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1997 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of *Louisiana Coastal Law* is devoted to summarizing acts and resolutions enacted during the Regular Session of the Louisiana Legislature. Legislation having a general impact on Louisiana coastal resources and environment is covered. Unless otherwise indicated these laws became effective on and were passed during the regular session. Further information about these laws or resolutions can be obtained by contacting the Sea Grant Legal Program.

Wildlife and Fisheries	1
Public Lands and Resources	6
Environmental Quality	8
Ports, Harbors, and Waterways	12
Oil, Gas, and Minerals	13
Miscellaneous	15

Act summaries written by Jessica G. Braun

WILDLIFE AND FISHERIES

Act 4 (HB 684 Odiwet)

For commercial Menhaden fishing, provides that the commercial gear license and the vessel license may be issued to: the operator of the vessel, his employer, the owner, any individual person, partnership, corporation, or other legal entity. The licenses must be aboard and carried by the operator of the vessel. (Amends R.S. 56:303.2 and 305.2(A)(B); Adds R.S. 56:305.2(D))

Act 21 (SB 509 Romero)

Deletes the number of members required for a parish game and fish commission; requires that all rules and regulations be approved by the Louisiana Wildlife and Fisheries Commission before becoming effective; abolishes the Spanish Lake Game and Fish Commission as a state agency and allows it to be re-created as a local entity. (Amends R.S. 56:722 & 727, Repeals Sections 2-6, 8-11 of Act 261 of 1940 Reg. Session of the Legislature, Act 226 of the 1946 RSL, Act 462 of the 1960 RSL, Section 11 of Act 455 of 1966 RSL, and Act 129 of 1996 RSL.)

Act 70 (SB 22 Campbell, et al)

Provides that a portion of the fee paid to acquire a black bear prestige license plate be used to promote the existence and availability of such plates. Every hunting and fishing license will include a telephone number and address to request more information. (Amends R.S. 47:463.451(c) and R.S. 56:10(B)(6))

Act 129 (HB 53 Bruneau)

Authorizes the Louisiana Wildlife and Fisheries Commission to distribute licenses to those people leading activities other than hunting and fishing on Department Administered lands. The Wild Louisiana Guide License fee shall not exceed \$100 annually, and guides may be charged a client fee of no more than \$2 per person. (Enacts R.S. 56:1833)

Act 133 (HB 157 Doerge)

Authorizes the Department and Commission of Wildlife and Fisheries to lease, sell, convey, transfer, or assign certain land in Webster Parish without advertisement, bid, or auction as long as

the sale price is not less than the fair market value. Funds from the sale shall be dedicated to the Conservation Fund to renovate buildings.

Act 144 (HB 547 Odiwet)

Eliminates a seven-tenths of a mile section, from Bayou Saurage south to the Intracoastal Waterway, from Chef Menteur Pass in designating it as fresh or salt water for nets, seines, and mesh requirements. (Amends R.S. 56:322(B))

Act 154 (HB 604 Strain, Hainkel, Schedler)

Authorizes the Secretary of the Department of Wildlife and Fisheries to sell, convey, transfer, or assign seven designated parcels of land in Tangipahoa Parish after the exact distances and boundaries are determined by a survey. The Secretary may sell without public bid if appraised prior to sale and sold at fair market value. Funds shall be used to acquire additional properties adding to Sandy Hollow Wildlife Management Area.

Act 158 (HB 784 Holden)



Exempts the field dressing of wild game from the licensure requirement for meat intended for human consumption. (Adds R.S. 40:941(C))

Act 191 (SB 550 Hainkel, Dardenne, Ewing, Romero)

Requires the buyer or handler, not the producer, of aquaculturally-raised fish to notify the Secretary of the Department of Wildlife and Fisheries of the fish shipment's pending arrival. (Amends R.S. 56:327.1(c)(2))

Act 202 (SB 524 Robichaux)

Prohibits the Department of Wildlife and Fisheries from enforcing, promulgating and adopting any federal laws, rules, or regulations, which require commercial fishermen to use fish excluder devices unless authorized to do so by the legislature. (Adds R.S. 56:57.4)

Act 203 (SB 544 Hainkel, Dardenne, Ewing, Romero)

Requires only a valid commercial fishing license to catch or sell eel. (Amends R.S. 56:332.1(A))

Act 204 (SB 545 Hainkel, Dardenne, Ewing, Romero)

Deletes rock bass from those types of fish which cannot be purchased, sold, exchanged, or offered for sale or exchange, or possessed or imported with the intent to sell or exchange. Adds shadow bass to the types of fish protected from any of the above activities. (Amends R.S. 56:327(A)(1)(a))

Act 205 (SB 551 Hainkel, Dardenne, Ewing, Romero)

Defines "processing" of fish and fish products as drying to a point of dehydration, canning, salting, or packing. (Amends R.S. 56:8(77))

Act 206 (SB 573 Hainkel, Dardenne, Ewing, Romero)

Repeals the requirement that a charter vessel owner obtain a charter vessel fishing license. (Repeals R.S. 56:302.8)

Act 233 (HB 2010 Dewitt)

Re-creates the Department of Wildlife and Fisheries and all statutory entities made a part of the department by law until June 30, 1999. (Enacts R.S. 49:191(10)(g); Repeals 49:191(8)(m))

Act 262 (HB 721 Dupre, Flavin, Faucheux, Firth, Hudson)

Sets the net and trawl requirements and the violation penalties for shrimping vessels in Louisiana offshore territorial waters. (Adds R.S. 56:495.1 (F))

Act 263 (HB 768 Triche)

Provides that after two years, the Department of Wildlife and Fisheries may dispose of things seized. After two years lapse, the department will be free from all liability of things sold. (Amends R.S. 56:62 and 64)

Act 267 (HB 976 Durand)

Sets the minimum mesh size for nets used to commercially harvest wild crawfish at a hexagon of three-quarters by eleven-sixteenths of one inch. The Department of Wildlife and Fisheries shall allow a mesh size of three-quarters of one inch for a specified area. (Amends R.S. 56:322 (I))

Act 277 (HB 1276 Dupre, Faucheux, Frith, Hudson)

Prohibits fishing or shrimping with a skimmer net in inside waters or state waters during the closed season. (Amends R.S. 56:495.1(B) and 497(B)(2))

Act 302 (HB 1991 Roussell, Dewitt, Triche)

Requires all crab traps after January 1, 1998 to have a minimum of two escape rings which are two and five-sixteenths inches in inside diameter excluding ring material. Persons in Lake Pontchartrain with a soft shell crab shadders license are exempt from these regulations. (Adds R.S. 56:332 (K))

Act 303 (HB 2002 Hebert)

Defines "bona fide resident" for licensing purposes. A corporation or other legal entity is a resident of Louisiana if incorporated here, domiciled, and has a permanent physical location of business in Louisiana. If a natural or juridical person has a resident license from another state or country they cannot qualify for Louisiana residence. (Amends R.S. 56:8 (12)(b); Adds R.S. 56:8 (12)(C))

Act 304 (HB 2003 Hebert)

Clarifies that nongame furbearing quadrupeds may be taken in the open trapping season only by properly licensed trappers. Sets requirements for taking nutria in open season. (Amends R.S. 56:259(C))

Act 305 (HB 2011 Gautreaux, Robichaux)

Provides for all oyster leases, except those located in the impact area, to begin the day the lease is signed and continue for fifteen years. Leases located within the impact area of a coastal restoration project which expired on December 31, 1996 or thereafter may be renewed by the Secretary for not less than one year nor more than fourteen years. (Amends R.S. 56:428(A); Adds R.S. 56:428.1)

Act 376 (HB 2007 J. D. Smith, Dewitt, Faucheux, Frith)

Provides that commercial fisherman taking or selling their catches shall be licensed according to explicit regulations. Revenues from designated licenses shall go into the Conservation Fund to help the fishing industry. Defines wholesale/retail seafood dealer and lists his license requirements, duties, and powers. These license revenues shall be directed to the dealer receipt forms program. Some restaurants, grocers, and people who harvest crawfish or catfish in private ponds are exempt from these license requirements. (Amends R.S. 56:301.7(B), 303(A), (B), and (D), 303.1, 303.4(A), and subpart F of Title 56, to be comprised of R.S. 56:306-306.6; Adds R.S. 56:301.7(C))

Act 377 (HB 2012 Dewitt)



Increases the cost of a resident duck stamp by fifty cents for the 1998-1999 license year and thereafter. (Amends R.S. 56:152(A))

Act 396 (HB 58 Bowler)

Authorizes the Wildlife and Fisheries Commission to create and issue hunting permits for temporarily or permanently physically challenged persons. A licensed Louisiana physician must certify the disability. A temporary disability is one which shall last for at least one year. (Amends R.S. 56:104.1(A))

Act 410 (HB 267 Doerge)

Requires the State Board of Elementary and Secondary Education, the Department of Education and the Department of Wildlife and Fisheries to implement a watercraft safety course into the physical education curriculum for students in secondary public schools. The course will focus on protection and safety while engaging in watersports or recreation. (Adds R.S. 17:282.1)

Act 419 (HB 801 Rousselle, Robichaux)

Provides that only the captain of a vessel harvesting or possessing oysters in state waters must purchase a license. An oyster harvester license is \$100 for residents and \$400 for nonresidents. The revenues shall be used solely for the oyster strike force and the Department of Health and Hospitals. (Amends R.S. 56:303.6(A)(1) and (B))

Act 434 (HB 1610 Rousselle)

Provides that oyster renewal leases shall be assigned the same number used for the prior lease with the year of the renewal added. (Amends R.S. 56:428(B))

Act 446 (HB 2383 Rousselle)

Particularly describes and alters the boundaries between inside and outside waters for shrimping purposes. Alters the Plaquemines area boundary to more closely follow the coastline. (Amends R.S. 56:495(A)(47)-(60), (62) and (100); Adds R.S. 56:495(A)(46.1), (46.2), (47.1), (47.2), (48.1), (48.2), (51.1), (52.1), (52.2), (52.3), (52.4),

(54.1), (54.2), (55.1), (55.2), (56.1), (56.2), (56.3), (56.4), (56.5), (56.6), and (99.1))

Act 449 (HB 2409 Marionneaux, Greene)

The Wildlife and Fisheries Commission may establish special permits to allow large tournament participants, greater than one hundred boats, to possess live black bass, *Micropterus spp.*, or its hybrids. A fee will be charged to cover the departments administrative and enforcing costs. Permits are not transferable. (Adds R.S. 56:318.1)

Act 527 (HB 1721 Triche)

Deletes the two hundred fifty dollar fee for a permit to possess gill nets, trammel net, strike nets and seines. Forbids the Department of Wildlife and Fisheries to issue tags for pompano or mullet strike nets to anyone who does not have a social security number. (Amends R.S. 56:305.5(B), 325.3(C)(4), 325.4(B)(4), 333(B)(5), and 406(A)(3)(e); Repeals R.S. 56:305(B)(4)(b))

Act 639 (HB 2023 Wright)

Provides for an income tax checkoff for the Louisiana Chapter of Ducks Unlimited. (Enacts Subpart T of Part I of Chap. 1 of Subtitle II of Title 47 of the L.R.S. of 1950 comprised of R.S. 47:120.57)

Act 652 (HB 2416 Riddle)

Deletes the special fund for monies donated by taxpayer's on their income tax return to the Louisiana Operation Game Thief, Incorporated. The monies shall be given to the Louisiana Operation Game Thief agency at least every three months. The Secretary will enter the name of the donor and the amount of the donation into a central registry. (Amends R.S. 47:120.40(B))

Act 666 (SB 264 Ullo)

Creates the Underwater Obstruction Removal Program within the Department of Natural Resources to identify, inventory, and remove obstructions which are a hazard to navigation and commercial fishing; defines key terms;

calls for the adoption of rules, regulations and procedures; establishes a Underwater Obstruction Removal Fund and sets guidelines as to the disbursement of those funds. (Amends R.S. 36:354(E)(2); Adds R.S. 30:101.1-101.10)

Act 670 (SB 549 Hainkel, Dardenne, Ewing, Romero)

Presumes that all fish in possession or on the premises of a licensed facility or vehicle are for commercial purposes only as a condition to granting wholesale, retail, or transportation licenses. (Enacts R.S. 56:303.8)

Act 727 (HB 803 Rousselle)

Provides that persons convicted of a fishery-related class three or greater violation will not be eligible to hold a commercial fisherman's license for two years from the date of conviction. If convicted a second time, the person is ineligible for a period of five years from the date of conviction. Upon a third conviction the person is not eligible for a period of ten years from the conviction date. (Adds R.S. 56:303.8; Repeals R.S. 56:305(B)(14)(c))

Act 801 (HB 1149 Odinet)

Defines earnings, relative to the Fisherman's Gear Compensation Fund, as earnings derived solely from personal efforts of a commercial fisherman. The definition excludes the income of a spouse or any community property interest of a spouse. (Amends R.S. 56:700.1(1))

Act 802 (HB 1150 Riddle)

For the purposes of producing or harvesting crawfish and catfish, a private pond is a body of water which is privately owned and (a) crawfish or catfish are bred and raised under controlled conditions or (b) persons other than the owner may be required to pay a fee to fish in the body of water. (Enacts R.S. 56:8(76.1))

Act 866 (SB 147 Bean)

Exempts persons or businesses which sell fish prepared for consumption on or off the business premises from purchas-



ing a wholesale/retail dealer's license. Also exempts any restaurants and retail grocers who purchase fish from a licensed dealer and who only sell the fish fully prepared for immediate consumption by the consumer.
(Adds 56:306(B)(6) and 306.3(D))

Act 871 (SB 270 Ullo, Robichaux)

Provides for an experimental two year brown shrimp season in that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River westward to the western shore of Vermillion Bay and Southwest Pass at Marsh Island (Zone 2).
(Amends R.S. 56:497(A)(2))

Act 874 (SB 362 Greene)

Exempts West Baton Rouge, Pointe Coupee, Assumption and Iberville parishes from the rules governing the commercial taking of bowfin or bowfin body parts during December, January, and February.
(Amends R.S. 56:326.6(A))

Act 919 (SB 1108 Robichaux, Dupre, Gautreaux)

Changes the allowable mesh size of nets used for taking saltwater shrimp from three-fourths to five-eighths of an inch square or one and one-fourth (changed from one-half) of an inch stretched in inside waters during the fall inshore shrimp season. In zone two west of the Atchafalaya River the size must be no less than three-quarters of an inch square or one and one-half of an inch stretched.
(Amends R.S. 56:499(B)(2))

Act 950 (HB 619 Diez)

Adds the Louisiana duck stamp and the wild turkey stamp to those included in the lifetime hunting license.
(Amends R.S. 56:649.1)

Act 962 (HB 1127 Wright, et al)

Authorizes the Secretary of the Department of Public Safety and Corrections to establish a license plate for any citizen of Louisiana for Ducks Unlimited. A fee of fifty dollars will be charged for the plate in addition to the regular fee. A portion of the revenues will be placed in the waterfowl account of the Conserva-

tion Fund to be used solely for conserving, restoring, and enhancing migratory waterfowl habitat in Louisiana.
(Adds R.S. 47:463.46 and R.S. 56:10(B)(8))

Act 1092 (HB 2405 Dimos, Triche, Thompson)

Requires that the Wildlife and Fisheries Commission establish an all-terrain vehicle trail in the Boeuf Wildlife Management Area to be used for nonprofit organizations, charities, and education.
(Adds R.S. 56:109(E))

Act 1106 (SB 1105 Robichaux, Dupre, Gautreaux)

Provides that when wholesale/retail dealers purchase shrimp from commercial shrimpers, certain information must be included on the wholesale/retail dealer receipt form. These provisions shall be implemented no later than January 1, 1999.
(Amends R.S. 56:303.7)

Act 1115 (SB 1152 Romero, J. R. Smith)

Provides that a claim for damages to a oyster lease bed from oil and gas activity may be settled by arbitration. The Oyster Lease Damage Evaluation Board within the Department of Natural Resources shall consist of five members and spells out how they should be appointed. Demands the board develop a list of qualified biologist to provide data on the value of the beds and other matters. After the board recommends damages, the Secretary can reject them and send the matter back to the board. Provides that the arbitration be simple and expeditious. Calls for the Secretary and the board to work in conjunction.
(Amends R.S. 56:700.12(intro para) and (3), 700.13 and 700.14(A), (B), (D) and (E))

Act 1158 (SB 1441 Barham, Campbell, Short, McCallum)

Authorizes the Department of Public Safety and Corrections to establish a license plate with a logo and a picture of a wild turkey or the Wild Turkey Federation logo. A fee of fifty dollars will be charged for the plate in addition to the regular fee charged. A portion of the revenues will be deposited in the Loui-

siana Wild Turkey Stamp Fund and used to restock and research turkeys.
(Amends R.S. 56:10(B)(7); Adds R.S. 47:463.46)

Act 1163 (SB 1467 Robichaux, Landry, Dupre, Gautreaux)

Prohibits commercial shrimping vessels from retaining more than one hundred pounds of southern flounder per vessel per shrimping trip.
(Amends R.S. 56:491; Enacts R.S. 56:492)

Act 1181 (SB 1550 Ellington)

Authorizes the use of recreational and commercial wire nets to take freshwater and saltwater game fish. Residents must pay a gear fee of twenty dollars to use no more than five wire nets for recreational purposes or twenty-five dollars to use any legal number of wire nets for commercial purposes. Provides that wire nets be used only to take legal size catfish.
(Amends R.S. 56:305(B)(15) and 320(A)(1); Enacts R.S. 56:8(131), 302.3(B)(6), 305(B)(16), 320(A)(5) and 322(E)(5))

Act 1233 (SB 534 Hainkel, Dardenne, Ewing, Romero)

Defines "underutilized species" as a species of fish, bivalves, or reptiles whose commercial development potential has not yet been fully realized. Deletes the word "edible" from the definition.
(Amends R.S. 56:8(103))

Act 1234 (SB 535 Hainkel, Dardenne, Ewing, Romero)

Defines license number as the numeric representation which corresponds to and identifies a particular license or permit. Also defines "effective license number." Requires licensees to have in their possession when hunting, and produce on demand, a license or an effective license number and a form of personal identification.
(Amends R.S. 56:103(E); Enacts R.S. 56:8(60.1))

Act 1236 (SB 542 Hainkel, Dardenne, Ewing, Romero)

Deletes the provision allowing a non-



resident to purchase a seven-day basic recreational sport fishing license. Adds a provision allowing a nonresident to purchase a temporary three-day saltwater license.

(Amends R.S. 56:302.1(B)(1) and (C)(2)(a) and 302.9(B); Repeals R.S. 56:302.1(C)(2)(b))

Act 1237 (SB 546 Hainkel, Dardenne, Ewing, Romero, Bagneris, Landry)

Redefines "privately owned waters" as artificial reservoirs or enclosures located on privately owned property which at all times prevent the ingress and egress of fish from public waters. Provides for the harvest and sale of fish produced in privately owned waters. (Amends R.S. 56:8(76), 411(5), the intro para of R.S. 56:412(A), R.S. 56:412(A)(1) and 413)

Act 1238 (SB 548 Hainkel, Dardenne, Ewing, Romero)

Sets out the penalties for dealers in possession of undersized (unboiled) crabs purchased from an identifiable fisherman. Identified commercial fisherman will also be subject to these penalties. Prohibits the possession of more than twice the percentage of undersized crabs allowed by law and a violation will be labeled class four. The crab trap gear license will be suspended and upon conviction it will be voided. Provides the penalties for repeat violators. (Amends R.S. 56:326(F)(1) and (3); Enacts R.S. 56:326(F)(5))

Act 1239 (SB 557 Hainkel, Dardenne, Ewing, Romero)

Replaces the chief of the Fur and Refuge Division of the Reptile and Amphibian Task Force with the assistant secretary of the Office of Fisheries. Replaces the chief of the habitat conservation division with the assistant secretary of the Wildlife Office. The three herpetologists representing academic interests will now be appointed by the Secretary from an institution of higher education within this state. The one pathologist or toxicologist will be appointed by the Secretary. Provides that one member be from the Audubon Institute. (Amends R.S. 56:632.8)

Act 1282 (HB 152 Wiggins, Johns, Daniel, Walsworth)

Persons born on or after September 1, 1969 must show either a certificate for completion of an approved firearm and hunter education course or an expired hunting license from the previous year showing the approved certification number issued by the department before a hunting license will be issued.

(Amends R.S. 56:699.1, 699.2, and 699.5(A))

Act 1292 (HB 404 Hammett)

Provides that certain private property completely surrounded by certain wildlife management areas near the Red River shall be subject to all state hunting and fishing provisions. The only special provision applicable is that deer cannot be taken with the aid of dogs. Owners and lessees of this land cannot obtain and use any license or permit issued under the deer management assistance program. Nor can they hunt, trap, or take resident game by baiting to the area where hunters attempt to take them.

(Adds R.S. 56:767)

Act 1314 (HB 805 Rousselle)

Requires that the Department of Natural Resources develop a program to reduce and offset any adverse impact of the coastal restoration efforts on oyster leases. Provides for leases which may be affected to be exchanged, relocated, retained, or purchased. Relocation must be pursued first. The department shall work with the Oyster Task Force.

(Adds R.S. 56:432.1)

Act 1352 (SB 972 Hainkel)

Sets the limit for Southern Flounder at ten fish for each consecutive day on the water. Allows a recreational saltwater fisherman who has a valid basic and saltwater license to possess twice the daily bag limit of red drum and spotted sea trout while aboard a trawler fishing commercially for longer than twenty five hours. Also requires that the fish in their possession be of certain minimum and maximum sizes. Provides penalties for violations.

(Amends R.S. 56:325.1(A)(2), the intro paragraph of R.S. 56:325.1(B), 325.1(B)(2), (C)(1) and (C)(2)(a) and (c); Enacts R.S. 56:325.1(A)(3) and 326(H))

Act 1413 (HB 1521 Odinet)

Changes the criteria for determining eligibility of applicants for economic assistance under the Commercial Fisherman's Assistance Program. People who qualify will be economically assisted for participating in training programs or courses and will receive assistance in finding employment. Persons receiving assistance will not be eligible for licenses or permits under R.S. 56:333. An additional fee of three dollars will be added to the cost of a saltwater recreational fishing license to help implement these provisions and to help enforce saltwater fishing laws and regulations. Adds two penalties to be imposed for class three violations. If a license is revoked for a class three or less violation aid for training or sale of gear or obtaining certain other licenses is still available. Clarifies application requirements as to the submission of an income tax form. Creates a special apprentice license for commercial taking of saltwater fish and lists the requirements. Lists the requirements necessary for a license to commercially take spotted sea trout or to take underutilized species.

(Amends R.S. 56:13.1(B), (C), (D), (E), 38, 301.2(1), 325.3(D)(1), and 325.4(B)(1); Enacts R.S. 56:33(4) and (5) and 303.8)

RESOLUTIONS

HR 74 Gautreaux

Directs the Louisiana Wildlife and Fisheries Commission to annually report to the Legislature on red drum and spotted sea trout.

HCR 35 Frith

Asks Congress to amend federal law to allow the use or aid of recorded or electrically amplified bird calls, sounds, or imitations to take snow and blue geese.

HCR 128 Kennard

Requests that the Department and Commission of Wildlife and Fisheries allow senior citizens to use limited access roads and all-terrain vehicle trails designated as "handicapped only" trails.

HCR 186 Faucheux



Urges the Department and Commission of Wildlife and Fisheries to use the average of the range of spawning potential ratio for flounders.

HCR 187 Fauchaux

Suspends the prohibition of the commercial possessing or sale of southern flounder that is by-catch from commercial shrimp trawls.

(Suspends Louisiana Administrative Code Title 76, Part VII, Chapter 3, Section 351)

HCR 207 Gautreaux

Directs the Wildlife and Fisheries Commission to make an annual report on red drum and spotted sea trout.

HSR 65 Shaw

Requests that the House Committee on Natural Resources study current practices of intentional killing or injuring quadrupeds in captivity for sport.

HCSR 11 Thompson, Kenney

Requests that the House and Senate Committees on Natural Resources join together to study the current practices and procedures of harvesting freshwater mussels in the state.

SCR 11 Uilo

Creates a Select Council on Shrimp Management and a Shrimp Industry Review Panel to study and make recommendations on the current and future management of the states shrimp resources.

SCR 48 Cain, Hill, Johns, J.R. Smith

Directs the Commission and Department of Wildlife and Fisheries to leave Deer Hunting Areas two and three in Beauregard parish as they have been kept in the past and to conduct a study on the impact of the proposed changes.

SCR 51 Hainket

Requests that a portion of the Tangipahoa River be studied by the Department of Wildlife and Fisheries for inclusion in the Louisiana Natural

and Scenic Rivers system.

SCR 148 Robichaux, Bean, Uilo, Triche, Gautreaux

Urges the Wildlife and Fisheries Commission to present an annual report to the legislature on the status of red drum and spotted sea trout.

PUBLIC LANDS AND COASTAL RESOURCES

Act 80 (SB 461 Hines)

Deletes the Secretary of the Department of Natural Resources membership from the State Parks and Recreation Commission and provides that the spot be filled by the Secretary of the Department of Wildlife and Fisheries or his designee. Decreases the number of the members the governor may appoint from four to three. Provides that the assistant commissioner of the Office of Forestry of the Department of Agriculture and Forestry or his designee also be included as a member of the commission.

(Amends R.S. 56:1681(A)(2)(b) and (f); Enacts R.S. 56:1681(A)(2)(j))

Act 93 (SB 1106 Robichaux, Landry)

Provides that when 25,000 cubic yards, as opposed to 500,000 cubic yards, of wetland or waterbottom within the coastal zone are dredged, the material shall be used for beneficial purposes and protection of wetlands.

(Amends R.S. 49:214.30(H)(1))

Act 109 (SB 229 Ellington, Kenney)

Authorizes the Fifth Louisiana Levee District to exchange parcels of land in Concordia Parish as long as property received is of greater economic value.

Act 175 (HB 1514 Downer, Ansardi, Donelon, J. R. Smith)

Exempts forests and lands under the Military Department of the State from certain provisions relative to the administration of state land.

(Adds R.S. 39:14(6))

Act 222 (HB 305 Downer, Dupre,

Gautreaux, Robichaux)

Exempts the Terrebonne Parish governing authority from management by the Department of Natural Resources, when utilizing certain areas of Bayou Terrebonne.

(Adds R.S. 41:1705(15))

Act 435 (HB 1662 Kenney)

Redefines the non-submerged lands available to the Bayou de Chene Reservoir Commission for development of a recreational facility or for sale or lease for private development. The right of first refusal does not apply to these lands and mineral rights are reserved. Prescription of nonuse will not run against the land as long as it remains titled to the Lake Commission. Changes the pool level from eighty to ninety feet.

(Amends §§ 1 and 5 of Act No. 1153 of the 1995 R.S.)

Act 437 (HB 1706 Perkins, Weston)

Alters the geographical boundaries of the Amite River Basin Drainage and Water Conservation District.

(Amends R.S. 38:3301)

Act 592 (HB 1172 Forster, Bagneris, Murray)

Exempts the Board of Commissioners of the Orleans Levee District from certain provisions relative to the sale of property. Monies derived from property sold by the board shall be directed to the board for deposit without delay. Forbids the levee district from selling land located in the Bohemia Spillway.

(Amends R.S. 41:135(A))

Act 648 (HB 2354 Winston)

Authorizes the Secretary of the Department of Health and Hospitals to lease, or engage in other cooperative endeavors, certain property to the Northlake Nature Center. The state reserves any and all mineral rights. Property may be subject to existing rights-of-way and servitudes.

Act 736 (SB 1255 Jones, Ellington, Thompson)

Levee districts having a population of not more than seventy-five thousand nor less than forty thousand, but not



more than four parishes, each with a boundary with the Mississippi River may be appropriated one million dollars in fiscal year 1997-1998 for levee construction, maintenance, and other flood control works. The levee board must adopt a flood prevention plan. (Adds R.S. 38:345)

Act 781 (HB 689 Theriot, Robichaux)

Grants, conveys, transfers, and delivers all land, rights-of-way, and servitudes located in the South Lafourche Levee District and owned by the Atchafalaya Basin Levee District to the South Lafourche Levee District. Also grants, conveys, transfers, and delivers all lands located in the North Lafourche Conservation, Levee and Drainage District and owned by the Atchafalaya Basin Levee District to the North Lafourche Conservation, Levee and Drainage District. (Adds R.S. 38:291(P)(3) and (T)(3))

Act 1030 (HB 1173 Forster, Bagneris, Murray)

Creates two exceptions to the Orleans Levee Districts reserved and dedicated Lake Pontchartrain frontage. The board may allocate the area know as Pontchartrain Beach to the University of New Orleans. The area of the Franklin Avenue facility may be used by the board within their general powers and duties. Lakeshore Drive will remain open to the public. (Amends R.S. 38:336(B)(2))

Act 1048 (HB 2338 Gautreaux, Dupre, Robichaux)

When applying for a lease of part of a bottom or bed of state water, the application shall remain in effect and valid until a survey to determine whether the bottom is leasable is conducted. (Amends R.S. 56:427(A))

Act 1146 (SB 1365 Irons, Clarkson)

Sets the prescriptive period for an action to enforce zoning restrictions or regulations at five years (from the first act constituting the commission of the violation) when regarding property known as historical preservations or landmarks. (Adds R.S. 9:5625(G))

Act 1287 (HB 292 Theriot)

Provides that the members of the South Lafourche Levee District be appointed at large, rather than requiring four from the east and four from the west of the bayou. Prohibits the Lafourche Basin Levee District from levying, assessing, or collecting any taxes within the territorial jurisdiction of the South Lafourche Levee District. (Amends R.S. 38:291(F)(1)(d) and (P)(2); Repeals R.S. 38:333)

Act 1314 (HB 805 Rousselle)

See *Wildlife and Fisheries* Section

Act 1364 (SB 1460 Dean, et al)

Declares that public and necessary purpose has ceased to exist relative to the acquisition of property on the east bank of the Mississippi River in Plaquemines parish for the construction of the Bohemia Spillway. Authorizes the Department of Natural Resources to give written certification to the Board of Levee Commissioners of the Orleans Levee District of all owners and/or successors of the property and mineral rights. The board shall publish information as to how these owners/successors may contact the board for a return of the property and mineral rights. The board shall make reasonable efforts to locate such persons and pay to the owners an amount equal to the revenues and interest produced since certain dates. Calls for the state land office to survey and abstract the lands in question and report to the legislature. (Amends § 1 of Act 233 of 1984 R.S., as amended by Act 819 of 1985 R.S. and by Act 847 of 1992 R.S.)

Act 1401 (HB 1308 Triche)

Increases the number of members on the Lafourche Basin Levee District Board of Commissioners from ten to eleven and demands that two persons appointed reside in St. Charles Parish. Requires that not less than fifty-seven percent of the tax money, after the transfer of funds, be used for construction, maintenance, flood control and drainage works. (Amends R.S. 38:291(F)(2) and 334(A))

Act 1431 (HB 2073 Faucheux)

Creates recreation and park commis-

sions in any parish with a population of not less than thirty-nine thousand three hundred persons and not more than forty-one thousand five hundred persons; lays out appointment guidelines; gives the commission certain authority and powers throughout each parish; designates the commission as a political subdivision of the state. (Enacts R.S. 33:4570.11)

RESOLUTIONS

HR 75 Kennard, Perkins, Fontenot, Branch

Requests that the Department of Transportation and Development study the feasibility of extending Louisiana highway 408 to the east and of constructing a bridge over the Amite River connecting with Louisiana highway 16 in Livingston.

HCR 10 Dupre, Downer, Hebert, Hill, Michot, Odinet, Pierre, Smith, Hines

Asks Congress to reauthorize funding for projects under the Federal Coastal Wetlands Planning, Protection, and Restoration Act.

HCR 15 Rousselle, Riddle, Hines

Requests that the Office of State Parks study the feasibility of making Fort Jackson in Plaquemines Parish and Fort De Russy in Avoyelles Parish state commemorative areas.

HCR 22 Faucheaux, Powell, Hainkel, Landry

Creates the Maurepas State Park Steering Committee to evaluate and recommend potential state park sites in St. John the Baptist and Tangipahoa Parishes.

HCR 47 J. R. Smith

Approves the Coastal Wetlands Conservation and Restoration Plan for Fiscal year 1997-1998.

HCR 172 Hammett

Creates a task force to study the use of the Department of Wildlife and Fisher-



ies' public lands by political subdivisions to satisfy wetland mitigation requirements.

HCR 194 J. R. Smith

Memorializes Congress, and the appropriate federal agencies, to approve the Louisiana Coastal Wetlands Conservation Plan.

HSR 66 Triche

Requests that the House Committee on Natural Resources study the practices, laws, and regulations concerning the use of skimmer nets in estuaries, sanctuaries, and habitats.

HSR 67 Fauchaux

Requests that the House Committee on Natural Resources study the feasibility and necessity of having the commissioner of conservation regulate brine pipelines.

HSR 78 Fauchaux

Requests that the House Committee on Natural Resources study the use of coastal activity permit fees and the use of grants and donations for coastal mitigation projects.

HSR 79 Hammett

Requests that the House Committee on Natural Resources study the feasibility of allowing political subdivisions to use public lands under control of the commission or department to satisfy wetland mitigation requirements.

HCSR 2 Michot

Requests that the House and Senate Committees on Natural Resources join together to study the use of recycled materials for coastal restoration purposes.

HCSR 5 Brun

Requests that the House and Senate Committees on Transportation, Highways and Public Works join to study the feasibility of terminating the Red River Waterway District.

HCSR 10 Dupre

Requests that the House and Senate Committees on Transportation, Highways, and Public Works; the House Ways and Means; and the Senate Revenue and Fiscal Affairs Committee join together to study several levee districts located in the coastal parishes of the state to formulate a long-range funding plan for flood control.

SCR 133 Romero

Approves the amendments made to the wetlands conservation and restoration plan by the Wetlands Conservation and Restoration Authority.

ENVIRONMENTAL QUALITY

Act 16 (HB 1765 Damico, Dewitt)

Eliminates the power of the Secretary of the Department of Environmental Quality to issue final enforcement actions and give notice thereof after an adjudicatory hearing.
(Amends R.S. 30:2050.5)

Act 17 (HB 1767 Damico, Dewitt)

Provides for administrative record keeping procedures within the Department of Environmental Quality.
(Amends R.S. 30:2050.20)

Act 26 (SB 629 Hainkel, Dardenne, Ewing, Lambert)

Repeals definitions of terms relating to the Environmental Control Commission.
(Repeals R.S. 30:2004(1)(5)(6)).

Act 27 (SB 951 Hainkel, Dardenne, Ewing, Lambert)

Changes the Office of Solid and Hazardous Waste to the Office of Waste Services; authorizes Waste Services to administer inactive and abandoned hazardous waste sites, taxation of disposal and storage of hazardous waste, liability for hazardous substance remedial action, Louisiana Waste Reduction Law, Louisiana Resource Recovery and Development Law, Solid Waste Recycling, and reduction law and Statewide Beau-

tification.

(Amends R.S. 30:2011(C)(1)(C) 2154(A)(intro para), 2158(A)(1), 2160, 2180(B), 2195(B)(E), 2195.2(A)(intro para) & (B)(1)(c), 2195.4(C)(2), 2205(C)(D), 2226(A), 2305(G), 2521 and 2522(5), R.S. 36:231(C)(1), 238 (D)(intro para) and 238(D)(b))

Act 95 (SB 1161 Dardenne)

Prohibits any person from knowingly and intentionally delivering scraps to a collection facility which contain lead-acid or nickel cadmium batteries, hazardous waste, or radioactive materials. The deliverer must submit a signed, authorized certification that all scrap is "clean".
(Amends R.S. 30:2419)

Act 96 (SB 1162 Dardenne)

Excludes automotive fluff, which results from the shredding of automobiles by scrap metal facilities, from the definition of solid waste.
(Adds R.S. 30:2153(1)(b)(iv))

Act 116 (SB 626 Hainkel, Dardenne, Ewing, Lambert)

Provides legal remedies upon the Department of Environmental Quality's failure to act. Remedies include a writ of mandamus, court costs, and attorney's fees. De novo review is eliminated.
(Amends R.S. 30:2050.29)

Act 123 (SB 1168 Hainkel, Dardenne, Ewing, Lambert)

Maintains that it is unlawful for facilities to receive solid waste from a site listed on the National Priorities List of the United States Environmental Protection Agency without notification to the Secretary. Deletes the notification requirement for disposal of nonhazardous waste from abandoned or inactive sites. A notice of the pending disposal shall be published in the official journal of the parish.
(Amends R.S. 30:2154(B)(2)(b) & (c); Adds R.S. 30:2154(B)(2)(f); Repeals R.S. 30:2041)

Act 124 (SB 1175 Hainkel, Dardenne, Ewing, Lambert)

Repeals the Department of Environmental Quality's authority to collect,



research, and develop fees for hazardous waste permits, licenses, registrations, or variances and allows for existing revenues to be used for department operating expenses. (Amends R.S. 30:2014(D)(1); Repeals R.S. 30:2014(c))

Act 198 (SB 1458 Theunissen, et al)

Deletes present law which would lower the annual registration fee of \$300 annually for pesticides after January 1, 1998. Maintains present fee for pesticides after January 1, 1998. (Amends R.S. 3:3221(A))

Act 276 (HB 1244 Wiggins, Thornhill)

Provides that private property owners who burn yard waste: leaves, grass, twigs, branches and vines, are exempt from environmental quality laws if burning is for noncommercial purposes and attended at all times. Does not apply to East Baton Rouge Parish and does not prohibit local rules or ordinances regulating the burning of yard waste. (Enacts R.S. 30:2006)

Act 345 (HB 991 McCain, Baudoin, Greene, Landry)

Applicants for solid waste disposal facilities must review and consider the abilities of local emergency response agencies and medical facilities to respond to and treat hazardous material incidents before a permit will be issued. Local fire and emergency medical services must have certification under the Life Safety Code of National Fire Protection. The local hospital must be certified to treat patients contaminated with hazardous materials. (Adds R.S. 30:2157)

Act 480 (SB 872 Hines, Bean, Schedler, Thomas)

Creates the Drinking Water Revolving Loan Fund and authorizes the Department of Environmental Quality to administer the fund. Provides for deposits into the fund and the use of the monies collected. Creates the Drinking Water Revolving Loan Fund Program within the Department of Health and Hospitals. Provides for the receipt of grant funds from the federal government to be used to improve certain public water systems. Provides for administrative

fees.

(Amends R.S. 30:2011(A)(3) and (D)(23), 2073(8), 2074(A)(4), 2078(A), (B)(1), (B)(2)(intro para), (B)(2)(a) and (i), (B)(3), and (C), 2079(A), 2080, 2081, 2083, 2087 and 2088; Enacts R.S. 30:2074(B)(8) and Chapter 32 of Title 40 of the La R.S. of 1950 to include 40:2821-2826)

Act 529 (HB 1744 Guillory)

Provides that the Secretary of the Department of Public Safety and Corrections shall inspect rail cars transporting hazardous material. (Adds R.S. 32:1504(C))

Act 548 (HB 2270 Dewitt)

Exempts land disposal of hazardous waste by injection well from the ban on land disposal of hazardous waste if: land disposal is exempt from the Resource Conservation and Recovery Act by the United States Environmental Protection Agency, a permit is issued by the Louisiana Office of Conservation, and no economic or environmentally sound alternatives are available. (Adds R.S. 30:2193(C))

Act 675 (SB 803 Hainkel, Damico, Dardenne, Ewing, Lambert)

Penalizes non-domestic violators of any parish ordinance regulating the use and discharge of publicly owned waste treatment works up to one thousand dollars a day for each violation. (Enacts R.S. 33:1243(C))

Act 694 (SB 1217 Ewing, Holden)

Creates the Louisiana Litter Abatement Grant Program to help community based litter programs. Funds will be given to local governments and non-profit organizations on a comparative basis. Twenty-five percent of the grant money must be matched from other sources. (Amends R.S. 30:2425; Adds 2525 (C)(19))

Act 755 (HB 235 Flavin, et al)

Provides that all of the hazardous waste tax funds, as opposed to the twenty five percent of the funds previously required, will be placed in the Hazardous Waste Site Cleanup Fund. The fund shall not exceed six million dollars. When the

fund reaches capacity, the treasurer shall pay the remaining money to the Environmental Trust Fund. (Amends R.S. 30:2205(A)(1))

Act 805 (HB 1189 Quezair, Landry)

Provides that citizens who live within a two-mile radius of the location of a facility shall be given first preference for speaking at public hearings on permits for facilities. Second preference shall be given to those citizens who work within a two-mile radius of the facility. Third preference will be given to those citizens who live within the parish of the facility. Then the time will be rotated between those who support and those who oppose the proposed permit. The presiding officer can give an introductory presentation before speaking begins. (Amends R.S. 30:2017)

Act 814 (HB 1492 Fontenot, Dewitt, Baudoin)

Gives the state health officer the authority to develop and implement a strategy to help public water systems comply with the state drinking water regulations. Each system must acquire and maintain technical, managerial, and financial capacity to comply. Defines key terms such as "community water system," "noncommunity water system," and "nontransient noncommunity water system." (Amends R.S. 40:4(A)(8) and 5.8)

Act 857 (HB 2453 Windhorst)

In cases of judicial review, appeals, and other proceedings regarding environmental permits, provides for final decisions by the court summarily and by preference no later than ninety days after receipt. Gives the court discretion to further issue orders to carry out the summary mandate of such reviews or appeals. (Adds R.S. 30:2050.21(D))

Act 884 (SB 618 Hainkel, Dardenne, Ewing, Lambert)

Authorizes the Department of Environmental Quality to increase any fee currently listed for air quality control programs by a maximum of eight percent. (Enacts R.S. 30:2065)



Environmental Quality

Act 885 (SB 619 Hainkel, Dardenne, Ewing, Lambert)

Authorizes the Department of Environmental Quality to increase fees to cover the operating expenses of the accidental release prevention program. (Enacts R.S. 30:2063(J))

Act 891 (SB 694 Cain, Brun)

Exempts operators and users of sport shooting ranges from civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range was established prior to the implementation of noise control laws. This does not prevent local governments from regulating location and construction of ranges. Defines key terms such as "person" and "sport shooting range." (Adds R.S. 30:2053(6), (7), (8), and (9) and 2055.1)

Act 942 (HB 383 Holden, Baudoin)

Prohibits the Department of Environmental Quality from issuing or granting any permits for the operation of new commercial hazardous waste incinerators whose primary business activity is accepting hazardous wastes or waste products for a fee in any parish that is on the nonattainment list for ozone standards and classified as "serious" by the United States Environmental Protection Agency. (Adds R.S. 30:2183.2)

Act 979 (HB 1394 J. D. Smith)

Provides that the Secretary of the Office for Solid and Hazardous Waste shall notify certain legislators and committees when a facility has applied for or has been granted a hazardous waste permit. (Adds R.S. 30:2181)

Act 992 (HB 1764 Damico, Dewitt)

Creates the Louisiana Environmental Regulatory Innovations Programs Act to enhance environmental protection. Defines key terms such as "regulatory flexibility" and "superior environmental performance." Participation in the program is strictly voluntary. Lists the minimum criteria for participation. (Enacts Chapter 22 of Subtitle II of Title 30 of the L.R.S. of 1950; R.S.

30:2561-2566)

Act 995 (HB 1826 Quezairé)

Requires that the Department of Environmental Quality conduct a study of the relationship between the emission of air pollutants and the discharge of wastes by facilities located in or near residential areas. The report will be submitted to the House Committee on the Environment and the Senate Committee on Environmental Quality. (Adds R.S. 30:2011.2)

Act 1006 (HB 2327 Fauchaux)

Applicants for new permits or for major modifications of an existing permit shall submit an environmental assessment statement with the application. The statements shall include such information as: the potential and adverse environmental effects of the proposed activities, a cost-benefit analysis, and alternatives. The department may conduct a separate public hearing on the assessment statement. Provides for exceptions to this section. (Adds R.S. 30:2018)

Act 1043 (HB 1859 Windhorst)

If a court determines that a statement, guide, requirement, circular, directive, explanation, interpretation, guideline, or similar measure constitutes a rule as defined in the Administrative Procedure Act and was not properly adopted and promulgated, then the court shall declare the measure invalid and inapplicable. (Adds R.S. 49:963(E))

Act 1046 (HB 2106 Dewitt)

Refers to the Hazardous Materials Information Development, Preparedness, and Response Act as the Right-to-Know Law; defines "extremely hazardous substance," "immediately," and "small business" as used in the statute; calls for the establishment of procedures to deal with requests from the public; authorizes reviewing and recommending to the local emergency planning committee; authorizes the development of a centralized inventory reporting and notification system; the department shall coordinate efforts to establish the one-call notification system; the state adopts the trade secret and the information disclosure requirements as found in Title

III of the Superfund Amendments; violators may be levied a civil penalty of not more than twenty-five thousand dollars per violation; allows for fees to be paid by facilities for a number of reasons; Monies collected will be placed in the state treasury and credited to the Bond Security and Redemption Fund; prohibits the intentional storing and handling of hazardous material in a manner that endangers human life. (Amends R.S. 30:2361, 2363, 2364(intro para), (4), and (8), 2366(B), 2367(B)(2), 2368(B)(1) and (D), 2369(A) and (B)(1), 2370(E)(6) and (F), 2371, 2372(A), 2373(A), (B)(1) and (2), and (C)(1), (2), and (4), 2374(A) and (B), 2376(B), 2377(intro para), 2378, and 2379(B); Adds R.S. 30:2364(9))

Act 1087 (HB 2309 Wiggins, Baudoin, Robichaux)

Provides that the Secretary of the Department of Environmental Quality shall adopt qualifications and requirements for persons to be granted a permit or to acquire ownership in one. Person is defined as an individual, partnership, corporation, or other entity. (Adds R.S. 30:2014.2)

Act 1111 (SB 1132 Bean, Dewitt)

Provides that when departments or permit applicants object to proposals made by the Department of Environmental Quality under a public trustee issue, all reasonably available evidence must be presented prior to the final decision issued by the department on the application. If not submitted before the final decision, the admissibility is waived in an administrative or judicial proceeding. An exception for good cause is included. (Adds R.S. 30:2014.2)

Act 1116 (SB 1153 Hollis, Lancaster)

Abolishes the Southeast Louisiana Waste Management Authority, the Louisiana Natural Gas Marketing Commission, and numerous port commissions (see *Ports, Harbors, and Waterways* section). (Repeals Part V-A of Chap. 7 of Title 30 of the L.R.S. of 1950 comprised of R.S. 30:650-657 and Chap. 14-A of Title 30 of the L.R.S. of 1950 comprised of R.S. 30:2331-2331.17)



Act 1119 (SB 1166 Hainkel, Dardenne, Ewing, Lambert)

Gives the Secretary of the Department of Environmental Quality powers relating to the use and disposal of sewage sludge. A division of local programs and public participation can be created to plan for the implementation of the beneficial reuse of sewage sludge. The Louisiana Pollutant Discharge Elimination System (LPDES) has the authority to issue general permits for the sewage sludge program as well as for other programs. The use and disposal of the sewage must be in accordance with the Federal Clean Water Act. Calls for the issuing of LPDES permits to any person preparing, applying, firing, or owning sewage sludge. Directs the Office of Waste Services to develop rules for disposal of sewage sludge. Provides for the disposal of incinerator ash derived from the thermal treatment of sewage sludge. Authorizes the Secretary to adopt regulations prohibiting the improper use or disposal of sewage sludge. All regulations will apply to sewage sludge destined for disposal, not that which can be beneficially used. (Amends R.S. 30:2011(D)(21)(b), 2073(1), 2074(B)(4), 2154(A)(intro para) and (B)(1)(a), (5), and (7); Adds R.S. 30:2074(B)(1)(c) and (3)(e), and 2154(A)(4) and (5))

Act 1143 (SB 1336 Hainkel, Dardenne, Ewing, Lambert)

Relative to judicial review of matters before the Department of Environmental Quality, aggrieved persons may file a petition for review in the district court. The department is not required to file and answer. Matters which are not submitted shall be transmitted to the reviewing court within sixty days by the department. The parties may agree to shorten the record and the court may correct or add to the record. Authorizes the court to allow the presentation of additional information and the modification of findings according to the additional information. Some portions of the Administrative Procedure Act shall apply to appeals of department matters. (Amends R.S. 30:2050.21)

Act 1151 (SB 1393 Johnson)

Renames the Louisiana Local Government Environmental Facilities Authority Act to the Louisiana Local Government Environmental Facilities and Community Development Authority Act.

Provides definitions of key terms and establishes a board of directors. (Amends R.S. 33:4548.1, 4548.2, 4548.3(A), (B), (C), (F), (G) and (H), 4548.4(A), 4548.5(A)(5), (8), and (14), 4548.6(A) and (J), 4548.13, and 4548.14; Enacts R.S. 33:4548.4(F), 4548.5(A)(16), (17), (18), and (19) and 4548.6(K), (L), and (M))

Act 1253 (SB 616 Hainkel, Dardenne, Ewing, Lambert)

Authorizes the Department of Environmental Quality to establish fees for licensure, certification, training accreditation, and notification. The fees will be paid into the Lead Hazard Reduction Fund. (Amends R.S. 30:2351.59; Repeals R.S. 30:2351.60)

Act 1254 (SB 628 Hainkel, Dardenne, Ewing, Lambert)

Authorizes the Department of Environmental Quality to increase the fees assessed by the Office of Water Resources in order to better protect the waters of the state. Any fee associated with this chapter and authorized may be increased by seven and one-half percent after July 1, 1998. (Enacts R.S. 30:2089)

Act 1275 (SB 867 Cain, Wiggins)

Prohibits police juries and governing authorities from enacting ordinances which would prohibit persons from burning trees, brush, grass, or other vegetable matter in a parish with 90,000 people or less. Limits the burning if the emission of smoke passes onto or across a public road, thereby creating a traffic hazard. Adds that these provisions will not apply if the location of the burning is not within the territorial limits or adjacent to a city or town so the ambient air of the city or town will be affected by smoke. Also will not apply to the burning of bonfires authorized by St. James, St. John the Baptist, or St. Charles Parishes. (Amends 33:1236(31) and R.S. 30:2057(B))

Act 1337 (HB 1874 Perkins, et al)

Makes the cleanup and removal of hazardous waste from the lakes, located in the state capital city adjacent to the capitol building and the governor's

mansion, a priority of the state and the Department of Environmental Quality. The lakes are to be cleaned to the extent that human health and the environment will be protected. (Enacts R.S. 30:2282)

Act 1345 (SB 938 Hainkel, Dardenne, Ewing, Lambert)

Authorizes the Secretary of the Department of Environmental Quality to establish a fee for applications for accreditation by commercial laboratories. (Amends R.S. 30:2011(D)(22))

Act 1461 (HB 2460 Baudoin)

Defines public sanitary sewerage system. A receiver may be appointed if a civil action is brought against a owner or operator of a public sanitary sewerage system. Describes when the system will be placed in receivership. Provides for duties of the court and the receiver. (Enacts R.S. 30:2073(9) and 2075.3)

Unsigned (HB 2455 Windhorst)

Exempts rules promulgated by the State Civil Service Commission, the Public Service Commission, and any entity which by law has its adjudications handled by the Public Service Commission, from the Administrative Procedure Act. *Note:* This bill went into effect July 16, 1997, according to Article III, Section 18 of the Constitution of Louisiana. (Amends R.S. 49:967(B) and 992(D)(1); Enacts R.S. 49:992(D)(8))

RESOLUTIONS

HR 58 Downer, Dupre, Gautreaux, Triche

Opposes locating an oilfield waste dump facility in Terrebonne Parish.

HCR 91 Long, et al

Requests a convention of the Louisiana Litter Reduction and Public Action commission by October 15, 1997.

HCR 191 Guillory

Memorializes Congress and the Louisiana Congressional delegation to allow



Louisiana to impose more stringent requirements on the storage and transportation of hazardous materials by rail car.

HSR 7 Quezaire

Requests that the House Committee on the Environment study the release and discharge of hazardous waste and air toxins in minority communities.

HSR 10 Damico

Requests that the House Committee on the Environment study nonhazardous oilfield waste to see if it should be reclassified as hazardous waste.

SCR 25 Cox, Alexander, Carter, Guillory

Memorializes Congress to adopt a constitutional amendment to provide all citizens with the right to a clean and healthful environment and protection of our natural resources.

SCR 132 Lambert, Malone, Siracusa, Faucheux, Quezaire

Requests that the Governor's Task Force on Environmental Protection and Preservation review and suggest standards and procedures to help implement Article IX, § 1 of the Louisiana Constitution.

PORTS, HARBORS, AND WATERWAYS

Act 141 (HB 409 Strain, Hainkel, Schedler)

Designates the Abita River in St. Tammany Parish as natural and scenic. (Adds R.S. 56:1847(55))

Act 217 (HB 149 Rousselle)

State law and local ordinances prohibiting trespass or unauthorized entry of water craft applies to all vessels and motorboats. Local governing authority areas with more than 440,000 people may regulate watercraft movement within 250 feet of structures on water bottoms in Lake Pontchartrain. (Enacts R.S. 34:851.27(B)(7)(8))

Act 221 (HB 304 Downer, Dupre, Gautreaux, Robicheaux)

Authorizes the Department of Natural Resources to lease certain state-owned waterbottoms to the governing authority of Terrebonne Parish. The state reserves all mineral rights.

Act 232 (HB 1903 Johns)

Resets the boundaries of the Lake Charles Harbor and Terminal District and the West Calcasieu Port, Harbor, and Terminal District. (Amends R.S. 34:201 and 2103(A) & (C))

Act 492 (HB 246 Stelly)

Allows the administrator of the Louisiana National Scenic Rivers System to regulate houseboats docked for longer than thirty consecutive days on a river within the system. (Amends R.S. 56:1850(A)(7))

Act 521 (HB 1361 Triche)

Authorizes the Bayou Lafourche Fresh Water District to furnish fresh water from any source, not just from the Mississippi River, to the incorporated villages, towns, and cities along Bayou Lafourche. (Amends the Title of Act No. 113 of the 1950 Reg. Session as last amended by Act No. 196 of the 1992 Reg. Session)

Act 554 (HB 2436 Faucheux)

Creates the Rodent Control and Prevention of Infectious Diseases Act to promote public health and safety and prevent the spread of disease. Each port and terminal may establish a rodent control, testing, and monitoring center and may impose reasonable inspection requirements. Gives each port authority the power to promulgate rules, regulations, and necessary fees. (Adds R.S. 34:340.12-340.16)

Act 666 (SB 264 Ullo)

Creates the Underwater Obstruction Removal Program within the Department of Natural Resources to identify, inventory, and remove obstructions which are a hazard to navigation and

commercial fishing; defines key terms; calls for the adoption of rules, regulations and procedures; establishes a Underwater Obstruction Removal Fund and sets guidelines as to the disbursement of those funds. (Amends R.S. 36:354(E)(2); Adds R.S. 30:101.1-101.10)

Act 698 (SB 1342 Siracusa)

Designates the Louisiana Department of Transportation and Development as the non-federal sponsor for the construction of interim flood protection projects on the Atchafalaya River in Terrebonne, Assumption, St. Martin, and St. Mary Parishes. Authorizes the department to provide: servitudes, rights-of-way, and lands needed for the construction; alteration and relocation of facilities; other assurances and cooperation as required by Congress. The Secretary is authorized to contract for the construction and the financing. Provides that upon completion of the project maintenance and operation will be assumed by the affected parish governments and the cities of Morgan City and Berwick. (Adds R.S. 38:106-110)

Act 707 (SB 1481 Ullo)

Deletes the power of the mayor and the Board of Aldermen of the town of Grand Isle to appoint members to the Grand Isle Port Commission. The present commission shall serve until September 1, 1997 with any vacancies thereafter to be filled by the Governor, upon Senate confirmation. (Amends R.S. 34:3251)

Act 708 (SB 1482 Lambert)

Gives the South Louisiana Port Commission the option to change the domicile and regular meeting place to Reserve, Louisiana upon a two-thirds vote of the members of the commission and an amendment to the by-laws. (Amends R.S. 34:2472)

Act 1023 (HB 601 Faucheux)

Provides for the appointment and confirmation of members to the South Louisiana Port Commission. Requires Senate confirmation and domiciles the Commission in LaPlace, Louisiana. (Amends R.S. 34:2471(A), 2472, and 2473(C)(3), (4), and (5))



Act 1039 (HB 1669 Chaisson)

Changes the membership criteria for the South Louisiana Port Commission. The members now must either reside in or be the chief executive officer of a business which is principally operated within such parish.
(Amends R.S. 34:2471(A)(intro para) and (1) (intro para), (2)(intro para), (3)(intro para), (4), and (5)(a))

Act 1048 (HB 2338 Gautreaux, Dupre, Robichaux)

See *Public Lands and Coastal Resources* Section

Act 1116 (SB 1153 Hollis, Lancaster)

Abolishes the St. Tammany, Morehouse, Union, and Assumption Parishes Port Commissions.
(Repeals Chap. 19 of Title 34 of the L.R.S. of 1950 comprised of R.S. 34:2001-2007; Chap. 33 of Title 34 comprised of R.S. 34:3001-3006; Chap. 34 of Title 34 comprised of 34:3051-3056; Chap. 41 of Title 34 comprised of R.S. 34:3241-3246)

Act 1407 (HB 1396 Dupre, Downer, Gautreaux, Rousselle, Triche, Robichaux, Siracusa)

Deletes Terrebonne Parish from the Atchafalaya Basin Levee District and decrease the number of levee commissioners from fifteen to fourteen. Creates the Terrebonne Levee and Conservation District as a political subdivision of the state. Provides for membership on the new board of commissioners. Establishes regulations of the boards duties and powers. Provides payment to the Atchafalaya Basin Levee District.
(Amends R.S. 38:291(A)(1) and (2)(intro para), 3342(A)(1) and (2); Enacts R.S. 38:291(U) and 329; Repeals R.S. 38:291(A)(2)(j), 331, and 3342(A)(4) and 38:3321 through 3330 and 38:3341 through 3347)

Act 1410 (HB 1480 Triche, Thornhill, Short)

Eliminates levee districts or levee and drainage districts which do meet certain criteria. Exempts West Jefferson Levee District, Lafourche Levee Basin District, Pontchartrain Levee Basin Dis-

trict, Red River, Atchafalaya, and Bayou Beouf Levee District, Orleans Levee District, Amite River Basin Drainage and Water Conservation District, Grand Isle Independent Levee District, and the Atchafalaya Levee District.
(Enacts R.S. 38:313)

Act 1422 (HB 1685 Alario, Toomy)

Adds the Jefferson Business Council to the nominating agencies for the Board of Commissioners of the Port of New Orleans.
(Adds R.S. 34:1(B)(2)(g))

Act 1456 (HB 2382 Diez)

Allows the state, any agency, or a subdivision to acquire land by charge. Allows rights-of-way, easements, or other servitudes for construction of flood-control structures. Allows structures or objects to be placed on land for flood control improvement or maintenance if approved by the Corps of Engineers or the levee board. Prohibits the placing of new objects, works, or structures upon riparian land burdened with a servitude without first notifying or obtaining a permit from the proper authority. Prohibits the drilling, driving or jetting of a well within three hundred feet of the centerline of a non-river levee without going through the proper channels.
(Amends R.S. 38:225(1) and (6); Enacts R.S. 38:225(10))

RESOLUTIONS

HR 99 Fauchaux

Asks Congress to enact legislation to return the control of the Mississippi River to state and local authorities.

HR 100 Fauchaux

Petitions the Interstate Commerce Commission to return control of commercial operation on the Mississippi River to state and local governing authorities.

HCR 25 Strain

Nominates the Abita River in St. Tammany Parish for inclusion in the Natural and Scenic Rivers system in Louisiana.

HCR 253 Fauchaux

Asks Congress to enact legislation to return the control of the Mississippi River to state and local authorities.

SCR 75 Lambert

Creates the Lower Mississippi River Water Safety Study Commission to study and make recommendations relative to the safety of vessel traffic on the river from the northernmost portion of West Feliciana Parish and the northernmost portion of Pointe Coupee Parish to its mouth at the Gulf of Mexico.

SCR 76 Casanova, Hines, Siracusa

Creates the Atchafalaya and Tech-Vermillion Flood Control Advisory Commission and sets out guidelines as to establishment, responsibilities, and duties.

OIL, GAS, MINERALS

Act 180 (HB 1783 Dewitt)

Allows the Office of Mineral Resources to grant surface or subsurface agreements on unleased land for the erection and use of facilities and equipment.
(Amends R.S. 30:148.2)

Act 229 (HB 1781 Dewitt)

Establishes the authority, powers, and duties of the State Mineral Board.
(Amends R.S. 30:129(A))

Act 231 (HB 1792 J. R. Smith, Malone, Romero)

Certified copies of all orders and amendments creating drilling or production units must be filed in the parish records where the immovable property affected is located. This law is retroactive.
(Amends R.S. 30:11.1)

Act 530 (HB 1784 Dewitt, Hainkel)

Allows the State Mineral Board to conduct geological and geophysical surveys or allows the board to have them conducted on its behalf through a contract. Also allows the board to enter into certain operating agreements if the state



receives a share of revenues.
(Amends R.S. 30:209)

Act 531 (HB 1785 Dewitt, Hainkel)

Provides that if the State Mineral Board contracts with another company to conduct geological or geophysical surveys, that company shall give the board any engineering information and data acquired or processed so the board may evaluate, administer, or develop state-owned properties. The information shall be confidential for all purposes and made available only to the board and, at the sole discretion of the board, to the Commissioner of Conservation.
(Amends R.S. 30:209.1)

Act 673 (SB 635 Hainkel, Dardenne, Ewing, Romero)

Creates the Mineral Resources Audit and Collection Fund. In each fiscal year the treasurer shall pay into the fund an amount equal to six hundred thousand dollars annually received by the state from court awards and settlements by the Office of Mineral Resources. The monies in the fund shall be used solely for auditing and collecting by the office.

(Enacts R.S. 30:136.3)

Act 826 (HB 1794 Hopkins, Malone, Robichaux)

Oil and gas operators must pay an annual fee to the Office of Conservation on all capable oil and gas wells. Exemptions include: incapable oil, stripper oil, incapable gas well gas and incapable oil well gas. Defines capable oil and gas. Annual fees shall be paid on certain Class I and II wells. Establishes a special fund known as the Oil and Gas Regulatory Fund to place some of the collected fees. Funds shall be used solely by the Office of Conservation for the regulation of the oil and gas industry.
(Amends R.S. 30:21(B))

Act 882 (SB 553 Hainkel, Dardenne, Ewing, Romero)

Extends the deadline for the conducting of an inventory by the Office of the Oil Spill Coordinator until June 30, 1999. The deadline for phase I to be completed is also extended until June 30, 1999. The procedure and protocol deadline for assessing natural resource damage is extended to December 31, 1997.

Clarifies what the monies in the fund can be used for and the limit.
(Amends R.S. 30:2480(C)(1), (4)(a), and (5), and 2484(1), (5), (7), (10))

Act 993 (HB 1790 Dewitt, Flavin, Romero)

A sheriff's sale or public auction of any property related to the operation of oil and gas wells must first be consented to by the Commissioner in writing. In the event the wellbore is not excluded from the sale, the sheriff or seller must give notice that the buyer must file the appropriate documents with the office of conservation to become an operator. If the Commissioner retains a lien on the property he shall record notice of that with the proper Clerk of Court's office. Failure to notify the Commissioner results in liability for both the seller and the purchaser.
(Amends R.S. 30:74(A)(3); Enacts R.S. 30:74(A)(4))

Act 994 (HB 1791 Flavin, Malone, Romero)

Provides that the assistant secretary of the Office of Conservation or his designee shall serve as vice chairman of the Oilfield Site Restoration Commission, but he will not be counted to determine the number needed to constitute a quorum and he will only vote when the Secretary of the Department of Natural Resources is present. Deletes the Secretaries authority to make expenditures from the fund for restoration of commercial facilities. Gives the Secretary the additional power of oversight. Limits the powers of the assistant secretary to the supervision of the Secretary. Allows the assistant secretary to modify funding requirements of site-specific trust accounts and to authorize the closure and restoration of nonpriority orphaned oilfield sites. Gives the power to certify the date on which the balance in the Oilfield Site Restoration Fund equals or exceeds ten million dollars to the treasurer of the state of Louisiana. Allows the assistant secretary to disburse and expend monies in the fund. Increases the maximum amount of money to be administered by the department to four hundred seventy-five thousand dollars for the 1997-1998 fiscal year and five hundred thousand dollars for the 1998-1999 fiscal year and beyond. Authorizes the assistant secretary to call for an oilfield site restoration assessment if the parties want to establish a site-specific trust account. Al-

lows cash or bonds or a combination of to be considered for funding of a trust account. Deletes prior law which allowed guarantees and letters of credit. Gives the assistant secretary the power to approve site-specific trust accounts and to redetermine costs and a funding schedule when certain oilfield site transfers occur. Eliminates the liability of all prior owners, operators and working interest owners for any site restoration costs once the assistant secretary has given approval for the trust account. Deletes the responsibility previously place of the parties responsible for a unusable site. Adds that the lien retained on an orphaned site by the assistant secretary also be superior to mortgages and lines of any other kind, type, or nature whatsoever. The recourse for an improperly notified lienholder is limited to the actual cash value of the salvaged property at the time of salvage. Prohibits the sale or removal of property and the conducting of operations on an orphaned site without written consent from the assistant secretary. Provides rules regarding the contracts for assessing or restoring sites. Deletes the cap on the amount of money allowed to be withdrawn from the fund to help restore orphaned sites. Provides that the state will not be liable for any damages as long as the state acted in good faith to restore the site. Gives some persons authority to enter another's land with the proper identification. People contracting under these provisions are not considered public employees.
(Amends R.S. 30:83(B)(10), 84(A)(1), (5), and (7), 85, 86(C) and (E)(intro para) and (2), 87(E), 88(B), (C), (D), (E), (F) and (G), 89, 91(B), 92(A), 93(A)(intro para) and (2)(c), and 95; Adds R.S. 30:92(C); Repeals R.S. 30:83(F)(2) and (4), 84(A)(3), (B), and (C), 87 (C), and 93(A)(2)(d))

Act 999 (HB 2037 Dewitt)

Defines "manufacturer of liquified petroleum gases," "manufacturer of products of which liquified petroleum gas forms a component part," and "reseller." Clarifies that the power of the Liquified Petroleum Gas Commission does not extend to the plant site of a manufacturer. Exempts certain manufacturers from regulation by the commission. Requires that dealers and resellers of liquified petroleum gas obtain a permit, pay permit fees, and obtain the required insurance.
(Amends R.S. 40:1846(D) and (E); Enacts R.S. 40:1842(10), (11), and (12))



and 1846(G))

RESOLUTIONS

HSR 10 Damico

Requests that the House Committee on the Environment study nonhazardous oilfield waste to see if it should be reclassified as hazardous waste.

HSR 67 Fauchaux

Requests that the House Committee on Natural Resources study the feasibility and necessity of having the Commissioner of Conservation regulate brine pipelines.

SCR 151 Johnson, Bagneris, Fields, Tarver

Urges the Joint Legislative Committee on Federal Oil Overcharge Monies to use the funds for the weatherization program, within the Department of Social Services, for low-income persons.

MISCELLANEOUS

Act 5 (SB 180 Cain, Campbell)

Increases the number of members on the Livestock Sanitary Board from fourteen to fifteen and provides that one member be a licensed exotic animal farmer.

(Amends (intro paragraph) R.S. 3:2091(B) and R.S. 3:2091(E); Adds R.S. 3:2091(B)(15))

Act 29 (SB 1026 Landry and Romero)

Provides that for fire departments to be reimbursed for costs associated with hazardous or nonhazardous materials they must submit an itemized invoice, receipts, and an explanation. Departments are not allowed reimbursement for equipment, supplies, and other items which are part of a normal operating budget.

(Amends R.S. 33:1974(C); Adds R.S. 33:1974(D))

Act 86 (SB 687 Landry, Wiggins, Cain, Smith)

Provides that vehicles with special permits to transport bailed or bundled recyclable waste paper products not exceed a width of ten feet.

(Amends R.S. 32:387(C)(3)(f)(ii))

Act 110 (SB 354 Greene)

Authorizes the Atchafalaya Basin Levee District to employ one or more attorneys free of any restriction as to a certain district.

(Amends R.S. 16:409; Adds R.S. 38:305.1)

Act 122 (SB 749 Cox)

Water well and other driller's licenses shall be renewable annually if six hours of approved continuing education is completed.

(Amends R.S. 38:3098(B))

Act 128 (HB 895 Windhorst)

Provides for courts to reverse or modify decisions if appellant rights have been prejudiced because the administrative findings were not by a preponderance of evidence, or because findings are manifestly erroneous in view of the evidence as a whole. Regard will be given to the agency's determination of credibility, because it had the opportunity to observe the witness' demeanor.

(Amends R.S. 49:964(G)(6); Adds R.S. 49:964(G)(7))

Act 200 (SB 51 Hines)

Names the Outdoor Conservation Arboretum and Education Classroom at Chicot State Park in Ville Platte to the Dupré Outdoor Conservation Arboretum and Education Classroom.

Act 230 (HB 1789 Flavin, Malone, Romero)

Authorizes the entering of another's land, without the owner's consent, upon the issuance of a work order or order of the Commissioner of Conservation or his agents for limited purposes.

(Enacts 30:27)

Act 729 (HB 1861 Wright, Bruce)

Upon the first conviction of a littering offense the penalty is increased from a

fine of not less than fifty dollars to a fine of not less than two hundred fifty dollars.

(Amends R.S. 30:2531(D)(1))

Act 946 (HB 487 Weston)

Provides penalties for littering on a Louisiana state highway. Upon first conviction the judge can impose a fine of not less than two hundred fifty dollars nor more than five hundred dollars and eight hours of community service in a litter abatement work detail. The second conviction fine can be not less than five hundred nor more than one thousand dollars and sixteen hours of community service. For the third conviction it is a fine of not less than one thousand nor more than three thousand dollars, suspension of driver's license for one year, imprisonment for no more than six months, and forty-five hours of community service.

(Adds R.S. 30:2531(D)(5))

Act 983 (HB 1491 Fontenot, Dewitt)

Authorizes the court to appoint a receiver to collect the assets and carry on the business of a defendant public water system and to assist the court on the issues in any civil action brought under this chapter which pertains to public health. The court may place the public water system in receivership when: the system has been abandoned, service has ceased, the operator has failed or refused to comply with administrative orders or the state health officer identifies such circumstances under which a receivership is needed. A bond will be executed unless the receiver is a local government subdivision. The receiver must carry out all court orders. The court may dissolve the receivership upon its discretion.

(Adds R.S. 40:5.9(C))

Act 1120 (SB 1167 Hainkel, Dardenne, Ewing, Romero, Holden)

Establishes the Commercial Building Energy Conservation Code; defines key terms; intends to institute minimum energy conservation standards for all new construction and for certain alterations and repairs to all commercial buildings in the state; exempts three types of buildings; provides for the adoption and enforcement of the code; establishes an advisory committee.

(Adds R.S. 40:1730.21 through 1730.32)



Miscellaneous

Act 1162 (SB 1457 Greene)

Defines key terms relative to the suspension and ultimate revocation of any license or permit, except those relating to professions and occupations, upon conviction of, or the entering of a plea of guilty, or nolo contendere to any felony charge related to obtaining or keeping the license or permit. The issuing agency must recommend suspension or revocation to the court. Any enforcing authority may bring an action to suspend or revoke, but the agency bears the burden of proving by a preponderance of the evidence that the person has been convicted or entered an unsatisfactory plea at an adjudicatory hearing. (Enacts Part B of Chapter 13-B of Title 49 of the La R.S. of 1950, including R.S. 49:999.21 through 999.25)

Act 1224 (SB 457 Hines, Dewitt)

Relative to the Administrative Procedure Act an agency can be a person for appealing an administrative ruling in a disciplinary action prior to final adjudication of the action. (Amends R.S. 49:951(5) and 964(C))

RESOLUTIONS

HCR 2 Triche, Thornhill

Urges and requests the House and Senate Committees on Transportation, Highways and Public Works to study the abolishment and merging of levee and drainage districts with a state agency.

HCR 89 Windhorst

Makes the applicable standard of review for findings of fact in an adjudica-

tion proceeding to be erroneous in view of the evidence on the whole, not "manifestly" erroneous in view. (Suspends Part of R.S. 49:964(G)(6))

HCR 127 Windhorst

Requests that the Louisiana delegation to Congress seek exemptions and waivers from federal requirements for the removal of lead-based paint to reduce the cost of repainting the Mississippi River and Sunshine bridges.

SCR 101 Cain, et al

Requests that the House and Senate Committees on Agriculture function as a joint committee to study fire ant eradication.

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