

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.



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

511 (2) Whenever any dividing line is established or changed as
512 above provided, notice shall be given to the public by publication
513 for three (3) weeks in a newspaper published and having general
514 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.

