

By: Senator(s) Posey

To: Wildlife and Fisheries

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2835

1 AN ACT TO AMEND SECTION 51-1-4, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE A PENALTY FOR USE OF A MOTORIZED VEHICLE IN THE BED OF
3 PUBLIC WATERWAYS; AND FOR RELATED PURPOSES.

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

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

7 51-1-4. Such portions of all natural flowing streams in this
8 state having a mean annual flow of not less than one hundred (100)
9 cubic feet per second, as determined and designated on appropriate
10 maps by the Mississippi Department of Environmental Quality, shall
11 be public waterways of the state on which the citizens of this
12 state and other states shall have the right of free transport in
13 the stream and its bed and the right to fish and engage in water
14 sports. Such persons exercising the rights herein granted shall
15 do so at their own risk, and such persons shall not be entitled to
16 recover any damages against any owner of property along such
17 public waterways or anyone using such property with permission of
18 the owner for any injury to or death of persons or damage to
19 property arising out of the exercise of rights herein granted,
20 other than those damages which may be recovered for intentional or
21 malicious torts or for gross or willful negligence against the
22 owner of property, or anyone using such property with permission
23 of the owner. Nothing herein contained shall authorize anyone
24 utilizing such public waterways, under the authority granted
25 hereby, to trespass upon adjacent lands or, to launch or land any
26 commercial or pleasure craft along or from the shore of such
27 waterways except at places established by public or private



28 entities for such purposes. Nothing herein contained shall
29 authorize any person utilizing said public waterways, under the
30 authority granted hereby, to disturb the banks or beds of such
31 waterways or the discharge of any object or substance into such
32 waters or upon or across any lands adjacent thereto or to hunt or
33 fish or go on or across any adjacent lands under floodwaters
34 beyond the natural banks of the bed of the public waterway.
35 Floodwater which has overflowed the banks of a public waterway is
36 not a part of the public waterway.

37 The right of the public to use public waterways does not
38 include the use of motorized vehicles in the beds of a public
39 waterway without the written permission of the landowner. Any
40 person who uses a motorized vehicle in the bed of a public
41 waterway without the written permission of the landowner may be
42 punished as provided in Section 97-17-93.

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 **SECTION 2.** This act shall take effect and be in force from
66 and after July 1, 2002.

