

# LOUISIANA COASTAL LAW



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## 1986 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1986 Regular Session of the Louisiana Legislature. Legislation having a general impact on the environment in Louisiana is covered. Most of these laws became effective upon Governor Edwards' signature or on

August 30, 1986. However, some acts have effective dates later than this, in which case the date is noted in the summary. Only the lead author is listed. 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.

### Wildlife and Fisheries

**ACT 100 (HB 1111 Theriot)** Enacts the Louisiana Fishing Enhancement Act to establish and maintain artificial reefs in the offshore waters of Louisiana. Creates the Artificial Reef Development Program to develop, maintain, monitor, and enhance the artificial reef potential in state waters. Provides that the Department of Wildlife and Fisheries, Louisiana Geological Survey, and the Louisiana State University Center for Wetland Resources shall be the primary participants. Sets up a council to develop a reef plan by October 1, 1987. Provides for a fund to accept grants and donations.

**ACT 114 (SB 516 Lauricella)** Removes "eel" from the definition of underutilized species, defines eel pot and provides legal measurements, and allows use of eel pots and other legal gear to take eel. Provides for an eel license, requires floats with the fisherman's name and license number attached to each eel pot, and only allows use of eel pots in areas defined as saltwater, but not Lake Maurepas.

**ACT 120 (SB 251 Lauricella)** Allows the Seafood Promotion and Marketing Board to hire a director and assistant director. Provides for approval by the secretary of the Department of Wildlife and Fisheries. Provides that the positions are unclassified.

**ACT 387 (SB 859 Nunez)** Prohibits the use of purse seines in all state waters. Provides a class-4 penalty for violation.

**ACT 388 (SB 866 Nunez)** Redefines "bona fide resident" to mean a person who has resided continuously in the state for 12 months and who, if registered to vote, is registered to vote in La.; if licensed to drive, holds a La. driver's license; if owns a vehicle, the vehicle is registered in La.; and if earned an income, has filed a La. income tax return. Redefines nonresident as any person who is not a bona fide resident.

**ACT 396 (SB 971 Newman)** Redefines Oyster Bayou and the West & East Passes of Calcasieu River (all in Cameron Parish) as saltwater areas.

**ACT 397 (SB 972 Newman)** Requires butterfly nets located in Oyster Bayou or the West or East Pass of the Calcasieu River to be tagged with tags identifying the fisherman by name, address, and butterfly net license number. Provides for location of tags. Requires butterfly nets and all vessels, anchors, ropes, etc. to be moved to shore when not being fished. Sets a penalty for violation. Provides for seizure and destruction of improperly marked nets and immunity for enforcement agents. See also Act 1077.

**ACT 434 (HB 488 M. Hebert)** Requires the Wildlife and Fisheries Commission to promulgate regulations for emergency closure of flooded and adjacent areas to quadruped hunting. Limits closure to no more than 14 days. Requires inclusion of technical and biological criteria. Provides a class two penalty for violation.

**ACT 455 (HB 707 LeBleu)** Increases the trapping license fee to \$25 for persons over 14 years in age and to \$5 for persons under 14 years in age. Creates the Louisiana Fur and Alligator Advisory Council and the Louisiana Fur and Alligator Public Education and Marketing Fund to educate the public about trapping as a sound management practice and to strengthen and develop new markets for fur and alligator products. Provides that \$20 of the \$25 license fee be deposited into the fund. Provides for expenditures and reports.

**ACT 492 (HB 1122 Benoit)** Grants the Wildlife and Fisheries Commission the authority to set, in accordance with the Administrative Procedure Act, size limits on all commercial and game fish for which no limits have been set by law.

**ACT 493 (HB 1123 Benoit)** Re-creates the Department of Wildlife and Fisheries.

**ACT 494 (HB 1124 Benoit)** Exempts Department of Wildlife and Fisheries and Wildlife and Fisheries Commission regulations setting shrimp seasons from the Administrative Procedure Act's legislative oversight requirements; allows instead use of the emergency rule making provisions.

ACT 501 (HB 1168 Benoit) Repeals provisions prohibiting the transport of game quadrupeds beyond the limits of the state.

ACT 502 (HB 1169 Benoit) Provides a penalty for anyone manufacturing, selling, or possessing a badge, identification card, or other insignia the same as or similar to that of the Department of Wildlife Fisheries.

ACT 503 (HB 1170 Benoit) Reduces the fine for the first offense of a class-4 penalty from between \$500 and \$750 to between \$400 and \$450.

ACT 520 (HB 1360 Benoit) Increases resident and nonresident hunting, big game, muzzleloader, bow and arrow, nonresident migratory game bird, and wild bird hunting and quadruped breeders license. Increase approximately doubles the present license fees.

ACT 521 (HB 1361 Benoit) Increases motorboat fees for: registration, application for identification number, change in ownership, certificate renewal, duplicate certificate, and manufacturer and dealer registration. Effective date: 10/1/86

ACT 522 (HB 1362 Benoit) Increases the penalty for violation of oyster tagging laws from a class-1 to a class-3.

ACT 523 (HB 1363 Benoit) Repeals the provision requiring the return of untagged oysters to the water or to the person from whom purchased.

ACT 547 (HB 1615 Martin) Repeals the 25¢/100 lbs assessment on natural crawfish bait. Provides for a refund of the artificial crawfish bait assessment to persons purchasing crawfish bags.

ACT 554 (HB 1676 Benoit) Changes the shrimp line in Atchafalaya Bay, near Bayou Grand Caillou, at Caminada Pass, and near Grand Terre Island.

ACT 570 (HB 1862 M. Hebert) Changes the outside shrimp closure by allowing the Wildlife and Fisheries Commission to close state outside waters from January 15 to April 15. Deletes the 15 day leeway period and 72 hour notice requirement for the opening and closing of outside waters.

ACT 576 (HB 2011 Haik) Defines seafood products as any seafood species caught in private or public waters, or any derivative resulting from a combination or breakdown of raw seafood products. Includes seafood products as farm products under the Department of Agriculture State Market Commission.

ACT 600 (SB 181 Brinkhaus) Provides that after transfer of investment funds to the Rockefeller Scholarship Fund, \$600,000 of remaining investment income from the Rockefeller Wildlife Refuge Trust & Protection Fund shall be allocated to the Board of Regents for the Louisiana Stimulus for Excellence in Research Initiative.

ACT 611 (SB 302 Bagert) Prohibits possession of red drum or spotted sea trout along with a purse seine on board a vessel within or without state waters. Provides for a fine and seizure of the vessel, fish, and equipment.

ACT 613 (SB 313 Bagert) Defines "Federal Fishery Conservation Zone" as waters from 3 to 200 nautical miles from the coastline from which the territorial sea is measured. Reduces the maximum recreational and commercial possession size limit of redfish from 36" to 30" and allows no more than 2 redfish in possession exceeding 30" in length. Provides that the recreational possession limit applies in state waters and in the federal fishery conservation zone. Sets penalties for violation.

ACT 660 (SB 865 Nunez) Prohibits selling or buying fish without a license to do so and provides a penalty. Clarifies that restaurants and retail establishments are

prohibited from buying fish from anyone who does not have a license to sell fish. Requires that the sellers license be in possession and conspicuously displayed. Provides that all state enforcement agencies may enforce these buying and selling provisions.

ACT 748 (HB 1385 Lebleu) Prohibits trawling at night in White Lake in Cameron and Vermillion Parishes and Grand Lake in Cameron Parish.

ACT 773 (HB 129 Russell) Requires the Department of Wildlife and Fisheries to publish in the Louisiana Conservationist magazine the names and pictures of missing children.

ACT 844 (HB 1358 Bella) Requires the Department of Wildlife and Fisheries to classify species of fish as freshwater or saltwater. Allows a fisherman to fish for and take freshwater fish south of the saltwater line without purchase of a saltwater license.

ACT 845 (HB 1365 Benoit) Grants the Wildlife and Fisheries Commission authority to regulate the dredging of fill sand and fill material from state waterbottoms. Provides for permits, royalties, regulation, penalties for violations, and cease and desist orders.

ACT 864 (HB 1571 Haik) Removes the size limitation of otter doors on test trawls; allows two 25 foot trawls with lead lines no longer than 33 feet in inside waters; clarifies that one or two 65 foot trawls can be used in Breton and Chandeleur Sounds. Provides that two 25 foot trawls cannot be used in Terrebonne, LaFourche, or Jefferson Parish.

ACT 904 (HB 2009 Benoit) Enacts a new fisheries license system. For recreational fishermen, requires a basic fishing license, hook and line (cane pole) license when not using a reel or artificial bait, saltwater license when fishing in saltwater areas, and a recreational gear license to use, for recreational purposes, a 16 foot or smaller shrimp trawl, ten or fewer crab traps, oyster tongs, five or fewer hoop nets, or gill nets, seines, or trammel nets not exceeding 150 feet in length. Provides that anyone using any other legal gear or legally taking fish in excess of any recreational size limit or quantity must purchase the appropriate commercial licenses.

For the commercial fishing industry, provides for a commercial fishermen's license which must be in the name of and in possession of the person fishing (or the operator of the fishing vessel, if more than one person is on board), a gear license indicating the gear fee has been paid for the gear(s) in use, and if fishing in saltwater areas, a vessel license in the name of the vessel and the owner. Requires a wholesale/retail dealer's license for any person buying fish for resale or for transporting fish into or out of the state, and requires a transport license for any person transporting fish within the state. Other provisions of the act provide that all licenses may be purchased at any time of the year and removes the otter door size limit for test trawls. Effective date: recreational licenses, 1987-88 license year; commercial licenses, 1987 license year.

ACT 918 (HB 2158 F. Thompson) Enacts the Aquacultural Products Processing Development Law to encourage processing aquaculture products in the state. Provides for loans and loan guarantees to persons for building and/or operating processing facilities. Provides for funding.

ACT 919 (HB 2159 Siracusa) Prohibits the waste of fish. Defines "waste" as commercially harvesting fish in a manner that results in the excessive killing of the fish. Provides that a civil fine be imposed by the Department of Wildlife and Fisheries pursuant to an adjudicatory hearing; requires the Department to set by regulation actions constituting excessive killing of fish; and excepts the taking and use of shrimp.

ACT 988 (HB 423 Lebleu) Provides that the legislature should not restrict legal methods of harvesting fish without a recommendation from the Department of Wildlife and Fisheries. Provides that the Department shall recommend elimination of a harvesting method only if any species of fish effected by that method is damaged, and any recommendation shall be based on biological data.

ACT 1008 (HB 1488 F. Thompson) Exempts persons producing or harvesting crawfish or catfish in private ponds from obtaining a domestic fish farmer license.

ACT 1016 (HB 1917 M. Hebert) Authorizes the Department of Wildlife and Fisheries to establish quality and weight standards for packaging seafood for wholesale and retail sale. Provides for advice from the Seafood Promotion and Marketing Board. Provides for inspection and penalties for violation.

ACT 1077 (HB 2194 Lebleu) Identical to ACT 397 except it also includes Grand Bayou.

#### RESOLUTIONS

HCR 47 (Patti) Continues the Shrimp Management Task Force for another year.

HCR 56 (Lebleu) Supports the federal legislation banning the harvest of redfish in the federal conservation zone for 90 days and requests the federal government to develop a fisheries plan for the zone.

HCR 76 (M. Hebert) Expresses legislative support of the Underutilized Species Law.

SCR 98 (Jumonville) Requests the Wildlife and Fisheries Commission to consider establishing a back powder weapons season for taking deer.

HCR 136 (Andrepoint) Requests the Wildlife and Fisheries Commission to study the benefits of opening Zone 3 to shrimping on an earlier date.

HCR 141 (Ullo) Requests the Department of Wildlife and Fisheries to establish, maintain, and operate a firearms practice range as part of the hunter education program on any appropriate and available land on the west bank of the Mississippi River south of Avondale.

HCR 165 (M. Hebert) Encourages the Louisiana Restaurant Association to continue its efforts in supporting the states underutilized fisheries and declares September as "Nontraditional Fisheries Month"

HCR 185 (Ullo) Directs the Department of Wildlife and Fisheries to issue special fish and wildlife harvesting permits to owners with wetland management programs. Encourages private wetland owners to control, manage, and protect their lands and harvest the resources. Requires permit holders to provide an annual report of wetlands protection, monitoring, and production data to the Department, provides that this resolution is intended as an incentive to wetland owners to develop wetland management programs, and requests all state agencies to fully cooperate and support private owners in wetland management practices.

HCR 191 (M. Hebert) Urges the Governor to establish a task force on redfish management, consisting of biologists, other scientists, and economists from the state universities and the Department of Wildlife and Fisheries, to prepare a comprehensive management plan for redfish. Urges the Governor to appoint an advisory panel to provide advice and guidance to the task force in the development of the plan. Requires the plan be presented to the Legislature by April 1, 1987.

HCR 192 (Haik) Requests the House and Senate Committees on Natural Resources to function as a joint committee to conduct a study to assess what changes should be made in the management of the state's coastal resources and to appoint an advisory panel made up of persons who are authorities in the scientific, technological, economical, and legal aspects of coastal resource management to assist the committee. Provides that results be presented to the 1987 Regular Session of the Legislature.

#### HAZARDOUS WASTE AND TOXIC SUBSTANCES

ACT 306 (HB 939 Fernandez) Provides that a demand for remedial action shall be made whenever the Secretary of the Department of Environmental Quality determines that a discharge or disposal of a hazardous substance is "about to occur" which may present an endangerment to health or the environment, in addition to a discharge or disposal that has occurred. Provides that the demand can be made on "any responsible person", as well as every owner, generator, transporter, or operator. Provides that a court shall find the defendant liable for costs of remedial action because of a potential discharge, as well as an actual discharge, and adds any subsequent owner or operator of the pollution source or facility as a potential defendant.

ACT 319 (HB 1245 Laborde) For cooperative agreements entered into by the Secretary of the Department of Environmental Quality for the evaluation, investigation, testing, containment, cleanup, or abatement of specific abandoned hazardous waste sites, eliminates the requirement for a report on the cleanup to the legislature.

ACT 320 (HB 1261 Laborde) Deletes the requirement that the Louisiana Resource Recovery and Development Authority submit an annual report of its activities to the Legislature and the governing bodies of the participating municipalities.

ACT 329 (HB 1353 Fernandez) Requires notification, testing, and monitoring of the leaching, spilling, discharging, or moving of hazardous waste constituents, as well as hazardous waste, and includes such waste or waste constituents when moving within subsurface strata or air, in addition to water and land. Clarifies the definition of hazardous waste site to include the entire contaminated area which may extend beyond a facility's boundaries.

ACT 347 (HB 1699 Fernandez) Provides that a determination by the Department of Environmental Quality that certain information is confidential and not available to the public shall be made in strict compliance with the Administrative Procedure Act.

ACT 385 (SB 822 Kelly) Changes the initial fee and annual monitoring and maintenance fees for all hazardous waste operations to equal the cost of annual maintenance, permitting, monitoring, investigation, administration, and other activities. Limits the aggregate total of any fee increase to no more than \$1.75 million and the increase of any single license or permit fee to no more than 30%. Provides that all fees shall be adopted pursuant to the Administrative Procedure Act.

ACT 421 (HB 400 Kimball) Increases the minimum size of underground storage tanks containing hazardous substances required to be registered, from those holding 500 gallons to those holding 1,100 gallons. Excludes several types of tanks.

ACT 422 (HB 403 Kimball) Provides that the Secretary of the Department of Environmental Quality shall promulgate rules and regulations prohibiting the storage of hazardous waste that has been banned from land disposal, unless such storage is solely to accumulate quantities sufficient to facilitate, by appropriate means, the proper recovery, treatment, or disposal.

ACT 423 (HB 404 Kimball) Requires, for regulation of hazardous waste treatment, storage, and disposal facilities, a surety sufficient to assure financial responsibility for corrective action, closure, and post-closure care.

ACT 479 (HB 1000 Fernandez) Provides that all present hazardous waste licenses, registrations, variances, and permits shall continue until their expiration date unless a shorter term is established for all facilities of a particular class or category.

ACT 781 (HB 402 Kimball) Grants authority to the Secretary of the Department of Environmental Quality to set standards for the production, burning for energy recovery, distribution, and marketing of fuel containing hazardous waste. Expects certain petroleum coke.

ACT 891 (HB 1918 Kennard) Prohibits the use of any equipment to transport or store any item intended for human or animal consumption if such equipment was previously used to transport or store hazardous waste, unless it has been properly decontaminated.

ACT 905 (HB 2013 Newman) Provides that the Secretary of the Department of Environmental Quality shall act as the primary public trustee of the environment, and shall consider and follow the will and intent of the Louisiana Constitution and statutory law in making any determination relative to the granting or denying of permits, licenses, registrations, variances, or compliance schedules.

ACT 941 (HB 1791 Ackal) Reduces, to \$500,000, the balance maintained in the Environmental Emergency Response Fund. Reduces, to \$2 million, the balance maintained in the Hazardous Waste Site Cleanup Fund. Provides that any funding in excess of these amounts shall be placed in the Environmental Programs Trust Fund.

ACT 942 (HB 2075 McKeithen) Provides that any person found in violation of the Environmental Quality Act may be liable for a civil penalty of no more than \$1 million or the cost of clean up, and, if found criminally liable for a felony, shall be fined \$1 million or the cost of

cleanup. These penalties are in addition to the fines for each day of violation. Provides that 75% of the monies derived for violation of the Environmental Quality Act shall be placed in the Environmental Trust Fund.

ACT 943 (HB 2094 Fernandez) Establishes the Environmental Enforcement Fund, and provides that 10% of all judgements, settlements, or assessments of civil and criminal penalties for violation of state environmental quality laws shall be deposited into the Fund. Clarifies that all initial and annual fees for all permits, licenses, registrations, and variances required under the Environmental Quality Act shall be equal to the costs, unless another fee is set by law. Provides that all fees shall be set in accordance with the Administrative Procedure Act. Reduces the maximum amount of money that can be deposited in the Hazardous Waste Site Cleanup Fund from \$4 million dollars to \$2 million dollars. Provides that the aggregate total of any fee increase adopted pursuant to this Act cannot exceed \$1.75 million and no individual fee increase can exceed 30%.

ACT 952 (SB 216 Bares) Removes from liability, any authorized person of an educational facility engaged in or any licensed architect or engineer contracting to design or supervise hazardous waste or asbestos removal, mitigation, abatement, or cleanup services for any injury caused by or related to such services, unless shown by a preponderance of the evidence that the design or supervision was in violation of state or federal laws and was the proximate cause of the injury, or that the performance constitutes negligence and was the proximate cause of the injury.

ACT 987 (HB 401 Kimball) Provides for a state income tax return check-off allowing persons to designate that a portion of their tax refund be deposited into the Environmental Quality Fund.

ACT 1069 (HB 1923 Kimball) Clarifies that the Department of Environmental Quality shall promulgate specific rules and regulations governing objective standards to determine levels of air borne asbestos fiber concentration in school buildings above which requirements for priority abatement will be triggered. Requires the Department to promulgate all asbestos abatement rules and regulations by September 30, 1986.

#### VETOED LEGISLATION

SB 824 (Kelly) Reduces in half, to \$500,000, the balance required in the Environmental Response Fund.

#### FLOOD CONTROL and LEVEES

ACT 110 (SB 790 Kelly) Provides that the Department of Transportation and Development shall assess and collect fees for engineering services provided to drainage districts, levee boards, and political subdivisions.

ACT 130 (SB 379 Osterberger) Provides that the legislative auditor or a certified public accountant shall conduct biennial, rather than annual, audits of each levee board and levee and drainage board, but allows an annual audit if so requested by such board. Repeals the warrant against the board's funds to cover expenses of auditing and for keeping and paying the accounts of the funds.

Act 216 (SB 335 Kelly) Increases the membership on the Natchitoches Levee and Drainage District by one.

ACT 559 (HB 1726 Hand) Allows the Orleans Levee District Board of Commissioners to set rental rates and docking charges for boat slips in marinas it owns or operates.

ACT 668 (HB 3 Benoit) Specifies the parishes from which each Commissioner of the Atchafalaya Basin Levee District shall be chosen.

ACT 761 (SB 361 Chabert) Establishes the South Terrebonne Parish Tidewater and Management Conservation District to provide adequate drainage, flood control, and water resource development. Provides that the District shall be south of the Gulf Intercoastal Waterway, entirely within Terrebonne Parish. Provides for membership and duties.

ACT 807 (HB 985 Hainkel) Increases the Orleans Levee District Board of Commissioners by one, with the new commissioner appointed by the governor. Provides that all commissioners shall be subject to Senate confirmation and shall serve at the pleasure of the governor making the appointment.

## OIL, GAS, AND MINERALS

ACT 67 (HB 1143 Leach) Provides additional authorization for the state treasurer to invest "8g" revenues in investment mediums providing more favorable returns than currently allowed.

ACT 191 (HB 1591 Miller) Clarifies that in order for oil field laborer's, servicer's, or supplier's claims or privileges to be superior to other privileges or mortgages against the oil property, the claim or privilege must be filed for record in the mortgage records in the parish where the property is located within 180 days of the last performance or delivery of supplies.

ACT 245 (SB 107 Casey) Provides that the usufruct of land by the surviving spouse includes the use and enjoyment of the landowners mineral rights, whether or not mines or quarries were actually worked at the creation of the usufruct.

ACT 249 (SB 135 Tarver) and ACT 441 (HB 549 Leach) Provides that in order for exportation of gasoline or motor fuel from Louisiana to qualify for tax deductions or refunds, proof can be by methods other than tax receipts.

ACT 304 (HB 866 Fernandez) Provides that a prescription of nonuse of a mineral right suspended because title to the property is held by a national, nonprofit membership land conservation organization shall not apply if the land is transferred to the federal government, as well as another land conservation organization or the state.

ACT 321 (HB 1262 Laborde) Deletes the provisions requiring the Assistant Secretary of the Department of Natural Resources Office of Conservation to submit a report of the prior years activities of the tertiary recovery incentive program to the Senate and House Natural Resources Committees.

ACT 351 (HB 2003 Kimball) Imposes an 8¢/ton fee on all coal or lignite mined in Louisiana. Provides that the tax shall be paid monthly to the Secretary of the Department of Revenue and Taxation, beginning July 1, 1986. Provides that the money shall be used to enforce the Louisiana Surface Mining and Reclamation Act. Provides for enforcement of such payment requirements and for the establishment of a fund to receive fees collected under the act.

ACT 366 (HB 866 Fernandez) Provides for more clear and informative labeling on gasoline pumps which dispense gasohol.

ACT 384 (SB 812 Kelly) and ACT 1078 (HB 1884 Ackal) Provides that unexpended and unencumbered monies remaining in the Natural Resources Conservation Fund at the end of the fiscal year revert back to the state General Fund, rather than remaining in the Natural Resources Conservation Fund.

ACT 441 (HB 549 Leach) See ACT 249.

ACT 477 (HB 963 Kimball) Provides that the requirement of legislative review of contracts to deliver in-kind natural gas royalties does not apply to state and local governments.

ACT 514 (HB 1323 Kimball) Authorizes the Commissioner of Conservation, upon determination that a violation of any oil, gas, or mineral law has occurred or is about to occur, to issue compliance orders stating the nature of the violation, actions required to achieve compliance, time limit for compliance, and any civil penalty. Requires the commissioner to call an administrative hearing or commence a civil action upon noncompliance.

ACT 536 (HB 1526 Laborde) Increases the mandatory penalty, from between \$50 and \$500 to a set penalty of \$250 for each reporting period, for failure of a severer or purchaser to report the gross production value of the natural products upon which severance tax is levied.

ACT 628 (SB 449 Kelly) Changes the tax payable date of the natural gas franchise tax from thirty days after each quarter annual period to the last day of the month following each quarter annual period and changes the date on which the Secretary of the Department of Revenue and Taxation must remit the tax to the state treasury from the sixtieth day following each quarter annual period to the tenth day of the second month following each quarter annual period.

ACT 673 (HB 1083 Adley) Provides an exemption from the natural resource severance tax of the first 10,000 barrels of oil produced annually from wells drilled between July 15, 1986 and July 15, 1987, provided that the value of oil for a month as reported to the Department of Revenue and Taxation does not exceed \$21 per barrel. The exemption extends from the date of first production until July 15, 1990 and applies only to the first 50 barrels produced each day.

ACT 686 (SB 328 C. Newman) Enacts a severance tax of 3 1/8% of the value received on the first purchase of reclaimed oil. Defines reclaimed oil and excludes from eligibility those persons actually engaged in severing oil, gas, or other natural resources or operating oil or gas property.

Act 712 (SB 955 Piccard) Provides that the exemption from notification and public hearing requirements for wells drilled within 500 feet of residential or commercial structures is changed from wells drilled to a depth of less than 15,000 feet to those less than 10,000 feet.

ACT 727 (HB 949 Lemoine) Makes record keeping requirements apply to users who purchase special fuels in bulk rather than bulk users of special fuels.

ACT 763 (SB 590 Nunez) Enacts the Louisiana Economic Acceleration Program (LEAP). Provides that LEAP suspends the severance tax on oil and natural gas production and state natural gas royalties from certified LEAP wells until January 1, 1990 or until the price of crude oil equals or exceeds \$29.50 per barrel. Provides for establishment of the Louisiana Economic Diversification Fund and the LEAP Tax Warrant Fund. The Diversification Fund is to be funded by severance taxes on certified LEAP wells when the suspension is lifted and by state oil production royalty revenues accruing from certified LEAP wells after the suspension and is to be used solely for statutorily defined economic diversification programs. The Tax Warrant Fund is to be funded by state oil production royalty revenues accruing during the suspension and shall be used solely to cover tax warranties issued to qualified industries and utilities as incentives for the consumption of natural gas from LEAP wells.

ACT 764 (SB 594 Nunez) Clarifies the Louisiana State Mineral Board's duty and authority to assure that underdeveloped or nonproducing state lands are effectively explored, developed, and produced for the public good. Provides that this can be accomplished by any appropriate action, including the recovery, whenever possible, of nonproducing leased acreage. Removes the authority of the Board to extend the primary term of a lease.

ACT 879 (SB 594 Nunez) Exempts, from the special fuels tax, persons who pay an annual flat rate for liquefied petroleum gas or compressed natural gas. Requires owners

of vehicles capable of using special fuels to pay an annual tax and provides for computation of the tax. Provides exemptions from record keeping requirements for sales, deliveries, and use of special fuels and exemptions from flat rate charges for nonresident passenger carriers temporarily in state and foreign interstate users who have furnished a bond. Requires reporting of installation or alteration of liquefied petroleum gas carburetor equipment by the installer. Requires obtaining permits to operate and affixing decals to liquefied petroleum gas vehicles.

ACT 892 (HB 1922 Kimball) Enacts the Louisiana Abandoned Oilfield Waste Site Law and creates the Oilfield Waste Site Cleanup Fund. Requires notification by operators, owners, or responsible persons to the Department of Natural Resources Office of Conservation of spills or any other unauthorized discharges; authorizes the Commissioner of Conservation to require the operator, owner, or responsible person to sample and monitor the site and upon refusal to declare the site abandoned and take appropriate disciplinary action; lists criteria for declaring a site abandoned; sets up requirements for notification to owners and describes the consequences of such declaration; provides for funding from criminal penalties, up to \$1.5 million per year, from donations, grants, gifts, or other legislative sources; provides for disbursements from the Fund for investigation, testing, containment, control, pit cleanup, and other necessary activities; and provides for recoupment of expended funds by civil action from responsible parties; provides for the acquisition of easements and rights of way for clean up operations.

ACT 962 (SB 642 Brinkhaus) Authorizes the Board of Commissioners of the Offshore Terminal Authority to employ agents and employees and determine their qualifications, duties, and compensation. Transfers the Authority to the Department of Transportation and Development.

## PORTS, HARBORS AND WATERWAYS

ACT 61 (HB 844 Lowenthal) Provides for local authority to regulate the operation of water craft towing or assisting water-skiers, surfboards, or similar contrivances in Calcasieu Parish.

ACT 83 (SB 906 Lauricella) Enacts the Mississippi River Deepening Project, which provides for the deepening the Mississippi River channel in two stages to a depth of 45 feet to a distance 230 miles above Head of Passes. Authorizes the Louisiana Department of Commerce to serve as the assuring agency providing, among other things, lands, servitudes, and rights of way; to enter into contracts; to expend monies mandated by federal law as the nonfederal share; to impose and collect tolls, charges or user fees to finance the nonfederal share.

ACT 93 (HB 1401 Patti) Provides that the Plaquemines Port, Harbor and Terminal District may charge vessels anchoring or transferring cargo, or arriving or departing in ballast a reasonable fee to cover costs of regulation and services.

ACT 135 (SB 448 Kelly) Authorizes the Cane Waterway Commission as the regulatory authority of the Cane River Waterway to regulate, among other things, the size and speed of boats and other vessels. See ACT 315.

Act 136 (SB 487 Sevario) Extends the jurisdiction of the New Orleans and Baton Rouge Steamship Pilots from the port of Baton Rouge to the Mississippi/ Louisiana state line and authorizes the Pilots Association to enter into agreements for vessels transiting above the port of Baton Rouge.

ACT 142 (SB 889 Lauricella) Adds the World Trade Center, the Propeller Club of the United States, and the Greater New Orleans Barge Fleeting Association to the nominating agencies for membership on the Board of Commissioners of the Port of New Orleans.

ACT 1031 (HB 517 Kimball) Establishes a three year liberative prescription for recovery of overpayment or underpayment of mineral royalties commencing from date of overpayment. Does not apply to state owned properties.

ACT 1033 (HB 550 Leach) Repeals the gasohol exemption from the gasoline tax and the special fuels tax.

ACT 1047 (HB 863 Fernandez) Provides that co-owners of land, those acquiring servitudes from co-owners, and those acquiring mineral leases from the above may exercise their mineral rights with the consent of 90% of the co-owners of the land, rather than all the co-owners of the land. Provides the same for co-owners of a mineral servitude. In each case the nonconsenting owners are not liable for any costs except out of their share of production.

ACT 1078 (HB 1884 Ackal) See Act 384.

## RESOLUTIONS

HCR 143 (McKeithen) Urges the United States Congress and the Louisiana delegation in particular to support the Archer/Moore Emergency Energy Act of 1986, which would help alleviate the pressure upon the oil companies and encourage new exploration of oil and gas sites.

SCR 77 (Jumonville) Urges the state Mineral Board to review all undeveloped state mineral leases and to assure full and complete development of all productive leased state acreage and to assure return to the state of all undeveloped state acreage.

SCR 87 (Bares) Urges the Department of Natural Resources to assure that petroleum violation escrow monies are spent to promote energy efficiency for Louisiana residents.

ACT 215 (SB 252 Lauricella) Exempts from the public records law computer systems or programs, financial or trade secrets, and other third party proprietary information used in the operation of or in connection with any automated broker or manifest system conducted by any deep water or shallow draft port commission of the state.

ACT 216 (SB 335 Kelly) Increases the number of commissioners on the Natchitoches Levee and Drainage District from seven to eight.

ACT 315 (HB 1183 J D Long) Repeals that portion of state authority over the regulation of the Cane Waterway given to the Cane Waterway Commission in ACT 135.

ACT 392 (SB 894 Nunez) Authorizes the Department of Commerce to develop state sponsored shared foreign sales corporations for state exporters, port authorities, and trade associations.

ACT 472 (HB 884 Andrepont) Changes the procedures for appointment to the Board of Commissioners of the West Calcasieu Port, Harbor, and Terminal District. Provides that the Commissioners are no longer required to be qualified voters and property taxpayers of the District, but must be domiciled in and residents of the District during their terms. Provides that all vacancies will be filled for a period of five years and provides that the District is a subdivision of the state, with all the accompanying rights, powers, privileges, and immunities.

ACT 557 (HB 1709 Accardo) Provides that the South Louisiana Port Commission shall authorize reasonable allowances for expenses incurred by its members in the performance of their duties, that the salaries of work contracts executed by the executive director with unclassified employees may not exceed seventy-five percent of the salary paid the executive director nor may the contracts have a period of more than two years, that

compensation for professional services contracted by the director are to be approved by the Commission, that regulation of the commerce and traffic by the Commission through its executive director shall be with the approval of the Commission, that the charges for use of facilities administered by the Commission shall be legal charges. Limits the power of the Commission by removing the provision that rights and powers not specifically vested in the Commission are vested in the executive director for functions of the port.

ACT 563 (HB 1765 Ullo) Changes the name of the Greater Jefferson Port Commission to the Greater Jefferson Economic Development and Port Commission and provides that the Board of Commissioners will now meet once each month rather than twice each month for eight months and once each month for four months.

ACT 872 (HB 1705 Haik) Creates the Louisiana Shallow Draft Ports and Waterways Commission, to formulate shallow-draft water transportation policy and promote the development, enhancement, and maintenance of shallow draft ports and waterways in Louisiana and on interstate waterways. Places the Commission within the Department of Transportation and Development and provides for organization, structure, responsibilities, and appointment of commissioners. Defines the regulatory jurisdiction and authority of the Commission and grants authority to receive and expend funds and to enter into contracts for professional services.

ACT 960 (SB 596 Nunez) Provides for duties, appointments, qualifications, and removal of members of the Board of River Port Pilot Commissioners. Requires that appointees have been commissioned river port pilots for at least four years and provides that they may only be removed by the governor and shall serve at the pleasure of the governor. Provides that the Board shall establish qualifications and minimum standards of conduct for river

port pilots, conduct hearings, and impose fines and other sanctions for violation of rules. Provides for the appointment, duties, qualifications, examinations, and operating territory of river port pilots, requires a bond by the pilots, provides for pilotage fees, for receiving and processing complaints against river port pilots, for an increase in the fine against masters, owners, or agents of vessels employing pilots without state commissions, and provides that communications between river port pilots and the Board of Commissioners obtained by or provided to the Board in connection with or during the course of an investigation are privileged.

ACT 981 (SB 597 Nunez) Provides that the Bulk Cargo Offshore Terminal Commission shall assist licensees in the financing of deep water ports and offshore terminal facilities, assure that any bonds issued under the Act shall be serviced from the income of facilities authorized under the Act and be exempt from state and local taxes. Adds to the definition of project costs, defines revenue bonds, adds the Secretary of the Department of Transportation and Development to the board of directors as a nonvoting member. Empowers the Commission to enter into contracts, compacts, or other agreements concerning commission development, to lease or sublease lands leased from the state or any other person. Provides for procedures for the issuance of bonds and notes.

ACT 1079 (HB 2010 Miller) Changes the procedures for the appointment of members of the South Louisiana Port Commission and reduces the number of members from 9 to 7.

#### RESOLUTIONS

HCR 243 (Borne) Urges the United States Congress to remove the Mississippi River and Tributaries Project from the cost-sharing provisions of the present Water Resources Authorization Bill.

#### MISCELLANEOUS

Act 217 (SB 349 McPherson) Enacts the Louisiana Conservation Servitude Act to allow a conservation servitude to be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise affected in the same manner as other contractual servitudes. Defines a conservation servitude as one the purpose of which is to retain or protect natural scenic, or open-space values of immovable property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, archaeological, or cultural aspects of unimproved immovable property. Effective date: 1/1/87.

ACT 258 (SB 438 Picard) Increases the membership of the State Soil and Water Conservation Committee by one. Provides that the added member is the President of the Louisiana Association of Conservation Districts.

ACT 309 (HB 1101 Hainkel) Grants authority to the Audubon Park Commission to establish, maintain and operate an aquarium within the City of New Orleans. Allows imposing an ad valorem tax for funding.

Act 318 (HB 1238 Laborde) Eliminates the requirement that the Secretary of the Department of Natural Resources prepare an annual report for the governor and legislature concerning the operations of the Department.

ACT 390 (SB 891 McLeod) Provides that the Department of Transportation and Development Office of Public Works may impose a \$100 per violation per day civil penalty on any person violating any provisions of the law concerning

utilization of ground water resources or subsurface drillers-well drillers. Provides for notice and hearings in accordance with the Administrative Procedure Act.

ACT 527 (HB 1412 Leach) Clarifies that the purchaser of land having a use value assessment as bona fide agricultural, horticultural, marsh, or timber land, when purchased for greater than four times its use value must demonstrate "to the full satisfaction of the assessor" that the land still retains its bone fide classification.

ACT 573 (HB 1902 Bella) Allows the Secretary of the Department of Public Safety to issue a special overwidth permit for the transport of pleasure craft which do not exceed ten feet. Provides that the permit will cost \$5.00 and be valid for 30 days. Provides that the permit shall not apply to operation on interstate highways.

ACT 703 (SB 643 Brinkhaus) Grants additional duties and powers to the state Soil and Water Conservation Committee, including requiring annual reports from soil and conservation districts, establishing uniform accounting and auditing procedures to be used by the districts, and disseminating information concerning the activities of soil and water conservation districts.

ACT 749 (HB 1399 D'Gerolamo) Increases, to 5%, the tax on surplus line insurance for certain ocean marine and foreign trade coverage. Provides that the tax shall be collected quarterly.

ACT 954 (SB 363 Lauricella) Provides for distribution of copies of coastal use permit applications to the owners of the land on which the proposed coastal use is to occur.

ACT 957 (SB 541 Lauricella) Clarifies that one-half of all money collected by the Department of Natural Resources Division of State Lands shall be deposited into the State Lands and Water Bottoms Management Fund, including revenues received from leases and right-of-ways of state lands and waterbottoms, the sale of vacant state land, and the sale of timber on state lands. Increases to \$1.5 million the maximum amount of funds that can be deposited into the Fund, and provides that the funds shall be used

for administration and operating expenses of the Division of State Lands and to enhance revenues generated from state lands and waterbottoms.

#### RESOLUTIONS

SCR 108 (Lauricella) Urges the Department of Natural Resources and the Department of Wildlife and Fisheries to recognize and consider permitting well-planned, environmentally sound uses of Louisiana's coastal zone.

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#### CONFERENCE ANNOUNCEMENT

#### GULF AND SOUTH ATLANTIC FISHERIES LAW AND POLICY

March 18-20, 1987

New Orleans, Louisiana

The Louisiana and Mississippi-Alabama Sea Grant Legal Programs are hosting the 1987 Conference on Gulf and South Atlantic Fisheries Law and Policy. This conference will be multi-disciplinary for lawyers, state and federal government representatives, university personnel, fisheries managers, and other interested persons.

The conference will focus on present and future fisheries law and policy issues with emphasis on the Gulf of Mexico and South Atlantic. Topics will include:

- |                                    |                           |
|------------------------------------|---------------------------|
| * Recreational-Commercial Conflict | * Inter-resource Conflict |
| * State Regulation of Fisheries    | * Law of the Sea          |
| * Interjurisdictional Issues       | * Marine Insurance        |
| * Fisheries Law Enforcement        | * Vessel Safety           |
| * MFCMA and Amendments             | * Fisheries Management    |

For registration and lodging information please contact:

Fisheries Law Conference  
201 Center for Wetland Resources, LSU  
Baton Rouge, Louisiana 70803-7507  
(504) 388-6448

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