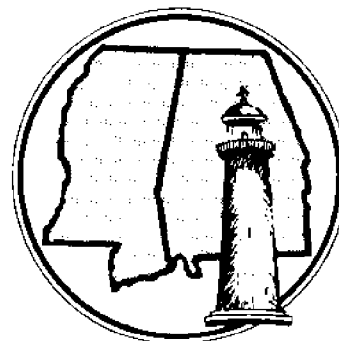


**LAWS PASSED DURING THE 1977
SESSION OF THE MISSISSIPPI
LEGISLATURE AFFECTING COASTAL
RESOURCE USE, MANAGEMENT
AND PROTECTION**

University of Mississippi Law Center

**Mississippi-Alabama
Sea-Grant Consortium
MASGP 78-012**



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MISSISSIPPI LEGISLATURE AFFECTING COASTAL
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TABLE OF CONTENTS

	<u>Page</u>
I. Living Resources - Game and Fish-----	1
II. Mineral and Non-Living Resources-----	7
III. Industrial and Agricultural Resources-----	9
IV. Recreation-----	11
V. Environmental Control-----	12

F O R E W O R D

This volume represents those laws that were passed during the 1977 session of the Mississippi Legislature that would affect the use, development and protection of the state's marine resources. Those laws that dealt with the coastal zone area generally but had no direct or indirect affect on the use, development or protection of the state marine resources are excluded from this analysis.

I. LIVING RESOURCES

GAME AND FISH

I. Chapter 463, H.B. 1003, is an Act relating to the oyster industry. MISS. CODE ANN. § 49-15-27 (1972) is amended as follows:

49-15-27(3): No individual, corporation, partnership or association may lease less than five (5) acres nor more than 100 acres, provided, however, that in the case of an individual there shall not be counted towards such limitation any lands leased by a corporation, partnership or association in which such individual owns 10% or less interest and, in the case of a partnership, corporation or association, there shall not be counted toward such limitation any lands leased by an individual stockholder, partner or associate thereof who owns 10% or less interest in such corporation, partnership or association.

49-15-27(6): Lease renewals allowed by this subsection are limited to 25 years unless they are rebid. In any such rebidding, if the successful bidder is someone other than the lessee, the successful bidder shall, before taking possession of the leased bottoms, pay to the lessee the fair market value of the lessee's oysters in place as determined by the commission. No lease may be transferred without approval by the commission.

49-15-27(7): The \$5.00 maximum ground rental is repealed. The only limitation now is the \$1.00 minimum.

The following portion is added after subsection (10):

Any person convicted of taking oysters from leased land or from waters that are not of a safe sanitary quality without a permit as provided in § 49-15-37 shall, on the first offense, forfeit all

equipment used, exclusive of any boat or boats; and be fined not to exceed \$2000 or sentenced not to exceed one (1) year in the county jail, or both. Subsequent convictions shall be punishable by forfeiture of all equipment, including any boat or boats; and a fine not to exceed \$5000 or not to exceed two (2) years in prison, or both such fine and imprisonment.

MISS. CODE ANN. § 49-15-29 (1972) is amended as follows:

§ 49-15-29(a) and (e): The 25 cent fee which went to the issuing officer is repealed.

§ 49-15-29(g): The annual license fee for wholesalers is increased from \$20 to \$100.

MISS. CODE ANN. § 49-15-37 (1972) is amended to add the following provisions:

The commission shall have the authority to issue permits to persons to remove oysters by dredging or otherwise from water bottoms which are not of a safe sanitary quality for oyster production for human consumption even though those areas may have been reserved for tonging only in subsections (a), (b), (c) and (e) of Section 49-15-39. These areas shall be designated as seed grounds, and permits to persons shall be issued only for the purpose of transplanting oysters to privately leased Mississippi territorial waters; provided, however, the commission may permit the transplanting of these seed oysters by a duly authorized public agency.

The commission may, upon certification of the State Board of Health that the water bottom from which the oysters are to be removed is not of a safe, sanitary quality for oyster production for

human consumption and has been so unsafe for a period of one (1) year immediately preceding certification, and upon complying with the following requirements, permit the dredging of oysters from contaminated public areas and re-laying said cargo of oysters to private leased grounds in the State of Mississippi:

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

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

(c) Permittee must fulfill all permit requirements as established by the commission and the State Board of Health; and

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

(e) Permittee shall move oysters only to an area leased by the effective date of this act;

(f) Permittee shall not move oysters from the contaminated area without the presence of a conservation officer of the commission at all times; from the dredging of the oysters from the contaminated areas to their deposit on private leased grounds.

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

Any person obtaining a permit to remove oysters from seed grounds shall post a penal bond of \$100 per leased acre with the commission to be forfeited upon any violation of this section,

the bond to be approved by the director of the commission if he finds the bond to be secured by sufficient property or sureties.

The commission and the Mississippi State Board of Health 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 or season so set for the taking of oysters from contaminated seed areas and the time or season so set for the taking of oysters from private leased grounds shall be separated by not less than a period of 15 days during which neither activity may be allowed.

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 such oysters to such public reefs which shall be reserved for tonging only.

MISS. CODE ANN. § 49-15-39 (a, b, c and e) (1972) are amended to allow from dredging in those areas under the provisions of MISS. CODE ANN. § 49-15-37 (1972) (above). These areas include:

(a) The Bay of Biloxi.

(b) Waters of the Bay of St. Louis north of the Louisville and Nashville Railroad Company's bridge.

(c) In the limits beginning at a point one (1) mile from shore in the City of Bay St. Louis at the Louisville and Nashville Railroad Company's bridge, thence southerly following the meander-

ings of the shore along Bay St. Louis and Waveland one and one-quarter (1-1/4) miles therefrom to the head of Waveland Avenue in the Town of Waveland; thence westerly to the shore at the head of Waveland Avenue.

(e) In the limits lying east of a line projected from the west bank of the mouth of Bayou Graveline in Jackson County to Round Island lighthouse and north of a line projected due east from Round Island lighthouse to the Mississippi-Alabama line.

MISS. CODE ANN. § 49-15-41 (1972) is amended to provide that the fine for violation of this section (which prohibits taking oysters between sunset and sunrise each day) shall not exceed \$10,000 and/or up to one (1) year in county jail.

II. Chapter 468, S.B. 2004, amends MISS. CODE ANN. § 49-7-31 (1972) to provide that there shall be no limit on the number of buck deer killed in a season, except that the day limit on buck deer with horns visible above the natural hairline shall be one (1) buck per day.

Rabbit season shall open on the first Saturday in October and run through the 28th of February.

The taking of any animal by the use of a trap shall be unlawful except during the time the season is open for the taking of fur-bearing animals. However, beaver and nutria may be taken by trap at any time.

It shall be unlawful to trap fox after the closed season for trapping of other fur-bearing animals, except on property owned by the person trapping.

MISS. CODE ANN. § 49-7-37(1972) is amended to allow a person

who has a license to hunt in this state to use hawks and falcons for that purpose. Bow seasons for deer are fixed between October 1 and October 30, November 1 and November 19, and one (1) day past the close of deer gun season through January 31.

III. Chapter 470, S.B. 2260, amends MISS. CODE ANN. § 49-5-39 (1972) to increase the penalty for hunting on a game preserve to a fine of not less than \$150 nor more than \$300 and by imprisonment in the county jail for not less than 10 days nor more than 30 days. The penalty for subsequent violations will be a fine (\$300 to \$500) and imprisonment as above, except that the sentence shall be served and not suspended.

The fine for trespassing on any game or fish refuge in any game and fish management area shall be not less than \$100 nor more than \$250 and imprisonment in the county jail for not more than 30 days.

IV. Chapter 472, S.B. 3152, amends MISS. CODE ANN. § 49-5-87 (1972) to provide that leaseholders of land in Jackson and George County which was purchased by the state wildlife and heritage committee shall not be dispossessed of such land prior to April 15, 1978.

II. MINERAL AND NON-LIVING RESOURCES

I. Chapter 476, H.B. 606, is a comprehensive surface mining and reclamation law. The law is the product of two years' investigation and drafting by legislators although the law encourages controlled development by strip mining of the state's lignite and other hard mineral resources, it establishes rigorous standards for reclamation. Small mining operations (four acres or less) involving extraction of sand, gravel, soil, clay, sand clay, clay gravel, limestone and chalk, are exempted from the Act's regulations. Operators of such small mines are required to notify the Mississippi Geological Survey of their existence, however.

All larger operations are required to obtain a permit, which remains in force for five years. Operators must also file an annual certificate of compliance, declaring compliance with an approved mining and reclamation plan. The permit application procedure is complex and requires extensive disclosure of mining plans prior to the start of operations. Reclamation requirements are equally complex and detailed, involving, for example, replacement of topsoil, avoidance of acid drainage and replacement of vegetation. Operators must post bond to insure proper reclamation. Generally, the land must be returned to the "nearest approximate original contour."

Certain areas are to be designated under the law as unsuitable for surface mining where other equally valuable resources would be disturbed or where reclamation is judged to be impossible.

The law provides for inspections on an irregular basis by state officials.

II. Chapter 455, S.B. 3137, exempts intrastate gas transmission, sale or distribution to industrial users or public utilities from certain requirements placed on public utilities. No person who shall construct, acquire, extend or operate an intrastate gas pipeline for transmitting natural, manufactured or mixed gas for sale or resale or distribution for consumption by industrial users, public utilities, or a public utility owned or operated by a municipality, shall be deemed a public utility or be required to obtain a gas certificate of public convenience and necessity to engage in the foregoing activities.

III. Chapter 487, H.B. 581, amends MISS. CODE ANN. § 53-3-13 (1972) to increase the permit fee for drilling an oil well from \$100 to \$200.

III, INDUSTRIAL AND AGRICULTURAL RESOURCES

I. Chapter 475, H.B. 193, enacts the "Foresters Registration Act of 1977." This Act provides for the registration of foresters with the State Board of Registration for Foresters of the State of Mississippi. It shall be unlawful for any person to practice in this state as a registered forester, unless such person has been duly registered. The State Board of Registration for Foresters shall have the following powers and duties:

(a) To adopt rules and regulations governing the holding of its meetings, hearings, applications for licenses and any and all other duties provided by this act.

(b) To establish and promulgate standards of practice and a code of ethics for registered foresters.

(c) To provide an annual roster of registered foresters.

(d) To issue, suspend and revoke licenses.

(e) To administer oaths at hearings before the board and to issue subpoenas to obtain required information.

The following persons shall be eligible for registration as a registered forester:

(a) Any person who shall have graduated with a bachelor's degree or higher from a university or college of forestry in a curriculum of forestry acceptable by the board.

(b) Any person who has five (5) or more years experience in forestry work of a character satisfactory to the board, and a written examination given by the board.

(c) Any person who shall have been engaged in the practice of forestry for at least three (3) years.

(d) Any person who shall have satisfactorily completed one or more years of forestry school and who has also gained work experience may substitute schooling for work experience at the ratio of one (1) year of schooling for two (2) years of work experience.

Applications for registration are to be made on forms prescribed by the board. The initial registration fee shall be fixed by the board, but shall not exceed \$25.00.

Any person who shall practice or offer to practice the profession of forestry in this state as a registered forester without being registered shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 for each such violation.

III. RECREATION

I. Chapter 424, S.B. 2304, increases the amount of funds which may be expended for buildings and improvements at various State Parks:

- (1) Buccaneer State Park, Gulf Coast Area \$3,000,000.00
- (2) Gulf Marine State Park, Biloxi \$1,000,000.00

II. Chapter 456, S.B. 3153, amends Chapter 435, Laws of 1972, as amended by Chapter 445, Laws of 1975, to increase the maximum term allowed for franchises granted by the Mississippi Coast Coliseum Commission. Such franchises shall not exceed five (5) years (up from 4 years) and may be extended for a period not to exceed five (5) additional years (up from 2 years).

V. ENVIRONMENTAL CONTROL

I. Chapter 420, H.B. 1330, allows municipalities which issued bonds for pollution control facilities under MISS. CODE ANN. §§ 49-17-101 through 49-17-123 to issue refunding bonds for the purpose of paying the former obligations.

