

By: Representative Ellington

To: Conservation and
Water ResourcesCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1304

1 AN ACT TO REVISE LAWS REGULATING THE HARVEST OF SEAFOOD; TO
2 AMEND SECTION 49-15-29, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
3 ALL COMMERCIAL SEAFOOD LICENSES SHALL EXPIRE ON THE SAME DATE; TO
4 AMEND SECTION 49-15-34, MISSISSIPPI CODE OF 1972, TO DELETE THE
5 REQUIREMENT THAT THE COMMISSION ON MARINE RESOURCES SHALL INSPECT
6 CERTAIN SEAFOOD LANDINGS; TO AMEND SECTION 49-15-38, MISSISSIPPI
7 CODE OF 1972, TO REVISE REQUIREMENTS FOR THE RETENTION OF OYSTER
8 SHELLS; TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972, TO
9 REVISE THE FEE(S) CHARGED FOR OYSTER SHELL RETENTION; TO AMEND
10 SECTION 49-15-64.5, MISSISSIPPI CODE OF 1972, TO CLARIFY WHAT
11 METHODS MAY BE USED IN THE TAKING OF SALTWATER SHRIMP; TO AMEND
12 SECTION 49-15-80, MISSISSIPPI CODE OF 1972, TO CLARIFY WHAT
13 METHODS MAY BE USED IN THE CATCHING, TAKING OR TRANSPORTING OF
14 CERTAIN FISH; TO REVISE THE LICENSE REQUIREMENTS AND FEES CHARGED
15 FOR CATCHING, TAKING OR TRANSPORTING FISH IN STATE WATERS; AND FOR
16 RELATED PURPOSES.

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

18 SECTION 1. Section 49-15-29, Mississippi Code of 1972, is
19 amended as follows:

20 49-15-29. (1) The commission shall assess and collect,
21 license fees and taxes as authorized under this chapter.

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

26 (3) When an application for an original or renewal license
27 of any kind authorized by this chapter is received by the
28 commission, the commission shall determine whether the vessel or
29 related equipment subject to that license is owned and operated in
30 compliance with applicable federal and state laws. If the
31 commission determines that a vessel or its owner is not in
32 compliance with applicable federal and state laws, then no license
33 shall be issued or renewed for the operation of that vessel for a
34 period of one (1) year. All licenses shall be made available for

purchase at any building which is regularly operated by the department or commission on the Mississippi Gulf Coast.

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

SECTION 2. Section 49-15-34, Mississippi Code of 1972, is amended as follows:

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

(2) Notwithstanding the provisions of this chapter, the commission shall establish a transport permit to land seafood in this state which is legally taken outside of the Mississippi territorial waters without obtaining a license under this chapter.

The commission by regulation shall require the registration * * * of those landings. The commission may establish a permit fee in an amount not to exceed the amount of the license fee established in Section 49-15-28(1). This subsection shall not be construed to

73 supersede Section 49-15-71.

74 SECTION 3. Section 49-15-38, Mississippi Code of 1972, is
75 amended as follows:

76 49-15-38. (1) (a) Unless otherwise permitted by the
77 commission, no oysters shall be taken from the reefs of this state
78 unless culled upon the natural reefs, and all oysters less than
79 three (3) inches from end to end, and all dead shells, shall be
80 replaced, scattered and broadcast immediately on the natural reefs
81 from which they are taken. It is unlawful for any captain or
82 person in charge of any vessel, or any canner, packer, commission
83 man, dealer or other person to purchase, sell or to have in that
84 person's possession or under that person's control any oysters off
85 the public reefs or private bedding grounds not culled according
86 to this section, or any oysters under the legal size. A ten
87 percent (10%) tolerance shall be allowed in relation to any
88 culling.

89 (b) The commission may authorize the culling of oysters
90 of a lesser measure. That authorization shall be in response to
91 special circumstances or extreme natural conditions affecting the
92 habitat, including, but not limited to, flooding. The department
93 may establish checkpoints in any area within its jurisdiction to
94 conduct inspections, collect fees and issue tags in the
95 enforcement of * * * this chapter and regulations adopted by the
96 commission.

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

100 (3) Any person, firm or corporation failing or refusing
101 to * * * pay the shell retention fee required under Section
102 49-15-46 to the department when called for by the department, is
103 guilty of a misdemeanor and, upon conviction, shall be fined not
104 more than One Hundred Dollars (\$100.00) for each barrel of shells
105 for which they fail or refuse * * * to tender the shell retention
106 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. Planting and replanting of oyster shells shall be coordinated by the Gulf Coast Research Laboratory. The governing authorities of each county and municipality bordering upon the Mississippi Sound may assist the commission and the Gulf Coast Research Laboratory in the planting and replanting of oyster shells. * * *

SECTION 4. Section 49-15-46, Mississippi Code of 1972, is amended as follows:

49-15-46. (1) Each in-state 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 commission and pay the following license fee:

(a) Fifty Dollars (\$50.00) on all vessels or boats utilized for tonging oysters or gathering oysters by hand; or

(b) One Hundred Dollars (\$100.00) on all vessels or boats utilized for dredging oysters.

(2) Each out-of-state 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, must annually, before beginning operations, be licensed by the commission and pay the following license fee:

(a) One Hundred Dollars (\$100.00) on all vessels or boats utilized for tonging oysters or gathering oysters by hand; or

(b) Two Hundred Dollars (\$200.00) on all vessels or

boats utilized for dredging oysters.

(3) All oysters harvested in the State of Mississippi shall be tagged. Tags shall be issued by the department and 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 commission, in its discretion, may adopt any regulations regarding the tagging of oysters and other shellfish.

(4) Each person catching or taking oysters from the waters of the State of Mississippi for personal use shall obtain a permit from the commission 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 (3) of this section for commercially harvested oysters or by regulation of the commission.

(5) The commission 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) Resident commercial harvesters - Fifteen Cents (15¢) per sack paid to the department on the day of harvest;

(b) Nonresident commercial harvesters - One Dollar (\$1.00) per sack paid to the department on the day of harvest;

(c) Recreational harvesters - Fifteen Cents (15¢) per sack paid to the department on the day of harvest;

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

Funds received from the shell retention fee shall be paid

175 into a special fund in the State Treasury to be appropriated by
176 the Legislature for use by the commission to further oyster
177 production in this state, which includes annual plantings of
178 oysters and/or cultch materials.

179 During open seasons, oysters may be taken only by hands,
180 tongs and dredges.

181 SECTION 5. Section 49-15-64.5, Mississippi Code of 1972, is
182 amended as follows:

183 49-15-64.5. (1) (a) Each freight boat, ice boat and
184 catching boat used in catching or transporting saltwater shrimp
185 taken from the waters of the State of Mississippi for sale in
186 their fresh state, or for canning, packing, freezing or drying,
187 shall first obtain from the commission an annual privilege license
188 and pay a license fee at the following rates:

189 (i) Fifty Dollars (\$50.00) for resident boats or
190 vessels under thirty (30) feet in length in overall measurements
191 and One Hundred Dollars (\$100.00) for nonresident boats or vessels
192 under thirty (30) feet in length in overall measurements;

193 (ii) Seventy-five Dollars (\$75.00) for resident
194 boats or vessels between thirty (30) and forty-five (45) feet in
195 length in overall measurements and One Hundred Dollars (\$100.00)
196 for nonresident boats or vessels between thirty (30) and
197 forty-five (45) feet in length in overall measurements;

198 (iii) One Hundred Dollars (\$100.00) for resident
199 boats or vessels greater than forty-five (45) feet in length in
200 overall measurements and Two Hundred Dollars (\$200.00) for
201 nonresident boats or vessels greater than forty-five (45) feet in
202 length in overall measurements.

203 (b) Beginning September 15, 1994, no nonresident shall
204 be issued a commercial fishing license under this chapter for the
205 taking of saltwater shrimp using any type of net if that
206 nonresident's state of domicile prohibits the issuing of
207 commercial fishing licenses to residents of this state to engage
208 in like activity.

(2) Each recreational vessel engaging in shrimping with a net having a corkline length of sixteen (16) feet or less shall pay an annual resident license fee of Fifteen Dollars (\$15.00) or an annual nonresident license fee of Thirty Dollars (\$30.00).

(3) Every freight boat, ice boat and catching boat used in catching or transporting saltwater shrimp taken from the waters of the State of Mississippi for sale in their fresh state, or for canning, packing, freezing, drying or as bait shall register the name of the captain of the vessel at the time that the vessel obtains the annual privilege license provided for in this section.

The individual registered as the captain of the vessel may be substituted after notification to and the approval of the deputy director or the deputy director's designated representative. The captain shall purchase a license entitled "captain license." This license shall be purchased at the same time the vessel license is purchased. The fee for a captain license shall be a minimum of Ten Dollars (\$10.00).

(4) During open seasons and in open areas, saltwater shrimp may be taken only with shrimp trawls, trawls, butterfly nets, skimmer nets, beach seines and cast nets.

SECTION 6. Section 49-15-80, Mississippi Code of 1972, is amended as follows:

49-15-80. (1) (a) All vessels to be used in catching or transporting fish in the waters of the State of Mississippi for commercial purposes shall, before beginning operations, obtain an annual license from the commission and pay a license fee according to the following schedule:

(i) * * * All resident vessels engaged in commercial hook and line fishing shall be issued a separate annual license by the commission at a fee of One Hundred Dollars (\$100.00). All nonresident vessels engaged in commercial hook and line fishing shall be issued a separate annual license by the commission at a fee of Four Hundred Dollars (\$400.00). Each individual engaged in commercial hook and line fishing must obtain

a commercial hook and line fisherman license and pay the following
license fees: One Hundred Dollars (\$100.00) for a resident
commercial hook and line fisherman license; or Four Hundred
Dollars (\$400.00) for a nonresident commercial hook and line
fisherman license. Each individual aboard a duly licensed
commercial hook and line vessel must possess a commercial hook and
line fisherman license.

(ii) A resident fee of One Hundred Dollars
(\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),
on boats using trammel nets, gill nets or seines not more than one
thousand two hundred (1,200) fee in length.

(b) Beginning September 15, 1994, no nonresident shall
be issued a commercial fishing license under this chapter for the
taking of fish using any type of net if that nonresident's state
of domicile prohibits the issuing of commercial fishing licenses
to residents of this state to engage in like activity.

(2) Each factory or manufacturing establishment engaging in
the manufacture of oil, fish scrap, fish meal, fertilizer or other
products from menhaden, shall pay a license fee of Five Hundred
Dollars (\$500.00).

(3) Each boat or vessel engaging in the catching, taking or
transporting menhaden in the waters of the State of Mississippi,
the sum of One Hundred Dollars (\$100.00) and shall pay Fifty
Dollars (\$50.00) on each net, seine, trawl or purse net used in
catching or taking menhaden in the waters of the State of
Mississippi.

(4) During open seasons and in open areas, finfish may be
taken with hook and line, trawls, butterfly nets, skimmer trawls,
seines, gigs, spears, gill nets, trammel nets, cast nets and
minnow traps.

(5) Purse seines may be used only to harvest menhaden or
other species of fishes in the family Clupeidae. Sections
49-15-71, 49-15-75 and 49-15-94 shall apply to the harvesting of
menhaden or other species of fishes in the family Clupeidae by use

277 of purse seines.

278 SECTION 7. This act shall take effect and be in force from
279 and after July 1, 1999.