MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Representatives Frierson, Janus

To: Marine Resources

HOUSE BILL NO. 1141

AN ACT TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972, TO REQUIRE A LICENSE FOR A CAPTAIN OF A COMMERCIAL OYSTER VESSEL; TO AMEND SECTION 49-15-63, MISSISSIPPI CODE OF 1972, TO DELETE THE REFERENCE TO SHRIMP BOAT CAPTAINS SO THE PENALTIES ARE APPLICABLE TO CAPTAINS OF ALL SEAFOOD HARVESTING VESSELS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 49-15-46, Mississippi Code of 1972, is amended as follows:

49-15-46. (1) Each * * * 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 <u>each in-state vessel</u> or <u>boat</u> utilized for tonging oysters or gathering oysters by hand; * * *

(b) One Hundred Dollars ($100.00) on <u>each in-state vessel</u> or <u>boat</u> utilized for dredging oysters<u>;</u>

* * *

<u>(c)</u> One Hundred Dollars ($100.00) on <u>each out-of-state vessel</u> or <u>boat</u> utilized for tonging oysters or gathering oysters by hand; or

<u>(d)</u> Two Hundred Dollars ($200.00) on <u>each out-of-state vessel</u> or <u>boat</u> utilized for dredging oysters.

<u>(2) Each captain of each commercial vessel, used for either tonging or dredging, shall purchase a license entitled "captain license - oyster" for a fee not to exceed Ten Dollars ($10.00).</u>

(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) Commercial and recreational harvesters - Fifteen Cents (15¢) per sack paid to the department on the day of harvest;

(b) 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;

(c) Commercial harvesters transporting their catch out of the state - Fifty Cents (50¢) per sack paid to the department on the day of harvest, in addition to the fees paid in paragraph (5)(a); and

(d) Commercial harvesters not selling their oysters to a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the

department on the day of harvest, in addition to fees paid in paragraph (5)(a).

Funds received from the shell retention fee shall be paid into a special fund in the State Treasury to be appropriated by the Legislature for use by the commission to further oyster production in this state, which includes plantings of oysters and/or cultch materials.

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

SECTION 2. Section 49-15-63, Mississippi Code of 1972, is amended as follows:

49-15-63. (1) (a) Any person, firm or corporation violating any of the provisions of this chapter or any ordinance duly adopted by the commission, unless otherwise specifically provided for herein, shall, on conviction, be fined not less than One Hundred Dollars ($100.00), nor more than Five Hundred Dollars ($500.00), for the first offense, unless the first offense is committed during a closed season, in which case the fine shall be not less than Five Hundred Dollars ($500.00), nor more than One Thousand Dollars ($1,000.00); and not less than Five Hundred Dollars ($500.00), nor more than One Thousand Dollars ($1,000.00), for the second offense when such offense is committed within a period of three (3) years from the first offense; and not less than Two Thousand Dollars ($2,000.00) nor more than Four Thousand Dollars ($4,000.00), or imprisonment in the county jail for a period not exceeding thirty (30) days for any third or subsequent offense when such offense is committed within a period of three (3) years from the first offense.

(b) In addition, upon conviction of such third or subsequent offense, it shall be the duty of the court to revoke the license of the convicted party and of the boat or vessel used in such offense, and no further license shall be issued to such person and for said boat to engage in catching or taking of any

seafoods from the waters of the State of Mississippi for a period of one (1) year following such conviction. Forfeiture of any equipment or nets used in a second or subsequent offense may be instituted pursuant to Sections 49-15-201 through 49-15-207. If the person in possession of or using the nets in the violation is not the owner or licensee of the nets, the department shall notify the owner or licensee of the nets. The nets shall be subject to forfeiture unless the nets were stolen and prosecution for the theft is initiated. Equipment as used in this section shall not mean boats or vessels.

(c) Any person convicted and sentenced under this section for a second or subsequent offense shall not be considered for reduction of sentence.

(d) Except as provided under subsection (5) of Section 49-15-45, any fines collected under this section shall be paid into the Seafood Fund.

(e) In addition to any other penalties, the commission may suspend the license of any person convicted of a violation of this chapter and may suspend the license of any vessel used in the violation for a period not to exceed five (5) days for the first offense. For a second offense, the commission may suspend the license of such person and vessel for a period not to exceed thirty (30) days.

(2) For any violation of this chapter, the individual registered as the captain * * * shall be subject to the penalties provided in this chapter, if that individual is aboard the vessel. If that individual is not aboard the vessel, the individual designated as the substitute captain in accordance with Section 49-15-64.5 shall be subject to the penalties provided in this chapter. If no individual is designated under Section 49-15-64.5, the person, firm or corporation owning the vessel shall be subject to the penalties provided for boat captains.

(3) All citations issued to boat operators for not possessing the boat's registration card shall be dismissed, along with all related court costs, upon the presentment of the boat's proper registration card to the court or magistrate holding the trial or hearing.

SECTION 3. This act shall take effect and be in force from and after July 1, 2004.