

By: Senator(s) Ladner

To: Ports and Marine
Resources

SENATE BILL NO. 2263

1 AN ACT TO BRING FORWARD SECTIONS 49-15-17, 49-15-27,
2 49-15-37, 49-15-38, 49-15-46 AND 49-15-47, MISSISSIPPI CODE OF
3 1972, RELATING TO THE APPROVAL OF OYSTER LEASES BY THE MISSISSIPPI
4 DEPARTMENT OF MARINE RESOURCES, FOR POSSIBLE AMENDMENT; AND FOR
5 RELATED PURPOSES.

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

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

9 49-15-17. (1) (a) All monies received or obtained by the
10 department under the provisions of this chapter shall be paid over
11 by the department to the State Treasurer and shall be deposited
12 into the fund known as the "Seafood Fund." All revenues collected
13 through the department, to include, but not limited to, commercial
14 saltwater licenses and taxes, permits, fines and penalties, and
15 confiscated catches, shall be deposited into the department
16 operating account (Seafood Fund) and expended for the operation of
17 the department, as authorized by the Legislature.

18 (b) There is established a special account to be known
19 as the "Artificial Reef Program Account" within the Seafood Fund.



20 Any funds received from any public or private source for the
21 purpose of promoting, constructing, monitoring or maintaining
22 artificial reefs in the marine waters of the state or in federal
23 waters adjacent to the marine waters of the state shall be
24 credited to the account. Any unexpended funds remaining in the
25 account at the end of the fiscal year shall not lapse into the
26 Seafood Fund, but shall remain in the account. The department may
27 expend any funds in the account, subject to appropriation by the
28 Legislature, to accomplish the purpose of the account.

29 (c) There is established a special account to be known
30 as the "Coastal Preserve Account" within the Seafood Fund. Any
31 funds received from any public or private source for the purpose
32 of management, improvement and acquisition of coastal preserves in
33 the state and money required to be deposited pursuant to Sections
34 27-19-56.10 and 27-19-56.27, shall be credited to the account.
35 Any unexpended funds remaining in the account at the end of the
36 fiscal year shall not lapse into the Seafood Fund, but shall
37 remain in the account. The department may expend any funds in the
38 account, subject to appropriation by the Legislature, for the
39 management, improvement and acquisition of coastal preserves.

40 (d) There is established a special account to be known
41 as the "Mississippi Seafood Marketing Program Account" within the
42 Seafood Fund. Monies required to be deposited into the account
43 under Section 27-19-56.27 and any funds received from any public
44 or private source for the purpose of promoting the Mississippi



seafood industry must be credited to the account. Any unexpended 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



70 annual budget request to the Legislative Budget Office and to be
71 transmitted to the Chairmen of the Senate and House Committees on
72 Ports and Marine Resources.

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

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

80 **SECTION 2.** Section 49-15-27, Mississippi Code of 1972, is
81 brought forward as follows:

82 49-15-27. The department is hereby granted full and complete
83 authority to lease the bottoms within its jurisdiction upon the
84 following terms and conditions:

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

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

93 (3) No individual, corporation, partnership or association
94 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 (10%) or less interest in such corporation, partnership or association.

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

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



(i) Experience in oyster reef development;

(ii) Experience in oyster cultivation and harvesting;

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

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

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

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



169 (7) The terms of every lease issued hereunder shall ensure
170 the maximum cultivation and propagation of oysters. Throughout
171 the term of every lease issued hereunder, each lessee shall add
172 cultch and make other necessary efforts to ensure the maximum
173 cultivation and propagation of oysters. The department shall
174 promulgate regulations to set forth guidelines for lessees to
175 follow to ensure the maximum cultivation and propagation of
176 oysters under the lease. The lessee shall submit a written report
177 with supporting documentation to the department of efforts to
178 cultivate and propagate oysters for the previous year. If the
179 department finds a lessee is not making efforts to cultivate and
180 propagate oysters, and the lessee fails to take remedial steps to
181 address same, such lease shall be subject to termination as
182 provided for hereunder.

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

186 (9) Any lessee who pays the rent on or after the first day
187 of January shall pay the rent due plus an additional ten percent
188 (10%) penalty. The failure of the lessee to pay the rent
189 punctually on or before the first of each March, ipso facto and
190 without demand or putting in default, terminates and cancels the
191 lease and forfeits to the department all the works, improvements,
192 betterments, and oysters on the leased water bottom. The
193 department may at once enter on the water bottom and take



194 possession thereof. Such water bottom shall then be open for
195 lease in accordance with subsections (5) through (8) of this
196 section. Ten (10) days thereafter the department shall enter the
197 termination, cancellation, and forfeiture on its books and give
198 public notice thereof by publication in one (1) local paper in the
199 county where the formerly leased water bottoms are located. On or
200 before the first day of each February, the department shall issue
201 a written notice of delinquency by certified mail to each lessee
202 who has not yet paid the rent. The department shall also publish
203 notice of such delinquency on its website.

204 (10) The department shall keep an accurate chart of the
205 areas within its jurisdiction and shall mark on such chart those
206 areas which are under lease. All leases shall be marked by
207 appropriate poles, stakes or buoys of such material as will not
208 injure watercraft, at the expense of the leaseholder. The
209 department shall keep an accurate book, designated "Mississippi
210 Oyster Farms" which shall contain copies of all leases. The
211 department shall maintain a map of designated state-owned, leased
212 areas, and areas available for lease on the department's website.
213 If any lease be cancelled or expire, such fact shall be noted on
214 the face of such lease. Lessees shall be "oyster farmers" for the
215 purposes of any grants, aid, subsidies or other assistance from
216 the federal government or other governmental or private agencies.

217 (11) All funds derived from leasing shall be paid into the
218 Seafood Fund under Section 49-15-17, for use by the department to



219 further oyster production in this state, which includes plantings
220 of oysters and cultch materials.

221 (12) All leases made by the department under the authority
222 of this section shall be subject to the paramount right of the
223 state and any of its political subdivisions authorized by law, to
224 promote and develop ports, harbors, channels, industrial or
225 recreational projects, and all such leases shall contain a
226 provision that in the event such authorized public body shall
227 require the area so leased or any part thereof for such public
228 purposes, that the lease shall be terminated on reasonable notice
229 fixed by the department in such lease. On the termination of any
230 lease, the lessees shall have the right to remove any oysters
231 within the leased area within such time as may be fixed by the
232 department and in accordance with such reasonable rules and
233 regulations as the department may adopt.

234 Any person convicted of taking oysters from leased land or
235 from waters that are not of a safe sanitary quality without a
236 permit as provided in Section 49-15-37 shall, on the first
237 offense, forfeit all equipment used, exclusive of any boat or
238 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
239 or sentenced not to exceed one (1) year in the county jail, or
240 both. Subsequent convictions shall be punishable by forfeiture of
241 all equipment, including any boat or boats; and a fine not to
242 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
243 years in prison, or both such fine and imprisonment.



244 The department is enjoined to cooperate with the Jackson
245 County Port Authority, the Harrison County Development Commission,
246 the municipal port commission and other port and harbor agencies,
247 so that oyster beds shall not be planted in close proximity to
248 navigable channels. The department or lessee shall have no right
249 of action as against any such public body for damages accruing to
250 any natural reef or leased reef by any necessary improvement of
251 such channel in the interest of shipping, commerce, navigation or
252 other purpose authorized by law.

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

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



268 **SECTION 3.** Section 49-15-37, Mississippi Code of 1972, is
269 brought forward as follows:

270 49-15-37. The department may employ boats, crews and
271 laborers to cultivate the state-owned reefs of the state, and
272 dredge the oysters in the Mississippi Sound from places where they
273 are too thick, and spread them on reefs where they are too thin,
274 and carry shells from the factories and spread them in places
275 where the oyster beds can be improved and enlarged. The
276 department may open state-owned reefs to the public for harvest.
277 The department may purchase other materials as may be equally
278 suitable for the propagation of oysters. The department in
279 cultivating the reefs, transplanting and spreading oysters and
280 shells and other suitable materials, may expend any funds
281 available for that purpose, as provided by Section 49-15-17(1)(e).
282 In taking seed oysters, care shall be used to not injure or
283 destroy the merchantable oysters on the reefs from which they are
284 taken. The seed oysters shall be tonged from the "conner" or seed
285 reefs, unless it is practicable and safe to dredge those oysters.
286 The department may establish new bedding grounds at those places
287 within the boundaries of the state as it may determine, on advice
288 of the director, or on advice of technical governmental experts,
289 or competent aquatic biologists. On existing state-owned reefs in
290 which oysters exist and in waters not of a safe sanitary quality
291 as determined by the department, the department shall prohibit any
292 person, firm or corporation from taking oysters from those areas.



293 The department shall from time to time remove the oysters from the
294 areas and relay or replant them in an approved area for a period
295 of time under Section 49-15-36 before they may be harvested. Any
296 funds received from the sale of the oysters shall be used in a
297 like manner as those funds received under Section 49-15-17(1)(e).

298 The department may issue permits to persons to remove oysters
299 by dredging or otherwise from water bottoms which are not of a
300 safe sanitary quality for oysters for human consumption. These
301 areas may be designated as seed grounds, and permits to persons
302 shall be issued only for the purpose of transplanting oysters to
303 privately leased Mississippi territorial waters. The department
304 may permit the transplanting of these seed oysters by a duly
305 authorized public agency.

306 The department may, upon determining the water bottom from
307 which oysters are to be removed is not of a safe, sanitary quality
308 for oyster production for human consumption and has been unsafe
309 for a period of at least one (1) year immediately preceding
310 certification, and upon complying with the following requirements,
311 permit the dredging of oysters from restricted public areas and
312 relaying the oysters to private leased grounds in the State of
313 Mississippi:

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

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



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

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

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

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

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

Any person obtaining a permit to remove oysters from seed grounds shall post a penal bond of One Hundred Dollars (\$100.00) 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 4. 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.

(b) The department may authorize the culling of oysters of a lesser measure. That authorization shall be in response to special circumstances or extreme natural conditions affecting the habitat, including, but not limited to, flooding. The department may establish checkpoints in any area within its jurisdiction to conduct inspections, collect fees and issue tags in the



enforcement of this chapter and regulations adopted by the
commission.

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

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

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

SECTION 5. Section 49-15-46, Mississippi Code of 1972, is
brought forward as follows:

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



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

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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



SECTION 6. Section 49-15-47, Mississippi Code of 1972, is brought forward as follows:

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

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

- (a) Be used only for the purpose intended.
- (b) Be secured while on board and located to prevent contamination of shell stock by spillage or leakage.
- (c) Be emptied only into an approved sewage disposal system.
- (d) Be cleaned before being returned to the vessel.
- (e) Not be cleaned with equipment used for washing or processing food.

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

- (a) Constructed of impervious, cleanable materials and have tight-fitting lids; and
- (b) Meet the requirements listed in subsection (2).



491 (4) Any person, firm or corporation violating the provisions
492 of this chapter, shall, on conviction, be fined not less than Five
493 Thousand Dollars (\$5,000.00), and the license of the convicted
494 party shall be revoked for one (1) year. For conviction of a
495 second offense, the fine shall be not less than Ten Thousand
496 Dollars (\$10,000.00), and the license of the convicted party shall
497 be revoked for two (2) years. For a conviction of a third
498 offense, the fine shall be not less than One Hundred Thousand
499 Dollars (\$100,000.00), and the license of the convicted party
500 shall be permanently revoked.

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

507 **SECTION 7.** This act shall take effect and be in force from
508 and after July 1, 2025.

