

By: Senator(s) Wiggins

To: Ports and Marine Resources

SENATE BILL NO. 2076
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 49-27-71, MISSISSIPPI CODE OF 1972,
2 TO DEFINE CERTAIN TERMS RELATING TO DERELICT VESSELS; TO PROVIDE
3 FOR JURISDICTION IN ACTIONS TO REMOVE DERELICT VESSELS; TO PROVIDE
4 CERTAIN REQUIREMENTS FOR THE REMOVAL OF DERELICT VESSELS; TO
5 PROVIDE CERTAIN REQUIREMENTS FOR THE NOTICE PROCESS FOR THE
6 REMOVAL OF DERELICT VESSELS; TO PROVIDE FOR THE PROCESS FOR
7 DETERMINING OWNERSHIP OF DERELICT VESSELS; TO PROVIDE FOR RECOVERY
8 OF COSTS ASSOCIATED WITH REMOVING DERELICT VESSELS; TO AUTHORIZE
9 CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF MARINE RESOURCES;
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 49-27-71, Mississippi Code of 1972, is
13 amended as follows:

14 49-27-71. (1) **Definitions.** As used in the section, the
15 following words and phrases have the following meanings unless the
16 context clearly indicates otherwise:

17 * * *

18 (a) "Abandoned vessel" means a vessel left unattended
19 for four (4) or more weeks after a hurricane, tropical storm or
20 other natural event resulting in a declaration of emergency by the
21 Governor, or, in the absence of a hurricane, tropical storm or



22 other natural event resulting in a declaration of emergency by the
23 Governor, any of the following:

24 (i) A vessel left unattended that is moored,
25 anchored, or otherwise in the waters of the state or on public
26 property for a period of more than ten (10) days.

27 (ii) A vessel that is moored, anchored, or
28 otherwise on or attached to private property for a period of more
29 than ten (10) days without the consent of the owner or lessee of
30 the property or of the public trust tidelands.

31 Upon notification from the owner of the vessel outlining the
32 circumstances following a hurricane, tropical storm or other
33 natural event, the department may grant an exception to the time
34 frames indicated above.

35 (b) "Department" means the Mississippi Department of
36 Marine Resources.

37 (c) "Derelict vessel" means a vessel in the waters of
38 the State of Mississippi that satisfies any of the following:

39 (i) Is aground without the ability to extricate
40 itself absent mechanical assistance;

41 (ii) Is sunk or otherwise resting on the bottom of
42 the waterway;

43 (iii) Is abandoned;

44 (iv) Is wrecked, junked, or in a substantially
45 dismantled condition upon any waters of this state:



46 1. A vessel is "wrecked" if it is sunken or
47 sinking; or remaining after a marine casualty, including, but not
48 limited to, a boating accident, extreme weather, or fire.

49 2. A vessel is "junked" if it has been
50 substantially stripped of vessel components, if vessel components
51 have substantially degraded or been destroyed, or if the vessel
52 has been discarded by the owner or operator. Attaching an
53 outboard motor to a vessel that is otherwise junked will not cause
54 the vessel to no longer be junked if such motor is not an
55 effective means of propulsion.

56 3. A vessel is "substantially dismantled" if
57 at least two (2) of the three (3) following vessel systems or
58 components are missing, compromised, incomplete, inoperable, or
59 broken:

60 (A) The steering system;

61 (B) The propulsion system; or

62 (C) The exterior hull integrity.

63 Attaching an outboard motor to a vessel that is otherwise
64 substantially dismantled will not cause the vessel to no longer be
65 substantially dismantled if such motor is not an effective means
66 of propulsion;

67 (v) Docked, grounded, or beached upon the property
68 of another without the consent of the owner of the property;



69 (vi) Is obstructing a waterway or within one
70 hundred (100) yards of the boundaries of any state, county or
71 municipal port;

72 (vii) Is endangering life or property;

73 (viii) Has broken loose or is in danger of
74 breaking loose from its anchor, mooring, or ties; or

75 (iv) A vessel that is otherwise not seaworthy.

76 (d) "Documented vessel" means a vessel documented under
77 46 USC, Chapter 121.

78 (e) "Effective means of propulsion" means a vessel,
79 other than a barge, that is equipped with:

80 (i) A functioning motor, controls, and steering
81 system; or

82 (ii) Rigging and sails that are present and in
83 good working order, and a functioning steering system.

84 A vessel does not have an effective means of propulsion for
85 safe navigation within seventy-two (72) hours after the vessel
86 owner or operator received telephonic notice, in-person notice
87 recorded on an agency-approved body camera, or written notice,
88 which may be provided by facsimile, electronic mail, or other
89 electronic means, stating such from a representative of the
90 department, and the vessel owner or operator is unable to provide
91 a receipt, proof of purchase, or other documentation of having
92 ordered necessary parts for vessel repair. The department may
93 adopt regulations to implement this paragraph.



94 (f) "Floating building or structure" means a floating
95 entity, with or without accommodations built thereon, which is not
96 primarily used as a means of transportation on water but which
97 serves purposes or provides services typically associated with a
98 structure or other improvement to real property. The term
99 includes, but is not limited to, an entity used as a residence,
100 place of business or office with public access; a hotel or motel;
101 a restaurant or lounge; a clubhouse; a meeting facility; a storage
102 or parking facility; or a mining platform, dredge, dragline, or
103 similar facility or entity represented as such. Incidental
104 movement upon water or resting partially or entirely on the bottom
105 does not, in and of itself, preclude an entity from classification
106 as a floating structure.

107 (g) "Gross negligence" means conduct so reckless or
108 wanting in care that it constitutes a conscious disregard or
109 indifference to the safety of the property to such conduct.

110 (h) "Moored" means a vessel that is anchored or affixed
111 in some other way to the public trust tidelands, to leased
112 tidelands, to private land, or within the riparian zone of a
113 private or public landowner or leaseholder.

114 (i) "Registered" means a vessel documented under
115 Section 59-21-5, Mississippi Code of 1972.

116 (j) "Unseaworthy" means a vessel that is not fit or
117 safe for any normal perils of the sea or has no effective means of
118 propulsion.



119 (k) "Vessel" means every description of watercraft,
120 other than a seaplane, capable of being used as a means of
121 transportation on the water. For the purposes of this section,
122 vessels powered only by hand, foot, oars or paddles, are included.

123 For the purposes of this section, floatable buildings and
124 structures, whether or not they are used for navigation, are
125 included.

126 (l) "Waters of the state" means any waters located
127 within Harrison, Hancock and Jackson Counties under the
128 jurisdiction of the Mississippi Department of Marine Resources as
129 established pursuant to Section 49-15-23, Mississippi Code of
130 1972.

131 (m) "Willful misconduct" means conduct evidencing
132 carelessness or negligence of such a degree or recurrence as to
133 manifest culpability, wrongful intent, or evil design or to show
134 an intentional and substantial disregard of the interests of the
135 vessel owner.

136 (2) **Jurisdiction.** (a) (i) In the waters of Harrison,
137 Hancock and Jackson Counties, a person * * *, firm, corporation or
138 other entity may not leave derelict or at risk of being derelict,
139 any vessel on the coastal wetlands, marine waters, or on public or
140 privately owned lands without the owner's permission.

141 (ii) The Department of Marine Resources has the
142 authority to remove derelict vessels, whether located on private
143 or public property.



144 (iii) Vessels located in ports and harbors are
145 subject to the provisions outlined in Title 50, Mississippi Code
146 of 1972, Ports, Harbors, Landings and Watercraft.

147 (iv) Subparagraph (i) of this paragraph (a) does
148 not apply to vessels located in marinas, garages or repair shops
149 for repairs, improvements or other work with knowledge of the
150 owner and for which the costs for such services have been unpaid.

151 (v) Vessels deemed to be derelict pursuant to this
152 chapter are exempt from the salvage provisions in Section 89-17-1
153 et seq., Mississippi Code of 1972.

154 (b) (i) In all other waters of the State of
155 Mississippi, a person, firm, corporation or other entity may not
156 leave derelict or at risk of being derelict, any vessel in the
157 wetlands, public waters or waterways or on public or privately
158 owned lands without the owner's permission.

159 (ii) Subparagraph (i) of this paragraph (b) does
160 not apply to vessels located in public or private marinas, garages
161 or repair shops for repairs, improvements or other work with
162 knowledge of the owner and for which the costs for such services
163 have been unpaid.

164 (iii) Vessels deemed to be derelict pursuant to
165 this chapter are exempt from the salvage provisions of Section
166 89-17-1 et seq., Mississippi Code of 1972.

167 (3) **Penalties.** Violations of this act will be subject to
168 the penalties as provided in Section 49-15-63.



169 (* * *4) **Standing.** * * * A party with standing may
170 initiate the derelict vessel procedures in this section. For
171 purpose of this section, the following parties have standing:

172 (a) The owner of the property where the vessel came to
173 rest or to which the vessel was made fast;

174 (b) Any harbormaster, police department, municipality
175 or agent of the state that agrees to accept or process a derelict
176 vessel; or

177 (c) Any professional marine salvager when the salvager
178 is engaged by a person with standing.

179 (5) Landowner permission may be revoked at any time. The
180 landowner must provide the department sufficient proof that the
181 vessel owner has been notified of the revocation of landowner's
182 permission or proof that the landowner cannot locate the owner of
183 the vessel.

184 When a vessel that is not otherwise leased to another party
185 is moored upon public trust tidelands for a period of thirty (30)
186 days or longer, permission must be granted by the Secretary of
187 State's Office.

188 (* * *6) **Notice.** Any party with standing, or his or her
189 representative, may initiate the notice process by filing an
190 application with the department to remove the derelict
191 vessel * * *. Upon receipt and review of the application, * * *
192 the department may initiate the following notice process:



193 (a) A department officer * * * is authorized to board
194 any vessel that has been reported to the department as being
195 derelict or at risk of being derelict to determine the condition
196 of the vessel and in an attempt to establish ownership of the
197 vessel.

198 (b) A department officer shall post notice, which must
199 comply with the following requirements:

200 (i) Be posted on the vessel in a prominent
201 location, visible to an approaching person;

202 (ii) Require the vessel owner to submit a plan for
203 removal to the department within seven (7) days of the notice; and

204 (* * * iii) * * * Include a space for the owner of
205 the vessel to respond.

206 (c) If the registered owner responds with a signature
207 in the space or otherwise provides a written response to the
208 department requesting an extension of time, then the registered
209 owner will have an additional five (5) days to * * * submit the
210 plan for removal.

211 (d) * * * The department will notify the respondent of
212 the approval or denial of the removal plan within seven (7)
213 business days.

214 (e) If the respondent fails to comply with the approved
215 removal plan and fails to submit a satisfactory reason as to why
216 the vessel cannot be moved as planned, the department may present



217 the removal plan and evidence of the owner's noncompliance to the
218 chancery court.

219 (f) Upon presentation of the required evidence, the
220 chancery court will issue an order allowing the department or its
221 representative to remove the vessel from its current location and
222 make whatever disposition is deemed appropriate, including, but
223 not limited to, immediate disposal, storage pending disposal, use
224 for official purposes, transfer to another state agency or other
225 disposition.

226 (g) If the vessel is located in an area of coastal
227 wetlands where emergent vegetation is present or where the vessel
228 is embedded in the ground, a wetlands permit may be required prior
229 to removal.

230 (h) Any party who acts in good faith and without
231 malicious intent in the processing, storing or moving any derelict
232 vessel pursuant to this section is immune from liability for
233 damages to the vessel.

234 (7) **Determining ownership.** (a) Upon receipt of an
235 application for the removal of a derelict vessel where no removal
236 plan has been submitted by the owner, the department must attempt
237 to contact the registered owner of the vessel and any lien holders
238 of record by other available means.

239 (b) The department must inquire of the Mississippi
240 Department of Wildlife, Fisheries and Parks (MDWFP) as to the
241 status of the vessel in regard to the Mississippi Boating Law of



242 1960, Section 59-21-1 et seq., or the United States Coast Guard as
243 to the status of the vessel in regard to documentation under 46
244 USC, Chapter 121.

245 (c) The inquiry must provide the description of the
246 vessel, including the vessel registration number.

247 (d) The MDWFP is required to provide the requested
248 information to the department within two (2) business days.

249 (e) The registered owner of a vessel must comply with
250 Section 59-21-21 to change ownership. In the event a vessel owner
251 fails to notify the MDWFP of a transfer of ownership and supply
252 the new owner's contact information, the owner of the vessel
253 according to MDWFP records is presumed to be the person to whom
254 the vessel is registered.

255 (f) If there is no registered owner found, the
256 department must make publication on the department's website and
257 in a newspaper with general circulation for three (3) weeks,
258 describing the vessel and the location.

259 (* * *8) **Derelict vessel removal.** (a) After the initial
260 notice period described in subsection (* * *6) has lapsed * * *
261 and the department can show proof of inquiries to ascertain the
262 vessel ownership under subsection (7) of this section, the
263 department may obtain an order from the chancery court for the
264 derelict vessel to be removed from its current location.

265 (b) * * * The chancery court order may authorize the
266 department to make whatever disposition is deemed appropriate,



267 including, but not limited to, immediate disposal of the vessel,
268 storage pending disposal, use for official purposes, transfer to
269 another state agency or other disposition.

270 (c) * * * If the vessel is located in an area of
271 coastal wetlands where emergent vegetation is present or where the
272 vessel is embedded in the ground, a wetlands permit may be
273 required prior to removal.

274 (d) Any person who acts in good faith and without
275 malicious intent in the processing, * * * storing or * * * moving
276 of any derelict vessel pursuant to this section is immune from
277 civil liability for damage to the vessel.

278 (* * *9) **Emergency removal.** Any derelict vessel that is
279 obstructing a waterway, is within any designated navigation
280 channel or within one hundred (100) yards of the boundaries of any
281 state, county or municipal port may be declared a hazard to
282 navigation and subject to immediate relocation, removal * * *
283 disposal, or other disposition by the department or other party
284 with standing.

285 (a) Any derelict vessel that is leaking any hazardous
286 substances, chemicals or fuels will be reported to the Mississippi
287 Department of Environmental Quality (MDEQ) and may be declared an
288 environmental hazard and subject to immediate relocation,
289 removal * * * disposal * * * or other disposition by MDEQ, the
290 department or other party with standing.



291 (b) The * * * registered owner of a vessel removed in
292 accordance with this subsection * * * (9) is liable for the costs
293 associated with the relocation, removal, salvage * * * storage or
294 disposal of the vessel and any damages to the flora and fauna
295 within the affected area.

296 (c) Any funds derived from salvage or sale of a vessel
297 pursuant to this section will be used to offset the costs to the
298 department associated with the removal, salvage, storage or
299 disposal of the vessel.

300 (d) Any funds derived from damages to the flora and
301 fauna will be deposited into the Coastal Resource Management Fund
302 if the Department of Marine Resources initiates the action.

303 * * * (e) Any party who relocates or removes a vessel
304 under this section is not liable for damages resulting from
305 relocation or removal unless the damage results from gross
306 negligence or willful misconduct.

307 (* * * 10) **Cost recovery.** (a) * * * The department may
308 seek full cost recovery from the registered owner of the derelict
309 vessel for any expense incurred as a result of, or incidental to,
310 removing the vessel. The registered owner of the vessel is liable
311 for the costs of removal, storage, disposal, and restoration of
312 affected lands * * *, attorneys' fees, and all court costs * * *.

313 (b) The owner of the vessel is also liable for * * * an
314 administrative penalty of Five Hundred Dollars (\$500.00) per
315 day. * * * The penalty for emergency removal of vessels under



316 subsection (9) of this section may be imposed by the Executive
317 Director of the Department of Marine Resources upon the
318 recommendation of the Advisory Commission on Marine Resources,
319 under Section 49-15-401 et seq. The fines for removal of all
320 other vessels may be imposed by the chancery court.

321 (c) Expenses incurred, including, but not limited to,
322 fines, court costs, vessel removal, storage, disposal, restoration
323 of affected lands, and attorneys' fees for derelict vessels will
324 be imposed by the chancery court as outlined in subsection (11) of
325 this section.

326 (d) If the registered owner should fail to pay fines
327 imposed by the department in accordance with paragraph (b) of this
328 subsection, an enforcement action will be filed with the chancery
329 court which may result in the court issuing an order, including,
330 but not limited to, the collection of fines, court costs, and/or
331 any legal avenue the court finds appropriate to collect such
332 funds.

333 (e) All proceeds from any activity initiated by the
334 Department of Marine Resources related to the disposition of a
335 vessel under this chapter will go into the Derelict Vessel Fund, a
336 special fund within the Seafood Fund. However, any fines imposed
337 for the damage to coastal wetlands will be placed in the Coastal
338 Resource Management Fund.

339 (* * *11) **Court process.** (a) The chancery court of the
340 county in which the vessel is located has jurisdiction over all



341 matters concerning derelict vessels under this section, including
342 injunctions and demands for damages. If the vessel is allowed to
343 float and/or is otherwise moved to another county after notice has
344 been provided under subsection (6) of this section, the county in
345 which the vessel was first provided notice shall have continuing
346 jurisdiction.

347 (b) If there is no response to the publication attempts
348 under subsection (7)(e) of this section, the chancery court will
349 issue an order to the department allowing the department to take
350 possession of the vessel and make such use or disposition of the
351 vessel as deemed appropriate under the circumstances. If the
352 department determines that the vessel may be used for official
353 purposes or otherwise sold, the MDWFP will issue a vessel
354 registration number or a hull identification number to the
355 department after proof of publication has been submitted.

356 (* * *c) The chancery court may, in its discretion,
357 order damages up to Five Hundred Dollars (\$500.00) per day for
358 every day the vessel was left abandoned or derelict, beginning on
359 the day * * * notice was posted on the vessel. * * *

360 (* * *d) If the department or a party with standing
361 desires to require the registered owner to remove the vessel, then
362 he or she may apply to the chancery court for a writ of mandatory
363 injunction ordering the registered owner to remove the vessel.
364 The chancery court must allow a reasonable time for removal and
365 restoration of the affected lands. The chancery court may order



366 further damages not to exceed Five Hundred Dollars (\$500.00) per
367 day for each day that the violation exists beyond the date set by
368 the court in an injunction for the removal of the vessel and
369 restoration of the affected lands.

370 (* * *e) Any court-ordered reimbursed costs or damages
371 in excess of the actual costs of removal and restoration initiated
372 by the Department of Marine Resources must be deposited in a
373 special fund in the State Treasury known as the "Derelict Vessel
374 Fund" * * * within the Seafood Fund. Any funds deposited in the
375 fund must be used to cover the administrative costs and removal
376 costs incurred by the department for the removal of vessels. Any
377 remaining funds must be used to cover the costs of removing
378 additional derelict vessels. However, any fines imposed for the
379 damage to coastal wetlands will be placed in the Coastal Resource
380 Management Fund.

381 (* * *12) **Department authorities.** (a) The department is
382 authorized to enter into contracts with individuals, firms and
383 corporations, or agreements with other state agencies for the
384 removal and/or temporary storage of vessels prior to removal. The
385 salvage value, if any, of the vessel may be used to offset the
386 costs of the removal of the vessel and the restoration of the
387 affected area. The department may enter into noncompetitive
388 contracts or agreements with any state or federal entity for the
389 removal of vessels.



390 (b) The * * * department may * * * enter into
391 interstate or intrastate * * * agreements toward this end, and may
392 seek and utilize aid from all federal, state, and local sources in
393 this endeavor.

394 (c) The Department of Marine Resources shall adopt
395 rules and regulations necessary and appropriate to carry out this
396 section for actions falling within its jurisdiction.

397 (d) The department may promulgate regulations to
398 establish a derelict vessel prevention program to address vessels
399 at risk of becoming derelict. Such program may, but is not
400 required to, include:

401 (i) Removal, relocation, and destruction of
402 vessels declared a public nuisance due to the lack of proper
403 marine sanitation, derelict or at risk of becoming derelict, or
404 lost or abandoned.

405 (ii) Creation of a vessel turn-in program allowing
406 the owner of a vessel determined by the department to be at risk
407 of becoming derelict, to turn the vessel and vessel title over to
408 the department to be destroyed without penalty.

409 (iii) Providing for removal and destruction or
410 other disposition of an abandoned vessel for which an owner cannot
411 be identified or the owner of which is deceased and no heir is
412 interested in acquiring the vessel.



413 (iv) Purchase of anchor line, anchors, and other
414 equipment necessary for securing vessels at risk of becoming
415 derelict.

416 (v) Creating or acquiring moorings designated for
417 securing vessels at risk of becoming derelict.

418 (* * * e) The State of Mississippi, the Commission on
419 Marine Resources, the Department of Marine Resources, and their
420 employees and representatives shall not be liable for any damages
421 resulting from the removal, towing, storage, sale or disposal of
422 any vessel * * * that is derelict or hazardous under this section.

423 (f) The department or any party with standing does not
424 incur liability for any resulting damage to the vessel or any
425 damage the vessel may cause to any property or person during the
426 time frame between posting notice and vessel removal. If any
427 damages occur during the period of time between notice and removal
428 of the vessel, the registered vessel owner, according to MDWFP
429 records, is presumed liable for all damages.

430 **SECTION 2.** This act shall take effect and be in force from
431 and after July 1, 2022.

