

By: Representatives Warren, Green

To: Conservation and Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1098

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT CERTAIN LAKES AND OTHER BODIES OF WATER SHALL BE
3 PUBLIC WATERWAYS, REGARDLESS OF THE MEAN ANNUAL FLOW OF WATER INTO
4 OR THROUGH THE LAKES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 51-1-4, Mississippi Code of 1972, is
7 amended as follows:

8 51-1-4. (1) Such portions of all natural flowing streams in
9 this state having a mean annual flow of not less than one hundred
10 (100) cubic feet per second, as determined and designated on
11 appropriate maps by the Mississippi Department of Environmental
12 Quality, shall be public waterways of the state on which the
13 citizens of this state and other states shall have the right of
14 free transport in the stream and its bed and the right to fish and
15 engage in water sports. Such persons exercising the rights * * *
16 granted by this section shall do so at their own risk, and such
17 persons shall not be entitled to recover any damages against any
18 owner of property along such public waterways or anyone using such
19 property with permission of the owner for any injury to or death
20 of persons or damage to property arising out of the exercise of
21 rights * * * granted by this section, other than those damages
22 which may be recovered for intentional or malicious torts or for
23 gross or willful negligence against the owner of property, or
24 anyone using such property with permission of the owner.

25 (2) Nothing * * * contained in this section shall authorize
26 anyone utilizing such public waterways, under the authority
27 granted by this section, to trespass upon adjacent lands or, to
28 launch or land any commercial or pleasure craft along or from the



29 shore of such waterways except at places established by public or
30 private entities for such purposes.

31 (3) Nothing * * * contained in this section shall authorize
32 any person utilizing those public waterways, under the authority
33 granted by this section, to disturb the banks or beds of such
34 waterways or the discharge of any object or substance into such
35 waters or upon or across any lands adjacent thereto or to hunt or
36 fish or go on or across any adjacent lands under floodwaters
37 beyond the natural banks of the bed of the public waterway.
38 Floodwater which has overflowed the banks of a public waterway is
39 not a part of the public waterway.

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

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



61 (6) This section shall apply only to natural flowing
62 streams.

63 (7) Notwithstanding the provisions of subsections (1) and
64 (6) of this section, each of the following lakes or other bodies
65 of water shall be a public waterway for the purposes of this
66 section, regardless of the mean annual flow of water into or
67 through the lake or other body of water:

68 (a) A lake or other body of water that was a public
69 waterway on or after July 1, 2000, by reason of being part of the
70 main channel of a river, but that is no longer part of the main
71 channel of the river because of a change in the course of the
72 river; and

73 (b) A lake or other body of water that was a public
74 waterway on or after July 1, 2000, by reason of being an
75 intermediary water body in a river or stream along the course of
76 the river or stream into its receiving body of water, but that is
77 no longer fed by the river or stream because of a change in the
78 course of the river or stream.

79 **SECTION 2.** This act shall take effect and be in force from
80 and after its passage.

