

By: Senator(s) Moran, Carter, DeLano,
Thompson, Wiggins, England

To: Ports and Marine
Resources

SENATE BILL NO. 2563

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

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

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

11 49-15-27. The department is hereby granted full and complete
12 authority to lease the bottoms within its jurisdiction upon the
13 following terms and conditions:

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

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



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

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

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

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

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



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

48 (7) The department shall fix a ground rental at not less
49 than * * * Two Dollars (\$2.00) and no more than Twenty Dollars
50 (\$20.00) per acre.

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

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

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



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

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

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



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

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

100 49-15-36. (1) The Department of Marine Resources shall have
101 full jurisdiction and control of all public and natural oyster
102 reefs and oyster bottoms of the State of Mississippi.

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

109 (3) The department shall promulgate regulations regarding
110 the closing of oyster reefs to protect the public health. When
111 that testing indicates the oysters on the closed reef are suitable
112 for consumption, the reef shall be opened for the taking of
113 oysters as soon as notice of that opening may be made to
114 interested parties. The authority to open or close oyster reefs
115 under this chapter shall be solely within the discretion of the
116 department. The Gulf Coast Research Laboratory or other certified
117 laboratory shall cooperate with the department and shall conduct
118 necessary tests to determine the condition of oyster reefs at the
119 request of the department. The department may limit the sale of
120 oysters for human consumption.



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

128 (b) The department shall promulgate rules and
129 regulations governing the taking of oysters by the nonprofit
130 organization and shall issue such regulations to all organizations
131 upon request and at the issuance of the special permit.

132 (5) The department shall establish a reasonable period of
133 time for depuration of oysters replanted from restricted waters.
134 That period of time shall be consistent with the maintenance of
135 the public health and may vary from time to time and from one reef
136 to another in accordance with environmental conditions.

137 * * *

138 **SECTION 3.** Section 49-15-40.1, Mississippi Code of 1972,
139 which provides a pilot program under the Mississippi Department of
140 Marine Resources for bottom land leasing for oyster production, is
141 hereby repealed.

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

