

By: Representative Frierson

To: Marine Resources

HOUSE BILL NO. 769

1 AN ACT TO AMEND SECTION 49-15-46, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR AN ALTERNATE CAPTAIN ON COMMERCIAL OYSTER VESSELS;
3 TO AMEND SECTION 49-15-63, MISSISSIPPI CODE OF 1972, TO CONFORM;
4 AND FOR RELATED PURPOSES.

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

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

8 49-15-46. (1) Each vessel used to catch, take, carry or
9 transport oysters from the reefs of the State of Mississippi, or
10 engaged in transporting any oysters in any of the waters within
11 the territorial jurisdiction of the State of Mississippi, for
12 commercial use, shall annually, before beginning operations, be
13 licensed by the commission and pay the following license fee:

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

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

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

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

23 (2) Each captain of each commercial vessel, used for either
24 tonging or dredging, shall purchase a license entitled "captain
25 license - oyster" for a fee not to exceed Ten Dollars (\$10.00) and
26 may designate one (1) alternate captain for each license.

27 (3) All oysters harvested in the State of Mississippi shall
28 be tagged. Tags shall be issued by the department and shall bear

29 the catcher's name, the date and origin of the catch, the shell
30 stock dealer's name and permit number. The department shall
31 number all tags issued and shall maintain a record of those tags.
32 The commission, in its discretion, may adopt any regulations
33 regarding the tagging of oysters and other shellfish.

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

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

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

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

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

58 (d) Commercial harvesters not selling their oysters to
59 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the
60 department on the day of harvest, in addition to fees paid in
61 subsection (5)(a).

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

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

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

71 49-15-63. (1) (a) Any person, firm or corporation
72 violating any of the provisions of this chapter or any ordinance
73 duly adopted by the commission, unless otherwise specifically
74 provided for herein, shall, on conviction, be fined not less than
75 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
76 (\$500.00), for the first offense, unless the first offense is
77 committed during a closed season, in which case the fine shall be
78 not less than Five Hundred Dollars (\$500.00), nor more than One
79 Thousand Dollars (\$1,000.00); and not less than Five Hundred
80 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
81 for the second offense when such offense is committed within a
82 period of three (3) years from the first offense; and not less
83 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
84 Dollars (\$4,000.00), or imprisonment in the county jail for a
85 period not exceeding thirty (30) days for any third or subsequent
86 offense when such offense is committed within a period of three
87 (3) years from the first offense.

88 (b) In addition, upon conviction of such third or
89 subsequent offense, it shall be the duty of the court to revoke
90 the license of the convicted party and of the boat or vessel used
91 in such offense, and no further license shall be issued to such
92 person and for said boat to engage in catching or taking of any
93 seafoods from the waters of the State of Mississippi for a period
94 of one (1) year following such conviction. Forfeiture of any

95 equipment or nets used in a second or subsequent offense may be
96 instituted pursuant to Sections 49-15-201 through 49-15-207. If
97 the person in possession of or using the nets in the violation is
98 not the owner or licensee of the nets, the department shall notify
99 the owner or licensee of the nets. The nets shall be subject to
100 forfeiture unless the nets were stolen and prosecution for the
101 theft is initiated. Equipment as used in this section shall not
102 mean boats or vessels.

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

106 (d) Except as provided under subsection (5) of Section
107 49-15-45, any fines collected under this section shall be paid
108 into the Seafood Fund.

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

116 (2) For any violation of this chapter, the individual
117 registered as the captain shall be subject to the penalties
118 provided in this chapter, if that individual is aboard the vessel.
119 If that individual is not aboard the vessel, the individual
120 designated as the alternate captain under Section 49-15-46 or
121 substitute captain under Section 49-15-64.5 shall be subject to
122 the penalties provided in this chapter. If no individual is
123 designated under Section 49-15-46 or Section 49-15-64.5, the
124 person, firm or corporation owning the vessel shall be subject to
125 the penalties provided for boat captains.

126 (3) All citations issued to boat operators for not
127 possessing the boat's registration card shall be dismissed, along

128 with all related court costs, upon the presentment of the boat's
129 proper registration card to the court or magistrate holding the
130 trial or hearing.

131 **SECTION 3.** This act shall take effect and be in force from
132 and after its passage.