



LOUISIANA
SEA GRANT

LOUISIANA COASTAL LAW

Published by the Louisiana Sea Grant Legal Program
LCL 62, SEPTEMBER 1991

1991 REGULAR AND EXTRAORDINARY SESSIONS OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1991 Regular and Extraordinary Sessions 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 September 6, 1991 and were passed during the regular session. Further information about these laws or resolutions can be obtained by contacting the Sea Grant Legal Program, Room 170, Law Center, LSU, Baton Rouge, Louisiana 70803, (504) 388-5931.

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WILDLIFE AND FISHERIES

Act 157 (SB 534 Bankston)

Continues in force the designation of red drum as a game fish that would have expired on 9-1-91. Requires Secretary of Wildlife and Fisheries to make a report on red drum to the legislature each year which contains information on: (1) a biological condition and profile of the species and stock assessment, a total allowable catch with probable allocation scenarios, based on the most current information available, and (2) a recommendation to the legislature as to whether or not game fish status for such species should be continued and a detailed explanation for such recommendation. Act 157 authorizes the Department of Wildlife and Fisheries to set seasons, times, places, quotas, sizes, daily take and possession limits for red drum and retains the designation of the spotted sea trout (*Cynoscion nebulosus*) as a commercial fish. Act 157 exempts fish raised in aquaculture operations. Effective 7/2/91. (Amends R.S. 56:612.5(a), (27), 8(81), 325.1, 325.3, and 326.3. Repeals R.S. 56:326(A)(4) and (D), Sections 3, 4, and 6 of Act No. 889 of the 1988 Regular Session, and sections 2, 3, and 4 of Act 78 of the 1990 Regular Session)

Act 184 (HB 88 Theriot)

Creates a lifetime sport fishing license at the cost of \$300 or a lifetime hunting license for \$300. Also, a combination sport fishing and hunting license is available at a cost of \$500. Additionally creates the Lifetime License Endowment Program. Effective 1/1/92. (Enacts 56:649-650.1)

Act 234 (HB 909 Roach)

Act 234 requires that Dept. of Wildlife and Fisheries draft rules and regulations for approval and promulgation by the Wildlife and Fisheries Commission which preserve the confidentiality of fisheries dependent data obtained by the Office of Fisheries. These regulations must conform with all procedures established by the U.S. Dept. of Commerce for the confidentiality of such records. (Amends R.S. 56:301.4)

Act 258 (HB 1350 Odinet)

Increases the penalty for using a butterfly net in closed waters to the same as using a trawl in closed waters. (Amends R.S. 56:495.1(B), (C), (D), & (E))

Act 270 (HB 1529 Alexander)

Makes the taking of freshwater and saltwater gamefish by illegal methods a Class Four violation. (Enacts R.S. 56:320(H) and repeals R.S. 56:346)

Act 271 (HB 1541 John)

Prohibits the taking or killing of any wild game quadruped or wild game bird with a bow or crossbow or any archery equipment equipped with an infrared or laser sight or any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target. Effective 7/2/91 (Amends R.S. 56:124(2))

Act 272 (HB 1548 Salter)

Repeals R.S. 56:634 through 637, relative to nonresident wholesale minnow dealers. The annual fee of \$200 and the penalty provisions are repealed.

Act 294 (HB 1670 Benoit)

Relative to the purchase of saltwater shrimp, deletes provision requiring a wholesaler's agent to pay an annual fee of \$15 and provision placing responsibility on agent for illegal transactions ensuing between the time he purchases from the fisherman and the time they are accepted by the wholesaler for whom he is operating. (Amends 56:502)

Act 393 (HB 1055 Triche)

Declares a moratorium on the commercial harvest of bowfin (choupique) and places a minimum size of 22 inches on them commercially. Also, makes it illegal to possess bowfin eggs removed from the fish while on the water. (Enacts R.S. 56:326.5)

Act 484 (HB 731 Patti)

Provides that no oysters shall be harvested or sold in this state or in interstate commerce unless taken from approved areas. Additionally, no oysters can be sold in the state unless taken from approved areas and secured by dealers with USDA Public Health Service certification endorsement. (Amends R.S. 56:424(E)(1))

Act 496 (HB 959 Patti)

Changes the violation of any of the following laws from a Class One to a Class Two violation: (1) the taking of oysters from natural oyster reefs, (2) taking of oysters, oyster seed or cultch from any state-owned oyster seed reservation without a permit, (3) violating the restrictions on size, design, and use of dredges and scrapers for the taking of oysters. (Enacts R.S. 56:433(J), 434(G), and 435(D))

Act 523 (HB 1509 Patti)

Requires that in addition to possessing a valid basic recreational fishing license, a recreational fisherman must purchase a freshwater trout license to possess freshwater trout, when fishing in designated areas. Provisions do not apply to persons sixteen and under or sixty and over. The Department of Wildlife and Fisheries must post signs around areas designated for freshwater trout fishing to inform the public of the requirements. (Amends R.S. 56:302(D) and (E))

Act 525 (HB 1536 Triche & Landry)

Adds to the penalties for Class six, 7-A and 7-B violations the forfeiture to the Wildlife and Fisheries Commission of anything seized in the connection of these violations. (Amends R.S. 56:36 and 37)

Act 526 (HB 1539 John)

Provides that the penalty for the hunting of deer with other weapons during bow and arrow season shall be a Class Three violation. (Amends R.S. 123(D))

Act 564 (HB 806 Patti & Nunez)

Authorizes the secretary of Dept. of Wildlife and Fisheries to grant permits to conduct molluscan depuration operations and container relaying operations on a case-by-case basis, provided that the individuals conducting such operations have fully complied with the rules and regulations of the Louisiana Office of Public Health and have been issued a permit by that office to conduct such operations. (Amends R.S. 56:424(F)(2) and Enacts R.S. 56:424(F)(3))

Act 566 (HB 956 Patti & Nunez)

Provides that any person may trawl or seine over any privately leased bedding ground or oyster propagating place unless it is staked off, marked, or posted as required by law or regulation with prominent, durable signs stating "NOTRAWLING OR SEINING-OYSTER LEASE". (Amends R.S. 56:437)

Act 567 (HB 957 Patti & Nunez)

Provides that lessees, under supervision of the department shall stake off and mark the leased water bottoms by ranges, monuments, stakes, and buoys in order to locate accurately and fix the limits of the water bottoms embraced in each lease. Lessees shall further identify the areas of each leased water bottom by prominently marking such leased water bottoms with signs which state the lease number and name or initials of the leaseholder. A lease shall be posted during the harvesting of oysters with prominent, durable signs stating "NO TRAWLING OR SEINING-OYSTER LEASE". (Amends R.S. 56:430(B))

Act 578 (HB 1533 Theriot)

Deletes the requirement of having a special permit to take, sell, or possess the skins of an alligator under four feet. (Amends R.S. 56:261)

Act 631 (SB 853 Nunez)

Defines "gill net" as any net, of not more than two layers not customarily used for shrimp or menhaden fishing, with a mesh of such size and design as to be used primarily to catch or entangle fish by the gills or other boney projections. (Amends 56:8(52))

Act 641 (SB 1084 Landry)

Provides for the increase in lawful percentage of channel catfish smaller than the legal limit to ten percent of the total possession. (Enacts R.S. 566:326(B)(3))

Act 698 (HB 1271 Higginbotham)

Defines "trigger" device (yo-yo) as piece of gear to harvest finfish and provides for its use in the taking of freshwater or saltwater game fish and commercial finfish. (Enacts 56:8(120) and amends R.S. 56:320(A)(1) and (B)(1))

Act 708 (HB 1592 Roach)

Requires the Wildlife and Fisheries Commission to make an annual report to the legislature of the biological condition and recommendations on the red drum. Authorizes the commission to set such limitations for saltwater finfish based upon biological and

technical data and saltwater fishery standards. Act 708 defines terms and enacts saltwater fishery conservation and management standards in order to prevent overfishing of saltwater finfish while achieving the optimum yield of such resources. Effective July 18, 1991 (Enacts R.S. 56:6(27) and R.S. 56:8(120) through (125) and R.S. 56:638.1 through 638.5)

Act 719 (HB1972 Roach)

Allows Secretary of the Department of Wildlife and Fisheries to enter into an agreement with the U.S. Dept. of Interior and the National Marine Fisheries Service to allow the Secretary to issue special commissions to federal fish and wildlife agents to enforce Louisiana wildlife and fisheries laws only in Calcasieu Lake and the federal wildlife refuges in Calcasieu and Cameron Parishes. (Enacts R.S. 56:68.1)

Act 824 (SB 852 Nunez)

Allows fisherman using pompano nets in the Breton and Chandeleur Islands chain to also have in their possession shark, spanish mackerel, and cobia up to the appropriate recreational bag limits for those species. (Amends R.S. 56:406(A)(3)(b))

Act 843 (HB 631 Scogin)

Relative to the Wildlife Habitat and Natural Heritage Trust, authorizes the transfer of funds to the Stewardship Account within the Trust for the purposes of enhancing natural habitats within Louisiana. Requires that such funds shall be expended only for the purposes of enhancing natural habitats and for the purpose for which they were donated or placed in the Trust. (Amends R.S. 56:1924)

Act 859 (HB 961 Patti)

Provides that a crab dropnet only be operated by hand in a stationary, passive manner. Trawls may be used to take crabs in inside waters only during the open season for shrimp. Further provides that the mesh size of trawls used to take crabs shall be no less than that of trawls used to take commercial shrimp. (Amends R.S. 56:8(27) and (28), 305(B)(3), 320(B)(2), and 332(A) and enacts R.S. 56:320(B)(3))

Act 868 (HB 1074 Haik)

No saltwater gill net in use shall exceed one thousand two hundred feet in length, nor shall a net formed by connecting two or more gill nets together exceed one thousand two hundred feet in length, except that no person shall be deemed to be in violation of this law for possession of a net which exceeds the maximum total length by no more than ten percent. (Amends R.S. 56:322(C)(4)(b) and (J) and enacts R.S. 56:37.1.

Act 871 (HB 1177 Roach)

Requires a \$25 commercial gear license for cast nets over 6 feet. Also, sets a possession limit of 50 pounds of shrimp per boat per day when using a recreational cast net under 6 feet. (Amends R.S. 56:302 (A)(4) and enacts 56:305(B)(13))

Act 885 (HB 1573 Adley)

Provides that revenues generated from Class One violations are also to be used for administering the Class One civil penalties program. Provides that the failure to pay the penalties will cause the offender's recreational hunting and fishing licenses and privileges to be revoked during the period in which the costs remain unpaid.

Further provides for penalties of a Class Three violation. (Amends R.S. 56:31.1(E); and enacts R.S. 56:31.1(G))

Act 886 (HB 1593 Roach)

Relative to gill nets, limits the number and length of set gill nets used in Calcasieu Lake, and requires the marking of such set gill nets. (Amends R.S. 56:322(C)(4)(b) and enacts R.S. 56:320(H) and R.S. 56:322(C)(4)(c))

Act 887 (HB 1594 Roach)

Provides that the fee for gill nets will be \$250 to use any legal number of gill nets in the saltwater areas of the state. All revenues generated shall be deposited to the Wildlife & Fisheries Conservation Fund to be used solely for costs associated with the issuance of commercial fishing licenses and for the enforcement of laws regulating wildlife, fish, and other aquatic life in the coastal zone of the state. Effective Nov. 1, 1991 (Amends R.S. 56:305(B)(4) and enacts R.S. 56:305.5)

Act 888 (HB 1596 Roach)

Authorizes an enforcing officer to seize tackle of any type, which is used by a fisherman, not possessing a valid commercial fisherman's license, to take shrimp, oysters, fish or other seafood for sale. Effective July 23, 1991. (Amends R.S. 56:327(C)(2) and enacts R.S. 56:56(8))

Act 896 (HB 1869 Patti and Nunez)

Exempts seafood processors from paying state sales taxes on materials and supplies if the processor owns or leases commercial vessels or has vessels contracted to the plant. (Amends R.S. 47:305.20(A) and (C))

Act 900 (HB 1916 Roach)

Requires the Wildlife & Fisheries Commission to fix the open season for oyster tonging in Calcasieu Lake and Sabine Lake, which for Sabine Lake shall begin on Nov. 15 and end on April 13, and for Calcasieu Lake shall begin on any date between October 15 and November 1 and end on April 13. (Amends R.S. 56:435.1(A)(1) and (G))

Act 913 (HB 2010 Smith)

Dedicates the money received from the sale of items confiscated by the Department of Wildlife and Fisheries to be used to purchase equipment for game wardens and for uniform cleaning. (Amends R.S. 56:63)

Act 931 (HB 533 Roach)

Authorizes trawlers to pull no more than two trawls no longer than 25 feet along the corkline, 33 feet along the lead line, and have no more than two outer trawl doors no larger than eight feet in length and 40 inches in height and no more than two inner sled doors, including a test trawl. (Amends R.S. 56:495.1(A) and R.S. 56:499)

Act 946 (HB 953 Patti)

Provides for the possession count for the taking of undersized white shrimp. When more than fifty percent by weight of the saltwater shrimp taken or possessed is sea bobs or brown shrimp, then the maximum allowable amount of undersized white shrimp taken or possessed shall not exceed ten percent by weight of the total saltwater shrimp taken or possessed. (Amends R.S. 56:495(A)(107), 498(B)(2), and repeals R.S. 56:495(A)(108))

Act 979 (HB 1973 Smith)

Relative to beaver control; provides for a pilot program in the parishes of East Carroll, West Carroll, Morehouse, Madison, and Richland to offer a bounty on beaver pelts. (Enacts R.S. 3:3032)

Act 1041 (HB 1185 Roach)

Deletes from the present law the requirements that alligator parts dealers secure tags and that possession of alligator eggs require tags. Provides a fee for shipping wild and farm-raised alligators of \$4 per alligator or alligator skin. Provides for the Louisiana Alligator Resource Fund; provides for an advisory council and Alligator Public Education and Marketing Fund. (Amends R.S. 56:253(C) and 266(A), (C), (E)(3), and (F); Enacts R.S. 56:266(B)(7) and 279). Effective 7/26/91.

ACT 1051 (HB 960 Patti)

Requires the Wildlife and Fisheries Commission to adopt certain rules to regulate the taking of mullet. Such regulations shall provide for zones, seasons, permit fees, restrictions, use of nets, and provides for penalties. (Enacts R.S. 56:333)

Adopted Resolutions

HR 25 (Diez)

Urges and requests the Wildlife and Fisheries Commission to increase the number of black bass that a person may take in one day if the available information indicates such an increase is necessary.

HCR 16 (Siracusa)

Re-creates the special committee to study the transfer of oyster industry regulation to the Department of Agriculture.

HCR 32 (Roach)

Directs the Department of Wildlife and Fisheries to review the shrimp management plan data and proposal and give the Legislative Natural Resources Committees an evaluation.

HCR 79 (Ellington, et al.)

Directs the Dept. of Wildlife and Fisheries to close the doe season in the Big Lake, Boeuf, Saline, and Sicily Island Hills Wildlife Management Areas for three years beginning with the 1991-1992 deer season. Further directs the Dept. of Wildlife and Fisheries to establish a system of methodology to monitor the deer herds in these particular wildlife management areas.

HCR 104 (D. Smith)

Suspends the authority, of the Louisiana Wildlife and Fisheries Commission to reduce the daily take and possession limits on black bass below 15 except for trophy and quality lakes, Toledo Bend, and Caddo Lake, and nullifies rules to that effect. Suspends the Commission's authority to issue special permits to tournament participants to take black bass outside of the legal limits.

HCR 122 (Patti)

Authorizes and directs the Department of Wildlife and Fisheries and the Shrimp Task Force to study alternatives to turtle excluder devices.

HCR 145 (Roach)

Directs the Louisiana State Law Institute to study and report on the legal aspects of ownership of non-negative waterbottoms in coastal areas.

HCR 277 (Patti)

Directs the Wildlife and Fisheries Commission to make an annual report to the legislature no later than March 1 of each year which contains a biological condition and profile and stock assessment of red fish, including a total allowable catch with probable allocation scenarios, and a recommendation to the legislature as to whether or not gamefish status for such species should be continued.

SCR 92 (Landry)

Creates a special task force to study the reptile and amphibian educational/scientific/pet trade in the state and to make recommendations for its management.

VETOED LEGISLATION

HB 998 Siracusa and Kimball

Would have authorized the Department of Wildlife and Fisheries (DWF) to enter into not more than 20 cooperative agreements with the owners and operators of private mariculture enterprises regarding conducting experiments, operating programs, testing, and providing advice. Would have authorized the DWF to issue special shellfish harvesting permits to owners and operators who file a marsh management plan. Additionally would have required the operators to provide DWF with biologists to monitor stocking, growth, and harvesting of shellfish, and requires a reasonable percentage of shellfish to escape into the wild.

ENVIRONMENTAL QUALITY

Act 7 (HB 5 Haik, et al) (First Extraordinary Session)

Created the Office of Louisiana Oil Spill Coordinator and the Interagency Council. Provides for prevention of and response to oil spills within coastal waters of Louisiana. For a detailed analysis see: Comment, *Louisiana Oil Spill Prevention and Response Act*, LCL 61 (July 1991).

Act 190 (HB 208 Martin)

Requires that a public hearing be held, in accordance with the Administrative Procedure Act, prior to the initiation of promulgation of a rule or regulation in cases where a permit, license or compliance schedule is being required for an industry, or practice which had not been previously required. (Enacts R.S. 30:2019(c))

Act 223 (HB 757 Holden)

Authorizes the secretary of DEQ to adopt rules regarding underground storage tanks to require registration of tank systems, establish requirements for management systems, establish requirements for reporting releases, and establish a certification program for persons installing, repairing, or closing underground storage tanks. (Amends R.S. 30:2194(C))

Act 224 (HB 777 Stine)

Adds to the rules regarding the records that must be kept during a remedial action a general requirement providing an opportunity for a public hearing and, if requested, comments for a period of 60 days, prior to approval of a remediation plan. (Amends R.S. 30:2280)

Act 226 (HB 840 Dewitt)

Adds an additional requirement to existing law relative to the Louisiana Water Control Law which provides that the office of the Secretary of DEQ shall have the power to process all applications for state certifications which applicants for federal and state licenses and permits are required to provide to the appropriate agency. Notice of each application must either be published in the official journal of the state or issued as a joint notice by the agency requiring the certification. The secretary of DEQ shall act on the application and take such action as it deems appropriate. Act 226 provides in addition to present law that if, the secretary requires any alterations to the federal or state license or permit for certification, or proposes to deny the certification, the secretary shall promptly notify the applicant of the alterations or denial, and shall provide an opportunity for a hearing in connection with the proposed alterations or denial. The Act further provides that conditional certifications and certification denials shall be considered permit actions for all purposes. Effective 7/2/91. (Amends R.S. 30:2074 (A)(3))

Act 231 (HB 895 Odinet)

Act 231 provides that a final decision of the Secretary of DEQ either denying or restricting a permit which will result in the practical closing and elimination of a lawful business shall become effective no sooner than 120 days after notice of the action is served upon the respondent rather than the immediate enforcement allowed in some cases by present law. Provides that the existing permit will continue in effect until such decision becomes effective. (Enacts R.S. 30:2024(D))

Act 300 (HB 1068 Hand)

Requires the Secretary of DHH to establish such standards as necessary to control the discharge of improperly treated sewerage into Lake Pontchartrain or its drainage basin as well as the Mississippi River. (Enacts R.S. 40:1152 and 1153)

Act 260 (HB 1396 Holden)

Clarifies that law relative to the DEQ, which provides for an automatic grant of a variance if the Secretary fails to take action within 60 days from receipt of a variance request or after final argument in any DEQ hearing, applies only to hearings under this subtitle in the Louisiana Air Control Law. (Amends 30:2056(D))

Act 236 (HB 955 Patti)

Authorizes the Secretary of DEQ to grant variances to prohibitions of the Louisiana Water Control Law, and authorizes a person to conduct discharge activities pursuant to a variance issued by the secretary of DEQ. (Amends R.S. 30:2074(B)(4) and 2075)

Act 249 (HB 1184 Roach)

Act 249 allows any hazardous substance remedial action arising under this Chapter which is not prescribed on Sept. 1, 1991, to be commenced within ten years from September 1, 1991. Effective September 1, 1991. (Amends R.S. 30:2276(H))

Act 379 (HB 1817 Siracusa)

Specifically excludes from the definition of "solid waste" under the Louisiana Solid Waste Management and Resource Recovery Law and the Solid Waste Recycling and Reduction Law, uncontaminated scrap metal materials which were purchased for resale to be recycled and not destined for disposal (Amends R.S. 30:2153(1) and 2412(13))

Act 556 (HB 287 Diez)

Prohibits any carrier from transporting hazardous materials on La. Hwy. 73 between I-10 and La. Hwy. 74 and within three hundred yards of any building used as a public or private elementary or secondary school, except for making local deliveries on this portion of Hwy. 73. (Enacts R.S. 32:1521)

Act 601 (SB 845 Lauricella, et al)

Makes the area of the bank of the Mississippi River within a reasonable distance of not greater than five hundred feet from a raw water intake facility, a restricted area, as determined by the waterworks district to adequately protect the water intake facility from physical damage or pollutants. Makes unlawful the discharge of any substance from a vessel in such a manner as to soil the water, or disturb sediment, or otherwise cause the water to become more turbid. Effective July 16, 1991. (Enacts R.S. 33:3815.2 and R.S. 34:844)

Act 623 (SB 704 Neeson)

Establishes quality standard requirements for bottled water, provides for good manufacturing practices and operational requirements; provides for source and finished product water monitoring; provides for labeling requirements; provides for maximum contaminant levels. (Enacts R.S. 40:731 through 741)

Act 635 (SB 875 Crain & Thompson)

Establishes as a goal of the toxic air pollutant control program that the total amount of state wide emissions of toxic air pollutants be reduced by fifty percent from 1987 levels by December 31, 1996. Facilities which are found to be in noncompliance at the time of adoption and promulgation of the applicable rules must submit a plan for achieving compliance. (Amends R.S. 30:2060(C) and (D) and enacts 30:2060(N))

Act 666 (HB 1579 John)

Provides that any person who allows or causes the unpermitted pollution of the waters of the state in contravention of any regulations shall notify the Secretary of DEQ and if necessary take prompt remedial action. Establishes as its goal the elimination of those releases that may reasonably pose a threat to human health or the environment and to remediate contaminated media, taking into consideration current and expected uses. (Amends R.S. 30: 2077 and enacts R.S. 30:2204(A)(3))

Act 846 (HB 739 Dewitt)

Provides that if the Secretary of DEQ takes no action on a respondent's request for a hearing within 20 days after the request is filed, the respondent may file an application for a trial de novo in the 19th Judicial District Court for review of the secretary's action. (Amends R.S. 30:2011(D)(2) and 2024(A)) Effective July 23, 1991.

Act 851 (HB 779 Stine & Cox)

Requires Clerks of Court within the state to forward to DEQ a copy of each notice of a disposal site recorded by a landowner. (Amends R.S. 30:2039(A))

Act 860 (HB 968 Martin et al.)

Provides that before a rule, regulation, or permit fee which affects the agriculture industry is adopted, amended, or repealed, the following must occur:

1) The Governor shall designate a person from within his office to act as a liaison between Department of Environmental Quality and the agriculture industry.

2) DEQ must inform the Chancellor of the LSU Agricultural Center and the Commissioner of Agriculture and Forestry of the proposed rule, who shall then designate the appropriate persons under his authority to provide documentation with respect to the environmental effects of agricultural practices, the economic impact of the change, the acceptable and unacceptable risk levels associated with traditional agricultural practices and the proposed change, and other information that should be considered. Effective July 23, 1991. (Amends R.S. 30:2019.1)

Act 959 (HB 1398 Holden & Bankston)

Prohibits retaliatory action by an employer against an employee who does any of the following: (1) Discloses or threatens to disclose any activity or practice of the employer that he reasonably believes to be a violation of a law or regulation serving to protect the living and working environment of citizens. (2) Provides information to any public body conducting an investigation into any such violation by the employer. Amends R.S. 30:2027(A) and (B)

Act 964 (HB 1512 John et al)

Defines "used oil" as oil that is spent lubricating or industrial oils and any nonfuel oil that has become contaminated and cannot be used for its intended purpose. Provides that used oil may be recycled by using it as a fuel oil. Provides for standards, regulations, and collection. Establishes the Used Oil Recycling Trust Fund and related matters. (Amends R.S. 30:2412(3), (11), and (16), 2414(1) and (2), and 2417; Enacts R.S. 30:2412(21) through (26); Repeals R. S. 30:2412(5))

Adopted Resolutions

HCR 17 (Holden)

Urges and requests the EPA to investigate and designate Baton

Rouge Bayou, Devil's Swamp, and Devils Swamp Lake in East Baton Rouge Parish as "Superfund Sites".

HCR 25 (Stine)

Urges and requests parishes and municipalities to initiate recycling programs.

HCR 72 (Warner, et al.)

Urges and requests the DEQ, the Office of Coastal Restoration and Management, and the Commissioner of Conservation to study the use of microbes, biological additives, or bio-remediation technology for use in oil spill clean up operations.

HCR 111 (Roach)

Requests the Louisiana State Law Institute to study and make recommendations concerning jurisdiction and procedures for adjudicatory actions and appellate proceedings by DEQ.

HCR 132 (Martin et al)

Urges and requests DEQ to amend its proposed rules on solid waste to provide that the regulation of agricultural residues, aquacultural residues, silvicultural residues, and other wastes which are removed from site of production during any agricultural process, and which can be used to increase topsoil, as a compost, as feed stock for fuel, or in the generation of electricity, shall fall within the jurisdiction of the Dept. of Agriculture.

SCR 37 (Bankston)

Directs DEQ to prepare a report on toxic discharges, and the technology available to monitor toxic discharges into surface waters.

SCR 72 (Nunez et al)

Requests that DEQ and the Commissioner of Conservation consider the use of bio-remediation as an acceptable method of disposal in the event that Louisiana suffers from an oil spill.

COASTAL RESOURCES AND PUBLIC LANDS

Act 76 (HB1293 Patti)

Prohibits the denial of the payment of fees or costs or the application for indigent status by a claimant to land in the Bohemia Spillway prior to November 1, 1991. Prohibits the invalidation of claims for failure to timely pay any fee or cost or to timely apply for and provide information and affidavits for indigent status. Emergency clause went into effect 6/25/91. (Amends Section 2 of Act No. 233 of the 1984 Regular Session, as amended by Act No. 819 of the 1985 Regular Session)

Act 584 (HB 1945 Stelly)

Designates segments of the Calcasieu River in Allen, Jefferson Davis, and Calcasieu parishes, as a natural and scenic river. (Amends R.S. 56:1847(35))

Act 637 (SB 935 Bagert et al)

Requires the Secretary of the Department of Natural Resources to insure that dredged materials are used for purposes beneficial to

wetlands when five thousand cubic yards or more of dredging is done. Requires the Secretary to insure that dredged material and/or stabilization measures are used when maintaining or constructing a channel in the coastal zone which is more than one mile in length. Requires that any dredged material disposal and channel stabilization be in accordance with a long-term plan developed by the secretary in conjunction with navigation and port authority representatives. (Enacts R.S. 49:214.30(H) and R.S. 49:214.32(F))

Act 640 (SB 970 Decuir et al)

Authorizes the secretary of DNR to conduct a public education program on the programs, projects, policies, and purposes of coastal zone management. (Amends R.S. 49:214.27(D))

Act 978 (HB 1971 Strain & Deano)

Designates the Bogue Falaya River in St. Tammany from its headwaters to La. Hwy. 437, as a Natural & Scenic River. (Amends R.S. 56:1847(52))

**Addendum to:
Coastal Resources And Public Lands**

Act 995 (SB Nunez)

Provides that conditions imposed by coastal use permits supersede any variances or exceptions granted by the commissioner of conservation with regard to the burial of certain oil and gas pipelines in the coastal zone.

Adopted Resolutions

HCR 291 (Lalonde)

Memorializes Congress to take action to appropriate federal impact

assistance funds from outer continental shelf (OCS) oil and gas activities to Louisiana.

AQUACULTURE

Act 254 (HB 1284 Ellington)

Provides for the prompt payment by processors to producers of farm-raised catfish within 14 days of the timely delivery of the product to processors. Also provides for a penalty payment of 1 cent per pound of catfish per day on the balance owed on the 14th day after delivery. (Enacts R.S. 3:721)

Act 374 (HB 1287 Ellington and Campbell)

Requires processors of farm-raised catfish to weigh the catfish completely drained of water as they are unloaded from the live haul truck at the processing plant. The weighing device must be approved by the Department of Forestry. The weighing ticket must include (1) the name and address of the processor; (2) the name of the producer of the catfish or catfish products being weighed; (3) the date weighed; (4) the signature of the individual who weighed the catfish. Copies of weight tickets must be furnished to producers along with settlement sheets. (Amends 55:161)

Act 514 (HB 1354 Melancon)

Requires that any catfish product sold in the state shall be labeled as "farm-raised" or "naturally produced." Effective January 1, 1992. (Enacts R.S. 56:578.11)

Act 822 (SB 549 Bankston)

Authorizes importation of non-living cultured fish raised in an aquacultural environment for sale at wholesale or retail. Provides that "aquaculture" includes the commercial production, storage, processing, marketing, distribution, export, or importation including but not limited to catfish, crustaceans, freshwater prawns, mollusks, shiners, and other bait species. Defines "cultured fish" to be farm-raised fish or shellfish. Requires that, prior to each shipment of aquaculturally raised fish, the producer notify the secretary of DWF of the pending arrival at least 48 hours prior to shipment. Establishes bill of lading requirement. (Amends R.S. 56:356; Enacts R.S. 56:327.1)

Act 987 (SB 548 Bankston)

Exempts certain research projects and programs from prohibition against sale or purchase of freshwater or saltwater game fish. Allowed are projects being conducted by the L.S.U. Agriculture Center, or by other schools authorized by the Board of Regents with the concurrence of the Dept. of Wildlife and Fisheries. Includes the sale or distribution of research by-products, such as eggs, fingerlings, and fish or other products grown under aquacultural conditions. (Enacts R.S. 56:327 (G))

PORTS, HARBORS, AND WATERWAYS

Act 81 (HB 1500 Toomy)

Present law exempts parishes with populations exceeding 450,000 from the provisions of the law relative to the Louisiana Shallow Draft Ports and Waterways Commission. Act 81 changes the population figure from 450,000 to 425,000. (Amends R.S. 49:220.9)

Act 97 (HB 433 Dastugue)

Requires persons operating a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, to wear a personal floatation device approved by the U.S. Coast Guard. (Amends R.S. 34:855.1-855.5.)

Act 355 (HB 608 Melancon, et al.)

Repeals R.S. 33:4717.2(d), which prohibits deepwater ports from selling property for industrial inducement purposes.

Act 474 (HB 534 Roach)

Provides for the election of commissioners and semiannual meetings of the East Cameron Port Commission. (Amends R. S. 34:2502(E) and adds R.S. 34:2502(F))

Act 532 (HB1662 Long)

Provides that the chief engineer of DOTD shall have the final

authority for determining the necessity of opening the dams on Black, Clear, and Saline Lake in Natchitoches Parish for flood control purposes. Further provides that no other department of state government shall be involved in these flood control activities. (Amends R.S. 38:24)

Act 638 (SB 945 Cox)

Limits the employment of the port director by the Lake Charles Harbor and Terminal District to a term not to exceed 3 years in any one contract. Effective July 17, 1991. (Amends R.S. 34:204(B))

Act 788 (SB 916 Chabert)

Provides for damages when anyone trespasses and damages an area of seeded oyster beds. Requires lessee to mark the seeded areas of his lease, showing the area and lease number or name or initials of leaseholder. (Amends R.S. 56:303.6(D), R.S. 56:423(B), R.S. 56:430, and repeals R.S. 56:437)

Act 957 (HB 1365 Roach)

Requires that state water bottoms be cleared of all obstructions when an oil or gas well is removed using the same procedures, where possible, as those required for federal waters. (Enacts R.S. 30:4 (J))

Adopted Resolutions

HCR 145 (Roach)

Directs the La. State Law Institute to study the law and jurisprudence governing the ownership of inland non-navigable waterbodies and

the decision in Phillips Petroleum v. Mississippi, 108 S.Ct 791 (1988) and report on or before Feb. 1, 1992 to the legislature. Restrains state agencies from instituting any new proceeding which raises claims of public ownership of inland non-navigable water bodies.

OIL, GAS, AND MINERALS

Act 352 (HB 491 Roach)

Directs landowner having knowledge that his property has been used for disposal of oilfield wastes to cause notice of the identification of the location of the waste site to be recorded in the mortgage and conveyance records of the parish in which the property is located. The Commissioner of Conservation may record the notice upon failure of the landowner to do so after notice and opportunity for a hearing has been given the landowner. (Enacts R.S. 30:79)

Act 735 (SB 972 Decuir et al)

Requires Department of Environmental Quality (DEQ), Department of Natural Resources (DNR), Department of Revenue and Taxation (DRT), Mineral Board, and Department of Wildlife and Fisheries (DWF), to codify any of their regulations or permit requirements relative to oil and gas development so as to plainly state their applicability to oil and gas development and the types of permits which will be required of such developers by the regulations. Requires agencies to file their regulation codifications with the secretary of DNR by March 1, 1992, and to update codifications within 10 days of the final adoption of subsequent regulations. The secretary of DNR is authorized to reject codifications that are unclear or confusing, providing reasons for the rejection and/or

clarifying questions. Requires the secretary, after receipt and approval of all codifications, to compile the Unified Oil and Gas Regulatory Code and to have it promulgated using the procedures of the "Administrative Procedure Act" (L.S.A. - R.S. 49: 950 et seq.) Effective July, 28, 1991 (Enacts R.S. 49:954.2 and 954.3)

Act 828 (SB 960 Decuir et al.)

For certain oil and gas wells and pipeline permits, after notification by DNR to the applicant that application is complete, requires the Secretaries of DNR, DEQ & DWF, to grant or deny such applications within 60 days, or the applicant is authorized to file a rule to show cause in not less than 2 nor more than 30 days why he should not be granted the permit. In any hearing on the rule, the applicant is entitled to a presumption that the facts stated in his affidavit are true and the rule will be denied by the court only if the secretary provides clear and convincing evidence of an unavoidable cause for the delay. However, even if the rule is denied, the court is required to decree that the secretary shall grant or deny the application within a time set by the court, or the application is automatically granted. If the rule is granted, the applicant is granted the permit. (Amends R.S. 30:26 and 2022(C), R.S. 49:214.30(C)(2) and R.S. 56:6(26), and Enacts R.S. 49:962.1)

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SEA GRANT LEGAL PROGRAM
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BATON ROUGE, LA 70803-1018

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David W. Carroll
Chemical Manufacturers Association
2501 M. Street NW
Washington DC 20037