

By: Representative Compretta

To: Marine Resources

HOUSE BILL NO. 807

1 AN ACT TO AMEND SECTION 49-15-27, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE AMOUNT OF TIME THE COMMISSION ON MARINE RESOURCES
3 HAS TO CONSIDER APPLICATIONS TO LEASE BOTTOMS; TO INCREASE THE
4 COST OF LEASING BOTTOMS FOR SHELLFISH PRODUCTION; TO DESIGNATE
5 THAT LEASE FUNDS BE PAID INTO THE SEAFOOD FUND RATHER THAN THE
6 GENERAL FUND; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 49-15-27, Mississippi Code of 1972, is
9 amended as follows:

10 49-15-27. The commission is hereby granted full and complete
11 authority to lease the bottoms within its jurisdiction upon the
12 following terms and conditions:

13 (1) All areas within the commission's jurisdiction, not
14 designated tonging reefs by this chapter, or hereinafter
15 designated tonging reefs by the commission; all areas not
16 designated natural reefs by the commission, and all areas not
17 within the boundaries of riparian property owners may be leased by
18 the commission.

19 (2) All individual lessees shall be residents of the State
20 of Mississippi, or if a firm or corporation, such firm or
21 corporation shall be organized under the laws of the State of
22 Mississippi.

23 (3) No individual, corporation, partnership or association
24 may lease less than five (5) acres nor more than one hundred (100)
25 acres; provided, however, that in the case of an individual there
26 shall not be counted towards such limitation any lands leased by a
27 corporation, partnership or association in which such individual
28 owns ten percent (10%) or less interest and, in the case of a
29 corporation, partnership or association, there shall not be

30 counted toward such limitation any lands leased by an individual
31 stockholder, partner or associate thereof who owns ten percent
32 (10%) or less interest in such corporation, partnership or
33 association.

34 (4) Individuals, firms or corporations desiring to lease
35 bottoms shall make application to the commission in writing,
36 describing the area to be leased, and the price proposed to be
37 paid therefor.

38 (5) The commission shall consider such applications in the
39 order in which each is filed and award within thirty (30) days.

40 (6) Such leases shall be for a term of one (1) year, with
41 the right of lessee to renew the lease of an additional year, and
42 from year to year, at the same ground rental so long as lessee
43 actively cultivates and gathers oysters, and complies with the
44 provisions of this chapter, provided that no lease shall be
45 renewed for more than twenty-five (25) years total * * *. No
46 lease may be transferred without approval by the commission of the
47 transfer.

48 (7) The commission shall fix a ground rental at not less
49 than Five Dollars (\$5.00) per acre.

50 (8) The commission shall keep an accurate chart of the areas
51 within its jurisdiction and shall mark on such chart those areas
52 which are under lease. All leases shall be marked by appropriate
53 poles, stakes or buoys of such material as will not injure
54 watercraft, at the expense of the leaseholder. The commission
55 shall keep an accurate book, designated "Mississippi Oyster Farms"
56 which shall contain copies of all leases. If any lease be
57 cancelled or expire, such fact shall be noted on the face of such
58 lease. Lessees shall be "oyster farmers" for the purposes of any
59 grants, aid, subsidies or other assistance from the federal
60 government or other governmental or private agencies.

61 (9) All funds derived from leasing shall be paid into the
62 Seafood Fund established in Section 49-15-17, for use by the

63 commission to further oyster production in this state, which
64 includes plantings of oysters and/or cultch materials.

65 (10) All leases made by the commission under the authority
66 of this section shall be subject to the paramount right of the
67 state and any of its political subdivisions authorized by law, to
68 promote and develop ports, harbors, channels, industrial or
69 recreational projects, and all such leases shall contain a
70 provision that in the event such authorized public body shall
71 require the area so leased or any part thereof for such public
72 purposes, that the lease shall be terminated on reasonable notice
73 fixed by the commission in such lease. On the termination of any
74 lease, the lessees shall have the right to remove any oysters
75 within the leased area within such time as may be fixed by the
76 commission and in accordance with such reasonable rules and
77 regulations as the commission may adopt.

78 Any person convicted of taking oysters from leased land or
79 from waters that are not of a safe sanitary quality without a
80 permit as provided in Section 49-15-37 shall, on the first
81 offense, forfeit all equipment used, exclusive of any boat or
82 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
83 or sentenced not to exceed one (1) year in the county jail, or
84 both. Subsequent convictions shall be punishable by forfeiture of
85 all equipment, including any boat or boats; and a fine not to
86 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
87 years in prison, or both such fine and imprisonment.

88 No lease of any area shall be made unless and until the
89 commission shall have given at least fifteen (15) days' public
90 notice of its intention to lease such area, such notice to be
91 given by publication in a newspaper of general circulation in such
92 county. * * *

93 The commission is enjoined to cooperate with the Jackson
94 County Port Authority, the Harrison County Development Commission,
95 the municipal port commission and other port and harbor agencies,

96 so that oyster beds shall not be planted in close proximity to
97 navigable channels. The commission or lessee shall have no right
98 of action as against any such public body for damages accruing to
99 any natural reef or leased reef by any necessary improvement of
100 such channel in the interest of shipping, commerce, navigation or
101 other purpose authorized by law.

102 **SECTION 2.** This act shall take effect and be in force from
103 and after July 1, 2005.