

By: Representative Ladner

To: Conservation and Water  
Resources

## HOUSE BILL NO. 1102

1 AN ACT TO BRING FORWARD SECTIONS 29-7-3, 49-15-3, 49-15-5,  
2 49-15-7, 49-15-9, 49-15-15, 49-15-16, 49-15-17, 49-15-18,  
3 49-15-23, 49-15-27, 49-15-29, 49-15-30, 49-15-31, 49-15-34,  
4 49-15-35, 49-15-36, 49-15-37, 49-15-38, 49-15-40, 49-15-41,  
5 49-15-42, 49-15-43, 49-15-44, 49-15-45, 49-15-46, 49-15-47,  
6 49-15-315 AND 51-11-105, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE  
7 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 29-7-3, Mississippi Code of 1972, is  
10 brought forward as follows:

11 29-7-3. There shall be no development or extraction of oil,  
12 gas, or other minerals from state-owned lands by any private party  
13 without first obtaining a mineral lease therefor from the  
14 commission. The commission is hereby authorized and empowered,  
15 for and on behalf of the state, to lease any and all of the state  
16 land now owned (including that submerged or whereover the tide may  
17 ebb and flow) or hereafter acquired, to some reputable person,  
18 association, or company for oil and/or gas and/or other minerals  
19 in and under and which may be produced therefrom, excepting,  
20 however, sixteenth section school land, lieu lands, and such



21 forfeited tax land and property the title to which is subject to  
22 any lawful redemption, for such consideration and upon such terms  
23 and conditions as the commission deems just and proper. No  
24 mineral lease of offshore lands shall allow offshore drilling  
25 operations north of the coastal barrier islands, except in Blocks  
26 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,  
27 surface offshore drilling operations will not be allowed within  
28 one (1) mile of Cat Island. The commission may only offer for  
29 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and  
30 66 through 98, inclusive, as shown on the Mississippi Department  
31 of Environmental Quality Bureau of Geology Plat of Lease Blocks  
32 (Open File Report 151) on terms and conditions and for a length of  
33 time as determined by the commission. The commission may not  
34 lease any lands or submerged lands off the Mississippi Gulf Coast  
35 that have been leased by the Department of Marine Resources before  
36 January 1, 2004, for any public or private oyster reef lease or  
37 any lands or submerged lands within one (1) mile of that lease for  
38 the purposes of drilling offshore for oil, gas and other minerals.

39 Consistent with the conservation policies of this state under  
40 Section 53-1-1 et seq., the commission may offer for public bid  
41 any tracts or blocks of state-owned lands not currently under  
42 lease, which have been identified to the commission as having  
43 development potential for oil or natural gas, not less than once a  
44 year. Upon consultation with the Office of Geology in the  
45 Mississippi Department of Environmental Quality, the Secretary of



State and any other state agency as the commission deems appropriate, the commission shall promulgate rules and regulations consistent with this chapter governing all aspects of the process of leasing state lands within its jurisdiction for mineral development, including the setting of all terms of the lease form to be used for leasing state-owned lands, any necessary fees, public bidding process, delay rental payments, shut-in royalty payments, and such other provisions as may be required. The Attorney General shall review the lease form adopted by the commission for legal sufficiency.

There shall not be conducted any seismographic or other mineral exploration or testing activities on any state-owned lands within the mineral leasing jurisdiction of the commission without first obtaining a permit therefor from the commission. Upon consultation with the Office of Geology in the Mississippi Department of Environmental Quality, the Secretary of State and any other state agency as the commission deems appropriate, the commission shall promulgate rules and regulations governing all aspects of seismographic or other mineral exploration activity on state lands within its jurisdiction, including the establishing of fees and issuance of permits for the conduct of such mineral exploration activities. The Attorney General shall review the permit form adopted by the commission for legal sufficiency. Provided, however, that persons obtaining permits from the commission for seismographic or other mineral exploration or



71 testing activities on state-owned wildlife management areas, lakes  
72 and fish hatcheries, shall be subject to rules and regulations  
73 promulgated therefor by the Mississippi Commission on Wildlife,  
74 Fisheries and Parks which shall also receive all permit fees for  
75 such testing on said lands. In addition, persons obtaining  
76 permits from the commission for seismographic or other mineral  
77 exploration or testing activities on state-owned marine waters  
78 shall be subject to rules and regulations promulgated therefor by  
79 the Mississippi Department of Marine Resources which shall also  
80 receive all permit fees for such testing on those waters.

81 Further, provided that each permit within the Mississippi  
82 Sound or tidelands shall be reviewed by the Mississippi Commission  
83 on Marine Resources and such special conditions as it may specify  
84 will be included in the permit. Information or data obtained in  
85 any mineral exploration activity on any and all state lands shall  
86 be disclosed to the state through the commission, upon demand.  
87 Such information or data shall be treated as confidential for a  
88 period of ten (10) years from the date of receipt thereof and  
89 shall not be disclosed to the public or to any firm, individual or  
90 agency other than officials or authorized employees of this state.  
91 Any person who makes unauthorized disclosure of such confidential  
92 information or data shall be guilty of a misdemeanor, and upon  
93 conviction thereof, be fined not more than Five Thousand Dollars  
94 (\$5,000.00) or imprisoned in the county jail not more than one (1)  
95 year, or both.



96 Whenever any such land or property is leased for oil and gas  
97 and/or other minerals, such lease contract shall provide for a  
98 lease royalty to the state of at least three-sixteenths (3/16) of  
99 such oil and gas or other minerals, same to be paid in the manner  
100 prescribed by the commission. Of the monies received in  
101 connection with the execution of such leases, five-tenths of one  
102 percent (5/10 of 1%) shall be retained in a special fund to be  
103 appropriated by the Legislature, One Hundred Thousand Dollars  
104 (\$100,000.00) of which amount to be used by the commission for the  
105 administration of the leasing and permitting under this section,  
106 and the remainder of such amount shall be deposited into the  
107 Education Trust Fund, created in Section 206A, Mississippi  
108 Constitution of 1890; and two percent (2%) shall be paid into a  
109 special fund to be designated as the "Gulf and Wildlife Protection  
110 Fund," to be appropriated by the Legislature, one-half (1/2)  
111 thereof to be apportioned as follows: an amount which shall not  
112 exceed One Million Dollars (\$1,000,000.00) shall be used by the  
113 Mississippi Department of Wildlife, Fisheries and Parks and the  
114 Mississippi Department of Marine Resources solely for the purpose  
115 of cleanup, remedial or abatement actions involving pollution as a  
116 result of the exploration or production of oil or gas, and any  
117 amount in excess of such One Million Dollars (\$1,000,000.00) shall  
118 be deposited into the Education Trust Fund, created in Section  
119 206A, Mississippi Constitution of 1890. The remaining one-half  
120 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned



as follows: an amount which shall not exceed One Million Dollars (\$1,000,000.00) shall be used by the Mississippi Commission on Wildlife, Fisheries and Parks and the Mississippi Department of Marine Resources for use first in the prudent management, preservation, protection and conservation of existing waters, lands and wildlife of this state and then, provided such purposes are accomplished, for the acquisition of additional waters and lands and any amount in excess of such One Million Dollars (\$1,000,000.00) shall be deposited into the Education Trust Fund, created in Section 206A, Mississippi Constitution of 1890. However, in the event that the Legislature is not in session to appropriate funds from the Gulf and Wildlife Protection Fund for the purpose of cleanup, remedial or abatement actions involving pollution as a result of the exploration or production of oil or gas, then the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department of Marine Resources may make expenditures from this special fund account solely for said purpose. The commission may lease the submerged beds for sand and gravel on such a basis as it may deem proper, but where the waters lie between this state and an adjoining state, there must be a cash realization to this state, including taxes paid for such sand and gravel, equal to that being had by such adjoining state, in all cases the requisite consents therefor being lawfully obtained from the United States.



The Department of Environmental Quality is authorized to employ competent engineering personnel to survey the territorial waters of this state in the Mississippi Sound and the Gulf of Mexico and to prepare a map or plat of such territorial waters, divided into blocks of not more than six thousand (6,000) acres each with coordinates and reference points based upon longitude and latitude surveys. The commission is authorized to adopt such survey, plat or map for leasing of such submerged lands for mineral development; and such leases may, after the adoption of such plat or map, be made by reference to the map or plat, which shall be on permanent file with the commission and a copy thereof on file in the Office of the State Oil and Gas Board.

**SECTION 2.** Section 49-15-3, Mississippi Code of 1972, is brought forward as follows:

49-15-3. As used in this chapter, the term:

(a) "Commission" means the Mississippi Advisory Commission on Marine Resources.

(b) "Department" means the Department of Marine Resources.

(c) "Domicile" means a person's principal or primary place of abode in which a person's habitation is fixed and to which the person, whenever absent, has the present intention of returning after a departure of absence therefrom, regardless of the duration of the absence. The burden of proving domicile in the State of Mississippi shall be on the person claiming that



status. A person holding a current driver's license shall be deemed to be domiciled within the state issuing the license. If a person does not hold a current driver's license the following evidence may be considered in establishing, but is not necessarily determinative of domicile: residence for income or other tax purposes, homestead exemption receipt or other means prescribed by the department. In the case of minors, domicile of the parents shall be used as evidence of the minor's domicile.

(d) "Game fish" means cobia, also known as ling or lemonfish (*rachycentron canadum*). The cobia is classified as game fish.

(e) "Illegal oysters" means:

(i) All untagged shell stock;

(ii) Shell oysters obtained from uncertified shops or dealers or from an unlicensed catcher;

(iii) Oysters obtained from waters not declared safe and sanitary by the department, except those oysters caught by the department for re-laying or under private leases pursuant to Section 49-15-27;

(iv) Shucked oysters obtained from uncertified shops or repackers.

(f) "Inspector" means the chief inspector, the assistant chief inspector, deputy inspector, bureau director and certified enforcement officer employed by the department.





194 (g) "Natural reefs" means any bottom under the  
195 jurisdiction of the department of one or more acres on which  
196 oysters grow naturally, or have grown naturally, in a quantity  
197 sufficient to warrant commercial fishing as a means of livelihood,  
198 or have been used in such a manner within a period of ten (10)  
199 years next preceding the time the bottoms may come up for  
200 determination by the department.

201 (h) "Resident" means a person, firm or corporation that  
202 is domiciled in this state.

203 (i) "Seafood" means all oysters, saltwater fish,  
204 saltwater shrimp, diamondback terrapin, sea turtle, crabs and all  
205 other species of marine or saltwater animal life existing or  
206 living in the waters within the territorial jurisdiction of the  
207 State of Mississippi.

208 **SECTION 3.** Section 49-15-5, Mississippi Code of 1972, is  
209 brought forward as follows:

210 49-15-5. All seafoods existing or living in waters within  
211 the territorial jurisdiction of the State of Mississippi not held  
212 in private ownership legally acquired, and all beds and bottoms of  
213 rivers, streams, bayous, lagoons, lakes, bays, sounds and inlets  
214 bordering on or connecting with the Gulf of Mexico or Mississippi  
215 Sound within such territorial jurisdiction, including all oysters  
216 and other shell fish and parts thereof grown thereon, either  
217 naturally or cultivated, shall be, continue, and remain the  
218 property of the State of Mississippi, to be held in trust for the



people thereof until title thereto shall be legally divested in the manner and form hereinafter authorized, and the same shall be under the exclusive control of the department until the right of private ownership shall vest therein as hereinafter provided.

**SECTION 4.** Section 49-15-7, Mississippi Code of 1972, is brought forward as follows:

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

**SECTION 5.** Section 49-15-9, Mississippi Code of 1972, is brought forward as follows:

49-15-9. The sole right of planting, cultivating in racks or other structures, and gathering oysters and erecting bathhouses and other structures in front of any land bordering on the Gulf of Mexico or Mississippi Sound or waters tributary thereto belongs to the riparian owner and extends not more than seven hundred fifty (750) yards from the shore, except for state-owned lands on Deer Island, which shall be not more than four hundred (400) yards from



244 shore, measuring from the average low water mark, and except for  
245 state-owned lands along the Hancock County shoreline from Bayou  
246 Caddy to the Mississippi-Louisiana state boundary, which shall not  
247 extend out further than three hundred (300) yards from the average  
248 low watermark, but where the distance from shore to shore is less  
249 than fifteen hundred (1500) yards, the owners of either shore may  
250 plant and gather to a line equidistant between the two (2) shores,  
251 but no person shall plant in any natural channel so as to  
252 interfere with navigation, and such riparian rights shall not  
253 include any reef or natural oyster bed and does not extend beyond  
254 any channel. A riparian owner shall comply with the Coastal  
255 Wetlands Protection Act in exercising the use of these riparian  
256 rights. Stakes of such frail materials as will not injure any  
257 watercraft may be set up to designate the bounds of the  
258 plantation, but navigation shall not be impeded thereby. The  
259 riparian owner shall clearly mark such cultivation racks and other  
260 structures. The department may adopt regulations to require that  
261 the racks are adequately marked to ensure the safety of users of  
262 public waters. Any oysters planted by such riparian owner are the  
263 private property of such riparian owner, subject to the right of  
264 the department to adopt reasonable rules and regulations as to the  
265 planting and gathering of such oysters. All bathhouses, piers,  
266 wharfs, docks and pavilions, or other structures owned by the  
267 riparian owner are likewise the private property of such owner,  
268 who shall be entitled to the exclusive use, occupancy and



possession thereof, and may abate any private or public nuisance committed by any person or persons in the area of his riparian ownership and may, for such purposes, resort to any remedial action authorized by law. The governing authorities of any municipality and the board of supervisors of any county are authorized to adopt reasonable rules and regulations to protect riparian owners in the enjoyment of their riparian rights, and for such purposes may regulate the use of beaches, landings, and riparian areas abutting or fronting on roads, streets or highways.

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

49-15-15. (1) In addition to any other powers and duties authorized by law, the department, with the advice of the advisory commission, shall have the following powers and duties regarding the regulation of seafood:

(a) To exercise full jurisdiction and authority over all marine aquatic life and to regulate any matters pertaining to seafood, including cultivated seafood;

(b) To adopt, promulgate, amend or repeal, after due notice and public hearing, in accordance with the Mississippi Administrative Procedures Law and subject to the limitations in subsection (2) of this section, rules and regulations authorized under this chapter, including, but not limited to, rules and regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial



jurisdiction of the State of Mississippi and for the regulation of gill net and purse seine fishermen. All public hearings under this chapter concerning the regulation of marine resources shall be held in Hancock, Harrison or Jackson Counties. Each rule or regulation promulgated under this chapter shall immediately be advertised one (1) time in a newspaper or newspapers having general circulation in counties affected by that regulation. A regulation shall become effective at 6:00 a.m. on the day after its publication;

(c) To regulate all seafood sanitation and processing programs. In the three (3) coastal counties, the sanitation program regulating processing plants and seafood sold in retail stores operating in conjunction with a processing plant or seafood market that primarily deals with seafood is under the exclusive authority of the department. The department may also inspect and regulate those areas of any seafood processing plant which process freshwater species at any site. To effectively and efficiently implement the state seafood sanitation program, the State Health Officer, the Commissioner of Agriculture and the executive director of the department may enter into a memorandum of understanding, which at a minimum, clearly specifies the responsibilities of each agency in implementing the seafood sanitation program, as well as the sharing of information and communication and coordination between the agencies;

(d) To set standards of measure;



319           (e) To set requirements for employment of commission  
320 employees whose compensation shall be governed by the rules and  
321 regulations of the State Personnel Board;

322           (f) To acquire and dispose of commission equipment and  
323 facilities;

324           (g) To keep proper records of the commission, including  
325 an official ordinance book which contains all rules and  
326 regulations promulgated by the department, with the advice of the  
327 advisory commission, under this chapter;

328           (h) To enter into advantageous interstate and  
329 intrastate agreements with proper officials, which directly or  
330 indirectly result in the protection, propagation and conservation  
331 of the seafood of the State of Mississippi, or continue any such  
332 agreements now in existence;

333           (i) To arrange, negotiate or contract for the use of  
334 available federal, state and local facilities which would aid in  
335 the propagation, protection and conservation of the seafood of the  
336 State of Mississippi;

337           (j) To authorize the operation of double rigs in the  
338 waters lying between the mainland coast and the island chain, and  
339 those rigs shall not exceed a length of twenty-five (25) feet at  
340 the corkline, and to prescribe the length at the lead line for  
341 each rig, net or try-trawl;



342 (k) To destroy or dispose of equipment or nets which  
343 have been lawfully seized by the commission and which are not sold  
344 under Section 49-15-201 et seq.;

345 (l) To open, close and regulate fishing seasons for the  
346 taking of shrimp, oysters, fish taken for commercial purposes and  
347 crabs and set size, catching and taking regulations for all types  
348 of seafood and culling regulations for oysters, except as  
349 otherwise specifically provided by law;

350 (m) To utilize the resources of the Gulf Coast Research  
351 Laboratory to the fullest extent possible;

352 (n) To develop a resource management plan to preserve  
353 seafood resources and to ensure a safe supply of these resources;

354 (o) To prescribe types and forms of scientific permits  
355 for public educational or scientific institutions, federal and  
356 state agencies and consultants performing marine resource studies;

357 (p) To suspend the issuance of licenses when necessary  
358 to impose a moratorium to conserve a fishery resource;

359 (q) To promote, construct, monitor and maintain  
360 artificial fishing reefs in the marine waters of the State of  
361 Mississippi and in adjacent federal waters; to accept grants and  
362 donations of money or materials from public and private sources  
363 for such reefs; to set permit fees and establish guidelines for  
364 the construction of artificial reefs in federal waters; and to  
365 apply for any federal permits necessary for the construction or  
366 maintenance of artificial fishing reefs in federal waters. The



location data associated with artificial reefs by corporations and private individuals shall not be published by the commission or the department on the website or in written publications of the department. Location data of the artificial reefs may be requested in writing by any individual and shall be provided by the department in a timely manner; and

(r) To require, in addition to other licensing requirements, the successful completion of educational or training programs on shellfish sanitation as a prerequisite to receiving commercial licenses authorized under this chapter in order to ensure compliance with the Interstate Shellfish Sanitation Conference's educational requirements for shellfish processors, dealers and harvesters by January 1, 2014.

(2) The department shall not adopt rules, regulations or ordinances pertaining to marine resources which are more stringent than federal regulations. In any case where federal laws and regulations are silent on a matter pertaining to marine resources, the laws and regulations of the State of Mississippi shall control. The department shall review all marine resource ordinances for compliance with the no more stringent standard and revise any ordinances more stringent than this standard no later than December 31, 1992. This subsection shall not apply to rules, regulations or ordinances pertaining to the wild stock of marine fin fish.





391           **SECTION 7.** Section 49-15-16, Mississippi Code of 1972, is  
392 brought forward as follows:

393           49-15-16. The department may develop a limited entry  
394 fisheries management program for all resource groups. The  
395 department may require a license for each resource group and shall  
396 establish the fees for such licenses. The department may  
397 establish a means test or any other criteria to determine  
398 eligibility for licenses under the limited entry program. The  
399 department may impose a moratorium on the issuance of licenses for  
400 a fishery resource.

401           **SECTION 8.** Section 49-15-17, Mississippi Code of 1972, is  
402 brought forward as follows:

403           49-15-17. (1) (a) All monies received or obtained by the  
404 department under the provisions of this chapter shall be paid over  
405 by the department to the State Treasurer and shall be deposited  
406 into the fund known as the "Seafood Fund." All revenues collected  
407 through the department, to include, but not limited to, commercial  
408 saltwater licenses and taxes, permits, fines and penalties, and  
409 confiscated catches, shall be deposited into the department  
410 operating account (Seafood Fund) and expended for the operation of  
411 the department, as authorized by the Legislature.

412           (b) There is established a special account to be known  
413 as the "Artificial Reef Program Account" within the Seafood Fund.  
414 Any funds received from any public or private source for the  
415 purpose of promoting, constructing, monitoring or maintaining



416 artificial reefs in the marine waters of the state or in federal  
417 waters adjacent to the marine waters of the state shall be  
418 credited to the account. Any unexpended funds remaining in the  
419 account at the end of the fiscal year shall not lapse into the  
420 Seafood Fund, but shall remain in the account. The department may  
421 expend any funds in the account, subject to appropriation by the  
422 Legislature, to accomplish the purpose of the account.

423 (c) There is established a special account to be known  
424 as the "Coastal Preserve Account" within the Seafood Fund. Any  
425 funds received from any public or private source for the purpose  
426 of management, improvement and acquisition of coastal preserves in  
427 the state and money required to be deposited pursuant to Sections  
428 27-19-56.10 and 27-19-56.27, shall be credited to the account.  
429 Any unexpended funds remaining in the account at the end of the  
430 fiscal year shall not lapse into the Seafood Fund, but shall  
431 remain in the account. The department may expend any funds in the  
432 account, subject to appropriation by the Legislature, for the  
433 management, improvement and acquisition of coastal preserves.

434 (d) There is established a special account to be known  
435 as the "Mississippi Seafood Marketing Program Account" within the  
436 Seafood Fund. Monies required to be deposited into the account  
437 under Section 27-19-56.27 and any funds received from any public  
438 or private source for the purpose of promoting the Mississippi  
439 seafood industry must be credited to the account. Any unexpended  
440 funds remaining in the account at the end of the fiscal year do



not lapse into the Seafood Fund, but remain in the account. The department may expend any funds in the account, subject to appropriation by the Legislature, to accomplish the purposes of this account, including, but not limited to, providing funds for cobia stock enhancement programs.

(e) There is established a special account to be known as the "Oyster Production Preserve Account" within the Seafood Fund. Monies required to be deposited from oyster leasing and licensing payments under Section 49-15-27, sack fees, and any funds received from any public or private source for the purpose of oyster production and propagation in this state, which includes plantings of oysters and cultch materials, shall be credited to the account. Any unexpended funds remaining in the account at the end of the fiscal year shall not lapse into the Seafood Fund, but shall remain in the account. The department may expend any funds in the account, subject to specific appropriation by the Legislature, for the management, improvement and acquisition of permittable property for oyster production and propagation in the state, which includes plantings of oysters and cultch materials. The Department of Marine Resources shall develop an annual report to the Legislature which describes the annual expenditures from this fund for the purpose of furthering oyster production and propagation in this state to be included in the department's annual budget request to the Legislative Budget Office and to be



transmitted to the Chairmen of the Senate and House Committees on  
Ports and Marine Resources.

(2) The fund shall be treated as a special trust fund and  
interest earned on the principal shall be credited to the fund.

(3) The department shall keep accurate reports of monies  
handled as a part of the permanent records of the department, and  
the State Treasurer shall furnish the department such forms as may  
be needed, and the department shall account for such forms in  
reports to the Treasurer.

**SECTION 9.** Section 49-15-18, Mississippi Code of 1972, is  
brought forward as follows:

49-15-18. The executive director of the department shall  
publish an abstract copy of this chapter and all subsequent  
amendments to this chapter and all rules and regulations  
promulgated by the department under this chapter. The department  
may distribute the publication to all persons requesting a copy  
and to each licensee at the time of issuance of the license. New  
regulations and amendments to this chapter may be supplied to each  
licensee within a reasonable time after their promulgation or  
passage. The department may charge a reasonable fee not to exceed  
actual cost for its publications.

**SECTION 10.** Section 49-15-23, Mississippi Code of 1972, is  
brought forward as follows:

49-15-23. (1) (a) The Mississippi Department of Marine  
Resources and the Commission on Wildlife, Fisheries and Parks are



hereby authorized and empowered to establish the dividing line between salt and fresh waters, and when such line has been established and notice thereof given as provided herein, it shall be recognized in the courts in connection with any proceedings under the game and fish laws of this state. Such line may be changed from time to time by the Mississippi Department of Marine Resources and the Commission on Wildlife, Fisheries and Parks on proper publication of such changes.

(b) In establishing the dividing line between salt and fresh waters, no part of the Bay of St. Louis shall be declared to be fresh water.

(c) In establishing the dividing line between salt and fresh waters, none of the waters within the municipal boundaries of the City of Pascagoula, as they existed on January 1, 1981, shall be declared to be fresh water.

(d) In establishing the dividing line between salt and fresh waters, no part of Bayou Cassotte and its tributaries, Bang Bayou and its tributaries, Bayou Cumbest and its tributaries, Crooked Bayou, Middle Bayou and that part of Heron Bayou with its tributaries which lie in the State of Mississippi shall be declared to be fresh water.

(2) Whenever any dividing line is established or changed as above provided, notice shall be given to the public by publication for three (3) weeks in a newspaper published and having general circulation in the county or counties affected thereby, and a



description of the dividing line shall be filed in the office of the chancery clerk of such counties or county.

**SECTION 11.** Section 49-15-27, Mississippi Code of 1972, is brought forward as follows:

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

(1) All areas within the department's jurisdiction, not designated state-owned reefs by this chapter, including natural reefs and all areas not within the boundaries of riparian property owners may be leased by the department.

(2) All individual lessees shall be residents of the State of Mississippi, or if a firm or corporation, such firm or corporation shall be organized under the laws of the State of Mississippi and owned by a resident of the State of Mississippi.

(3) No individual, corporation, partnership or association may lease less than one (1) acre nor more than two thousand five hundred (2,500) acres total; however, in the case of an individual there shall be counted towards such limitation any lands leased by a corporation, partnership or association in which such individual owns ten percent (10%) or less interest and, in the case of a corporation, partnership or association, there shall be counted toward such limitation any lands leased by an individual stockholder, partner or associate thereof who owns ten percent



539 (10%) or less interest in such corporation, partnership or  
540 association.

541 (4) Individuals, firms or corporations desiring to lease  
542 bottoms shall make application to the department in writing,  
543 describing the area to be leased. Applications must include a  
544 plat showing the proposed lease area and description of cultch  
545 material type and amount to be deployed on the leased area.

546 (5) (a) Any person who qualifies and who desires to lease a  
547 part of the bottom or bed of any of the waters of this state as  
548 provided in this section shall present to the department a written  
549 application, and pay an application fee in the amount of Fifty  
550 Dollars (\$50.00). This application shall contain the name and  
551 address of the applicant and a reasonably definite description of  
552 the location and amount of land covered by water desired by the  
553 applicant. The department shall establish a system to determine  
554 qualifications of applicants. The department shall prioritize  
555 applications based on the following criteria, each of which shall  
556 be weighted equally:

557 (i) Experience in oyster reef development;

558 (ii) Experience in oyster cultivation and  
559 harvesting;

560 (iii) Whether lease applicant is registered with  
561 the U.S. Food & Drug Administration Interstate Certified Shellfish  
562 Shippers List for Mississippi, and the length of time the  
563 applicant has been registered;



(iv) Amount of acreage to be leased; and  
(v) Evidence of applicant's financial ability to perform cultivation and propagation requirements.

The department shall then order an examination to determine whether the water bottoms applied for are leasable.

(b) If the applicant is found to be qualified and the area is found to be leasable, the department shall determine the acreage upon which the rent shall be fixed and enter into a lease with the applicant, who shall pay the prorated annual rent in advance for the remainder of the calendar year. If the applicant is not eligible for a lease, the department shall issue a written notice declining the application with specific reasons for same.

(c) The department has the authority to lease an area to an applicant who has no experience in oyster cultivation as long as the applicant can demonstrate their financial stability and the area applied for has not been requested by another applicant with demonstrated experience.

(d) The department has the authority to reconfigure the lease areas from that requested by the applicant in the manner that promotes maximum utilization of the state's resources. In the event the area requested by the applicant has to be reconfigured, the applicant has the right to refuse the reconfigured area and withdraw their application and receive a refund of their application fee.





588           (e) The department shall require that the bottoms of  
589 water areas to be leased be as definable as possible, taking into  
590 consideration such factors as the shape of the body of water,  
591 permitted areas, and the condition of the bottom as to hardness or  
592 softness which would render it desirable or undesirable for the  
593 purpose of oyster cultivation.

594           (f) A lease applicant may withdraw a lease application  
595 and receive a full refund from the department of all application  
596 fees, by submitting a written request for withdrawal to the  
597 department within ninety (90) days after the department received  
598 the application.

599           (6) Such leases shall be for an initial term of fifteen (15)  
600 years, with the lessee having the right of first renewal of the  
601 lease for an additional fifteen (15) years, and continue to renew  
602 at fifteen-year intervals, at the same ground rental rate so long  
603 as lessee actively cultivates and gathers oysters, and complies  
604 with the provisions of this chapter. No lease may be transferred  
605 without approval by the department of the transfer.

606           (7) The terms of every lease issued hereunder shall ensure  
607 the maximum cultivation and propagation of oysters. Throughout  
608 the term of every lease issued hereunder, each lessee shall add  
609 cultch and make other necessary efforts to ensure the maximum  
610 cultivation and propagation of oysters. The department shall  
611 promulgate regulations to set forth guidelines for lessees to  
612 follow to ensure the maximum cultivation and propagation of



613 oysters under the lease. The lessee shall submit a written report  
614 with supporting documentation to the department of efforts to  
615 cultivate and propagate oysters for the previous year. If the  
616 department finds a lessee is not making efforts to cultivate and  
617 propagate oysters, and the lessee fails to take remedial steps to  
618 address same, such lease shall be subject to termination as  
619 provided for hereunder.

620 (8) The department shall fix a ground rental rate at Three  
621 Dollars (\$3.00) per acre per year. The annual rental payments  
622 shall be due by December 31 for the next calendar year.

623 (9) Any lessee who pays the rent on or after the first day  
624 of January shall pay the rent due plus an additional ten percent  
625 (10%) penalty. The failure of the lessee to pay the rent  
626 punctually on or before the first of each March, ipso facto and  
627 without demand or putting in default, terminates and cancels the  
628 lease and forfeits to the department all the works, improvements,  
629 betterments, and oysters on the leased water bottom. The  
630 department may at once enter on the water bottom and take  
631 possession thereof. Such water bottom shall then be open for  
632 lease in accordance with subsections (5) through (8) of this  
633 section. Ten (10) days thereafter the department shall enter the  
634 termination, cancellation, and forfeiture on its books and give  
635 public notice thereof by publication in one (1) local paper in the  
636 county where the formerly leased water bottoms are located. On or  
637 before the first day of each February, the department shall issue



638 a written notice of delinquency by certified mail to each lessee  
639 who has not yet paid the rent. The department shall also publish  
640 notice of such delinquency on its website.

641 (10) The department shall keep an accurate chart of the  
642 areas within its jurisdiction and shall mark on such chart those  
643 areas which are under lease. All leases shall be marked by  
644 appropriate poles, stakes or buoys of such material as will not  
645 injure watercraft, at the expense of the leaseholder. The  
646 department shall keep an accurate book, designated "Mississippi  
647 Oyster Farms" which shall contain copies of all leases. The  
648 department shall maintain a map of designated state-owned, leased  
649 areas, and areas available for lease on the department's website.  
650 If any lease be cancelled or expire, such fact shall be noted on  
651 the face of such lease. Lessees shall be "oyster farmers" for the  
652 purposes of any grants, aid, subsidies or other assistance from  
653 the federal government or other governmental or private agencies.

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

658 (12) All leases made by the department under the authority  
659 of this section shall be subject to the paramount right of the  
660 state and any of its political subdivisions authorized by law, to  
661 promote and develop ports, harbors, channels, industrial or  
662 recreational projects, and all such leases shall contain a



663 provision that in the event such authorized public body shall  
664 require the area so leased or any part thereof for such public  
665 purposes, that the lease shall be terminated on reasonable notice  
666 fixed by the department in such lease. On the termination of any  
667 lease, the lessees shall have the right to remove any oysters  
668 within the leased area within such time as may be fixed by the  
669 department and in accordance with such reasonable rules and  
670 regulations as the department may adopt.

671 Any person convicted of taking oysters from leased land or  
672 from waters that are not of a safe sanitary quality without a  
673 permit as provided in Section 49-15-37 shall, on the first  
674 offense, forfeit all equipment used, exclusive of any boat or  
675 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)  
676 or sentenced not to exceed one (1) year in the county jail, or  
677 both. Subsequent convictions shall be punishable by forfeiture of  
678 all equipment, including any boat or boats; and a fine not to  
679 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)  
680 years in prison, or both such fine and imprisonment.

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



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

(13) A lessee has the exclusive use of the water bottoms leased and all oysters and cultch grown or placed thereon. However, this exclusive right is subordinate to the rights and responsibilities of the state, any political subdivision of the state, the United States, or any agency or agent thereof, to take action in furtherance of coastal protection, conservation or restoration.

(14) In order to protect the health and safety of the residents of the State of Mississippi, the terms and conditions relating to the leasing of bottoms provided in this section shall be fully applicable to any lease executed by the Mississippi Department of Marine Resources prior to April 17, 2023, and the department shall revise any lease issued prior to April 17, 2023, as necessary in order to comply with the provisions of this section.

**SECTION 12.** Section 49-15-29, Mississippi Code of 1972, is brought forward as follows:

49-15-29. (1) The department shall assess and collect license fees and taxes as authorized under this chapter.

(2) All commercial licenses provided for under this chapter that relate to seafood shall be purchased from May 1 through April 30 at the fees provided in this chapter. The licenses shall expire on April 30 following the date of issuance.



713           (3) When an application for an original or renewal license  
714 of any kind authorized by this chapter is received by the  
715 department, the department shall determine whether the vessel or  
716 related equipment subject to that license is owned and operated in  
717 compliance with applicable federal and state laws. If the  
718 department determines that a vessel or its owner is not in  
719 compliance with applicable federal and state laws, then no license  
720 shall be issued or renewed for the operation of that vessel for a  
721 period of one (1) year. All licenses shall be made available for  
722 purchase at any building which is regularly operated by the  
723 department on the Mississippi Gulf Coast.

724           (4) The department may authorize any person, other than a  
725 salaried employee of the state to issue any license under this  
726 chapter which the department deems appropriate. The authorized  
727 person may collect and retain for issuance of the license the sum  
728 of One Dollar (\$1.00) in addition to the license fee provided in  
729 this chapter. The department shall establish the qualifications  
730 of persons authorized to issue licenses under this section and  
731 shall also establish the procedure for the issuance of that  
732 license by the authorized person and the procedure for collection  
733 of license fees by and from the authorized person.

734           (5) The department may design, establish, and administer a  
735 program to provide for the purchase, by electronic means, of any  
736 license, permit, registration or reservation issued by the  
737 department. Any actual costs associated to provide these



documents electronically may be added to the cost of the electronic program.

**SECTION 13.** Section 49-15-30, Mississippi Code of 1972, is brought forward as follows:

49-15-30. (1) The department may promulgate rules and regulations for nonresident permits in order to promote reciprocal agreements with other states.

(2) Except as otherwise provided in Section 49-15-46, the department shall provide that residents of other states bordering on the Gulf of Mexico who are applicants for a commercial fishing license of any type as provided for in this chapter shall pay the same fee or fees that a resident of this state pays in this state for that license if the respective applicant's domicile state does not charge a greater fee or fees for a Mississippi resident than for a resident of any other state to engage in a like activity in the other state. If the applicant's domicile state does charge a greater fee or fees for residents of Mississippi than for a resident of the applicant's domicile state, then that applicant shall pay the same fee or fees that the applicant's domicile state charges residents of Mississippi.

(3) The department shall require a nonresident to purchase the same type and number of licenses and pay the same fees that are required of Mississippi residents to engage in like activity in the nonresident's state.



762           (4)   (a)   If an applicant applies for a nonresident  
763 commercial fishing license to engage in a certain activity and the  
764 applicant's state does not issue a nonresident commercial fishing  
765 license for that activity, then the department shall not issue  
766 such license to the applicant.

767           (b)   If the applicant's domicile state has additional  
768 mandatory licensing requirements, the applicant must meet those  
769 requirements before receiving a nonresident commercial fishing  
770 license.

771           (5)   Any nonresident who engages in the commercial taking of  
772 seafood within the territorial waters of Mississippi without  
773 having the required nonresident commercial license is guilty of a  
774 misdemeanor and shall be fined Five Thousand Dollars (\$5,000.00)  
775 and shall forfeit any equipment, gear or nets used in the offense.

776           **SECTION 14.** Section 49-15-31, Mississippi Code of 1972, is  
777 brought forward as follows:

778           49-15-31. (1) The department may construct, maintain and  
779 operate all patrol stations, camps and related facilities as may  
780 be deemed necessary by the department.

781           (2)   If a regulatory agency of a foreign state establishes a  
782 station or checkpoint through which Mississippi residents must  
783 pass for license, permit or catch inspection, or otherwise, the  
784 department shall establish similar stations or checkpoints through  
785 which residents of the foreign states shall be required to pass.





786           **SECTION 15.** Section 49-15-34, Mississippi Code of 1972, is  
787 brought forward as follows:

788           49-15-34. (1) The department shall require all boats used  
789 under regulation of this chapter which are also used in waters of  
790 other states and required by those states to pay licenses or fees  
791 for the same purposes as licenses and fees are required under this  
792 chapter to purchase a license which reflects that the licensed  
793 boats are used inside and outside the territorial waters of  
794 Mississippi. Upon the issuance of that license, the licensed  
795 boat, if used exclusively for commercial fishing or charter boats  
796 which have been licensed and authorized by the United States Coast  
797 Guard under 46 CFR Sections 24-26 and 46 CFR Sections 175-187,  
798 shall be deemed to be in the business of interstate  
799 transportation, but this shall in no way affect the collection of  
800 other licenses and fees by the department which would otherwise be  
801 due under this chapter. The department shall assess and collect  
802 an annual license fee of Twenty Dollars (\$20.00) on each boat  
803 engaged in operations under this subsection.

804           (2) Notwithstanding the provisions of this chapter, the  
805 department shall establish a transport permit to land seafood in  
806 this state which is legally taken outside of the Mississippi  
807 territorial waters without obtaining a license under this chapter.  
808 The department by regulation shall require the registration of  
809 those landings. The department may establish a permit fee in an  
810 amount not to exceed the amount of the license fee established in



811 Section 49-15-28(1). This subsection shall not be construed to  
812 supersede Section 49-15-71.

813 **SECTION 16.** Section 49-15-35, Mississippi Code of 1972, is  
814 brought forward as follows:

815 49-15-35. Upon the request of the boards of supervisors of  
816 the respective coastal counties, the department may adopt  
817 ordinances prohibiting the taking and catching of menhaden within  
818 certain limits of the coast line of the county so requesting, but  
819 the department shall not fix such limits except upon request of  
820 the board of supervisors, and such limit shall not exceed two (2)  
821 miles from the shore line, or two (2) miles from the corporate  
822 limit boundaries of any municipality bordering on the Mississippi  
823 Sound.

824 **SECTION 17.** Section 49-15-36, Mississippi Code of 1972, is  
825 brought forward as follows:

826 49-15-36. (1) The Department of Marine Resources shall have  
827 full jurisdiction and control of all designated state-owned reefs  
828 and oyster bottoms of the State of Mississippi. In no event shall  
829 the department designate more than twenty percent (20%) of the  
830 permitted areas available as state-owned reefs.

831 (2) State-owned reefs may be opened for harvest of oysters  
832 during the season on a rotating basis. If the department  
833 determines that a particular reef has been overharvested or that a  
834 high percentage of sublegal size oysters exist on a particular  
835 reef and that harvest could damage future oyster crops, the



836 department may close designated reef areas and keep them closed  
837 during the season.

838 (3) The department shall promulgate regulations regarding  
839 the closing of oyster reefs to protect the public health. When  
840 that testing indicates the oysters on the closed reef are suitable  
841 for consumption, the reef shall be opened for the taking of  
842 oysters as soon as notice of that opening may be made to  
843 interested parties. The authority to open or close oyster reefs  
844 under this chapter shall be solely within the discretion of the  
845 department. The Gulf Coast Research Laboratory or other certified  
846 laboratory shall cooperate with the department and shall conduct  
847 necessary tests to determine the condition of oyster reefs at the  
848 request of the department. The department may limit the sale of  
849 oysters for human consumption.

850 (4) (a) The department may issue special permits for the  
851 purpose of catching oysters outside the open season or in areas  
852 not normally open to harvest to those nonprofit organizations that  
853 are tax exempt under Section 501(c) of the United States Internal  
854 Revenue Code and which have on file with the Department of Revenue  
855 a tax exemption letter issued by the United States Internal  
856 Revenue Service.

857 (b) The department shall promulgate rules and  
858 regulations governing the taking of oysters by the nonprofit  
859 organization and shall issue such regulations to all organizations  
860 upon request and at the issuance of the special permit.



861           (5) The department shall establish a reasonable period of  
862 time for depuration of oysters replanted from restricted waters.  
863 That period of time shall be consistent with the maintenance of  
864 the public health and may vary from time to time and from one reef  
865 to another in accordance with environmental conditions.

866           **SECTION 18.** Section 49-15-37, Mississippi Code of 1972, is  
867 brought forward as follows:

868           49-15-37. The department may employ boats, crews and  
869 laborers to cultivate the state-owned reefs of the state, and  
870 dredge the oysters in the Mississippi Sound from places where they  
871 are too thick, and spread them on reefs where they are too thin,  
872 and carry shells from the factories and spread them in places  
873 where the oyster beds can be improved and enlarged. The  
874 department may open state-owned reefs to the public for harvest.  
875 The department may purchase other materials as may be equally  
876 suitable for the propagation of oysters. The department in  
877 cultivating the reefs, transplanting and spreading oysters and  
878 shells and other suitable materials, may expend any funds  
879 available for that purpose, as provided by Section 49-15-17(1)(e).  
880 In taking seed oysters, care shall be used to not injure or  
881 destroy the merchantable oysters on the reefs from which they are  
882 taken. The seed oysters shall be tonged from the "conner" or seed  
883 reefs, unless it is practicable and safe to dredge those oysters.  
884 The department may establish new bedding grounds at those places  
885 within the boundaries of the state as it may determine, on advice



886 of the director, or on advice of technical governmental experts,  
887 or competent aquatic biologists. On existing state-owned reefs in  
888 which oysters exist and in waters not of a safe sanitary quality  
889 as determined by the department, the department shall prohibit any  
890 person, firm or corporation from taking oysters from those areas.  
891 The department shall from time to time remove the oysters from the  
892 areas and relay or replant them in an approved area for a period  
893 of time under Section 49-15-36 before they may be harvested. Any  
894 funds received from the sale of the oysters shall be used in a  
895 like manner as those funds received under Section 49-15-17(1)(e).

896 The department may issue permits to persons to remove oysters  
897 by dredging or otherwise from water bottoms which are not of a  
898 safe sanitary quality for oysters for human consumption. These  
899 areas may be designated as seed grounds, and permits to persons  
900 shall be issued only for the purpose of transplanting oysters to  
901 privately leased Mississippi territorial waters. The department  
902 may permit the transplanting of these seed oysters by a duly  
903 authorized public agency.

904 The department may, upon determining the water bottom from  
905 which oysters are to be removed is not of a safe, sanitary quality  
906 for oyster production for human consumption and has been unsafe  
907 for a period of at least one (1) year immediately preceding  
908 certification, and upon complying with the following requirements,  
909 permit the dredging of oysters from restricted public areas and



910 relaying the oysters to private leased grounds in the State of  
911 Mississippi:

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

914 (b) Permittee must be bonded in compliance with the  
915 permit system established by the department;

916 (c) Permittee must fulfill all permit requirements as  
917 established by the department;

918 (d) Permittee shall not move oysters from one  
919 restricted area to another restricted area;

920 (e) Permittee shall move oysters only to an area leased  
921 by the department; and

922 (f) Permittee shall not move oysters from the  
923 restricted area without the presence of an employee of the  
924 department at all times, from the dredging of the oysters from the  
925 restricted areas to their deposit on private leased grounds or to  
926 an onshore, molluscan depuration facility.

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

932 Any person obtaining a permit to remove oysters from seed  
933 grounds shall post a penal bond of One Hundred Dollars (\$100.00)  
934 per leased acre with the department to be forfeited upon any



violation of this section. The bond may be approved by the director of the department if the director finds the bond to be secured by sufficient property or sureties.

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

**SECTION 19.** Section 49-15-38, Mississippi Code of 1972, is brought forward as follows:

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



960           (b) The department may authorize the culling of oysters  
961 of a lesser measure. That authorization shall be in response to  
962 special circumstances or extreme natural conditions affecting the  
963 habitat, including, but not limited to, flooding. The department  
964 may establish checkpoints in any area within its jurisdiction to  
965 conduct inspections, collect fees and issue tags in the  
966 enforcement of this chapter and regulations adopted by the  
967 commission.

968           (2) The department shall acquire and replant shells, seed  
969 oysters and other materials, when funding is available, for the  
970 purpose of growing oysters.

971           (3) Any person, firm or corporation failing or refusing to  
972 pay the shell retention fee required under Section 49-15-46 to the  
973 department when called for by the department, is guilty of a  
974 misdemeanor and, upon conviction, shall be fined not more than One  
975 Hundred Dollars (\$100.00) for each sack of shells for which they  
976 fail or refuse to tender the shell retention fee. In addition to  
977 the fine, the violator shall pay the reasonable value of the  
978 oyster shells and shall be ineligible to be licensed for any  
979 activity set forth in this chapter for a period of two (2) years  
980 from the date of conviction.

981           (4) The planting of oyster shells as provided under this  
982 chapter shall be under the direction and supervision of the  
983 executive director of the department.





984           **SECTION 20.** Section 49-15-40, Mississippi Code of 1972, is  
985 brought forward as follows:

986           49-15-40. The department may support projects in the nature  
987 of digging or constructing canals or ditches to bring additional  
988 water to existing oyster reefs or beds in need of that water, or  
989 for the purpose of creating or establishing new oyster reefs or  
990 beds. The department may also enter into interstate or intrastate  
991 efforts to support these projects and may seek and utilize aid  
992 from all federal, state and local sources in this endeavor.

993           **SECTION 21.** Section 49-15-41, Mississippi Code of 1972, is  
994 brought forward as follows:

995           49-15-41. It shall be unlawful for any person to fish, catch  
996 or take oysters from the waters of Mississippi during the hours  
997 between sunset and sunrise of each day.

998           Violation of this section shall be punishable by a fine not  
999 to exceed Ten Thousand Dollars (\$10,000.00) or imprisonment not to  
1000 exceed one (1) year in the county jail, or both.

1001           **SECTION 22.** Section 49-15-42, Mississippi Code of 1972, is  
1002 brought forward as follows:

1003           49-15-42. (1) All oysters caught in Mississippi territorial  
1004 waters shall be tagged and unloaded in Mississippi. Before  
1005 tagging and unloading, the oysters must be sacked or packaged in  
1006 containers or by other methods approved by the department.  
1007 However, a person is exempt from the unloading requirement if he  
1008 is transporting the oysters to a state that has a reciprocity



1009 agreement with Mississippi exempting Mississippi residents from  
1010 the unloading requirements of that state.

1011 (2) The driver of any vehicle used in the transporting of  
1012 oysters in the shell from outside the territorial limits of the  
1013 State of Mississippi, whether the vehicle is a boat or motor  
1014 vehicle, shall possess an invoice, statement or other bill of  
1015 lading which bears the name of the person, firm or corporation  
1016 from whom the oysters were purchased, the name of the purchaser  
1017 and the number of barrels or bushels of oysters which the vehicle  
1018 or vessel contains.

1019 **SECTION 23.** Section 49-15-43, Mississippi Code of 1972, is  
1020 brought forward as follows:

1021 49-15-43. Oysters for sale either wholesale or retail may be  
1022 packaged in glass jars covered with a screw-type top or lid of the  
1023 type customarily and heretofore used in the seafood industry in  
1024 the State of Mississippi, but this section shall automatically be  
1025 repealed if and when such type packaging becomes prohibited by any  
1026 agency of the United States Government for shipment in interstate  
1027 commerce.

1028 **SECTION 24.** Section 49-15-44, Mississippi Code of 1972, is  
1029 brought forward as follows:

1030 49-15-44. The department shall prohibit the sale or  
1031 possession of illegal oysters. It is unlawful for any person,  
1032 firm or corporation to possess or to engage in the sale of oysters  
1033 not certified in this state, or to shuck or repack for sale any



1034 illegal oysters, unless that person, firm or corporation possesses  
1035 a bill of sale, valid permit or affidavit of another state,  
1036 properly dated, evidencing the legality of the sale or possession  
1037 of the oysters in that state. Any person in possession of illegal  
1038 oysters shall be subject to civil or criminal prosecution and  
1039 shall be fined not less than One Hundred Dollars (\$100.00) or  
1040 punished as provided in Section 49-15-63.

1041       **SECTION 25.** Section 49-15-45, Mississippi Code of 1972, is  
1042 brought forward as follows:

1043       49-15-45. Any municipality bounded by the Gulf of Mexico or  
1044 Mississippi Sound, which has wholly or partly within its corporate  
1045 limits, or in the waters adjacent thereto, a public oyster reef  
1046 reserved for catching oysters exclusively by use of hand tongs, is  
1047 hereby authorized to aid and cooperate with the department in  
1048 enforcing all laws regulating the catching, taking and  
1049 transporting of oysters, including all of the provisions of this  
1050 chapter, and all regulations and ordinances of such department  
1051 relating to such oyster reefs.

1052       **SECTION 26.** Section 49-15-46, Mississippi Code of 1972, is  
1053 brought forward as follows:

1054       49-15-46. (1) Each vessel used to catch, take, carry or  
1055 transport oysters from the reefs of the State of Mississippi, or  
1056 engaged in transporting any oysters in any of the waters within  
1057 the territorial jurisdiction of the State of Mississippi, for



1058 commercial use, shall annually, before beginning operations, be  
1059 licensed by the department and pay the following license fee:

1060 (a) Fifty Dollars (\$50.00) on each in-state vessel or  
1061 boat used for tonging oysters or gathering oysters by hand;

1062 (b) One Hundred Dollars (\$100.00) on each in-state  
1063 vessel or boat used for dredging oysters;

1064 (c) One Hundred Dollars (\$100.00) on each out-of-state  
1065 vessel or boat used for tonging oysters or gathering oysters by  
1066 hand, or the license fee charged by the out-of-state licensing  
1067 entity to Mississippi vessels or boats for tonging or gathering  
1068 oysters, whichever is greater; or

1069 (d) Two Hundred Dollars (\$200.00) on each out-of-state  
1070 vessel or boat used for dredging oysters, or the license fee  
1071 charged by the out-of-state licensing entity to Mississippi  
1072 vessels or boats for dredging oysters, whichever is greater.

1073 (2) Each molluscan shellfish aquaculture operation shall  
1074 annually, before beginning operations, be licensed by the  
1075 department and pay the following license fee:

1076 (a) Fifty Dollars (\$50.00) on each resident molluscan  
1077 shellfish aquaculture operation; or

1078 (b) One Hundred Dollars (\$100.00) on each nonresident  
1079 molluscan shellfish aquaculture operation.

1080 (3) The department may authorize the transfer of a vessel  
1081 license to a different vessel provided that the owner of both  
1082 vessels is the same titled owner.



1083           (4) All oysters harvested in the State of Mississippi shall  
1084 be tagged. Tags may be issued by the department or printed by the  
1085 catcher in compliance with procedures and regulations adopted by  
1086 the department. Such tags shall bear the catcher's name, the date  
1087 and origin of the catch, the shell stock dealer's name and permit  
1088 number. The department shall number all tags issued and shall  
1089 maintain a record of those tags. The department, in its  
1090 discretion, may adopt any regulations regarding the tagging of  
1091 oysters and other shellfish.

1092           (5) Each person catching or taking oysters from the waters  
1093 of the State of Mississippi for personal use shall obtain a permit  
1094 from the department and pay an annual recreational oyster permit  
1095 fee of Ten Dollars (\$10.00). Oysters caught under a recreational  
1096 permit shall not be offered for sale. The limits on the allowable  
1097 catch of oysters for recreational purposes shall be three (3)  
1098 sacks per week. The department shall issue tags of a  
1099 distinguishing color to designate recreationally harvested  
1100 oysters, which shall be tagged on the same day of harvest in the  
1101 manner prescribed in subsection (4) of this section for  
1102 commercially harvested oysters or by regulation of the department.

1103           (6) The department shall assess and collect a shell  
1104 retention fee for the shells taken from waters within the  
1105 territorial jurisdiction of the State of Mississippi as follows:

1106                   (a) Commercial and recreational harvesters - Fifteen  
1107 Cents (15¢) per sack paid to the department on the day of harvest;



1108           (b) Initial oyster processor, dealer or factory first  
1109 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the  
1110 department no later than the tenth day of the month following the  
1111 purchase, on forms submitted by the department;

1112           (c) Commercial harvesters transporting their catch out  
1113 of the state - Fifty Cents (50¢) per sack paid to the department  
1114 on the day of harvest, in addition to the fees paid in paragraph  
1115 (a) of this subsection; and

1116           (d) Commercial harvesters not selling their oysters to  
1117 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the  
1118 department on the day of harvest, in addition to fees paid in  
1119 paragraph (a) of this subsection.

1120           Funds received from the shell retention fee shall be paid  
1121 into the Oyster Production Preserve Account within the Seafood  
1122 Fund pursuant to Section 49-15-17(1)(e) for use by the department  
1123 to further oyster production in this state, which includes  
1124 plantings of oysters and/or cultch materials.

1125           (7) During open seasons, oysters may be taken only by hands,  
1126 tongs and dredges.

1127           (8) Vessels licensed under Section 49-15-46 may keep in  
1128 whole, for personal consumption up to thirty-six (36) blue crabs  
1129 (portunidae family), per day. This exemption for personal  
1130 consumption does not apply to fish or crabs that are otherwise  
1131 illegal to possess or catch.



1132           **SECTION 27.** Section 49-15-47, Mississippi Code of 1972, is  
1133 brought forward as follows:

1134           49-15-47. (1) It is unlawful for any person, firm or  
1135 corporation to discharge solid or human waste from any vessel  
1136 while the vessel is used to harvest or transport oysters in the  
1137 marine waters of the state.

1138           (2) Each vessel used to harvest or transport oysters is  
1139 required to have an approved functional marine sanitation device  
1140 (MSD), portable toilet or other sewage disposal receptacle  
1141 designed to contain human sewage. The approved marine sanitation  
1142 device (MSD), portable toilet or other sewage disposal receptacle  
1143 shall:

1144                   (a) Be used only for the purpose intended.

1145                   (b) Be secured while on board and located to prevent  
1146 contamination of shell stock by spillage or leakage.

1147                   (c) Be emptied only into an approved sewage disposal  
1148 system.

1149                   (d) Be cleaned before being returned to the vessel.

1150                   (e) Not be cleaned with equipment used for washing or  
1151 processing food.

1152           (3) The use of other receptacles for sewage disposal may be  
1153 approved by the department if the receptacles are:

1154                   (a) Constructed of impervious, cleanable materials and  
1155 have tight-fitting lids; and

1156                   (b) Meet the requirements listed in subsection (2).



1157           (4) Any person, firm or corporation violating the provisions  
1158 of this chapter, shall, on conviction, be fined not less than Five  
1159 Thousand Dollars (\$5,000.00), and the license of the convicted  
1160 party shall be revoked for one (1) year. For conviction of a  
1161 second offense, the fine shall be not less than Ten Thousand  
1162 Dollars (\$10,000.00), and the license of the convicted party shall  
1163 be revoked for two (2) years. For a conviction of a third  
1164 offense, the fine shall be not less than One Hundred Thousand  
1165 Dollars (\$100,000.00), and the license of the convicted party  
1166 shall be permanently revoked.

1167           (5) Upon issuance of a citation for a violation of this  
1168 section, the vessel shall be removed from the oyster reef and any  
1169 oysters on board the vessel shall be confiscated and disposed of  
1170 by the department. The vessel shall not be permitted to harvest  
1171 from any state-owned or private reefs until the vessel is properly  
1172 equipped as determined by an inspection by the department.

1173           **SECTION 28.** Section 49-15-315, Mississippi Code of 1972, is  
1174 brought forward as follows:

1175           49-15-315. (1) It is unlawful for any person, firm or  
1176 corporation to engage in commercial harvesting of crabs, oysters,  
1177 shrimp, bait shrimp or saltwater fish in the marine waters north  
1178 of the CSX bridge in the three (3) coastal counties, except for  
1179 the following:

1180           (a) A person may take any euryhaline species of minnow;  
1181 and





1182           (b) A licensed commercial oyster fisherman may harvest  
1183 oysters from reefs approved by the commission.

1184           (2) The Gulf Coast Research Laboratory shall study all  
1185 estuaries and bays deemed to be nurseries. The Gulf Coast  
1186 Research Laboratory may recommend the establishment of nursery  
1187 grounds in the estuaries and bays if necessary to protect the  
1188 state's fishing resources.

1189           (3) The department shall set the limits on all catches for  
1190 noncommercial use.

1191           (4) A person, firm or corporation found guilty of violating  
1192 this section is guilty of a misdemeanor and shall be fined as  
1193 provided in Section 49-15-100(2), or imprisoned not more than  
1194 three (3) months or both; and in addition, the commission shall  
1195 seize and confiscate all commercial nets, trawls, traps, tongs and  
1196 boats used for such purpose and dispose of it at public sale and  
1197 shall deposit the proceeds to the credit of the Seafood Fund. If  
1198 the person in possession of or using the nets in the violation is  
1199 not the owner or licensee of the nets, the department shall notify  
1200 the owner or licensee of the nets. The nets shall be subject to  
1201 forfeiture unless the nets were stolen and prosecution for the  
1202 theft is initiated.

1203           **SECTION 29.** Section 51-11-105, Mississippi Code of 1972, is  
1204 brought forward as follows:

1205           51-11-105. The following provisions related to the Lower  
1206 Pearl River Restoration Project ("project") are contingent upon



1207 the development of an agreement, or an amendment to the existing  
1208 agreement, between the Mississippi Department of Environmental  
1209 Quality ("MDEQ"), the Department of Wildlife, Fisheries and Parks  
1210 ("DWFP") and the district, removing the district from the  
1211 agreement, and possibly adding a new cooperating partner or  
1212 partners and possibly removing the MDEQ and/or the DWFP from the  
1213 agreement.

1214 From and after July 1, 2018, the project, currently being  
1215 managed as a joint effort of the MDEQ, the DWFP, and the district,  
1216 shall continue as per existing agreements, which may be amended to  
1217 reflect the dissolution of the district and its removal from those  
1218 agreements. The obligations of the district under the current  
1219 agreements for the project may be assumed by the MDEQ, or other  
1220 entity, as the designated state entity for the continuing  
1221 obligation of maintenance of the water control structures as set  
1222 forth in the original agreements. The parties to the agreement  
1223 may identify necessary maintenance activities needed to preserve  
1224 the integrity of project structures and other ordinary maintenance  
1225 activities as the parties may agree need to be performed. Funding  
1226 to perform those maintenance activities shall come from the Lower  
1227 Pearl trust account currently on deposit with a depository or  
1228 depositories in the name of the Pearl River Basin Development  
1229 District, which funds are a special fund set aside solely for the  
1230 operation and maintenance of the project. From and after July 1,  
1231 2018, the parties to the agreement, may assume ownership, in



1232 trust, of those funds, and the funds shall be known as the "Lower  
1233 Pearl River Restoration Trust Fund." Monies from this fund shall  
1234 be a special fund set aside for the purpose(s) set forth in the  
1235 amended or reformed agreement between the parties and shall not  
1236 lapse into the State General Fund, and may not be expended for any  
1237 purpose other than operation and maintenance activities under the  
1238 purview of the project.

1239       **SECTION 30.** This act shall take effect and be in force from  
1240 and after July 1, 2025.

