

1 SB233  
2 182612-1  
3 By Senators Melson, Shelnutt and Hightower  
4 RFD: Agriculture, Conservation, and Forestry  
5 First Read: 23-FEB-17

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8 SYNOPSIS: This bill would specify that the owner or  
9 lessee of a private reef, bed, or bottom has a  
10 cause of action against a person who takes oysters,  
11 or who damages, by pollution or otherwise, the  
12 reef, bed, or bottom.

13 This bill would provide for treble damages  
14 and payment of attorney's fees.

15 This bill would create an affirmative  
16 defense.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to marine resources; to provide a cause of  
23 action by the owner or lessee of a private reef, bed, or  
24 bottom against a person who takes oysters, or who damages, by  
25 pollution or otherwise, the reef, bed, or bottom; to provide  
26 for treble damages and the payment of attorney's fees; and to  
27 provide for an affirmative defense.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. (a) The owner or lessee of a private  
3 reef, bed, or bottom shall have a right of action against a  
4 person who takes oysters, shells, cultch, or clams in a  
5 private reef, bed, or bottom, or who damages, by pollution or  
6 otherwise, the private reef, bed, or bottom of the owner or  
7 lessee. The owner or lessee may recover treble damages and  
8 attorney's fees as the jury may assess.

9 (b) In calculating damages, the jury may consider  
10 any of the following:

11 (1) Whether the defendant acted knowingly or  
12 willfully.

13 (2) Whether the defendant acted in reckless  
14 disregard of whether the reef, bed, or bottom was privately  
15 owned or leased.

16 (3) Except in an action for pollution under this  
17 section, whether the privately owned or leased reef, bed, or  
18 bottom was clearly marked and defined pursuant to Section  
19 9-12-32, Code of Alabama 1975, at the time of the defendant's  
20 act or omission.

21 (c) It shall be an affirmative defense to an action  
22 for pollution under this section if the defendant acted in  
23 compliance with rules promulgated by the Alabama Department of  
24 Environmental Management at the time of defendant's act or  
25 omission.

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.