

By: Senator(s) Huggins

To: Wildlife and Fisheries

SENATE BILL NO. 2913

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO  
 2 PROVIDE THAT THE TERM "RIGHT TO ENGAGE IN WATER SPORTS" ON PUBLIC  
 3 WATERWAYS SHALL NOT BE CONSTRUED TO INCLUDE THE RIGHT OF THE  
 4 PUBLIC TO PLACE A PERMANENT DUCK BLIND, BOAT MOORAGE OR ANY  
 5 SEASONAL OBJECT ON SUCH WATERWAYS; TO PROVIDE THAT A PERSON WHO  
 6 DRIVES STEEL SPIKES INTO ANY TREES IN A LAKE ON PRIVATELY-OWNED  
 7 LANDS SHALL BE PUNISHED UNDER SECTION 97-17-81, MISSISSIPPI CODE  
 8 OF 1972; TO AMEND SECTION 97-17-81, MISSISSIPPI CODE OF 1972, TO  
 9 CONFORM; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 51-1-4, Mississippi Code of 1972, is  
 12 amended as follows:

13 51-1-4. Such portions of all natural flowing streams in this  
 14 state having a mean annual flow of not less than one hundred (100)  
 15 cubic feet per second, as determined and designated on appropriate  
 16 maps by the Mississippi Department of Environmental Quality, shall  
 17 be public waterways of the state on which the citizens of this  
 18 state and other states shall have the right of free transport in  
 19 the stream and its bed and the right to fish and engage in water  
 20 sports. Such persons exercising the rights herein granted shall  
 21 do so at their own risk, and such persons shall not be entitled to  
 22 recover any damages against any owner of property along such  
 23 public waterways or anyone using such property with permission of  
 24 the owner for any injury to or death of persons or damage to  
 25 property arising out of the exercise of rights herein granted,  
 26 other than those damages which may be recovered for intentional or  
 27 malicious torts or for gross or willful negligence against the  
 28 owner of property, or anyone using such property with permission  
 29 of the owner. Nothing herein contained shall authorize anyone

30 utilizing such public waterways, under the authority granted  
31 hereby, to trespass upon adjacent lands or, to launch or land any  
32 commercial or pleasure craft along or from the shore of such  
33 waterways except at places established by public or private  
34 entities for such purposes. Nothing herein contained shall  
35 authorize any person utilizing said public waterways, under the  
36 authority granted hereby, to disturb the banks or beds of such  
37 waterways or the discharge of any object or substance into such  
38 waters or upon or across any lands adjacent thereto or to hunt or  
39 fish or go on or across any adjacent lands under floodwaters  
40 beyond the natural banks of the bed of the public waterway.  
41 Floodwater which has overflowed the banks of a public waterway is  
42 not a part of the public waterway.

43       Nothing herein contained shall be construed to prohibit the  
44 construction of dams and reservoirs by the State of Mississippi or  
45 any of its agencies or political subdivisions, or riparian owners,  
46 in the manner now or hereafter authorized by law, or in any way to  
47 affect the rights of riparian landowners along such waterways  
48 except as specifically provided hereinabove or to amend or repeal  
49 any law relating to pollution or water conservation, or to affect  
50 in any manner the title to the banks and beds of any such stream  
51 or the title to any minerals thereunder, or to restrict the mining  
52 or extraction of such minerals or the right of ingress and egress  
53 thereto.

54       The provisions of this section limiting the liability of  
55 owners of property along public waterways and persons using such  
56 property with permission of the owners shall not be construed to  
57 limit any rights of claimants for damages under federal statutes  
58 or acts applying to navigable streams or waterways or any other  
59 civil causes of action subject to admiralty or maritime  
60 jurisdiction, nor shall said provisions be construed to limit the  
61 rights of any parties involved in litigation founded upon the

62 commercial or business usage of any navigable streams or  
63 waterways.

64 This section shall apply only to natural flowing streams.

65 The right of the public to engage in water sports on the  
66 surface waters does not include, without the written permission of  
67 the landowner, the placement or creation of any permanent duck  
68 blind, boat moorage, or any seasonal object on such waterways.

69 Any person who drives or otherwise inserts any type of  
70 metallic spike into trees in the waters of a lake or bayou  
71 overlying private lands without the permission of the owner shall  
72 be punished as provided in Section 97-17-81.

73 SECTION 2. Section 97-17-81, Mississippi Code of 1972, is  
74 amended as follows:

75 97-17-81. If any person shall cut or raft any cypress, pine,  
76 oak, gum, hickory, pecan, walnut, mulberry, poplar, cottonwood,  
77 sassafras, or ash trees or timber upon any lands belonging to any  
78 other person or corporation, without permission from the owner  
79 thereof, or his agent duly authorized, such person shall, on  
80 conviction, be imprisoned in the county jail not more than five  
81 (5) months, or fined not less than Ten Dollars (\$10.00) nor more  
82 than One Thousand Dollars (\$1,000.00), or both.

83 If any person drives or otherwise inserts any type of  
84 metallic spike into a tree in the waters of a lake or bayou  
85 overlying privately-owned lands without the permission of the  
86 owner, the person shall be fined not more than One Thousand  
87 Dollars (\$1,000.00).

88 SECTION 3. This act shall take effect and be in force from  
89 and after July 1, 2001.