

By: Senator(s) Gollott

To: Ports and Marine
Resources

SENATE BILL NO. 2823

1 AN ACT TO AMEND SECTION 49-15-37, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REQUIREMENT THAT OYSTERS MUST BE RELAYED IN THE
3 PRESENCE OF A CONSERVATION OFFICER AND ALLOW RELAYING IN THE
4 PRESENCE OF AN EMPLOYEE OF THE DEPARTMENT OF MARINE RESOURCES; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 49-15-37, Mississippi Code of 1972, is
8 amended as follows:

9 49-15-37. By order of the commission, the director, under
10 the direction and control of the commission, shall employ boats,
11 crews and laborers and shall cultivate the public reefs of the
12 state, and shall dredge the oysters in the Mississippi Sound from
13 places where they are too thick, and shall spread them on reefs
14 where they are too thin, and shall carry shells from the factories
15 and spread them in places where the oyster beds can be improved
16 and enlarged. The department may purchase other materials as may
17 be equally suitable for the propagation of oysters. The
18 department in cultivating the reefs, transplanting and spreading
19 oysters and shells and other suitable materials, may expend any
20 funds available for that purpose. In taking seed oysters, care
21 shall be used to not injure or destroy the merchantable oysters on
22 the reefs from which they are taken. The seed oysters shall be
23 tonged from the "conner" or seed reefs, unless it is practicable
24 and safe to dredge those oysters. The commission may, by orders
25 spread on its minutes, establish new bedding grounds at those
26 places within the boundaries of the state as it may determine, on
27 advice of the director, or on advice of technical governmental
28 experts, or competent aquatic biologists. On existing public

29 reefs in which oysters exist and in waters not of a safe sanitary
30 quality as determined by the department, the commission shall
31 prohibit any person, firm or corporation from taking oysters from
32 those areas. The commission shall from time to time remove the
33 oysters from the areas and re-lay or replant them in an approved
34 area for a period of time under Section 49-15-36 before they may
35 be harvested. The commission may transport the oysters to an
36 onshore, molluscan depuration facility for the purpose of proving
37 depuration technology and for other experimental purposes. In
38 connection with the testing of onshore, molluscan depuration
39 technology, the commission may sell or dispose of the re-layed
40 oysters in a manner consistent with all applicable state and
41 federal laws and regulations. Any funds received from the sale of
42 the oysters shall be used in a like manner as those funds received
43 under Section 49-15-38.

44 If the commission finds that onshore, molluscan depuration
45 technology proves to be successful, the commission may issue
46 permits to private enterprise which may locate depuration
47 facilities in Hancock, Harrison and Jackson Counties. The
48 commission shall promulgate rules and regulations for the taking
49 of oysters from reefs for transport to an onshore, molluscan
50 depuration facility and for the operation of the facilities. Each
51 depuration facility operated by private enterprise shall return
52 oyster shells to the oyster reefs for replanting under the proper
53 supervision of the department and under Section 49-15-38.

54 The commission may issue permits to persons to remove oysters
55 by dredging or otherwise from water bottoms which are not of a
56 safe sanitary quality for oysters for human consumption even
57 though those areas may have been reserved for tonging only in
58 Section 49-15-39. These areas shall be designated as seed
59 grounds, and permits to persons shall be issued only for the
60 purpose of transplanting oysters to privately leased Mississippi

61 territorial waters. The commission may permit the transplanting
62 of these seed oysters by a duly authorized public agency.

63 The commission may, upon certification of the department that
64 the water bottom from which oysters are to be removed is not of a
65 safe, sanitary quality for oyster production for human consumption
66 and has been unsafe for a period of at least one (1) year
67 immediately preceding certification, and upon complying with the
68 following requirements, permit the dredging of oysters from
69 contaminated public areas and re-laying the oysters to private
70 leased grounds in the State of Mississippi:

71 (a) Permittee must hold valid lease of oyster bedding
72 grounds in the State of Mississippi;

73 (b) Permittee must be bonded in compliance with the
74 permit system established by the commission;

75 (c) Permittee must fulfill all permit requirements as
76 established by the commission;

77 (d) Permittee shall not move oysters from one (1)
78 contaminated area to another contaminated area;

79 (e) Permittee shall move oysters only to an area leased
80 by the commission after April 13, 1977; and

81 (f) Permittee shall not move oysters from the
82 contaminated area without the presence of an employee of the
83 department at all times, from the dredging of the oysters from the
84 contaminated areas to their deposit on private leased grounds or
85 to an onshore, molluscan depuration facility.

86 Harvesting of oysters shall be permitted only during daylight
87 hours and with the most efficient gear possible consistent with
88 conservation requirements of not damaging the reefs. This shall
89 include permission to use two (2) dredges per boat on contaminated
90 areas and on private leased grounds.

91 Any person obtaining a permit to remove oysters from seed
92 grounds shall post a penal bond of One Hundred Dollars (\$100.00)
93 per leased acre with the commission to be forfeited upon any

violation of this section. The bond may be approved by the director of the department if the director finds the bond to be secured by sufficient property or sureties.

The commission shall regulate the amount and time of taking of oysters from seed areas and shall supervise the removal, planting and harvesting of oysters from the areas. The time set for the taking of oysters from contaminated seed areas for re-laying or replanting and the time set for the taking of oysters from private leased grounds shall be separated by not less than a period of time determined under Section 49-15-36 during which neither activity may be allowed.

The commission shall regulate the taking of oysters from contaminated seed areas and the subsequent depuration of the oysters by off-bottom techniques to protect public health, while at the same time fostering the utilization of the state's oyster resources. The regulations shall include the setting of the period of depuration for the oysters by the use of appropriate techniques and provide for an employee of the department to be present when the oysters are taken from contaminated seed areas and deposited on private lease grounds. Any person, firm or corporation engaged in the depuration of oysters by off-bottom techniques or onshore, molluscan depuration facility shall pay to the department an amount equal to the regular compensation of the employee of the department for the time the employee actually spends performing the duties.

Only persons who have been residents of Mississippi for at least five (5) years shall be eligible to obtain permits for removal of oysters from seed grounds.

The commission shall designate certain uncontaminated reefs in the state as public reefs and shall remove oysters from water bottoms which are not of a safe, sanitary quality for oyster production for human consumption and shall transport the oysters to the public reefs which shall be reserved for tonging only.

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