

By: Senator(s) Thompson, Moran

To: Ports and Marine Resources

SENATE BILL NO. 2544  
(As Passed the Senate)

1 AN ACT RELATING TO THE REGULATION OF SEAFOOD AND OYSTERS BY  
2 THE MISSISSIPPI DEPARTMENT OF MARINE RESOURCES; TO BRING FORWARD  
3 OR AMEND SECTIONS 49-15-5, 49-15-7, 49-15-27, 49-15-36, 49-15-37,  
4 49-15-38, 49-15-39, 49-15-40, 49-15-41, 49-15-42, 49-15-43,  
5 49-15-44, 49-15-45, 49-15-46, 49-15-47 AND 49-15-49, MISSISSIPPI  
6 CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE MISSISSIPPI  
7 DEPARTMENT OF MARINE RESOURCES TO LEASE REEFS AND BOTTOM LAND FOR  
8 OYSTER GROWING/HARVESTING AND TO CLARIFY THE AUTHORITY OF THE  
9 DEPARTMENT TO REGULATE THE TAKING OF OYSTERS AND THE ESTABLISHMENT  
10 OF NEW OYSTER BEDS; TO DELETE THE AUTHORITY OF LOCAL GOVERNING  
11 AUTHORITIES TO ASSIST THE DEPARTMENT IN PLANTING OYSTER SHELLS; TO  
12 DELETE THE PROVISIONS THAT ALL REEFS ARE PUBLIC; TO DELETE THE  
13 AUTHORITY OF THE DEPARTMENT TO EXERCISE EMINENT DOMAIN IN  
14 CONSTRUCTING CANALS; TO CLARIFY THE AUTHORITY OF MUNICIPALITIES  
15 RELATIVE TO THE WATERS OF THE MISSISSIPPI SOUND; TO REPEAL SECTION  
16 49-15-40.1, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE  
17 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES TO CONDUCT A PILOT  
18 PROGRAM FOR BOTTOM LAND LEASING FOR OYSTER PRODUCTION IN WATERS  
19 ADJACENT TO HANCOCK COUNTY; AND FOR RELATED PURPOSES.

20 SECTION 1. Section 49-15-5, Mississippi Code of 1972, is  
21 amended as follows:

22 49-15-5. All seafoods existing or living in waters within  
23 the territorial jurisdiction of the State of Mississippi not held  
24 in private ownership legally acquired, and all beds and bottoms of  
25 rivers, streams, bayous, lagoons, lakes, bays, sounds and inlets  
26 bordering on or connecting with the Gulf of Mexico or Mississippi



27 Sound within such territorial jurisdiction, including all oysters  
28 and other shell fish and parts thereof grown thereon, either  
29 naturally or cultivated, shall be, continue, and remain the  
30 property of the State of Mississippi, to be held in trust for the  
31 people thereof until title thereto shall be legally divested in  
32 the manner and form hereinafter authorized, and the same shall be  
33 under the exclusive control of the \* \* \* department until the  
34 right of private ownership shall vest therein as hereinafter  
35 provided.

36 **SECTION 2.** Section 49-15-7, Mississippi Code of 1972, is  
37 amended as follows:

38 49-15-7. All shells of dead oysters, clams and other  
39 shellfish; and all of the oyster shells, clam shells, mussel  
40 shells, dead reef shells, and cay shells, being upon or under the  
41 bottom of, or under the tidewaters within the territorial  
42 jurisdiction of the State of Mississippi, and all beds, banks and  
43 accumulations of such shells within such territorial jurisdiction  
44 on or under the bottoms of such waters, or surrounded by such  
45 waters, being the property of the State of Mississippi are hereby  
46 further declared to be the property of the State of Mississippi  
47 under the jurisdiction of the \* \* \* department.

48 **SECTION 3.** Section 49-15-27, Mississippi Code of 1972, is  
49 amended as follows:



50 49-15-27. The department is hereby granted full and complete  
51 authority to lease the bottoms within its jurisdiction upon the  
52 following terms and conditions:

53 (1) All areas within the department's jurisdiction, not  
54 designated \* \* \* state-owned reefs by this chapter, or hereinafter  
55 designated tonging reefs by the department \* \* \*, and all areas  
56 not within the boundaries of riparian property owners may be  
57 leased by the department.

58 (2) All individual lessees shall be residents of the State  
59 of Mississippi, or if a firm or corporation, such firm or  
60 corporation shall be organized under the laws of the State of  
61 Mississippi.

62 (3) No individual, corporation, partnership or association  
63 may lease less than one (1) acre nor more than \* \* \* one thousand  
64 (1,000) acres; however, in the case of an individual there shall  
65 not be counted towards such limitation any lands leased by a  
66 corporation, partnership or association in which such individual  
67 owns ten percent (10%) or less interest and, in the case of a  
68 corporation, partnership or association, there shall not be  
69 counted toward such limitation any lands leased by an individual  
70 stockholder, partner or associate thereof who owns ten percent  
71 (10%) or less interest in such corporation, partnership or  
72 association.

73 (4) Individuals, firms or corporations desiring to lease  
74 bottoms shall make application to the department in writing,



75 describing the area to be leased. The application fee for each  
76 lease application shall be Fifty Dollars (\$50.00). Applications  
77 must include a plat showing the proposed lease area and  
78 description of cultch material type and amount to be deployed on  
79 the leased area.

80 (5) The department shall consider bottom leasing  
81 applications in the order in which each is filed and \* \* \* shall  
82 either (a) make a lease with the applicant or (b) issue a written  
83 notice declining the application with reasons for same  
84 within \* \* \* thirty (30) days \* \* \* of the date of the  
85 application. Such lease \* \* \* shall be for the area described in  
86 the application upon payment of the annual rent in advance.

87 (6) Such leases shall be for an initial term of \* \* \*  
88 fifteen (15) years, with the right of lessee to renew the lease  
89 for an additional \* \* \* fifteen (15) years, and continue to renew  
90 at \* \* \* fifteen-year intervals, at the same ground rental rate so  
91 long as lessee actively cultivates and gathers oysters, and  
92 complies with the provisions of this chapter. No lease may be  
93 transferred without approval by the department of the transfer.

94 (7) The lease shall ensure the maximum culture and  
95 propagation of oysters.

96 ( \* \* \*8) The department shall fix a ground rental at not  
97 less than \* \* \* Two Dollars (\$2.00) and no more than Fifteen  
98 Dollars (\$15.00) per acre.



99 ( \* \* \*9) The department shall keep an accurate chart of the  
100 areas within its jurisdiction and shall mark on such chart those  
101 areas which are under lease. All leases shall be marked by  
102 appropriate poles, stakes or buoys of such material as will not  
103 injure watercraft, at the expense of the leaseholder. The  
104 department shall keep an accurate book, designated "Mississippi  
105 Oyster Farms" which shall contain copies of all leases. If any  
106 lease be cancelled or expire, such fact shall be noted on the face  
107 of such lease. Lessees shall be "oyster farmers" for the purposes  
108 of any grants, aid, subsidies or other assistance from the federal  
109 government or other governmental or private agencies.

110 ( \* \* \*10) All funds derived from leasing shall be paid into  
111 the Seafood Fund under Section 49-15-17, for use by the department  
112 to further oyster production in this state, which includes  
113 plantings of oysters and cultch materials.

114 ( \* \* \*11) All leases made by the department under the  
115 authority of this section shall be subject to the paramount right  
116 of the state and any of its political subdivisions authorized by  
117 law, to promote and develop ports, harbors, channels, industrial  
118 or recreational projects, and all such leases shall contain a  
119 provision that in the event such authorized public body shall  
120 require the area so leased or any part thereof for such public  
121 purposes, that the lease shall be terminated on reasonable notice  
122 fixed by the department in such lease. On the termination of any  
123 lease, the lessees shall have the right to remove any oysters



124 within the leased area within such time as may be fixed by the  
125 department and in accordance with such reasonable rules and  
126 regulations as the department may adopt.

127 Any person convicted of taking oysters from leased land or  
128 from waters that are not of a safe sanitary quality without a  
129 permit as provided in Section 49-15-37 shall, on the first  
130 offense, forfeit all equipment used, exclusive of any boat or  
131 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)  
132 or sentenced not to exceed one (1) year in the county jail, or  
133 both. Subsequent convictions shall be punishable by forfeiture of  
134 all equipment, including any boat or boats; and a fine not to  
135 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)  
136 years in prison, or both such fine and imprisonment.

137 The department is enjoined to cooperate with the Jackson  
138 County Port Authority, the Harrison County Development Commission,  
139 the municipal port commission and other port and harbor agencies,  
140 so that oyster beds shall not be planted in close proximity to  
141 navigable channels. The department or lessee shall have no right  
142 of action as against any such public body for damages accruing to  
143 any natural reef or leased reef by any necessary improvement of  
144 such channel in the interest of shipping, commerce, navigation or  
145 other purpose authorized by law.

146 (12) A lessee has the exclusive use of the water bottoms  
147 leased and all oysters and cultch grown or placed thereon.  
148 However, this exclusive right is subordinate to the rights and



149 responsibilities of the state, any political subdivision of the  
150 state, the United States, or any agency or agent thereof, to take  
151 action in furtherance of coastal protection, conservation or  
152 restoration.

153       **SECTION 4.** Section 49-15-36, Mississippi Code of 1972, is  
154 amended as follows:

155       49-15-36. (1) The Department of Marine Resources shall have  
156 full jurisdiction and control of all \* \* \* designated state-owned  
157 reefs and oyster bottoms of the State of Mississippi.

158       (2) \* \* \* State-owned reefs may be opened for harvest of  
159 oysters during the season on a rotating basis. If the department  
160 determines that a particular reef has been overharvested or that a  
161 high percentage of sublegal size oysters exist on a particular  
162 reef and that harvest could damage future oyster crops, the  
163 department may close designated reef areas and keep them closed  
164 during the season.

165       (3) The department shall promulgate regulations regarding  
166 the closing of oyster reefs to protect the public health. When  
167 that testing indicates the oysters on the closed reef are suitable  
168 for consumption, the reef shall be opened for the taking of  
169 oysters as soon as notice of that opening may be made to  
170 interested parties. The authority to open or close oyster reefs  
171 under this chapter shall be solely within the discretion of the  
172 department. The Gulf Coast Research Laboratory or other certified  
173 laboratory shall cooperate with the department and shall conduct



174 necessary tests to determine the condition of oyster reefs at the  
175 request of the department. The department may limit the sale of  
176 oysters for human consumption.

177 (4) (a) The department may issue special permits for the  
178 purpose of catching oysters outside the open season or in areas  
179 not normally open to harvest to those nonprofit organizations that  
180 are tax exempt under Section 501(c) of the United States Internal  
181 Revenue Code and which have on file with the Department of Revenue  
182 a tax exemption letter issued by the United States Internal  
183 Revenue Service.

184 (b) The department shall promulgate rules and  
185 regulations governing the taking of oysters by the nonprofit  
186 organization and shall issue such regulations to all organizations  
187 upon request and at the issuance of the special permit.

188 (5) The department shall establish a reasonable period of  
189 time for depuration of oysters replanted from restricted waters.  
190 That period of time shall be consistent with the maintenance of  
191 the public health and may vary from time to time and from one reef  
192 to another in accordance with environmental conditions.

193 \* \* \*

194 **SECTION 5.** Section 49-15-37, Mississippi Code of 1972, is  
195 amended as follows:

196 49-15-37. \* \* \* The department may employ boats, crews and  
197 laborers \* \* \* to cultivate the \* \* \* state-owned reefs of the  
198 state, and \* \* \* dredge the oysters in the Mississippi Sound from





199 places where they are too thick, and \* \* \* spread them on reefs  
200 where they are too thin, and \* \* \* carry shells from the factories  
201 and spread them in places where the oyster beds can be improved  
202 and enlarged. The department may purchase other materials as may  
203 be equally suitable for the propagation of oysters. The  
204 department in cultivating the reefs, transplanting and spreading  
205 oysters and shells and other suitable materials, may expend any  
206 funds available for that purpose. In taking seed oysters, care  
207 shall be used to not injure or destroy the merchantable oysters on  
208 the reefs from which they are taken. The seed oysters shall be  
209 tonged from the "conner" or seed reefs, unless it is practicable  
210 and safe to dredge those oysters. The \* \* \* department may \* \* \*  
211 establish new bedding grounds at those places within the  
212 boundaries of the state as it may determine, on advice of the  
213 director, or on advice of technical governmental experts, or  
214 competent aquatic biologists. On existing \* \* \* state-owned reefs  
215 in which oysters exist and in waters not of a safe sanitary  
216 quality as determined by the department, the \* \* \* department  
217 shall prohibit any person, firm or corporation from taking oysters  
218 from those areas. The \* \* \* department shall from time to time  
219 remove the oysters from the areas and relay or replant them in an  
220 approved area for a period of time under Section 49-15-36 before  
221 they may be harvested. The \* \* \* department may transport the  
222 oysters to an onshore, molluscan depuration facility for the  
223 purpose of proving depuration technology and for other



224 experimental purposes. In connection with the testing of onshore,  
225 molluscan depuration technology, the \* \* \* department may sell or  
226 dispose of the relaid oysters in a manner consistent with all  
227 applicable state and federal laws and regulations. Any funds  
228 received from the sale of the oysters shall be used in a like  
229 manner as those funds received under Section 49-15-38.

230 If the \* \* \* department finds that onshore, molluscan  
231 depuration technology proves to be successful, the \* \* \*  
232 department may issue permits to private enterprise which may  
233 locate depuration facilities in Hancock, Harrison and Jackson  
234 Counties. The \* \* \* department shall promulgate rules and  
235 regulations for the taking of oysters from reefs for transport to  
236 an onshore, molluscan depuration facility and for the operation of  
237 the facilities. Each depuration facility operated by private  
238 enterprise shall return oyster shells to the oyster reefs for  
239 replanting under the proper supervision of the department and  
240 under Section 49-15-38.

241 The \* \* \* department may issue permits to persons to remove  
242 oysters by dredging or otherwise from water bottoms which are not  
243 of a safe sanitary quality for oysters for human consumption even  
244 though those areas may have been reserved for tonging only in  
245 Section 49-15-39. These areas \* \* \* may be designated as seed  
246 grounds, and permits to persons shall be issued only for the  
247 purpose of transplanting oysters to privately leased Mississippi  
248 territorial waters. The \* \* \* department may permit the



249 transplanting of these seed oysters by a duly authorized public  
250 agency.

251 The \* \* \* department may, upon certification of the  
252 department that the water bottom from which oysters are to be  
253 removed is not of a safe, sanitary quality for oyster production  
254 for human consumption and has been unsafe for a period of at least  
255 one (1) year immediately preceding certification, and upon  
256 complying with the following requirements, permit the dredging of  
257 oysters from restricted public areas and relaying the oysters to  
258 private leased grounds in the State of Mississippi:

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

261 (b) Permittee must be bonded in compliance with the  
262 permit system established by the \* \* \* department;

263 (c) Permittee must fulfill all permit requirements as  
264 established by the \* \* \* department;

265 (d) Permittee shall not move oysters from one  
266 restricted area to another restricted area;

267 (e) Permittee shall move oysters only to an area leased  
268 by the \* \* \* department; and

269 (f) Permittee shall not move oysters from the  
270 restricted area without the presence of an employee of the  
271 department at all times, from the dredging of the oysters from the  
272 restricted areas to their deposit on private leased grounds or to  
273 an onshore, molluscan depuration facility.



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

279 Any person obtaining a permit to remove oysters from seed  
280 grounds shall post a penal bond of One Hundred Dollars (\$100.00)  
281 per leased acre with the \* \* \* department to be forfeited upon any  
282 violation of this section. The bond may be approved by the  
283 director of the department if the director finds the bond to be  
284 secured by sufficient property or sureties.

285 The \* \* \* department shall regulate the amount and time of  
286 taking of oysters from seed areas and shall supervise the removal,  
287 planting and harvesting of oysters from the areas. The time set  
288 for the taking of oysters from restricted seed areas for relaying  
289 or replanting and the time set for the taking of oysters from  
290 private leased grounds shall be separated by not less than a  
291 period of time determined under Section 49-15-36 during which  
292 neither activity may be allowed.

293 The \* \* \* department shall regulate the taking of oysters  
294 from restricted seed areas and the subsequent depuration of the  
295 oysters to protect public health, while at the same time fostering  
296 the utilization of the state's oyster resources. The regulations  
297 shall include the setting of the period of depuration for the  
298 oysters by the use of appropriate techniques and provide for an



299 employee of the department to be present when the oysters are  
300 taken from restricted seed areas, and transported, held and  
301 deposited on private lease grounds. Any person, firm, corporation  
302 or private lease holder engaged in the depuration of oysters shall  
303 pay to the department an amount equal to the regular compensation  
304 of the employee of the department for the time the employee  
305 actually spends performing the duties, not to exceed Two Hundred  
306 Dollars (\$200.00) per twenty-four-hour period.

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

310 The \* \* \* department shall designate certain reefs in the  
311 state as \* \* \* state-owned reefs and shall remove oysters from  
312 water bottoms which are not of a safe, sanitary quality for oyster  
313 production for human consumption and shall transport the oysters  
314 to the \* \* \* state-owned reefs.

315 **SECTION 6.** Section 49-15-38, Mississippi Code of 1972, is  
316 amended as follows:

317 49-15-38. (1) (a) Unless otherwise permitted by the \* \* \*  
318 department, no oysters shall be taken from the reefs of this state  
319 unless culled upon the natural reefs, and all oysters less than  
320 three (3) inches from end to end, and all dead shells, shall be  
321 replaced, scattered and broadcast immediately on the natural reefs  
322 from which they are taken. It is unlawful for any captain or  
323 person in charge of any vessel, or any canner, packer, commission



324 man, dealer or other person to purchase, sell or to have in that  
325 person's possession or under that person's control any oysters off  
326 the \* \* \* state-owned reefs or private bedding grounds not culled  
327 according to this section, or any oysters under the legal size. A  
328 ten percent (10%) tolerance shall be allowed in relation to any  
329 culling.

330 (b) The \* \* \* department may authorize the culling of  
331 oysters of a lesser measure. That authorization shall be in  
332 response to special circumstances or extreme natural conditions  
333 affecting the habitat, including, but not limited to, flooding.  
334 The department may establish checkpoints in any area within its  
335 jurisdiction to conduct inspections, collect fees and issue tags  
336 in the enforcement of this chapter and regulations adopted by the  
337 commission.

338 (2) The \* \* \* department shall acquire and replant shells,  
339 seed oysters and other materials, when funding is available, for  
340 the purpose of growing oysters.

341 (3) Any person, firm or corporation failing or refusing to  
342 pay the shell retention fee required under Section 49-15-46 to the  
343 department when called for by the department, is guilty of a  
344 misdemeanor and, upon conviction, shall be fined not more than One  
345 Hundred Dollars (\$100.00) for each barrel of shells for which they  
346 fail or refuse to tender the shell retention fee. In addition to  
347 the fine, the violator shall pay the reasonable value of the  
348 oyster shells and shall be ineligible to be licensed for any



349 activity set forth in this chapter for a period of two (2) years  
350 from the date of conviction.

351 (4) The planting of oyster shells as provided under this  
352 chapter shall be under the direction and supervision of the  
353 executive director of the department. \* \* \*

354 **SECTION 7.** Section 49-15-39, Mississippi Code of 1972, is  
355 amended as follows:

356 49-15-39. (1) It is unlawful for any person to catch or  
357 take oysters by means of dredging in any of the waters designated  
358 as tonging reefs by the \* \* \* department.

359 (2) The \* \* \* department shall designate certain areas as  
360 tonging reefs. The \* \* \* department shall mark the boundaries of  
361 the areas designated by appropriate poles, stakes or buoys of  
362 material that will not injure watercraft. The \* \* \* department  
363 may authorize the taking of oysters on reefs designated as tonging  
364 reefs by dredge, drag or scoop if the \* \* \* department finds that  
365 the dredging, dragging or scooping is necessary to manage the  
366 resource properly. Any dredging, dragging or scooping authorized  
367 under this section shall be for a specific time period as provided  
368 by the \* \* \* department.

369 (3) Unless otherwise authorized under this section, any boat  
370 or vessel which catches or takes oysters by means of dredges,  
371 drags or scoops, other than hand tongs, from any of the areas  
372 described in this section, or with a dredge or dredges in the  
373 water, shall have all oysters on board the boat or vessel declared



374 to be contraband. The oysters shall be taken and confiscated by  
375 the department or any marine law enforcement officer without court  
376 procedure. The captain and crew of the boat or vessel, promptly  
377 upon being ordered so to do, shall transport the oysters to a  
378 point on the \* \* \* state-owned reefs where the boat or vessel is  
379 found and there scatter the oysters according to the instructions  
380 of the enforcement officers.

381 (4) A violation of this section is punishable by a fine of  
382 Five Hundred Dollars (\$500.00). For a second offense when the  
383 offense is committed within a period of three (3) years from the  
384 first offense, the violation is punishable by a fine of One  
385 Thousand Dollars (\$1,000.00). For a third or subsequent offense  
386 when the offense is committed within a period of three (3) years  
387 from the first offense, the violation is punishable by a fine of  
388 Two Thousand Dollars (\$2,000.00).

389 (5) In addition, upon conviction of a third or subsequent  
390 offense within three (3) years of the first offense, it shall be  
391 the duty of the court to revoke the license of the convicted party  
392 and of the vessel used in the offense, and no license shall be  
393 issued to that person or for the vessel to engage in the catching  
394 or taking of any seafood from the waters of this state for a  
395 period of one (1) year following the conviction.

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





398           **SECTION 8.** Section 49-15-40, Mississippi Code of 1972, is  
399 amended as follows:

400           49-15-40. (1) The \* \* \* department may support projects in  
401 the nature of digging or constructing canals or ditches to bring  
402 additional water to existing oyster reefs or beds in need of that  
403 water, or for the purpose of creating or establishing new oyster  
404 reefs or beds. \* \* \* The \* \* \* department may expend any monies  
405 as it deems necessary and expedient to participate in the digging  
406 of those canals. The \* \* \* department may also enter into  
407 interstate or intrastate efforts to support these projects and may  
408 seek and utilize aid from all federal, state and local sources in  
409 this endeavor. \* \* \*

410           (2) The \* \* \* department may construct, operate and maintain  
411 onshore, molluscan facilities using any federal or special funds,  
412 other than general funds, for the purpose of testing and proving  
413 technology relating to oysters and other shellfish. In connection  
414 with the construction, operation and maintenance of the  
415 facilities, the \* \* \* department may contract with any persons it  
416 deems necessary for the operation, testing, maintenance and  
417 evaluation of the facilities, subject to the approval of the State  
418 Personnel Board. The \* \* \* department may locate the facilities  
419 on any available public properties, subject to the approval of the  
420 governing body of that jurisdiction and all other applicable state  
421 laws. Once the technology has been tested and proven, the \* \* \*  
422 department may conduct any other tests and experiments with



423 oysters or other shellfish as may be necessary to enhance  
424 production or quality of shellfish.

425 \* \* \*

426 **SECTION 9.** Section 49-15-41, Mississippi Code of 1972, is  
427 brought forward as follows:

428 49-15-41. It shall be unlawful for any person to fish, catch  
429 or take oysters from the waters of Mississippi during the hours  
430 between sunset and sunrise of each day.

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

434 **SECTION 10.** Section 49-15-42, Mississippi Code of 1972, is  
435 brought forward as follows:

436 49-15-42. (1) All oysters caught in Mississippi territorial  
437 waters shall be tagged and unloaded in Mississippi. Before  
438 tagging and unloading, the oysters must be sacked or packaged in  
439 containers or by other methods approved by the department.

440 However, a person is exempt from the unloading requirement if he  
441 is transporting the oysters to a state that has a reciprocity  
442 agreement with Mississippi exempting Mississippi residents from  
443 the unloading requirements of that state.

444 (2) The driver of any vehicle used in the transporting of  
445 oysters in the shell from outside the territorial limits of the  
446 State of Mississippi, whether the vehicle is a boat or motor  
447 vehicle, shall possess an invoice, statement or other bill of



448 lading which bears the name of the person, firm or corporation  
449 from whom the oysters were purchased, the name of the purchaser  
450 and the number of barrels or bushels of oysters which the vehicle  
451 or vessel contains.

452       **SECTION 11.** Section 49-15-43, Mississippi Code of 1972, is  
453 brought forward as follows:

454       49-15-43. Oysters for sale either wholesale or retail may be  
455 packaged in glass jars covered with a screw-type top or lid of the  
456 type customarily and heretofore used in the seafood industry in  
457 the State of Mississippi, but this section shall automatically be  
458 repealed if and when such type packaging becomes prohibited by any  
459 agency of the United States Government for shipment in interstate  
460 commerce.

461       **SECTION 12.** Section 49-15-44, Mississippi Code of 1972, is  
462 amended as follows:

463       49-15-44. The \* \* \* department shall prohibit the sale or  
464 possession of illegal oysters. It is unlawful for any person,  
465 firm or corporation to possess or to engage in the sale of oysters  
466 not certified in this state, or to shuck or repack for sale any  
467 illegal oysters, unless that person, firm or corporation possesses  
468 a bill of sale, valid permit or affidavit of another state,  
469 properly dated, evidencing the legality of the sale or possession  
470 of the oysters in that state. Any person in possession of illegal  
471 oysters shall be subject to civil or criminal prosecution and



472 shall be fined not less than One Hundred Dollars (\$100.00) or  
473 punished as provided in Section 49-15-63.

474 **SECTION 13.** Section 49-15-45, Mississippi Code of 1972, is  
475 amended as follows:

476 49-15-45. \* \* \* Any municipality bounded by the Gulf of  
477 Mexico or Mississippi Sound, which has wholly or partly within its  
478 corporate limits, or in the waters adjacent thereto, a public  
479 oyster reef reserved for catching oysters exclusively by use of  
480 hand tongs, is hereby authorized to aid and cooperate with  
481 the \* \* \* department in enforcing all laws regulating the  
482 catching, taking and transporting of oysters, including all of the  
483 provisions of this chapter, and all regulations and ordinances of  
484 such \* \* \* department relating to such oyster reefs.

485 \* \* \*

486 **SECTION 14.** Section 49-15-46, Mississippi Code of 1972, is  
487 brought forward as follows:

488 49-15-46. (1) Each vessel used to catch, take, carry or  
489 transport oysters from the reefs of the State of Mississippi, or  
490 engaged in transporting any oysters in any of the waters within  
491 the territorial jurisdiction of the State of Mississippi, for  
492 commercial use, shall annually, before beginning operations, be  
493 licensed by the department and pay the following license fee:

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



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

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

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

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

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

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

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

513 (4) All oysters harvested in the State of Mississippi shall  
514 be tagged. Tags shall be issued by the department and shall bear  
515 the catcher's name, the date and origin of the catch, the shell  
516 stock dealer's name and permit number. The department shall  
517 number all tags issued and shall maintain a record of those tags.  
518 The department, in its discretion, may adopt any regulations  
519 regarding the tagging of oysters and other shellfish.



520 (5) Each person catching or taking oysters from the waters  
521 of the State of Mississippi for personal use shall obtain a permit  
522 from the department and pay an annual recreational oyster permit  
523 fee of Ten Dollars (\$10.00). Oysters caught under a recreational  
524 permit shall not be offered for sale. The limits on the allowable  
525 catch of oysters for recreational purposes shall be three (3)  
526 sacks per week. The department shall issue tags of a  
527 distinguishing color to designate recreationally harvested  
528 oysters, which shall be tagged on the same day of harvest in the  
529 manner prescribed in subsection (4) of this section for  
530 commercially harvested oysters or by regulation of the department.

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

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

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

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



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

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

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

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

560 **SECTION 15.** Section 49-15-47, Mississippi Code of 1972, is  
561 amended as follows:

562 49-15-47. (1) It is unlawful for any person, firm or  
563 corporation to discharge solid or human waste from any vessel  
564 while the vessel is used to harvest or transport oysters in the  
565 marine waters of the state.

566 (2) Each vessel used to harvest or transport oysters is  
567 required to have an approved functional marine sanitation device  
568 (MSD), portable toilet or other sewage disposal receptacle



569 designed to contain human sewage. The approved marine sanitation  
570 device (MSD), portable toilet or other sewage disposal receptacle  
571 shall:

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

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

575 (c) Be emptied only into an approved sewage disposal  
576 system.

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

578 (e) Not be cleaned with equipment used for washing or  
579 processing food.

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

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

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

585 (4) The \* \* \* department shall promulgate administrative  
586 penalties for violations of this section, which may include, but  
587 not be limited to, revocation of the license of the oyster vessel  
588 for up to one (1) year for the first offense, revocation up to two  
589 (2) years for the second offense, and permanent revocation for the  
590 third offense.

591 (5) Upon issuance of a citation for a violation of this  
592 section, the vessel shall be removed from the oyster reef and any  
593 oysters on board the vessel shall be confiscated and disposed of





594 by the department. The vessel shall not be permitted to harvest  
595 from any \* \* \* state-owned or private reefs until the vessel is  
596 properly equipped as determined by an inspection by the  
597 department.

598 **SECTION 16.** Section 49-15-49, Mississippi Code of 1972, is  
599 brought forward as follows:

600 49-15-49. The Mississippi Department of Marine Resources'  
601 oyster check station located at the Pass Christian Harbor, Pass  
602 Christian, Mississippi, shall be named the Colonel George J.  
603 Wright, Sr., building. The Department of Finance and  
604 Administration shall prepare or have prepared a distinctive plaque  
605 to be placed in a prominent place within the Colonel George J.  
606 Wright, Sr., building, which states the background,  
607 accomplishments and public health service to the state and nation  
608 of Colonel George J. Wright, Sr.

609 **SECTION 17.** Section 49-15-40.1, Mississippi Code of 1972,  
610 which authorizes the Mississippi Department of Marine Resources to  
611 conduct a pilot program for bottom land leasing for oyster  
612 production in waters adjacent to Hancock County, is hereby  
613 repealed.

614 **SECTION 18.** This act shall take effect and be in force from  
615 and after July 1, 2023.

