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## 1988 REGULAR SESSION

## OF THE LOUISIANA LEGISLATURE

This annual legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1988 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 Roemer's signature or on September 1, 1988. 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 1 (HB 336 Patti & others)

Grants the secretary of the Department of Wildlife and Fisheries (DWF) the specific authority to enforce Department of Health and Hospitals (DHH) laws and regulations regulating the harvesting, processing, or distribution of molluscan shellfish. Expands coverage of sanitation requirements from oysters to molluscan shellfish for purposes of closing growing areas. Provides that the DHH and DWF shall represent the state in the Interstate Shellfish Sanitation Conference (ISSC) and that the DHH shall adopt the ISSC technical procedures found in the National Shellfish Sanitation Program Manual of Operations. Allows the Legislature to create a Shellfish Management Task Force to review procedures of the DHH and DWF used to open and close molluscan shellfish growing area. Increases the penalty for harvesting oysters from closed areas from a Class 3 to a Class 4.

#### ACT 17 (HB 362 Bruneau & others)

Names the new Department of Wildlife and Fisheries building the Jesse J. Guidry Center for Wildlife and Fisheries Resources.

#### ACT 25 (HB 246 Laborde & Patti)

Excludes buffalo, bison, and beffalo from the definition of wild quadrupeds and wild game quadrupeds.

ACT 33 (HB 1376 Odinet & others) For fishermen's gear compensation claims, provides that a public hearing shall only be held if a dispute arises over the claim. Also requires the claimant to submit such documentary evidence as requested by the hearings examiner.

#### ACT 34 (HB 1385 Benoit & others)

Redefines finfish as "any of the numerous cold-blooded aquatic vertebrates that characteristically swim with fins, breathe with gills, and are covered with skin or scales."

#### ACT 35 (HB 1386 Benoit & others)

Exempts tuna, garfish, swordfish, and sharks from the requirement that they be set ashore with head and caudal fin intact. Requires that all such fish caught recreationally and all such fish caught commercially except garfish not be skinned or scaled until set ashore. Requires that garfish possessed by a commercial fisherman retain a strip of skin sufficient to identify the fish until set ashore.

#### ACT 36 (HB 1390 Warner & others)

Prohibits taking garfish by guns or traps.

#### ACT 41 (HB 224 Siracusa & others)

Allows shell dredging on leases which commenced prior to the court decision invalidating such leases to continue until the issuance of new leases by the Department of Wildlife and Fisheries. Provides for public bidding of these lease areas to begin no later than 90 days after the effective date of this Act. Provides for royalties, bonds, and for exemption from the Administrative Procedures Act.

ACT 66 (SB 70 Kelly) Authorizes the Northwest Louisiana Game and Fish Commission to regulate the gathering of moss within the Northwest Louisiana Game and Fish Preserve.

ACT 86 (HB 1391 Warner & others)

Sets a daily catch limit for crappie taken in the Toledo Bend Reservoir at not more than 50.

ACT 87 (HB 1394 S. H. Theriot & others)

Eliminates game birds, but allows pen-raised quail and pen-raised mallards, as those which may be propagated, possessed, and released for shooting or taking by the public for a fee on hunting preserves. Provides that the boundary of the hunting preserve does not need to be fenced, but does need to be marked by signs.

ACT 88 (HB 1398 S.H. Theriot & others)

Allows the killing of beaver as a pest, without license, on agricultural or forest lands or in residential areas, or in waterways or banks adjacent to agricultural areas; however, during the open trapping season, a license shall be required to trap beaver or nutria. Also provides that beaver shall be trapped only by means of water set traps and that beaver shall not be taken by use of a headlight and gun at night.

ACT 97 (SB 183 McPherson)

For purposes of using a crossbow to hunt, expands definition of "total disability" as one which totally prevents a person from using a long bow or other conventional archery equipment. Retains provisions that such person must be certified by a medical doctor and have a permit from the Department of Wildlife and Fisheries.

ACT 112 (SB 417 Doland & others)

Allows, for depuration, harvest of oysters in closed areas of Calcasieu and Sabine Lakes during closed season. Requires a special permit, that all vessels are self-propelled, prohibits transfer of oysters once placed on board a vessel, limits harvesting to 10-1/2 bushel sacks per boat per day, and allows use of oyster tongs or not more than one oyster dredge measuring 2-3 feet along the tooth bar with teeth not exceeding 5" in length. Provides a class 4 penalty for violation.

ACT 119 (SB 761 Chabert)

Increases the penalty for illegally tending crab traps at night to a class 4, from a class 3. Effective 9/9/88.

ACT 169 (HB 1382 Benoit & others)

Provides for assessing a civil penalty for the value of fish and wildlife injured, taken, or destroyed as a result of the criminal violation of any state or federal law. Requires the Wildlife and Fisheries Commission to establish guidelines to determine the value of birds, fish, and animals, and provides for hearings and collection.

ACT 214 (HB 820 Roach & Triche)

Adds butterfly nets and trawls to those nets which cannot be set within 500 feet of the mouth of any inlet, pass, water control structure, dam, or weir.

ACT 234 (HB 1266 Roach & others)

Increases the nonresident gear fee for oyster dredges and tongs to eight times the resident fee.

ACT 236 (HB 1396 S.H. Theriot & others)

Prohibits using a firearm fitted with an infra-red sight, electrically operated sight, or device specifically designed to enhance vision at night to take or kill wild quadrupeds or wild game birds.

ACT 237 (HB 1397 S.H. Theriot & others)

Prohibits, without a permit from the Department of Wildlife and Fisheries, liberating within the state pen-raised turkey or pheasant whether from within or without the state, or pen-raised wild animals, fowl, or fish from without the state.

ACT 238 (HB 1399 Benoit & others) Prohibits taking or possessing spotted fawn or parts thereof except under authority of a scientific or game breeder's permit.

ACT 239 (HB 1401 Roach & others) Provides that proper venue for a commercial fishermen to challenge a Wildlife and Fisheries Commission refusal to issue a tax exemption certificate is in the parish of the Commission domicile rather than in Orleans Parish. Provides that a person who feels aggrieved by a Commission closure or modification of a hunting season can test its legality in court at the domicile of the WFC.

ACT 240 (HB 1406 Odinet & others)

Provides that the third and subsequent offenses for class 1, 2, 3, and 4 violations shall be the same as the third offense for the same class.

ACT 256 (HB 1890 Roach & Patti)

Extends the annual oyster tonging season in Calcasieu and Sabine Lakes to April 30 and allows the Wildlife and Fisheries Commission to open or close the season as biological data indicates a need.

ACT 311 (HB 1041 Ellington & others)

Creates the crime of criminal trespass on catfish ponds and sets a penalty.

ACT 330 (HB 1662 Guidry & others)

Provides that an enforcement agent shall take and measure a 50 crab random sample from each crate to determine if more than 5% of the crabs in that crate are undersized. Increases the penalty for violation of various crab laws to a class 4, from a class 3.

ACT 492 (HB 1660 Scogin & others)

Creates the Wildlife Habitat and Natural Heritage Trust for the purpose of acquiring and properly managing natural areas of Louisiana. Allows the secretary of the Department of Wildlife and Fisheries to acquire land by purchase, exchange, gift, or otherwise and provides standards which the land must meet to be acquired. Establishes the Wildlife Habitat and Natural Heritage Trust Fund into which donations and grants shall be deposited to acquire and manage such lands.

ACT 508 (SB 3 Nelson)

Changes the citation, to conform to federal amendments, of the federal law providing for vessel lighting requirements that may be complied with in lieu of the state requirements.

ACT 534 (SB 935 Rayburn)

Removes the prohibition against nonresidents, participating in approved field trials without a hunting license, from taking or killing game or wild birds.

ACT 574 (HB 235 S. H. Theriot)

Defines "paratrawling" as fishing with a net affixed to two or more vessels so that the net is pulled between or behind the vessels. Prohibits paratrawling in any canal which is part of the waters of the state and sets a class 3 penalty.

ACT 614 (HB 1393 Benoit & others)

Grants the Wildlife and Fisheries Commission the authority to regulate or prohibit the possession, sale, and transportation of freshwater fish not native to Louisiana.

ACT 615 (HB 1395 Benoit & others)

Authorizes the Department of Wildlife and Fisheries to issue permits for the taking of pen-raised mallards during the closed hunting season for the purpose of field trials or for the purpose of training hunting dogs, upon

application of any recognized field trial association. Deletes the requirement that applicants for a permit to take pen-raised quail for the purpose of training hunting dogs be recognized field trial associations.

ACT 620 (HB 1583 Odinet & others)

Adds Chef Menteur Pass to those areas in which a butterfly net or bottom net cannot be suspended from pilings, floats, barges, rafts, bridges or shore installations. Provides that in Chef Menteur Pass, a single butterfly net measuring no more than 22 x 22 feet may be suspended from a U.S. Corps of Engineers approved wharf so long as the wharf is attached to privately owned or leased immovable property and the owner or lessee is present when the net is being fished.

ACT 632 (HB 1877 F. Thompson & others)

Creates the Louisiana Duck Stamp Program to provide funding of projects for the protection and preservation of migratory waterfowl. Defines "migratory waterfowl" as all species of ducks and geese. Requires that hunters purchase, in addition to all other licenses, a \$5 duck stamp and that the funds be placed in the Duck Stamp Fund. Provides that monies in the Fund can be used to acquire lands in the state which have the purpose of conserving, restoring, and enhancing migratory waterfowl habitat, to carry out migratory waterfowl habitat restoration and enhancement projects, to acquire land for wildlife and game management, and to make grants to the North American Waterfowl Habitat Conservation Plan to acquire, develop, or maintain migratory waterfowl areas within the state. Provides for reciprocal agreements with states sharing a common boundary with Louisiana and provides penalties.

ACT 711 (SB 87 Bagert)

Redefines unattended net as a net the licensee of which cannot be immediately located for identification without leaving the location of the net, rather than immediately located by an enforcement agent of the Department of Wildlife and Fisheries. Requires gill nets and trammel nets to be marked with 2 buoyant, waterproof tags, one at each end of the net, stating the fisherman's name and license number.

ACT 720 (HB 657 Glover & Bagert)

Prohibits recreational fishermen from using gill nets, trammel nets, and seines. ACT 778 (SB 327 Decuir) Provides that the definition of "domesticated fish" includes hybrid striped bass and that hybrid striped bass may be propagated, produced, transported, and possessed pursuant to the domestic fish farming laws. Provides that persons engaged in domestic fish farming are exempt from the wholesale/retail dealer's licensing requirements. Removes "domestic" hybrid striped bass from the prohibition against purchase, sale, exchange, or import without appropriate tags and notification to the Department of Wildlife and Fisheries.

ACT 784 (SB 589 Nunez & Patti)

Renames the Department of Wildlife and Fisheries Office of Coastal and Marine Resources the Office of Fisheries. Transfers the freshwater fisheries functions, including authority over domestic fish farming, noxious aquatic weed control, fish hatcheries and preserves, and boat ramps to the Office of Fisheries. Transfers water pollution control and prevention functions to the Office of Wildlife.

ACT 806 (HB 185 Lemoine)

Allows trapping and destroying blackbirds which destroy crops on private property.

ACT 825 (HB 844 Melancon)

Sets a \$25 gear fee for commercial use of pipes, buckets, cans, drums, tires, and any other type of legal gear used to take fish commercially.

ACT 846 (HB 1402 Patti & others)

Removes the authority of the Wildlife and Fisheries Commission to allow seasons on hunting preserves to remain open for an additional 30 days in the spring.

ACT 848 (HB 1476 Kimball)

Allows harvesting fish from licensed mariculture operations when those fish are prohibited from being harvested from the wild.

ACT 883 (HB 1404 Glover & others)

Provides that any net seized by the Department of Wildlife and Fisheries and which is unclaimed for 30 days following seizure shall be considered abandoned and can be disposed of in accordance with Wildlife and Fisheries Commission rules.

ACT 889 (SB 829 Bagert & Garrity)

Prohibits the commercial taking and sale of redfish unless produced in a certified aquaculture or mariculture operation until September 1, 1991 at which time the Wildlife and Fisheries Commission shall set a commercial quota sufficient to ensure a 30% escapement of juvenile redfish. Increases the commercial harvest quota of speckled trout to one million two hundred-fifty thousand pounds. Provides that the quota applies to fish taken or landed in Louisiana. Once the speckled trout commercial quota has been reached, prohibits use of gill nets, seines, or trammel nets, except strike nets, with a mesh less than 2-1/4 inches square or 4-1/2 inches stretched. Defines "strike net" as any gill net, trammel net, a seine not anchored or secured to the waterbottom or shore and which is used off a vessel and actively worked while being used. Allows the Commission to set catch and possession limits for recreational saltwater finfish taken in Louisiana territorial waters, except sets daily catch and possession limits for redfish at no more than 5 and for speckled trout at no more than 25. Decreases the maximum length of redfish that may be recreationally taken from 30 inches to 27 inches and allows a fisherman to possess only one redfish greater than 27 inches. Increases the minimum size limit of redfish that may be recreationally taken from 15 inches to 16 inches and for speckled trout from 14 inches to 12 inches. Provides that the netting prohibited from being used in the waters surrounding the Chandeleur Islands includes webbing historically used or capable of being used to take speckled trout.

ACT 893 (HB 1387 Patti & others)

Repeals mandatory shrimp season opening and closing dates and allows the Wildlife and Fisheries Commission to set opening and closing dates by zone in inside and outside state waters for all shrimp seasons. Provides that such dates be based on biological data.

ACT 894 (HB 1409 Patti & others)

Changes the shrimp inside outside line to conform to the coastline in Terrebonne Parish between Grand Caillou Bayou and Grand Pass des Ilettes and makes minor changes near Barataria Bay, Timbalier Island, Grand Terre Island, and Cadro Pass. Repeals Senate Concurrent Resolution 60, 1987, thereby reinstating prohibition on use of two 25 foot shrimp trawls in Terrebonne, Lafourche, and Jefferson Parishes and prohibiting use of a test trawl when pulling two 25 foot trawls.

ACT 929 (SB 369 Rayburn & Bagert)

Prohibits taking fish from logs, buckets, barrels, drums, or natural or artificial nesting areas by hand grabbing in the Bogue Chitto River from where it enters the state to where it enters the Pearl River in St. Tammany Parish.

ACT 939 (HB 1392 Odinet & others)

For exotic fish which cannot be possessed, sold, or transported into the state without permission of the

Department of Wildlife and Fisheries, specifies that carnero catfish is *Clarias betrachus* and freshwater electric eel is *Electrophorus* sp. Adds rudd (*Scardinius erythrophthalmus*) and exempts common carp (*Cyprinus carpio*).

ACT 948 (HB 1009 Thompson & Ellington)  
Exempts certain state sales and use taxes on materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvest of catfish. Provides that the Department of Revenue and Taxation shall provide exemption certificates to retail merchants.

ACT 954 (HB 1384 Benoit & others)  
Allows the Wildlife and Fisheries Commission to set daily catch and possession limits on saltwater finfish for which no such limits have been set by statute.

ACT 955 (HB 1408 Triche & others)  
Repeals provision providing that the records kept by wholesale/retail dealers identifying the names and license numbers of commercial fishermen remain confidential and allows such names and addresses to be made available to public or private entities for financial consideration.

ACT 958 (HB 1470 Odinet)  
Notwithstanding any provision concerning the size or number of trawls that may be pulled in inside or outside waters, allows a vessel to pull a test trawl in zone 1. Repeals Senate Concurrent Resolution 60, 1987, thereby reinstating prohibition on use of two 25 foot shrimp trawls in Terrebonne, Lafourche, and Jefferson Parishes and prohibiting use of a test trawl when pulling two 25 foot trawls. On August 12, 1988, the 19th Judicial District Court for East Baton Rouge Parish issued a preliminary injunction against the enforcement of the prohibition against using two twenty-five foot trawls in Jefferson, Lafourche, and Terrebonne parishes. Therefore, that part of Act 958 prohibiting the use of two twenty-five foot trawls in these three parishes is ineffective. Until a court decides otherwise, shrimp fishermen may use two twenty-five foot trawls in all state inside waters when inside waters are open to shrimping.

ACT 959 (HB 1473 Guidry)  
Requires seizure and forfeiture of shrimp in possession of a person shrimping during closed season.

ACT 993 (SB 268 Lauricella & Patti)  
Repeals the mariculture law, enacted in 1987, which allows LUMCON and the Department of Wildlife and Fisheries to enter into cooperative agreements with the owners of private mariculture enterprises. Allows any present holder of a license under the repealed law to receive a mariculture permit under Act 305, 1987.

ACT 995 (HB 1400 Glover & others)  
Repeals the mariculture law, Act 386 1987, which allows LUMCON and the DWF to enter into cooperative agreements with the owners of private mariculture enterprises, but allows any person granted a license under the repealed law to continue to operate for two years at which time such person will be granted a mariculture permit under Act 305, 1987. Sets an annual mariculture permit fee of \$1,000.

#### ADOPTED CONCURRENT RESOLUTIONS

HCR 32 (Scogin & others)  
Continues the Department of Wildlife and Fisheries Scenic Rivers Task Force and adds one member from the Department of Environmental Quality.

HCR 45 (Glover & Patti)  
Memorializes the U.S. Congress to appropriate funds to support a cooperative national research proposal to evaluate the use of coliforms and fecal coliforms and other microorganisms as indicators of health risk associated with the consumption of shellfish.

HCR 179 (Patti)  
Proposes a task force on water quality and management requirements of the state's molluscan shellfish propagating areas to study the decline in molluscan shellfish production, water quality degradation which could adversely affect consumer health, and the reasons for such decline and degradation. Provides for membership.

HCR 184 (A.J. Smith)  
Directs the Department of Wildlife and Fisheries to study and make specific recommendations concerning restrictions on taking deer in West Carroll Parish and directs the Wildlife and Fisheries Commission to act on those recommendations.

HCR 188 (Ellington & others)  
Directs the Department of Wildlife and Fisheries to study the feasibility of legalizing carp in Louisiana.

HCR 200 (S.H. Theriot)  
Requests the Department of Wildlife and Fisheries to conduct a policy of equal enforcement of wildlife and fisheries laws throughout the state, particularly with respect to enforcement of size limits on blue catfish at the market level.

HCR 235 (S.H. Theriot)  
Requests the Department of Wildlife and Fisheries to halt the exportation of alligator hatchlings until the economic impacts are fully evaluated.

SCR 42 (Nunez)  
Creates the Advisory Panel on Wildlife and Fisheries Management to consider and make recommendations on the appropriate roles of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission. Provides for membership and that the panel present its findings to the House and Senate Natural Resources Committees 45 days prior to the 1989 Regular Session.

SCR 43 (Nunez)  
Requests the Department of Wildlife and Fisheries to review and evaluate its current system of license distribution and sales and to consider alternative methods which may be more efficient, useful, and cost-effective.

SCR 133 (Doland & others)  
Directs the Wildlife and Fisheries Commission to delay opening the Spring 1988 inside shrimping season in zones 1 and 3 until 5/25/88.

SCR 231 (McPherson)  
Requests the Wildlife and Fisheries Commission to establish a special season for hunting deer by muzzleloaders in all areas of the state open to hunting with firearms. Provides that this special season shall be open for a minimum of 10 days not in conjunction with the regular firearms season.

SCR 236 (Picard)  
Requests the Wildlife and Fisheries Commission to adopt regulations to prohibit the out-of-state shipment of alligator hatchlings under four feet in length.

## OIL, GAS, AND MINERALS

## ACT 22 (HB 172 Kimball &amp; Jackson)

For purposes of the Natural Resources and Energy Act of 1973, defines "natural gas distribution system" as a company, municipality, or political subdivision that distributes natural gas through its own intrastate pipelines to end users within Louisiana. The definition includes "master meter system," defined as any system for distributing gas where the gas is acquired from an outside source and distributed to recipients outside the meter. The definition excludes gas distribution systems serving single-family residences or other buildings operated by the purchaser solely for his own consumption.

## ACT 489 (HB 1334 Dastugue &amp; others)

Changes the domicile of the Offshore Terminal Authority to Baton Rouge, Louisiana.

## ACT 594 (HB 1040 Salter)

Creates a privilege in favor of the state for severance taxes owed. Provides that a lien shall attach and operate as a first privilege, following the resources into the hands of third parties, and remaining attached regardless of whether found in a manufactured or unmanufactured condition. Exempts political subdivisions if the tax is owed on resources owned and severed by the subdivision for its own use.

## ACT 613 (HB 1373 Lancaster &amp; others)

Changes the eligibility dates for LEAP wells to those completed between July 1, 1986 and July 1, 1988, or the date on which West Texas Intermediate Crude equals or exceeds twenty-nine dollars and fifty cents per barrel, whichever occurs first.

## ACT 647 (HB 723 Sour &amp; others)

Changes the co-owner consent ratio to an undivided 80%

interest in the land regarding the amount of consent needed for a mineral servitude owner to exercise his rights in the land.

## ACT 651 (HB 1380 Roach &amp; others)

Enables the governor, with the advice of the Commissioner of Conservation, to enter into unitization agreements with the federal government regarding potential hydrocarbon producing waterbottoms underlying the federal and state boundaries of offshore Louisiana.

## HCR 75 (Martin)

Requests the U.S. Congress to enact legislation allowing independent petroleum marketers to sell gasoline to state and local governments on a tax exempt basis. Under the current law which took effect on January 1, 1988, marketers are required to collect the tax up front, thereby creating an unbudgeted expense for local governments, including school districts.

## HCR 182 (Cusimano)

Requests the Department of Natural Resources to adopt rules and regulations extending the time to plug certain dry or inactive oil and gas wells in order to allow the commencement of reasonable secondary or tertiary recovery plans.

## HCR 234 (Roach)

Requests the governor to consider comments and invite participation of the mineral interest owners and lessees of offshore minerals which are the subject of current negotiations concerning royalty sharing and unitization of common hydrocarbon-bearing areas underlying the offshore federal and state boundary between the Governor of Louisiana, the Department of Natural Resources, and the Secretary of the Interior of the United States.

## PORTS, HARBORS, AND WATERWAYS

## ACT 241 (HB 1428 Scogin)

Authorizes the St. Tammany Levee District to issue negotiable general obligation bonds to finance flood protection and drainage projects within its jurisdiction.

## ACT 263 (SB 921 McPherson)

Empowers the executive director of the Red River Waterway Commission to authorize expropriation proceedings to be carried out by the Commission.

## ACT 265 (SB 950 Lauricella)

Changes the titles of the officers of the Board of Commissioners of the Port of New Orleans (the Board). The new titles are as follows: Chairman, Vice-Chairman and Secretary-Treasurer. Changes the regular meeting schedule to once per month, and allows the Board to enter into employment contracts for a term of not more than three years with those members of the board's full-time staff or new employees who will occupy unclassified positions if those unclassified positions are established in accordance with applicable civil service rules.

## ACT 480 (HB 766 Stine)

Allows the Lake Charles Harbor and Terminal District to transfer two parcels of land located in Calcasieu Parish covering a total of approximately one-half acre to the United States Navy for construction of a home port.

## ACT 498 (HB 1853 Thompson)

Creates the Madison Parish Port Commission and provides for the appointment and terms of seven commissioners.

## ACT 527 (SB 392 Lauricella) and (Act 758, HB 1109 Ackal &amp; Patti)

Provides that the owner of any tug, towboat, barge, watercraft, ship, vessel, equipment, machinery, or any object which is stored, junked, or abandoned in any waterway or on the banks thereof shall remove it within 30 days after notice from the appropriate governmental agency. Provides that the governmental agency shall remove and dispose of the object if the owner does not or cannot be identified, at the cost of the owner.

ACT 734 (SB 418 Hainkel)

Adds port commissions, publically owned railroad boards and commissions, and any other local boards, commissions, and authorities to the definition of "member of a board, commission, or authority of a political subdivision," in regards to the limitation of liability of members of boards, commissions, or authorities of political subdivisions.

ACT 758 (HB 1109 See Act 527)

ACT 864 (HB 1883 Warner)

Sets a speed limit of not more than the minimum speed necessary to insure safety on the Mississippi River Gulf Outlet (MRGO) in St. Bernard Parish within one mile on both sides of the intersections of the MRGO with Bayou Le Loutre, Bayou Yscloskey, and Bayou Dupre for vessels having a 25 foot or greater draft.

ACT 897 (HB 1872 S. H. Theriot)

Renames Little Bayou in Vermillion Parish as "Le Petit Bayou des Cessac" in honor of the Cessac family.

ACT 947 (HB 961 Scogin & others)

Creates the "Louisiana Natural and Scenic Rivers System" by revising those laws governing the natural and scenic rivers system in Louisiana. Provides that the purposes is to preserve, protect, develop, reclaim, and enhance the wilderness qualities, scenic beauties, and ecological regime of such rivers. Provides for regulatory authority over the system by the secretary of the Department of Wildlife and Fisheries. Requires that only by concurrent resolution by the legislature may a river in the state be nominated for inclusion within the system, and is to be followed by recommendations made by the administrator of the system. Provides that, after the designation of a river as a natural and scenic river, the administrator shall adopt and commence implementation of a management plan for that river. Requires that a permit be obtained from the administrator before any activity governed by the system is commenced, and that the decision on whether to issue a permit shall be based on wilderness qualities, scenic values, ecological regimes, recreation, fish and other aquatic life, wildlife, historical and archaeological, geological, botanical, water quality, cultural, and economics.

## PESTICIDES

ACT 156 (HB 933 Martin & Thompson)

Increases fees charged for sales and/or application permits for pesticides under the Louisiana Pesticide Law.

ACT 216 (HB 924 Martin & Thompson)

Expands the meaning of the term "minor violation" under the Pesticide law to "one which does not endanger human health or safety, or one which does not endanger the environment."

ACT 217 (HB 925 Martin & Thompson)

Removes the requirement that the Commissioner of Agriculture adopt a rule each time he enters into a cooperative agreement under the Louisiana Pesticide Law. Provides instead that each cooperative agreement shall be made a matter of public record.

ACT 218 (HB 926 Martin & Thompson)

Reduces from four to two per year the number of meetings that the Louisiana Advisory Commission on Pesticides must hold.

ACT 219 (HB 927 Thompson & Martin)

Requires the manufacturer of a pesticide, when registering or re-registering a pesticide which is to be sold or distributed in the state, to submit, in addition to all presently required materials, the Material Safety Data Sheet prepared in accordance with the requirements of the Environmental Protection Agency to the Secretary of the Department of Environmental Quality.

ACT 220 (HB 928 Martin & Thompson)

Raises the registration fee for manufacturers of pesticides from a one-time fee of \$50 for each pesticide registered to an annual \$100 fee for each pesticide registered.

ACT 221 (HB 929 Martin & Thompson)

Establishes a fee of \$100 for applicants to the commissioner of Agriculture and Forestry for special local needs registration to allow use of a pesticide in a specified location based on a specified local need.

ACT 222 (HB 931 Martin & Thompson)

Provides that a pesticide dealer's annual license shall expire on December 31 of each year.

ACT 223 (HB 932 Martin & Thompson)

Provides that an agricultural consultant's license shall expire on December 31 of each year and may be renewed in accordance with rules adopted by the commissioner of Agriculture and Forestry.

ACT 224 (HB 934 Martin & Thompson)

Directs the Commissioner of Agriculture and Forestry to adopt rules requiring each pesticide dealer to maintain records of the storage of pesticides by that dealer in conformity with the Hazardous Material Information Development, Preparedness, and Response Act. Specifies that the records shall be maintained and directs the commissioner to establish a time limit for how long the records must be maintained. The commissioner may require the dealer to report the information which is required to be maintained.

ACT 309 (HB 937 Martin & Thompson)

Raises the number of members of the Louisiana Advisory Commission on Pesticides from nine to ten. The additional member is to be picked from a list of six persons, two of whom shall be nominated by the Louisiana Wildlife Federation, two by the Sierra Club, and two by the Audubon Society.

ACT 349 (HB 1926 Martin & others)

Establishes a program for protecting the waters of the state from excessive concentrations of pesticides, to be administered by the Department of Agriculture and Forestry. Authorizes the Commissioner of Agriculture to monitor pesticide concentrations by conducting investigations and taking samples, and to take appropriate action when he determines that the concentrations pose a threat or may be reasonably expected to pose a threat to human health or the environment. Establishes criteria for the commissioner to make these determinations. If the commissioner determines that a threat or potential threat is posed, he is authorized to issue a protective order limiting, restricting, or prohibiting the application of a pesticide. Provides for enforcement through injunctive relief or by civil penalties of up to \$25,000 per offense. The new law will not diminish the authority of the Department of Environmental Quality, and no fees may be established or increased to fund these activities.

## ENVIRONMENT/DEPARTMENT OF ENVIRONMENTAL QUALITY

## ACT 38 (HB 1726 Theriot &amp; others)

Empowers the Department of Environmental Quality to adopt regulations for certification of laboratories providing chemical analyses, analytical results, or other appropriate test data to the Department which is required by regulation as a part of any permit application submitted to the Department, or any order of the Department included on Departmental monitoring reports. Also provides for establishment of appropriate fees to be charged to develop and operate the laboratory certification program.

## ACT 252 (HB 1713 Holden &amp; others)

Repeals those provisions of the law entitling disposers of hazardous waste to a tax refund if such waste is stored for 90 days and then not disposed of in a taxable manner.

## ACT 253 (HB 1717 Roach &amp; others)

Authorizes the secretary of the Department of Environmental Quality to waive permits that may otherwise be required in order to perform remedial action where imminent danger to health or the environment is determined from a discharge or disposal of hazardous waste.

## ACT 254 (HB 1721 Bolin &amp; others)

Provides that an order of the secretary of the Department of Environmental Quality or the Environmental Control Commission which enforces environmental laws by assessing a penalty or requiring compliance action, and is final but has not been complied with, may be made an executory judgment by the district court upon ex parte petition of the attorney general without any proceeding to establish the facts supporting the order. Further provides that an order of the secretary, which is appealed but affirmed or modified by the court of appeal without remanding it to the secretary, may likewise be made executory by the district court upon ex parte petition of the attorney general. Also provides that a person against whom the ex parte judgement is rendered, after showing good cause and posting a bond in favor of the state, may within 10 days of service of the judgement seek an extension, modification, or suspension of the judgment by summary proceeding solely on the issue of whether or not compliance has taken place.

## ACT 465 (HB 260 St. Raymond &amp; others)

Provides that the costs upon which the initial and annual monitoring and maintenance fees are based for all permits, licenses, registrations, or variances authorized by the Environmental Quality Act will now include any effects from the volume of emissions or effluents.

## ACT 655 (HB 1722 Holden &amp; others)

Provides a tax schedule for disposal of hazardous waste and extremely hazardous waste generated and not generated in Louisiana. Defines disposal, hazardous waste, and extremely hazardous waste. The definition of hazardous waste and extremely hazardous waste is the same as that

found in the Louisiana Hazardous Waste Regulations of the Department of Environmental Quality.

## ACT 692 (HB 1282 Cusimano)

Provides for the redistribution of proceeds going into the Louisiana Beautification Fund obtained from littering convictions. Reduces, from 96% to 44%, the percentage of such fines to be paid to the law enforcement agency issuing the citation, retains the 6% to be paid to the office of the district attorney or city attorney who prosecuted the defendant, and establishes that 50% be paid to the local governing authority in which the offense was committed to be used solely for the purposes of litter abatement.

## ADOPTED CONCURRENT RESOLUTIONS

## SCR 41 (Landry)

Requests the U.S. Congress to give guidance to local governments concerning methods of funding emergency planning and right-to-know reporting requirements imposed by the Superfund Amendments and Reauthorization Act of 1986.

## HCR 12 (St. Raymond &amp; Reilly)

Urges the governor to appoint a person within his office to serve as liaison between the state and the Louisiana U.S. congressional delegation to coordinate state efforts to promote the participation of Louisiana on a fair and equitable basis in many federal environmental programs. Declares that the need for such a liaison is shown by the fact that Louisiana is being unfairly taxed to support the "Superfund" and is not receiving its just share of benefits from the "Superfund"; and that in the "Clean Water Act" of 1986, the Congress allocated no funds directly to Louisiana for specific projects on sewer treatment or the cleanup of our estuaries, while allocating funds for other specific projects in other states.

## HCR 157 (Cusimano)

Directs the Department of Environmental Quality to report annually by April first regarding each governmental subdivision that is in violation of state or federal sewerage discharge standards, the degree of violation of each such subdivision, and the status of the plans to correct the improper discharges.

## HCR 158 (Bolin &amp; others)

Requests the Department of Environmental Quality to devise and execute a cleanup plan to remove chemical pollutants from the Capitol Lakes and to create the Capitol Lakes Task Force to study and make recommendations to preserve and enhance the aesthetic, environmental, wildlife, and recreational qualities of the Capitol Lakes at the state capitol in Baton Rouge.

## MISCELLANEOUS

## ACT 102 (SB 223 Brinkhaus &amp; Laborde)

Exempts from public records law certain information in the custody of state boards or institutions of higher learning, including information or data collected by faculty or staff of state institutions of higher learning for purposes of research of commercial, scientific, or technical subjects which might be patented or licensed until that information or data has been released to the public. Also, portions of research proposals or supporting documentation submitted by institutions of higher learning to the Board of Regent's Louisiana Education Quality Support Fund Program, which that institution deems to be potentially patentable or licensable, and portions of private document collections

donated to state institutions of higher learning which the donor wishes to keep restricted from public access for a period of time, are among the exemptions.

## ACT 434 (SB 114 Hainkel &amp; Warner)

Adds to the Council of LUMCON a representative from the Board of Directors of the Louisiana Association of Independent Colleges and Universities.

## ACT 476 (HB 558 Cusimano)

Delays the date by which the Lower Mississippi River Drinking Water Study Commission must report its findings to the Joint Committees on Health and Welfare and on Natural Resources from June 30, 1988 to June 30, 1989.

ACT 624 (HB 1727 Roach, Gomez, Ashley, & others)  
Changes definition for "nonparticipating party" in laws concerning Liability for Hazardous Substance Remedial Action. The definition of a nonparticipating party is changed to include anyone refusing to comply with a demand for remediation from the secretary of the Department of Environmental Quality or anyone who fails to respond to the demand or against whom a suit has been filed by the secretary. Changes the requirements for notification and demand of the secretary such that if the secretary determines that it is not feasible for him to notify every responsible person at a polluted site he may limit his notice to those persons he deems most responsible. Likewise, where it is not feasible to demand remedial action of all potentially responsible persons, he may limit his demand from those persons deemed most responsible. Provides a ten year liberative prescription period beginning with the discovery of pollution, or a three year prescriptive period from the date the secretary issues an order requiring remedial action to be undertaken, whichever comes later.

ACT 630 (HB 1844 Hebert)  
Creates the Louisiana-Mississippi Tangipahoa River Waterway Compact to study the sources of the pollution of the Tangipahoa River, the problems resulting therefrom, and possible solutions to return the Tangipahoa River to a clean, viable waterway. The Compact becomes effective upon notification by the states of Louisiana and/or Mississippi. Establishes the "Louisiana-Mississippi Tangipahoa River Waterway Commission" to carry out the goals of the Compact. Provides for Commission hearings, studies and surveys solutions and other matters associated with the pollution of the Tangipahoa River. Provides that the Compact shall remain binding upon each party state until the legislature or governor from either state takes action to withdraw, and any such withdrawal is not effective until six months after the date such action is taken. The compact under the control of the Louisiana Department of Natural Resources.

ACT 672 (HB 639 Downer & Glover)  
Establishes the North Terrebonne Parish Drainage and Conservation District to include enactment of appropriate flood control, drainage and water resource management. Provides for management and control by the Terrebonne Parish Drainage and Conservation District Board of Commissioners, which shall consist of five members appointed by the Terrebonne Parish Council. Allows the District to enter into contracts and agreements of any nature and with any person, group or organization in order to carry out the purposes and powers of the Commission. Empowers the District to expropriate property for rights-of-way pursuant to its duties. Enables the District to issue bonds of indebtedness and to levy taxes on all property in the district subject to taxation in order to fulfill its duties.

ACT 687 (HB 1074 Kimball & Melancon)  
Provides that nothing shall prohibit the Atchafalaya Basin Levee District from expending tax funds directly for tidal flood control projects within the Atchafalaya Basin Levee District, but retains the law requiring that at least 50% of the property taxes collected by the Atchafalaya Basin Levee District be spent to build new levees and rebuild existing levees for flood control from the Assumption-Lafourche Parish line near Thibodaux to the Intracoastal Waterway at Larose.

ACT 715 (SB 970 Landry)  
Authorizes Department of Natural Resources to quit claim certain property in St. Charles Parish.

#### ADOPTED CONCURRENT RESOLUTIONS

HCR 146 (Thomas)  
Urges the governor of Louisiana to educate the citizens of Louisiana about the harmful effects and problems associated with the use of tobacco products.

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