

By: Senator(s) Gollott

To: Ports and Marine Resources

SENATE BILL NO. 2824

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

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

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

10 49-15-46. (1) Each \* \* \* vessel used to catch, take, carry  
11 or transport oysters from the reefs of the State of Mississippi,  
12 or engaged in transporting any oysters in any of the waters within  
13 the territorial jurisdiction of the State of Mississippi, for  
14 commercial use, shall annually, before beginning operations, be  
15 licensed by the commission and pay the following license fee:

16 (a) Fifty Dollars (\$50.00) on each in-state vessel or  
17 boat utilized for tonging oysters or gathering oysters by  
18 hand; \* \* \*

19 (b) One Hundred Dollars (\$100.00) on each in-state  
20 vessel or boat utilized for dredging oysters;

21 \* \* \*

22 (c) One Hundred Dollars (\$100.00) on each out-of-state  
23 vessel or boat utilized for tonging oysters or gathering oysters  
24 by hand; or

25 (d) Two Hundred Dollars (\$200.00) on each out-of-state  
26 vessel or boat utilized for dredging oysters.

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

30 (3) All oysters harvested in the State of Mississippi shall  
31 be tagged. Tags shall be issued by the department and shall bear  
32 the catcher's name, the date and origin of the catch, the shell  
33 stock dealer's name and permit number. The department shall  
34 number all tags issued and shall maintain a record of those tags.  
35 The commission, in its discretion, may adopt any regulations  
36 regarding the tagging of oysters and other shellfish.

37 (4) Each person catching or taking oysters from the waters  
38 of the State of Mississippi for personal use shall obtain a permit  
39 from the commission and pay an annual recreational oyster permit  
40 fee of Ten Dollars (\$10.00). Oysters caught under a recreational  
41 permit shall not be offered for sale. The limits on the allowable  
42 catch of oysters for recreational purposes shall be three (3)  
43 sacks per week. The department shall issue tags of a  
44 distinguishing color to designate recreationally harvested  
45 oysters, which shall be tagged on the same day of harvest in the  
46 manner prescribed in subsection (3) of this section for  
47 commercially harvested oysters or by regulation of the commission.

48 (5) The commission shall assess and collect a shell  
49 retention fee for the shells taken from waters within the  
50 territorial jurisdiction of the State of Mississippi as follows:

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

53 (b) Initial oyster processor, dealer or factory first  
54 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the  
55 department no later than the tenth day of the month following the  
56 purchase, on forms submitted by the department;

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

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

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

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

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

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

74 49-15-63. (1) (a) Any person, firm or corporation  
75 violating any of the provisions of this chapter or any ordinance  
76 duly adopted by the commission, unless otherwise specifically  
77 provided for herein, shall, on conviction, be fined not less than  
78 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars  
79 (\$500.00), for the first offense, unless the first offense is  
80 committed during a closed season, in which case the fine shall be  
81 not less than Five Hundred Dollars (\$500.00), nor more than One  
82 Thousand Dollars (\$1,000.00); and not less than Five Hundred  
83 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),  
84 for the second offense when such offense is committed within a  
85 period of three (3) years from the first offense; and not less  
86 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand  
87 Dollars (\$4,000.00), or imprisonment in the county jail for a  
88 period not exceeding thirty (30) days for any third or subsequent  
89 offense when such offense is committed within a period of three  
90 (3) years from the first offense.

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

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

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

109 (d) Except as provided under subsection (5) of Section  
110 49-15-45, any fines collected under this section shall be paid  
111 into the Seafood Fund.

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

119 (2) For any violation of this chapter, the individual  
120 registered as the captain \* \* \* shall be subject to the penalties  
121 provided in this chapter, if that individual is aboard the vessel.  
122 If that individual is not aboard the vessel, the individual  
123 designated as the substitute captain in accordance with Section  
124 49-15-64.5 shall be subject to the penalties provided in this  
125 chapter. If no individual is designated under Section 49-15-64.5,  
126 the person, firm or corporation owning the vessel shall be subject  
127 to the penalties provided for boat captains.

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

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