

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 1169

1 AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE IMMEDIATE REMOVAL OF SUNKEN OR SUBMERGED VESSELS  
3 THAT ARE A HAZARD TO NAVIGATION; TO MAKE TECHNICAL REVISIONS TO  
4 THE REMOVAL OF DERELICT VESSEL REQUIREMENTS; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 49-27-71, Mississippi Code of 1972, is  
8 amended as follows:

9 49-27-71. (1) (a) The department may remove from the  
10 coastal wetlands, as defined in Section 49-27-5(a), Mississippi  
11 Code of 1972, or from any private or man-made canal with a  
12 navigable connection to coastal wetlands, any vessel which is  
13 derelict, or has been determined by the department to be a public  
14 safety or environmental hazard, having been relinquished, deserted  
15 or left by the owner with the intention of abandoning the vessel.  
16 Any vessel submerged in or on the coastal wetlands or submerged in  
17 any private or man-made canal, with a navigable connection to  
18 coastal wetlands, in excess of thirty (30) days is declared  
19 abandoned and a derelict vessel. For the purposes of this  
20 section, no vessel submerged more than one hundred (100) years  
21 will be considered derelict. The Department of Archives and  
22 History shall be notified before the removal of any derelict  
23 vessel constructed before the year 1950.

24 (b) Any owner or operator of a derelict vessel shall be  
25 liable to the State of Mississippi for the restoration of all  
26 affected coastal wetlands and all costs associated with the  
27 removal of the vessel.



28           (2) (a) If the last known owner or operator of a derelict  
29 vessel is ascertainable, the owner or operator shall be notified  
30 by certified mail to remove the derelict vessel and restore the  
31 affected coastal wetlands within thirty (30) days of the date of  
32 the notice. Failure to remove the vessel may result in the  
33 imposition of the damages provided in subsection (3).

34           (b) When the owner or operator of the derelict vessel  
35 is unknown or cannot be located after diligent search and inquiry,  
36 notice shall be given by publishing in a newspaper having general  
37 circulation in the county where the derelict vessel is located the  
38 intent to remove and dispose of the derelict vessel. The notice  
39 shall be published once a week for three (3) consecutive weeks.  
40 The derelict vessel may be removed ten (10) days after the last  
41 date of publication.

42           (c) The municipality or county where the vessel is  
43 located may remove the derelict vessel or request the department  
44 to contract for the removal of the derelict vessel. The cost of  
45 the removal of the derelict vessel shall be paid by the  
46 municipality or the county where the vessel is located. If the  
47 county or municipality cannot pay the cost of removal, the  
48 department may pay the cost of removal, if funds are available.

49           (d) Any derelict vessel salvaged may be destroyed or  
50 otherwise disposed of without additional notice to the owner or  
51 operator and the value thereof, if any, applied as an offset to  
52 the cost of the removal of the derelict vessel and restoration of  
53 the affected coastal wetlands.

54           (e) If an owner or operator is subsequently identified,  
55 the owner or operator shall be liable for double the cost of the  
56 removal of the derelict vessel and the restoration of the affected  
57 coastal wetlands, attorney's fees and all costs of court. Upon  
58 recovery of these damages, the county, municipality or department,  
59 as the case may be, shall be reimbursed the costs of the removal  
60 of the derelict vessel and restoration of the coastal wetlands.



61 (f) In addition to providing notice by publication or  
62 to the known owner or operator, notice shall be sent by mail to  
63 the Mississippi Department of Archives and History for a  
64 determination as to whether the vessel to be removed is of  
65 archaeological, historical or architectural significance under the  
66 state antiquities law. The Department of Archives and History  
67 shall respond within thirty (30) days to the notice and advise  
68 whether or not the vessel should be preserved.

69 (3) The chancery court of the county where the vessel is  
70 located shall have jurisdiction and by writ of mandatory  
71 injunction, order the removal of the \* \* \* vessel by the owner or  
72 operator. The chancery court shall allow a reasonable time for  
73 completion of the restoration of the coastal wetlands and removal  
74 of the \* \* \* vessel. The chancery court may, in its discretion,  
75 order as damages a sum not to exceed Five Hundred Dollars  
76 (\$500.00) per day for each day such violation has existed. The  
77 chancery court may further order as damages a sum not to exceed  
78 Five Hundred Dollars (\$500.00) per day for each day that the  
79 violation exists beyond the date set by the court in its  
80 injunction for the removal of the vessel and the restoration of  
81 the coastal wetlands. Additionally, the owner or operator shall  
82 be liable for reasonable attorney's fees and all costs of court.

83 (4) Any reimbursed cost of removal and any fines and damages  
84 collected in excess of the cost of the removal of the \* \* \* vessel  
85 and the restoration of the affected coastal wetlands shall be  
86 deposited in a special fund in the State Treasury to be known as  
87 the "Derelict Vessel Fund." The fund shall be administered by the  
88 department. Any funds deposited in the fund shall be used to  
89 cover the administrative costs and removal costs incurred by the  
90 department for the removal of \* \* \* vessels. Any remaining funds  
91 shall be used as a match for municipal and county funds to cover  
92 the costs of removing additional \* \* \* vessels.



93           (5) Any sunken or submerged vessel in or on the coastal  
94 wetlands within any designated navigation channel or within one  
95 hundred (100) yards of the boundaries of any state, county or  
96 municipal port may be declared a hazard to navigation and subject  
97 to immediate removal and disposal by the department. Any sunken  
98 or submerged vessel in or on the coastal wetlands that is leaking  
99 any hazardous substances, chemicals or fuels may be declared an  
100 environmental hazard and subject to immediate removal and disposal  
101 by the department. The owners of a vessel removed in accordance  
102 with this subsection shall be liable for the costs associated with  
103 the salvage and disposal of the vessel and any damages to the  
104 flora and fauna within the coastal wetlands.

105           (6) The department is authorized to enter into contracts  
106 with individuals, firms and corporations for the removal of \* \* \*  
107 vessels. The salvage value, if any, of the \* \* \* vessel may be  
108 used to offset the cost of the removal of the vessel and the  
109 restoration of the coastal wetlands. The department may enter  
110 into noncompetitive contracts or agreements with any state or  
111 federal entity for the removal of vessels.

112           (7) The commission shall adopt rules and regulations  
113 necessary and appropriate to carry out \* \* \* this section. The  
114 commission may also enter into interstate or intrastate efforts  
115 toward this end, and may seek and utilize aid from all federal,  
116 state and local sources in this endeavor.

117           (8) The State of Mississippi, the commission, the department  
118 and their employees and representatives shall not be liable for  
119 any damage resulting from the removal, sale or disposal of any  
120 vessel declared a derelict or hazardous vessel pursuant to this  
121 section.

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

