follows:

87 49-15-37. By order of the commission, the director, under
88 the direction and control of the commission, shall employ boats,
89 crews and laborers and shall cultivate the public reefs of the
90 state, and shall dredge the oysters in the Mississippi Sound from
91 places where they are too thick, and shall spread them on reefs
92 where they are too thin, and shall carry shells from the factories
93 and spread them in places where the oyster beds can be improved
94 and enlarged. The department may purchase other materials as may
95 be equally suitable for the propagation of oysters. The
96 department in cultivating the reefs, transplanting and spreading
97 oysters and shells and other suitable materials, may expend any
98 funds available for that purpose. In taking seed oysters, care
99 shall be used to not injure or destroy the merchantable oysters on



100 the reefs from which they are taken. The seed oysters shall be
101 tonged from the "conner" or seed reefs, unless it is practicable
102 and safe to dredge those oysters. The commission may, by orders
103 spread on its minutes, establish new bedding grounds at those
104 places within the boundaries of the state as it may determine, on
105 advice of the director, or on advice of technical governmental
106 experts, or competent aquatic biologists. On existing public
107 reefs in which oysters exist and in waters not of a safe sanitary
108 quality as determined by the department, the commission shall
109 prohibit any person, firm or corporation from taking oysters from
110 those areas. The commission shall from time to time remove the
111 oysters from the areas and relay or replant them in an approved
112 area for a period of time under Section 49-15-36 before they may
113 be harvested. The commission may transport the oysters to an
114 onshore, molluscan depuration facility for the purpose of proving
115 depuration technology and for other experimental purposes. In
116 connection with the testing of onshore, molluscan depuration
117 technology, the commission may sell or dispose of the relaid
118 oysters in a manner consistent with all applicable state and
119 federal laws and regulations. Any funds received from the sale of
120 the oysters shall be used in a like manner as those funds received
121 under Section 49-15-38.

122 If the commission finds that onshore, molluscan depuration
123 technology proves to be successful, the commission may issue
124 permits to private enterprise which may locate depuration



125 facilities in Hancock, Harrison and Jackson Counties. The
126 commission shall promulgate rules and regulations for the taking
127 of oysters from reefs for transport to an onshore, molluscan
128 depuration facility and for the operation of the facilities. Each
129 depuration facility operated by private enterprise shall return
130 oyster shells to the oyster reefs for replanting under the proper
131 supervision of the department and under Section 49-15-38.

132 The commission may issue permits to persons to remove oysters
133 by dredging or otherwise from water bottoms which are not of a
134 safe sanitary quality for oysters for human consumption even
135 though those areas may have been reserved for tonging only in
136 Section 49-15-39. These areas shall be designated as seed
137 grounds, and permits to persons shall be issued only for the
138 purpose of transplanting oysters to privately leased Mississippi
139 territorial waters. The commission may permit the transplanting
140 of these seed oysters by a duly authorized public agency.

141 The commission may, upon certification of the department that
142 the water bottom from which oysters are to be removed is not of a
143 safe, sanitary quality for oyster production for human consumption
144 and has been unsafe for a period of at least one (1) year
145 immediately preceding certification, and upon complying with the
146 following requirements, permit the dredging of oysters from
147 restricted public areas and relaying the oysters to private leased
148 grounds in the State of Mississippi:



149 (a) Permittee must hold valid lease of oyster bedding
150 grounds in the State of Mississippi;

151 (b) Permittee must be bonded in compliance with the
152 permit system established by the commission;

153 (c) Permittee must fulfill all permit requirements as
154 established by the commission;

155 (d) Permittee shall not move oysters from one
156 restricted area to another restricted area;

157 (e) Permittee shall move oysters only to an area leased
158 by the commission after April 13, 1977; and

159 (f) Permittee shall not move oysters from the
160 restricted area without the presence of an employee of the
161 department at all times, from the dredging of the oysters from the
162 restricted areas to their deposit on private leased grounds or to
163 an onshore, molluscan depuration facility.

164 Harvesting of oysters shall be permitted only during daylight
165 hours and with the most efficient gear possible consistent with
166 conservation requirements of not damaging the reefs. This shall
167 include permission to use two (2) dredges per boat on restricted
168 areas and on private leased grounds.

169 Any person obtaining a permit to remove oysters from seed
170 grounds shall post a penal bond of One Hundred Dollars (\$100.00)
171 per leased acre with the commission to be forfeited upon any
172 violation of this section. The bond may be approved by the



173 director of the department if the director finds the bond to be
174 secured by sufficient property or sureties.

175 The commission shall regulate the amount and time of taking
176 of oysters from seed areas and shall supervise the removal,
177 planting and harvesting of oysters from the areas. The time set
178 for the taking of oysters from restricted seed areas for relaying
179 or replanting and the time set for the taking of oysters from
180 private leased grounds shall be separated by not less than a
181 period of time determined under Section 49-15-36 during which
182 neither activity may be allowed.

183 The commission shall regulate the taking of oysters from
184 restricted seed areas and the subsequent depuration of the oysters
185 to protect public health, while at the same time fostering the
186 utilization of the state's oyster resources. The regulations
187 shall include the setting of the period of depuration for the
188 oysters by the use of appropriate techniques and provide for an
189 employee of the department to be present when the oysters are
190 taken from restricted seed areas, and transported, held and
191 deposited on private lease grounds. Any person, firm, corporation
192 or private lease holder engaged in the depuration of oysters shall
193 pay to the department an amount equal to the regular compensation
194 of the employee of the department for the time the employee
195 actually spends performing the duties, not to exceed Two Hundred
196 Dollars (\$200.00) per twenty-four-hour period.



197 Only persons who have been residents of Mississippi for at
198 least five (5) years shall be eligible to obtain permits for
199 removal of oysters from seed grounds.

200 The commission shall designate certain reefs in the state as
201 public reefs and shall remove oysters from water bottoms which are
202 not of a safe, sanitary quality for oyster production for human
203 consumption and shall transport the oysters to the public reefs.

204 **SECTION 5.** Section 49-15-38, Mississippi Code of 1972, is
205 brought forward as follows:

206 49-15-38. (1) (a) Unless otherwise permitted by the
207 commission, no oysters shall be taken from the reefs of this state
208 unless culled upon the natural reefs, and all oysters less than
209 three (3) inches from end to end, and all dead shells, shall be
210 replaced, scattered and broadcast immediately on the natural reefs
211 from which they are taken. It is unlawful for any captain or
212 person in charge of any vessel, or any canner, packer, commission
213 man, dealer or other person to purchase, sell or to have in that
214 person's possession or under that person's control any oysters off
215 the public reefs or private bedding grounds not culled according
216 to this section, or any oysters under the legal size. A ten
217 percent (10%) tolerance shall be allowed in relation to any
218 culling.

219 (b) The commission may authorize the culling of oysters
220 of a lesser measure. That authorization shall be in response to
221 special circumstances or extreme natural conditions affecting the



222 habitat, including, but not limited to, flooding. The department
223 may establish checkpoints in any area within its jurisdiction to
224 conduct inspections, collect fees and issue tags in the
225 enforcement of this chapter and regulations adopted by the
226 commission.

227 (2) The commission shall acquire and replant shells, seed
228 oysters and other materials, when funding is available, for the
229 purpose of growing oysters.

230 (3) Any person, firm or corporation failing or refusing to
231 pay the shell retention fee required under Section 49-15-46 to the
232 department when called for by the department, is guilty of a
233 misdemeanor and, upon conviction, shall be fined not more than One
234 Hundred Dollars (\$100.00) for each barrel of shells for which they
235 fail or refuse to tender the shell retention fee. In addition to
236 the fine, the violator shall pay the reasonable value of the
237 oyster shells and shall be ineligible to be licensed for any
238 activity set forth in this chapter for a period of two (2) years
239 from the date of conviction.

240 (4) The planting of oyster shells as provided under this
241 chapter shall be under the direction and supervision of the
242 executive director of the department. The governing authorities
243 of each county and municipality bordering upon the Mississippi
244 Sound may assist the commission in the planting and replanting of
245 oyster shells.



246 **SECTION 6.** Section 49-15-39, Mississippi Code of 1972, is
247 brought forward as follows:

248 49-15-39. (1) It is unlawful for any person to catch or
249 take oysters by means of dredging in any of the waters designated
250 as tonging reefs by the commission.

251 (2) The commission shall designate certain areas as tonging
252 reefs. The commission shall mark the boundaries of the areas
253 designated by appropriate poles, stakes or buoys of material that
254 will not injure watercraft. The commission may authorize the
255 taking of oysters on reefs designated as tonging reefs by dredge,
256 drag or scoop if the commission finds that the dredging, dragging
257 or scooping is necessary to manage the resource properly. Any
258 dredging, dragging or scooping authorized under this section shall
259 be for a specific time period as provided by the commission.

260 (3) Unless otherwise authorized under this section, any boat
261 or vessel which catches or takes oysters by means of dredges,
262 drags or scoops, other than hand tongs, from any of the areas
263 described in this section, or with a dredge or dredges in the
264 water, shall have all oysters on board the boat or vessel declared
265 to be contraband. The oysters shall be taken and confiscated by
266 the department or any marine law enforcement officer without court
267 procedure. The captain and crew of the boat or vessel, promptly
268 upon being ordered so to do, shall transport the oysters to a
269 point on the public reefs of the state where the boat or vessel is



270 found and there scatter the oysters according to the instructions
271 of the enforcement officers.

272 (4) A violation of this section is punishable by a fine of
273 Five Hundred Dollars (\$500.00). For a second offense when the
274 offense is committed within a period of three (3) years from the
275 first offense, the violation is punishable by a fine of One
276 Thousand Dollars (\$1,000.00). For a third or subsequent offense
277 when the offense is committed within a period of three (3) years
278 from the first offense, the violation is punishable by a fine of
279 Two Thousand Dollars (\$2,000.00).

280 (5) In addition, upon conviction of a third or subsequent
281 offense within three (3) years of the first offense, it shall be
282 the duty of the court to revoke the license of the convicted party
283 and of the vessel used in the offense, and no license shall be
284 issued to that person or for the vessel to engage in the catching
285 or taking of any seafood from the waters of this state for a
286 period of one (1) year following the conviction.

287 (6) The fine imposed under this section shall not be
288 suspended or reduced.

289 **SECTION 7.** Section 49-15-40, Mississippi Code of 1972, is
290 brought forward as follows:

291 49-15-40. (1) The commission may support projects in the
292 nature of digging or constructing canals or ditches to bring
293 additional water to existing oyster reefs or beds in need of that
294 water, or for the purpose of creating or establishing new oyster



295 reefs or beds. All reefs created or established under this
296 section shall be public reefs. The commission may expend any
297 monies as it deems necessary and expedient to participate in the
298 digging of those canals. The commission may also enter into
299 interstate or intrastate efforts to support these projects and may
300 seek and utilize aid from all federal, state and local sources in
301 this endeavor. To aid in the construction of any canals or
302 ditches, the commission may exercise the right of eminent domain
303 in the manner provided by law.

304 (2) The commission may construct, operate and maintain
305 onshore, molluscan facilities using any federal or special funds,
306 other than general funds, for the purpose of testing and proving
307 technology relating to oysters and other shellfish. In connection
308 with the construction, operation and maintenance of the
309 facilities, the commission may contract with any persons it deems
310 necessary for the operation, testing, maintenance and evaluation
311 of the facilities, subject to the approval of the State Personnel
312 Board. The commission may locate the facilities on any available
313 public properties, subject to the approval of the governing body
314 of that jurisdiction and all other applicable state laws. Once
315 the technology has been tested and proven, the commission may
316 conduct any other tests and experiments with oysters or other
317 shellfish as may be necessary to enhance production or quality of
318 shellfish.



319 (3) The commission may lease to political subdivisions of
320 the State of Mississippi up to one thousand (1,000) acres of water
321 bottoms for development of oyster reefs and those political
322 subdivisions may permit residents of the State of Mississippi to
323 harvest oysters from the reefs. The political subdivision may
324 charge and receive a fee for each sack of oysters harvested. The
325 commission shall consider and approve the application of a
326 political subdivision after determining that (a) no conflicts
327 exist with sites requested in applications filed before the
328 application of the political subdivision; (b) a fair and
329 reasonable rental payment has been set; and (c) the lease will
330 insure the maximum culture and propagation of oysters.

331 **SECTION 8.** Section 49-15-41, Mississippi Code of 1972, is
332 brought forward as follows:

333 49-15-41. It shall be unlawful for any person to fish, catch
334 or take oysters from the waters of Mississippi during the hours
335 between sunset and sunrise of each day.

336 Violation of this section shall be punishable by a fine not
337 to exceed Ten Thousand Dollars (\$10,000.00) or imprisonment not to
338 exceed one (1) year in the county jail, or both.

339 **SECTION 9.** Section 49-15-42, Mississippi Code of 1972, is
340 brought forward as follows:

341 49-15-42. (1) All oysters caught in Mississippi territorial
342 waters shall be tagged and unloaded in Mississippi. Before
343 tagging and unloading, the oysters must be sacked or packaged in



344 containers or by other methods approved by the department.
345 However, a person is exempt from the unloading requirement if he
346 is transporting the oysters to a state that has a reciprocity
347 agreement with Mississippi exempting Mississippi residents from
348 the unloading requirements of that state.

349 (2) The driver of any vehicle used in the transporting of
350 oysters in the shell from outside the territorial limits of the
351 State of Mississippi, whether the vehicle is a boat or motor
352 vehicle, shall possess an invoice, statement or other bill of
353 lading which bears the name of the person, firm or corporation
354 from whom the oysters were purchased, the name of the purchaser
355 and the number of barrels or bushels of oysters which the vehicle
356 or vessel contains.

357 **SECTION 10.** Section 49-15-43, Mississippi Code of 1972, is
358 brought forward as follows:

359 49-15-43. Oysters for sale either wholesale or retail may be
360 packaged in glass jars covered with a screw-type top or lid of the
361 type customarily and heretofore used in the seafood industry in
362 the State of Mississippi, but this section shall automatically be
363 repealed if and when such type packaging becomes prohibited by any
364 agency of the United States Government for shipment in interstate
365 commerce.

366 **SECTION 11.** Section 49-15-44, Mississippi Code of 1972, is
367 brought forward as follows:



368 49-15-44. The commission shall prohibit the sale or
369 possession of illegal oysters. It is unlawful for any person,
370 firm or corporation to possess or to engage in the sale of oysters
371 not certified in this state, or to shuck or repack for sale any
372 illegal oysters, unless that person, firm or corporation possesses
373 a bill of sale, valid permit or affidavit of another state,
374 properly dated, evidencing the legality of the sale or possession
375 of the oysters in that state. Any person in possession of illegal
376 oysters shall be subject to civil or criminal prosecution and
377 shall be fined not less than One Hundred Dollars (\$100.00) or
378 punished as provided in Section 49-15-63.

379 **SECTION 12.** Section 49-15-45, Mississippi Code of 1972, is
380 brought forward as follows:

381 49-15-45. (1) Any municipality bounded by the Gulf of
382 Mexico or Mississippi Sound, which has wholly or partly within its
383 corporate limits, or in the waters adjacent thereto, a public
384 oyster reef reserved for catching oysters exclusively by use of
385 hand tongs, is hereby authorized to aid and cooperate with the
386 commission in enforcing all laws regulating the catching, taking
387 and transporting of oysters, including all of the provisions of
388 this chapter, and all regulations and ordinances of such
389 commission relating to such oyster reefs.

390 (2) Such municipality may, in its discretion, extend its
391 corporate limits by continuing its boundaries at right angles to
392 the shore line, into the waters of the Mississippi Sound or Gulf



393 of Mexico or waters tributary thereto to any line within the
394 boundaries of the State of Mississippi, and may, by ordinance
395 spread upon its minutes, provide that all violations of such laws
396 and ordinances regulating the catching, taking and transporting of
397 oysters shall be violations of the municipal ordinances and
398 punishable as such.

399 (3) In carrying out the provisions of this section such
400 municipality may purchase, equip and maintain a suitable patrol
401 boat and employ and pay the salaries of a crew to operate same and
402 officers to enforce such laws and ordinances.

403 (4) Neither prosecutions nor convictions by such
404 municipality shall bar further prosecution and conviction by the
405 commission or its officers for the same offense.

406 (5) All fines collected by such municipality in enforcing
407 the provisions of this chapter shall be paid into the general fund
408 of the municipality and all costs and expenses incurred in
409 connection with this chapter shall be paid out of the general fund
410 of the municipality.

411 (6) Officers employed or deputized by the municipality to
412 carry out the provisions of this section shall have the right to
413 make arrests without warrant for any violations of the laws,
414 ordinances or regulations referred to in subsection (1) hereof,
415 committed in the presence or in the view of such arresting
416 officer.



417 (7) Nothing herein contained shall be construed to authorize
418 any municipality to adopt any ordinances regulating catching,
419 taking or transporting oysters. The authority vested in such
420 municipality under this section being limited to enforcement of
421 statutes passed by the Legislature and ordinances and regulations
422 adopted by the commission.

423 **SECTION 13.** Section 49-15-46, Mississippi Code of 1972, is
424 brought forward as follows:

425 49-15-46. (1) Each vessel used to catch, take, carry or
426 transport oysters from the reefs of the State of Mississippi, or
427 engaged in transporting any oysters in any of the waters within
428 the territorial jurisdiction of the State of Mississippi, for
429 commercial use, shall annually, before beginning operations, be
430 licensed by the department and pay the following license fee:

431 (a) Fifty Dollars (\$50.00) on each in-state vessel or
432 boat used for tonging oysters or gathering oysters by hand;

433 (b) One Hundred Dollars (\$100.00) on each in-state
434 vessel or boat used for dredging oysters;

435 (c) One Hundred Dollars (\$100.00) on each out-of-state
436 vessel or boat used for tonging oysters or gathering oysters by
437 hand; or

438 (d) Two Hundred Dollars (\$200.00) on each out-of-state
439 vessel or boat used for dredging oysters.



440 (2) Each molluscan shellfish aquaculture operation shall
441 annually, before beginning operations, be licensed by the
442 department and pay the following license fee:

443 (a) Fifty Dollars (\$50.00) on each resident molluscan
444 shellfish aquaculture operation; or

445 (b) One Hundred Dollars (\$100.00) on each nonresident
446 molluscan shellfish aquaculture operation.

447 (3) The department may authorize the transfer of a vessel
448 license to a different vessel provided that the owner of both
449 vessels is the same titled owner.

450 (4) All oysters harvested in the State of Mississippi shall
451 be tagged. Tags shall be issued by the department and shall bear
452 the catcher's name, the date and origin of the catch, the shell
453 stock dealer's name and permit number. The department shall
454 number all tags issued and shall maintain a record of those tags.
455 The department, in its discretion, may adopt any regulations
456 regarding the tagging of oysters and other shellfish.

457 (5) Each person catching or taking oysters from the waters
458 of the State of Mississippi for personal use shall obtain a permit
459 from the department and pay an annual recreational oyster permit
460 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
461 permit shall not be offered for sale. The limits on the allowable
462 catch of oysters for recreational purposes shall be three (3)
463 sacks per week. The department shall issue tags of a
464 distinguishing color to designate recreationally harvested



465 oysters, which shall be tagged on the same day of harvest in the
466 manner prescribed in subsection (4) of this section for
467 commercially harvested oysters or by regulation of the department.

468 (6) The department shall assess and collect a shell
469 retention fee for the shells taken from waters within the
470 territorial jurisdiction of the State of Mississippi as follows:

471 (a) Commercial and recreational harvesters - Fifteen
472 Cents (15¢) per sack paid to the department on the day of harvest;

473 (b) Initial oyster processor, dealer or factory first
474 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the
475 department no later than the tenth day of the month following the
476 purchase, on forms submitted by the department;

477 (c) Commercial harvesters transporting their catch out
478 of the state - Fifty Cents (50¢) per sack paid to the department
479 on the day of harvest, in addition to the fees paid in paragraph
480 (a) of this subsection; and

481 (d) Commercial harvesters not selling their oysters to
482 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the
483 department on the day of harvest, in addition to fees paid in
484 paragraph (a) of this subsection.

485 Funds received from the shell retention fee shall be paid
486 into a special fund in the State Treasury to be appropriated by
487 the Legislature for use by the department to further oyster
488 production in this state, which includes plantings of oysters
489 and/or cultch materials.



490 (7) During open seasons, oysters may be taken only by hands,
491 tongs and dredges.

492 (8) Vessels licensed under Section 49-15-46 may keep in
493 whole, for personal consumption up to thirty-six (36) blue crabs
494 (portunidae family), per day. This exemption for personal
495 consumption does not apply to fish or crabs that are otherwise
496 illegal to possess or catch.

497 **SECTION 14.** Section 49-15-47, Mississippi Code of 1972, is
498 brought forward as follows:

499 49-15-47. (1) It is unlawful for any person, firm or
500 corporation to discharge solid or human waste from any vessel
501 while the vessel is used to harvest or transport oysters in the
502 marine waters of the state.

503 (2) Each vessel used to harvest or transport oysters is
504 required to have an approved functional marine sanitation device
505 (MSD), portable toilet or other sewage disposal receptacle
506 designed to contain human sewage. The approved marine sanitation
507 device (MSD), portable toilet or other sewage disposal receptacle
508 shall:

509 (a) Be used only for the purpose intended.

510 (b) Be secured while on board and located to prevent
511 contamination of shell stock by spillage or leakage.

512 (c) Be emptied only into an approved sewage disposal
513 system.

514 (d) Be cleaned before being returned to the vessel.



515 (e) Not be cleaned with equipment used for washing or
516 processing food.

517 (3) The use of other receptacles for sewage disposal may be
518 approved by the department if the receptacles are:

519 (a) Constructed of impervious, cleanable materials and
520 have tight-fitting lids; and

521 (b) Meet the requirements listed in subsection (2).

522 (4) The commission shall promulgate administrative penalties
523 for violations of this section, which may include, but not be
524 limited to, revocation of the license of the oyster vessel for up
525 to one (1) year for the first offense, revocation up to two (2)
526 years for the second offense, and permanent revocation for the
527 third offense.

528 (5) Upon issuance of a citation for a violation of this
529 section, the vessel shall be removed from the oyster reef and any
530 oysters on board the vessel shall be confiscated and disposed of
531 by the department. The vessel shall not be permitted to harvest
532 from any public or private reefs until the vessel is properly
533 equipped as determined by an inspection by the department.

534 **SECTION 15.** Section 49-15-49, Mississippi Code of 1972, is
535 brought forward as follows:

536 49-15-49. The Mississippi Department of Marine Resources'
537 oyster check station located at the Pass Christian Harbor, Pass
538 Christian, Mississippi, shall be named the Colonel George J.
539 Wright, Sr., building. The Department of Finance and



540 Administration shall prepare or have prepared a distinctive plaque
541 to be placed in a prominent place within the Colonel George J.
542 Wright, Sr., building, which states the background,
543 accomplishments and public health service to the state and nation
544 of Colonel George J. Wright, Sr.

545 **SECTION 16.** Section 49-15-40.1, Mississippi Code of 1972,
546 which authorizes the Mississippi Department of Marine Resources to
547 conduct a pilot program for bottom land leasing for oyster
548 production in waters adjacent to Hancock County, is hereby
549 repealed.

550 **SECTION 17.** This act shall take effect and be in force from
551 and after July 1, 2023.

