

Lagniappe



Sea Grant
LOUISIANA

Research and Extension Programs
Agriculture
Economic/Community Development
Environment/Natural Resources
Families/Nutrition/Health
4-H Youth Programs

August 2, 2004 Volume 28, No. 8

NEW FISHERIES LAWS

The following bills were passed by the Regular Session of the 2004 Louisiana Legislature and will go into effect on August 15 (unless otherwise noted). In these bill summaries, the Louisiana Department of Wildlife and Fisheries is referred to as LDWF, the Louisiana Wildlife and Fisheries Commission as LWFC, the Louisiana Department of Natural Resources as LDNR, the Louisiana Department of Environmental Quality as LDEQ, the Department of Agriculture and Forestry as LDAF, and the Louisiana Department of Health and Hospitals as LDHH.

Senate Bill 2 — McPherson

Creates a constitutional amendment to preserve the freedom to hunt, fish and trap. Public vote on the amendment will be held on November 2, 2004.

Senate Bill 8 (Act 594) — B. Gautreaux & Romero

Designates St. Mary Parish as the "Bass Fishing Capital of the World."

Senate Bill 15 (Act 598) — Dupre & others

Provides an affirmative defense for possession of undersized crabs by seafood dealers if a dealer has invoices or other written documentation that the total number of undersized crabs is not over 10% of crabs bought for processing and shipping.

Senate Bill 45 (Act 173) — Smith

Authorizes the Sabine Lake Game and Fish Preserve Commission to stock grass carp in Sabine Lake, and the Grant Parish Police Jury to stock grass carp in Iatt Lake. Stocking will be paid for by them and shall only be done under the direct supervision of LDWF.

Senate Bill 105 (Act 297) — Dupre & Baldone

Requires the LWFC hold elections for chair and vice-chair at its first meeting in January.

Senate Bill 117 (Act 174) — McPherson

Creates an additional penalty of \$2 for Class 2 to Class 8 fish and wildlife violations, with the money going to Louisiana Operation Game Thief, Inc. Further protects the identity of fish and wildlife violation informants, but allows a person charged with a



criminal violation to request a camera inspection of the records if it may find evidence favorable to the person charged. Allows LDWF to contract with a nonprofit entity to administer the program.

Senate Bill 120 (Act 175) — McPherson

Adds all or part of Ouiska (Whisky) Chitto Creek, Barnes Greek, Beckwith Creek, Bundicks Creek, and Hickory Branch, all in the Calcasieu watershed, to the Natural and Scenic Rivers System.

Senate Bill 160 (Act 453) — Hainkel

Repeals the exemption from the Natural and Scenic Rivers Act for the banks of the Tchefuncte River from Highway 22 to Lake Pontchartrain which are zoned commercial and for tracts of land located along the banks of such parts of the Tchefuncte River that are between and in the same tracts of land that have a commercial zoning.

Senate Bill 161 (Act 913) — B. Gautreaux & others

Creates the Louisiana Aquatic Chelonian Research and Promotion Board to promote and develop the Louisiana turtle farming industry. The board is to be funded by an assessment of one cent per pet turtle produced.

Senate Bill 186 (Act 179) — McPherson & Farrar

Extends to persons who make or repair marine vessels, marine vessel trailers, and equipment, or motors used on marine vessels, the privilege of selling items for unpaid debts.

Senate Bill 308 (Act 459) — Dupre & Baldone

Provides certain procedures and requirements concerning coastal wetland program guidelines, coastal use permitting and mitigation of wetland losses.

Senate Bill 310 (Act 633) — Dupre & others

Authorizes LDNR to take by expropriation, private property needed for coastal wetlands conservation, management, preservation, enhancement, creation, or restoration, and provides rules for such takings.

Senate Bill 433 (Act 185) — Theunissen & Pierre

Creates a 9-member Louisiana Aquatic Invasive Species Council and a 31-member Louisiana Aquatic Invasive Species Advisory Task Force. The Council, with the advice of the Task Force, is to create the Louisiana Invasive Aquatic Species Management Plan, and to take action to control, prevent or get rid of invasive or potentially invasive aquatic species.

Senate Bill 494 (Act 460) — Schedler

Allows the use of multi-pronged barbed gigs to harvest flounders.

Senate Bill 636 (Act 696) — McPherson

Allows a LWFC member to hold or renew oyster leases. Such a member must recuse himself or be disqualified by the LWFC from participating in action on these leases.

Senate Bill 710 (Act 709) — Ellington

Allows persons who, as of January 1, 2005 have reached the age of 13, but are less than 16 years of age, to operate a personal water craft (jet ski) if they have completed a boating safety education course and carry proof of completion of the course.

Senate Bill 767 (Act 716) — Hainkel

Prohibits dredging or use of water bottoms of Lake Pontchartrain for private purposes except shoreline reclamation, and then only if such dredging does not unreasonably affect public use and navigability of the lake.

Senate Bill 842 (Act 728) — Romero

Designates the Louisiana Department of Transportation and Development as the nonfederal sponsor of the Acadiana Gulf of Mexico Access Channel. Provides for powers (including property expropriation) and responsibilities in relation to the development of the channel.

Senate Concurrent Resolution 9 — B. Gautreaux

Increases membership in the Louisiana State Seafood Industry Advisory Board by adding one member experienced in governmental relations appointed by the Seafood Promotion and Marketing Board and one member knowledgeable about aquaculture or fisheries appointed by the Louisiana Farm Bureau Federation.

Senate Concurrent Resolution 24 — McPherson & McDonald

Urges and requests the Governor to support policies that ensure the public's right to access and use for navigation and fishing, navigable coastal waters owned by the state.

Senate Concurrent Resolution 25 — McPherson & others

Urges and requests the Governor to direct the State Lands Office to complete within the next 4 years an inventory of the waterbottoms of the state, and urges the Governor's office to find enough funding for the task.

Senate Concurrent Resolution 30 — Smith

Requests LDWF to conduct a study of possible grass carp migration out of Saline Lake and deliver a report to the Legislature before the 2005 Regular Session.

Senate Concurrent Resolution 62 — Holden

Urges the LDEQ Secretary and each member of the Louisiana Congressional Delegation to support federal regulations to restrict mercury emissions and discharges into the environment.

Senate Concurrent Resolution 75 — N. Gautreaux & others

Requests the U.S. Congress to authorize and fund a Coastal Forest Reserve Program to provide incentives to coastal forest owners to preserve and manage these forests. Also requests Louisiana agencies and universities to inventory coastal forests.

Senate Concurrent Resolution 90 — Smith

Requests LDWF to conduct a study of possible grass carp migration out of Iatt Lake and deliver a report to the Legislature.

Senate Concurrent Resolution 91 and House Concurrent Resolution 146 — Smith & Townsend

Requests LDWF to draw down Saline Lake, at a rate of no more than 3 inches per day, 6 feet before October 25, 2004 to control aquatic grasses. Requests that during the drawdown, that LDWF prevent fishing, that LDWF apply herbicides during the drawdown and that grass carp be allowed to be stocked.

Senate Concurrent Resolution 92 — Smith

Requests LDWF to draw down Iatt Lake, at a rate of no more than 3 inches per day, 8 feet before October 25, 2004 to control aquatic grasses. Requests that during the drawdown, that LDWF prevent fishing, that LDWF apply herbicides during the drawdown and that grass carp be allowed to be stocked.

Senate Concurrent Resolution 107 — Boasso

Requests the House and Senate Natural Resources Committees to meet as a joint committee to study and make recommendations on the feasibility of revising Louisiana's saltwater fisheries laws and regulations as they pertain to commercial and recreational fishing and to make recommendations for species-specific conservation standards. The study is also to address the issue of user conflicts between recreational and commercial interests in order to minimize confrontations over access to resources. The joint committee shall seek input and advice from a committee made up of 14 recreational and commercial representatives, as well as LDWF biologists and enforcement agents. The joint committee shall hold its first meeting on or before September 1, 2004.

Senate Concurrent Resolution 152 — Dupre & others

Requests the U.S. Congress to eliminate the "new shipper" bonding privilege that allows new companies from countries that have been ruled to be dumping imports into the U.S. to bring in imports without certain tariffs.

Senate Concurrent Resolution 159 — Dupre

Requests the U.S. Congress to review its rules and laws affecting coastal wetlands and permitting activity in Louisiana in order to promote cooperation and effective communication between state and federal agencies.

Senate Resolution 16 — Boasso & others

Strongly requests the U.S. Department of Commerce to visit the state and conduct hearings and conferences to allow Louisiana citizens to provide input relevant to anti-dumping duties on shrimp imports.

Senate Resolution 17 — Romero

Urges and requests the Governor to provide at least \$300,000 for the purpose of assisting Louisiana shrimpers in their efforts with the Southern Shrimp Alliance.

Senate Resolution 49 — Barham

Requests that LDWF is to issue rules to prevent the take of freshwater alligator snapping (loggerhead) turtles.

House Bill 105 (Act 237) — Salter

Allows, from July 1, 2004 through June 30, 2008, only for Toledo Bend Reservoir, a recreational possession limit on catfish of 125 (formerly 100) and an undersized recreational possession limit on catfish of 50 (formerly 25). The 100 catfish total limit and 25 undersized catfish limit will continue to apply to the rest of the state.

House Bill 106 (Act 238) — Farrar

Creates “no wake” zones within 300 feet of public boat launches, public docking facilities next to boat launches, and licensed commercial fisheries docking facilities. Within these zones, boats must be operated at bare steerage speed, the slowest that the boat can travel while allowing the operator to steer.

House Bill 117 (Act 240) — Jack Smith

Allows crab traps to be used without floats and float lines north of the northern bank of the Intracoastal Waterway.

House Bill 160 (Act 479) — Frith

Allows the use of a hand dredge or scraper of no larger than 36 inches in Calcasieu Lake to take oysters. Provides that LWFC set harvest limits at no more than 15 sacks per vessel per day in the lake.

House Bill 168 (Act 86) — Jack Smith & others

Allows the use of shad seines for the taking of shad, skipjack herring and other legal commercial fish at night from February 1 through June 30 and on weekends in St. Landry Parish, the Atchafalaya River between Lower Old River and the Intracoastal Waterway, the Whiskey Bay Pilot Channel, and the Mississippi River between the Old River Control Structure and the Sunshine Bridge. Provides that use of a shad seine shall not interfere with commercial shipping.

House Bill 201 (Act 825) — Dartez & St. Germain

Allows the use of shad gill nets between sunset and sunrise to take shad and skipjack herring during the open season of July through October of each year in Lake Palourde and Lake Verret. Also changes the southern boundary of where wire nets may be used from U.S. Highway 190 to Interstate Highway 10.

House Bill 357 (Act 752) — Martiny

Defines that “public navigable waterways means any waters within the territorial limits of this state and the marginal sea adjacent to the state and the high seas when navigated as a part of a journey or ride to or from the shore of this state but shall not include privately owned water bodies with no ingress or egress to public waters,” for the purpose of implied consent to testing for operation of a boat under the influence of alcohol or drugs.

House Bill 367 (Act 12) — Thompson & B. Gautreaux

Allows for general appointment of harvesters of wild crawfish, rather than appointment through Common Claws of Louisiana, to the Crawfish Promotion and Research Board. Provides that if any group does not submit names for selection to the board that the LDAF commissioner may appoint qualified persons.

House Bill 429 (Act 407) — Dove

Requires LDNR to establish a barrier islands stabilization and preservation program and provides that LDNR shall require all projects subject to public bid to include appropriate dredges for use to stabilize and preserve barrier islands. Provides that parishes with barrier islands may submit requests to LDNR for barrier islands projects, which LDNR shall prioritize. If funding for the Barrier Islands and Shorelines Stabilization Fund is not appropriated in any year, the program shall be suspended until funds are available.

House Bill 450 (Act 211) — Odinet

Allows a person convicted of an oyster violation to harvest oysters only from a boat with a vessel monitoring system onboard for one year after conviction. Requires the person convicted to notify LDWF as to which vessel he will be using to harvest oysters. Allows LDWF access to the system.

House Bill 494 (Act 213) — Odinet

Replaces rules of the National Shellfish Sanitation Program for oyster harvesting, processing, tagging, and distributing with rules to be created by LDHH.

House Bill 595 (Act 94) — Jack Smith & others

Removes 16 to 25-foot recreational trawls from the gear allowed to be used with the Louisiana Sportsman's Paradise License.

House Bill 596 (Act 95) — Jack Smith & B. Gautreaux

Allows the temporary transfer of a recreational or commercial gear licenses only to a person who holds a valid recreational or commercial (or appropriate) fishing license and who has the same residency status as the holder of the gear license. A gear license that requires qualifications shall not be transferred and may only be used by the person to whom it was issued.

House Bill 597 (Act 96) — Jack Smith & B. Gautreaux

Provides that on a vessel taking or transporting finfish for commercial purposes or where the quantity of finfish is more than the recreational limit, that all finfish on board shall be considered to have been taken for commercial purposes and subject to commercial laws. Also provides that the law that allows a person who holds both a commercial speckled trout permit and a recreational license to have a recreational limit of speckled trout between 10 p.m. and 5 a.m. only applies if the person is not on a commercial fishing trip.

House Bill 598 (Act 97) — Dartez & others

Requires that nets and trawls which are allowed to be unattended at camp wharfs must be tagged with tags issued by LDWF.

House Bill 600 (Act 98) — Jack Smith & others

Authorizes LWFC to designate non-native fish species as “exotic” and to create permits and rules to take such fish. Permits shall be valid for one year and may be monitored, reviewed, suspended, or revoked by the Secretary of LDWF.

House Bill 601 (Act 161) — Baldone & B. Gautreaux

Creates a 50-pound possession limit on shrimp taken as bait during the closed season and a 100-pound limit during open season, with the use of dip nets less than 3 feet in diameter, 8½-foot cast nets, and ¼-inch mesh bait seines up to 30 feet long. The possession limits apply per vehicle or boat regardless of the number of persons.

House Bill 602 (Act 162) — Daniel

Modifies the inside-outside shrimp line in Caminada Pass. Specifies that the fee for the bait dealers permit that allows the taking of shrimp in the closed period between spring and fall seasons shall be \$100 and dedicates the money collected to the administration of the bait dealer program. Also provides that these permits are valid for one year, from January 1 through December 31 of the same year.

House Bill 603 (Act 126) — Pierre & others

Creates a \$25 freshwater shrimp net gear license to use a 6-foot wire net with ¼-inch mesh. The net must be marked with a one gallon jug painted international orange and displaying the words “Freshwater Shrimp” in black letters. Allows the commercial taking of freshwater shrimp in the Mississippi River and the intracoastal Waterway within 1½ miles of the boat ramp next to the Port Allen Locks. Authorizes the LWFC to create rules to allow commercial freshwater shrimp harvest in other locations or to approve other gear for freshwater shrimp. Effective November 14, 2004.

House Bill 605 (Act 99) — Frith & others

Corrects a part of the law that requires restaurants to purchase wholesale/retail dealer licenses if they purchase seafood from fishermen.

House Bill 606 (Act 835) — Jack Smith & others

Creates a \$50 senior lifetime hunting and fishing license for residents 60 years of age or older, who turned 60 after June 1, 2000.

House Bill 608 (Act 836) — Jack Smith & Pierre

Allows classified employees of LWFC or LDWF to exploit natural resources, provided that the activity is not prohibited by law and is approved by the director of LWFC.

House Bill 620 (Act 217) — Pierre

Provides that the Nineteenth Judicial District for East Baton Rouge Parish shall be where all challenges from oyster leaseholders for compensation shall be heard.

House Bill 653 (Act 221) — Pierre

Authorizes LDNR to sample oyster leases to make determinations for coastal restoration.

House Bill 736 (Act 253) — Lafleur & Dardenne

Changes Class 1 wildlife and fisheries violations from civil to criminal violations. Adds the possibility of time in jail for these violations. Class 1 cases will be handled by local district courts. Provides that failure to pay penalties shall result in immediate revocation of all recreational fishing and hunting licenses. No more such licenses shall be issued to the individual as long as the penalties remain unpaid.

House Bill 788 (Act 386) — Pierre

Requires LDNR to consider an applicant's history of compliance with requirements of the Coastal Resources Program before issuing a coastal use permit. Allows the applicant to review and comment on his compliance record as compiled by LDNR.

House Bill 975 (Act 541) — Gallot

Authorizes LWFC to regulate recreational and commercial fishing nets and traps in Lake Claiborne.

House Bill 1039 (Act 271) — Montgomery & others

Defines aquaculture products and provides that the state shall not limit the ability of Louisiana agricultural (including aquaculture) companies to bid or do business in Louisiana. Requires the Riverboat Gaming Commission to give preference to Louisiana agricultural companies.

House Bill 1162 (Act 792) — Dove

Provides that oil companies and their service companies who cause damage to oyster beds when traveling along approved LDNR routes shall only be liable for the reduction in market value of the oyster beds. The reduction in market value determination will be done with the method used by the Louisiana Oyster Lease Damage Evaluation Board. This new law has no effect on judgments previously made.

House Bill 1192 (Act 865) — Townsend & others

Provides that the aquatic animals raised in aquaculture are livestock and not wildlife. Creates the Louisiana Aquaculture Coordinating Council within LDAF. The Council shall consist of 17 members, 15 of which will be from universities, state agencies, recreational fishing interests, and aquaculture interests. The Commissioner of LDAF and the secretary of LDWF are the other two members. The LDAF Commissioner or his designee shall serve as chairman. The Council may employ a director and assistant director. The Council shall advise on the development of a modern, sustainable aquaculture industry, recommend to LDWF which species are suitable for aquaculture, provide licensing and permitting criteria, hold hearings on violations and make recommendations for civil penalties for violations. LDAF and LDWF are authorized to jointly inspect each aquaculture facility for compliance with rules and regulations.

House Bill 1266 (Act 277) — Damico

Allows LDNR to use alternative landowner notifications for coastal use permits if there are multiple owners of the same land, eases requirements for use of money in the Coastal Mitigation Account, and changes the rules on accepting payment to the Coastal Mitigation Account instead of mitigation.

House Bill 1317 (Act 138) — Daniel

Authorizes the Secretary of LDWF to have materials printed to promote hunting and fishing.

House Bill 1338 (Act 282) — Damico

Clarifies the law that requires the owner of an oil and gas activity to pay for a biological survey for damages brought before the Oyster Lease Damage Evaluation Board. Clarifies language on payment for damages, and provides for the board, rather than the oil and gas owner, to select a biologist for the biological survey. Authorizes removal of oyster samples from a lease for board evaluation purposes.

House Bill 1354 (Act 553) — Pinac

Modifies the marine dealer area of responsibility rules on time period for repurchase of inventory, reasons for denying a license, and exceptions of license denial.

House Bill 1374 (Act 556) — Jack Smith

Creates a \$10 senior commercial fisherman's license in place of the \$55 license, for people who are 70 years of age or older. With this license, the holder shall also not have to purchase commercial gear licenses.

House Bill 1456 (Act 438) — Pierre & others

Allows the Secretary of LDWF to exempt, for good cause, persons or groups of persons from the WMA hunting permit, basic and saltwater fishing licenses and the \$20 special outdoor press fee for 7 fishing days. Provides that LWFC shall create rules and regulations for these exemptions.

House Bill 1467 (Act 566) — Pierre

Clears up the language for LWFC responsibilities and actions in relation to the federal Dingell-Johnson Sport Fish Restoration Act and the Pittman-Robertson Wildlife Restoration Act.

House Bill 1516 (Act 879) — Baldone

Provides that no person may operate a stationary shrimp net within 1,000 feet upstream from another stationary shrimp net that is attached or moored to a wharf or platform that has been permitted by the U.S. Army Corps of Engineers. If 2 permitted wharves or platforms are located within 1000 feet of each other, the owner of the upstream wharf or platform may attach a stationary shrimp net if his permit was issued before the effective date of this legislation, or if his permit was issued before the other one, or if the owner of the downstream wharf or platform does not operate a stationary shrimp net.

House Bill 1711 (Act 904) — Wooten

Creates a "Shrimp Trade Petition Account" with the funds in the account to be used to obtain anti-dumping duties on shrimp imports. Provides that any commercial fishermen who buy trawl, butterfly or skimmer licenses to pay \$10 (\$40 non-resident) into the account for the license years of 2005 and 2006. Requires any wholesale/retail dealer who pays excise tax on shrimp to pay \$150 (\$600 non-resident) into the account. Any dealer, who bought, sold, acquired, handled, or purchased 250 thousand pounds

(head-on equivalent) or more of shrimp shall pay an additional \$1,000 into the account. The provisions of the act cease to be effective on November 14, 2005 if the U.S. International Trade Commission rules that shrimp harvesters are not eligible for Byrd money. These additional fees shall only be for the 2004, 2005 and 2006 license years.

House Concurrent Resolution 35 — Hutter

Requests the U.S. Congress to direct the U.S. Army Corps of Engineers to evaluate the maintenance of the Mississippi River Gulf Outlet and if no clear interest exists for continuing to operate and maintain the channel, that it should be abandoned. If a clear federal interest exists in maintaining the channel, the Louisiana Legislature requests the U.S. Congress to direct the Corps to develop a plan to mitigate its negative impacts.

House Concurrent Resolution 62 — Odinet

Requests LDWF and LDHH to conduct a study to determine the correlation between night time temperatures and the growth of *Vibrio vulnificus*, and make a report to the 2005 legislature.

House Concurrent Resolution 65 — Odinet

Requests LDWF to study development and implementation of a plan for the management of nuisance fish around oyster beds.

House Concurrent Resolution 68 — Odinet & others

Requests the U.S. Congress to close the Mississippi River Gulf Outlet and to authorize the full funding capability of the U.S. Army Corps of Engineers for the Inner Harbor Navigational Canal Lock Project.

House Concurrent Resolution 80 — Pierre

Approves the Coastal Wetlands Conservation and Restoration Plan for Fiscal Year 2004-2005.

House Concurrent Resolution 115 — Odinet

Requests LDNR to provide to the Oyster Task Force information which would delineate the projected salinity regimes for a 5-year period and a 3-year projection of areas that will be restricted to oyster leasing.

House Concurrent Resolution 137 — Odinet & others

Requests LDAF, LDWF and LDHH to form an interagency task force to examine agriculture commodities imported into Louisiana from California for compliance with public health and safety standards.

House Concurrent Resolution 176 — Frith

Creates the 15-member Platforms for Mariculture Task Force to study the feasibility of mariculture in the Gulf, its possible impacts on the environment and the economy and the legal and regulatory considerations to establishing a mariculture industry.

House Concurrent Resolution 180 — Dove & Scalise

Requests LDNR, LDWF and LDEQ to work together to reach a goal of no more than 45 days between the submission and a decision on a complete drilling or coastal use

application. Also requests each agency to deliver a report to the 2005 legislature on each department's effort to reach this goal and summary of data or actual time required to process the permits.

House Concurrent Resolution 257 — Frith

Urges and requests that charter fishing boat captains respond to surveys from LDWF.

House Concurrent Resolution 291 — Baldone

Requests the Secretary of LDNR to review the table of base mitigation costs and make rule changes that would facilitate more appropriate mitigation of coastal wetland losses.

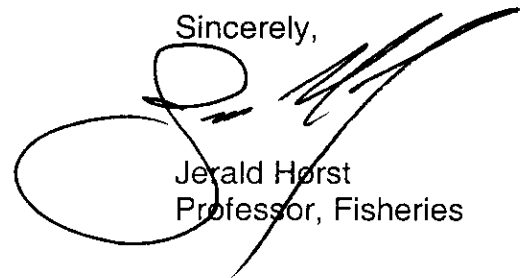
House Resolution 20 — Cazayoux & others

Requests the Louisiana Department of Education to work with other government branches to develop school menus that are appealing to children, nutritious and rich in marine-source (saltwater fish-based), long chain, omega-3 fatty acids.

House Concurrent Study Request 10 — Jack Smith

Requests the House and Senate Natural Resources Committees to meet jointly to study the effectiveness of the crab trap removal program and whether it should be extended to include the Vermilion Bay area.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerald Horst', with a large, sweeping flourish extending to the right.

Jerald Horst
Professor, Fisheries