

By: Representatives Frierson, Janus

To: Marine Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1265

1 AN ACT TO AMEND SECTION 49-15-80, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY VESSEL AND INDIVIDUAL HOOK AND LINE FEES, AND TO DELETE
3 REFERENCE TO LENGTH OF CERTAIN NETS; TO AMEND SECTION 49-15-15,
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COMMISSION ON MARINE
5 RESOURCES TO REGULATE NETS AND SEINES USED IN COMMERCIAL
6 HARVESTING OF SEAFOOD; TO PROVIDE A PENALTY FOR SELLING OF FINFISH
7 WITHOUT A LICENSE; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 49-15-80, Mississippi Code of 1972, is
10 amended as follows:

11 49-15-80. (1) (a) All persons, individuals, corporations,
12 and, if applicable, their vessels to be used in catching or
13 transporting fish in the waters of the State of Mississippi for
14 commercial purposes shall, before beginning operations, obtain an
15 annual license from the commission and pay a license fee according
16 to the following schedule:

17 (i) All resident vessels engaged in commercial
18 hook and line or gig fishing shall be issued an annual license by
19 the commission at a fee of One Hundred Dollars (\$100.00). All
20 nonresident vessels engaged in commercial hook and line or gig
21 fishing shall be issued an annual license by the commission at a
22 fee of Four Hundred Dollars (\$400.00). * * * If a duly licensed
23 commercial hook and line or gig fishing vessel is engaged in
24 commercial fishing, each individual aboard must possess a
25 commercial fisherman license.

26 (ii) A resident fee of One Hundred Dollars
27 (\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),
28 on boats or to persons using trammel nets, gill nets or seines, or
29 any other net approved by commission ordinance or in writing by

the Department of Marine Resources. The commission shall have the authority to regulate all types of nets and seines used in the harvest of seafood.

(iii) Each individual engaged in commercial hook and line, or gig fishing must obtain a commercial fisherman license subject to the following fees: One Hundred Dollars (\$100.00) for a resident commercial fisherman license; or Four Hundred Dollars (\$400.00) for a nonresident commercial fisherman license.

(b) A vessel licensed for commercial purposes may be used as a sport fishing vessel provided that:

(i) All persons fishing aboard the vessel have a valid saltwater fishing license in their possession; and

(ii) All statutes, rules, and regulations pertaining to season, size and creel limitations, and other appropriate regulations are followed; and

(iii) No person fishing aboard the vessel is fishing as a licensed commercial fisherman.

(c) Beginning September 15, 1994, no nonresident shall be issued a commercial fishing license under this chapter for the taking of fish using any type of net if that nonresident's state of domicile prohibits the issuing of commercial fishing licenses to residents of this state to engage in like activity.

(2) Each factory or manufacturing establishment engaging in the manufacture of oil, fish scrap, fish meal, fertilizer or other products from menhaden, shall pay a license fee of Five Hundred Dollars (\$500.00).

(3) Each boat or vessel engaging in the catching, taking or transporting menhaden in the waters of the State of Mississippi, the sum of One Hundred Dollars (\$100.00) and shall pay Fifty Dollars (\$50.00) on each net, seine, trawl or purse net used in catching or taking menhaden in the waters of the State of Mississippi.

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

65 49-15-15. (1) In addition to any other powers and duties
66 authorized by law, the commission shall have the following powers
67 and duties regarding the regulation of seafood:

68 (a) To exercise full jurisdiction and authority over
69 all marine aquatic life and to regulate any matters pertaining to
70 seafood, including cultivated seafood;

71 (b) To adopt, promulgate, amend or repeal, after due
72 notice and public hearing, in accordance with the Mississippi
73 Administrative Procedures Law and subject to the limitations in
74 subsection (2) of this section, rules and regulations authorized
75 under this chapter, including, but not limited to, rules and
76 regulations necessary for the protection, conservation or
77 propagation of all seafood in the waters under the territorial
78 jurisdiction of the State of Mississippi and for the regulation of
79 gill net and purse seine fishermen. All public hearings under
80 this chapter concerning the regulation of marine resources shall
81 be held in Hancock, Harrison or Jackson counties. Each rule or
82 regulation promulgated under this chapter shall immediately be
83 advertised one (1) time in a newspaper or newspapers having
84 general circulation in counties affected by that regulation. A
85 regulation shall become effective at 6:00 a.m. on the day after
86 its publication;

87 (c) To regulate all seafood sanitation and processing
88 programs. In the three (3) coastal counties, the sanitation
89 program regulating processing plants and seafood sold in retail
90 stores operating in conjunction with a processing plant or seafood
91 market that primarily deals with seafood is under the exclusive
92 authority of the commission. The commission may also inspect and
93 regulate those areas of any seafood processing plant which process
94 freshwater species at any site where the department inspects
95 seafood processing plants. To effectively and efficiently

96 implement the state seafood sanitation program, the State Health
97 Officer, the Commissioner of Agriculture and the executive
98 director of the department may enter into a memorandum of
99 understanding, which at a minimum, clearly specifies the
100 responsibilities of each agency in implementing the seafood
101 sanitation program, as well as the sharing of information and
102 communication and coordination between the agencies;

103 (d) To set standards of measure;

104 (e) To set requirements for employment of commission
105 employees whose compensation shall be governed by the rules and
106 regulations of the State Personnel Board;

107 (f) To acquire and dispose of commission equipment and
108 facilities;

109 (g) To keep proper records of the commission, including
110 an official ordinance book which contains all rules and
111 regulations promulgated by the commission under this chapter;

112 (h) To enter into advantageous interstate and
113 intrastate agreements with proper officials, which directly or
114 indirectly result in the protection, propagation and conservation
115 of the seafood of the State of Mississippi, or continue any such
116 agreements now in existence;

117 (i) To arrange, negotiate or contract for the use of
118 available federal, state and local facilities which would aid in
119 the propagation, protection and conservation of the seafood of the
120 State of Mississippi;

121 (j) To authorize the operation of double rigs in the
122 waters lying between the mainland coast and the island chain, and
123 those rigs shall not exceed a length of twenty-five (25) feet at
124 the cork line, and to prescribe the length at the lead line for
125 each rig, net or try-trawl;

126 (k) To destroy or dispose of equipment or nets which
127 have been lawfully seized by the commission and which are not sold
128 under Section 49-15-65;

129 (l) To open, close and regulate fishing seasons for the
130 taking of shrimp, oysters, fish taken for commercial purposes and
131 crabs and set size, catching and taking regulations for all types
132 of seafood and culling regulations for oysters, except as
133 otherwise specifically provided by law;

134 (m) To utilize the resources of the Gulf Coast Research
135 Laboratory to the fullest extent possible;

136 (n) To develop a resource management plan to preserve
137 seafood resources and to ensure a safe supply of these resources;

138 (o) To prescribe types and forms of scientific permits
139 for public educational or scientific institutions, federal and
140 state agencies and consultants performing marine resource studies;

141 (p) To suspend the issuance of licenses when necessary
142 to impose a moratorium to conserve a fishery resource; * * *

143 (q) To promote, construct, monitor and maintain
144 artificial fishing reefs in the marine waters of the State of
145 Mississippi and in adjacent federal waters; to accept grants and
146 donations of money or materials from public and private sources
147 for such reefs; and to apply for any federal permits necessary for
148 the construction or maintenance of artificial fishing reefs in
149 federal waters; and

150 (r) To regulate all types of nets and seines used in
151 the harvest of seafood.

152 (2) The commission shall not adopt rules, regulations or
153 ordinances pertaining to marine resources which are more stringent
154 than federal regulations. In any case where federal laws and
155 regulations are silent on a matter pertaining to marine resources,
156 the laws and regulations of the State of Mississippi shall
157 control. The commission shall review all marine resource
158 ordinances for compliance with the no more stringent standard and
159 revise any ordinances more stringent than this standard no later
160 than December 31, 1992. This subsection shall not apply to rules,

161 regulations or ordinances pertaining to the wild stock of marine
162 finfish.

163 **SECTION 3.** (1) Any person selling finfish without a license
164 shall, on conviction, be fined not less than Five Hundred Dollars
165 (\$500.00), nor more than Two Thousand Dollars (\$2,000.00), for the
166 first offense; not less than One Thousand Dollars (\$1,000.00), nor
167 more than Four Thousand Dollars (\$4,000.00), for the second
168 offense, when the second offense is committed within a period of
169 three (3) years from the first offense; and not less than Two
170 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
171 (\$5,000.00), or imprisonment in the county jail for a period not
172 exceeding thirty (30) days for any third or subsequent offense
173 when such offense is committed within a period of three (3) years
174 from the first offense.

175 (2) Any person convicted under this section shall not be
176 considered for a reduction of sentence.

177 (3) Any fine collected under this section shall be paid into
178 the Seafood Fund.

179 **SECTION 4.** This act shall take effect and be in force from
180 and after July 1, 2004.