



LOUISIANA COASTAL LAW

Published by the L.S.U. Sea Grant Legal Program
LCL 60, DECEMBER 1990

1990 REGULAR SESSION

OF THE

LOUISIANA LEGISLATURE

CONTENTS

Wildlife and Fisheries.....	1	Ports, Harbors, and Waterways.....	6
Coastal Resources and Public Lands.....	3	Oil, Gas, and Minerals.....	7
Environment/Dept. of Environmental Quality.....	4	Miscellaneous.....	8

WILDLIFE AND FISHERIES

Act 54 (HB 738 Roach, et al)
Enacts RS 56:8 (118), (119) to provide definition of "cast net" and "dip net" for purposes of this Chapter.

Act 55 (HB 742 Roach, et al)
Amends R.S. 56:325:1(C)(1) to change size and possession limit violations concerning red drum and spotted sea trout from class one to class two violations under R.S. 56:325:1(C)(1).

Act 78 (HB 741 Roach, et al)
Amends R.S.56:327(A)(1)(b) which prohibits the sale of saltwater gamefish or importation with intent to sell, by changing size limits for legal importation of red drum, largemouth bass, striped bass, spotted bass fingerlings from 3 to 6 inches and deleting hybrid striped bass from the imported fingerling exception. Changes notice requirements from 48 hours to 24 hours.

Act 84 (SB 144 Kelly, et al)
Amends R.S. 14:34.2(A)(2) to include wildlife enforcement agents in definition of police officers for purposes of prohibiting battery against a police officer.

Act 128 (HB 1818 Lalonde)
Amends R.S. 3:556.3 to change method of appointment of members of the Louisiana Crawfish Promotion and Research Board.

Act 181 (HB 535 Melancon, Diez)
Enacts R.S.56:330B which allows taking of bullfrogs and lagoon frogs year around except during April and May and limits enforcement during 1991 to warning tickets.

Act 189 (HB 1129 Ellington)
Enacts R.S. 3:558.1 through 558.13 to create a Louisiana Catfish Promotion and Research Program for the purpose of providing markets for Louisiana catfish and funding research and educational activities for the Louisiana catfish industry. Provides for definitions, membership, fees, collections and procedures.

Act 194(HB 1526 Theriot, et al)
Amends R.S. 56:115(B), 256(A), 262.1(C), and 262.1(J); enacts R.S. 56:253(C), 255(C), and 256(C); and repeals R.S. 56:264, 265, to amend penalties for violations of alligator and fur bearing animal regulations. Establishes a class two violation unless a penalty is provided by some other provision of this Title. Violations of residence requirements for alligator hunters, fur buyers and dealers are class two. Violations of shipping of raw furs and alligator skins provisions are class two. Violations of alligator records inspections provisions are class three. Violations of alligator eggs, live alligators and skins possession provisions are class 7A violations. Violation of fur animals and alligators (nongame quadrupeds), breeding propagation and exhibition provisions are class 7A, but exempts alligator farmers from class 7A violation status unless LDWF has promulgated rules and regulations relative to alligator farming identifying that which constitutes a 7A violation.

Act 196 (HB 1585 John, et al)
Amends R.S. 56:318 and 319.1 to give the Department of Wildlife and Fisheries regulatory authority over importation into Louisiana of all live fish and fish eggs including goldfish and aquarium fish.

Act 199 (HB 1777 Theriot, Triche)
Amends R.S. 56:303(B) to increase non-resident commercial fisherman's license from \$200 to \$400.

Act 236 (HB 569 Smith, et al)
Adds resident dependents of persons in the armed forces of the United States on active military duty to those given resident privileges under RS 56:104(B)(1) and 302.2(C) for purposes of exemption from hunting license requirement due to age.

Act 248 (HB 1321 John, et al)
Enacts R.S. 49:967(D)(2) and amends R.S. 49:954(B)(2) to provide that the effective period of emergency rules which set annual seasons for wildlife will be equal to the length of the particular season set by the rule.

Act 250 (HB 1770 Theriot, et al)

Amends R.S.56:495.1 to clarify the maximum dimensions of trawls allowed in inside waters. Provides that trawl licenses shall be revoked for the second and all subsequent violations of the trawl size restrictions.

Act 251 (HB 1782 Ellington, et al)

Amends R.S.56:412 to change reporting time for notification to the Department of Wildlife and Fisheries of transport of finfish by domestic fish farmers from 48 hours to 24 hours and deletes reference to mailing requirement.

Act 261 (HB994 Benoit, Bankston)

Enacts R.S. 56:306 B(5) to exempt from the wholesale/retail dealers license requirement persons who buy fish for or on behalf of the wholesale/retail dealer to whom such transport license was issued and who only transport such fish to that wholesale/retail dealer. Amends R.S. 56:307.2 relative to buying and selling fish to add the same exemption.

Act 392 (SB 9 Foster, et al)

Enacts Part X of Chapter 7 of Title 30 RS 30:751, 752; and RS 39:362.1 to provide that persons over 60 years of age are exempt from the requirement to purchase duck stamps, under RS 56:151 as amended. Present law only exempts persons 16 years of age and under.

Act 393 (SB 223 Hollis, et al)

Enacts 56:803, creating Lake Pontchartrain State Bird Sanctuary. Defines boundaries of the Sanctuary, prohibits certain acts within the Sanctuary, provides for administration of the Sanctuary, and penalties for violations.

Act 434 (HB 743 Roach)

Amends R.S. 56:321(C)(2) to change the fine for violation of red drum and spotted sea trout minimum size limit from ten to twenty-five dollars per pound.

Act 441 (HB 865 Roach)

Enacts R.S. 56:303.4(B), 303.7, and 306.4(E) and amends R.S. 56:306.3 to create a Commercial Fisherman's Sales Card, and require card holders to present the card when selling their own catch. Requires Wildlife and Fisheries Commission and Secretary of Department of Wildlife and Fisheries to promulgate regulations necessary to enforce the Act.

Act 539 (SB 236 Kelly)

Authorizes the Northwest Louisiana Game and Fish Preserve Commission which administers the Northwest Louisiana Game and Fish Preserve under Department of Wildlife and Fisheries supervision, to issue, collect, and enforce a \$5 per year recreational use license fee, and other related fees within the preserve.

Act 492 (HB 818 Bolin, et al)

Enacts R.S. 56:326.4 which authorizes Louisiana Wildlife and Fisheries Commission to split, stagger, and arrange fishing seasons and set quotas for popular restaurant variety fish so that supplies will be harvested and available throughout the year.

Act 497 (HB 1125 Siracusa)

Amends R.S. 56:332.1(c)(2) to establish an exception (by Dept. of Wildlife and Fisheries permit) to the restriction on fishing eel pots south of saltwater line as delineated by 56:322(A) and in saltwater lakes north of the line, excluding Lake Maurepas.

Act 498 (HB 1345 Roach)

Amends R.S. 36:605(B)(4)(b) and enacts R.S. 56:69.1 through 69.13 and repeals R.S. 56:55.1 to authorize appointment of up to 50 auxiliary enforcement agents to serve without compensation for renewable terms of one year. Provides standards for appointment and training and details enforcement authority.

Act 499 (HB 1346 Roach)

Enacts R.S. 56:111.1 which prohibits unauthorized persons from taking game on Deer Management Assistance Program areas. Requires posting and marking of such areas. Permit from owner is required to take game.

Act 509 (HB 2087 Roach)

Enacts R.S. 56:410.2 to prohibit use of trammel, gill, and strike nets for fishing in Calcasieu Lake from sunset Friday to sunset Sunday, May through September each year.

Act 510 (HB 2096 Martin)

Enacts R.S. 56:648.1(5) which prohibits entering upon private property including nonnavigable water with a floating duck blind or other float or boat to hunt waterfowl without permission of the landowner, lessee, lessor, or hunting club authorized to hunt on the land.

Act 545 (SB 496 Kelly)

Enacts R.S. 56:320(A)(3) to allow the use of minnow traps to take bream for noncommercial bait purposes when sport fishing in freshwater. Restricts activity to any lake not wholly contained within this state, and larger than 100,000 surface acres. Provides trap specifications.

Act 549 (SB 621 Chabert)

Amends R.S.56:495(A) to modify the definition of inside/outside water boundaries for shrimping purposes.

Act 552 (SB 695 Doland, et al)

Enacts RS 56:281 to provide for cost-sharing program between coastal landowners and Department of Wildlife and Fisheries for nutria control. Provides for procedures, powers and duties and funding.

Act 562 (SB 911 Bankston, et al)

Amends R.S. 36:610(E) and 802.5 and enacts R.S. 56:580.1-580.6 to create Louisiana Marine Recreational Fishing Board within Department of Wildlife and Fisheries. Provides for membership, organization, functions, rules and regulations and reporting to legislature.

Act 564 (SB 949 Bankston, et al)

Amends definition of "processing" under RS 56:8 to include "fish products" and "packaging", and exempts from the transport license requirements of RS 56:307C fish or fish products which are the result of processing.

Act 581 (HB 1235 Odinet)

Amends R.S. 56:499.2(B) to place additional limits on the use of butterfly nets attached to permanent structures in Chef Menteur Pass. Nets may not be attached to structures which are themselves not attached to privately owned or leased immovable property unless such structure was permitted by the U.S. Army Corps of Engineers prior to 1988.

Act 583 (HB 1385 Patti)

Amends R.S. 56:435(A) to delete three feet minimum requirement for oyster dredges and scrapers.

Act 704 (SB 607 Ewing)

Enacts R.S. 14:63.9 which defines criminal trespass as including, but not limited to, hunting, fishing, trapping, swimming, boating, camping, picnicking, hiking, pleasure diving, nature study, water skiing, winter sports, and viewing or enjoying historical, archeological, scenic or scientific sites. Prescribes methods of posting, and prohibits posting without owner's consent.

Act 794 (HB 1768 Melancon, et. al)

Amends R.S. 56:320 to allow the taking of freshwater and saltwater game fish with recreational hoop nets, slat traps, pipes, buckets, drums, tires and cans.

Act 858 (SB 977 Nunez, et al)

Amends R.S. 56:423(E) to provide that property rights or interests acquired pursuant to oyster leases are heritable and transferable.

Act 873 (HB 717 Patti, et al)

Amends R.S. 56:436(B) to increase the penalty for taking oysters during illegal hours from class two to class four violation.

Act 874 (HB 719 Patti, et al)

Amends R.S. 56:303.6 to exempt persons 16 years and under and the spouse of a vessel owner (while the spouse is on that vessel) from oyster harvest license requirement for harvesting or possessing oysters in state waters.

Act 875 (HB 720 Patti, et al)
Amends R.S. 56:406(A)(2) to change coordinates of waters restricted for use of trammel nets, seine, gill net, or webbing off Breton Islands and Chandeleur Islands.

Act 889 (HB 1146 Siracusa)
Amends R.S. 56:423(E) and 427(B) to provide that oyster lease applications of persons who later die are heritable and transferable and hold their priority ranking when filed before another application for the same waterbottom.

Act 945 (SB 1001 Nunez, et al)
Amends the RS 41:1214(a) advertisement requirements for bids for land leases by exempting leases relating to fisheries, wildlife and timber regulated under other provisions of law.

Act 975 (HB 1126 Siracusa, et al)
Enacts R.S. 41:1215.3 which authorizes the Department of Wildlife and Fisheries to grant oyster leases on state owned water bottoms and ratifies and continues all leases and extensions thereof on state-owned water bottoms presently in force pursuant to Title 56.

Act 999 (SB 1066 Cross, Smith)
Enacts R.S. 3:3031 which provides that a \$5 bounty shall be paid on beaver which are destroying property, if funds are available for this purpose, by the Department of Agriculture and Forestry. Provides for rules, regulations, and exceptions.

Act 1015 (HB 1386 Patti)
Amends R.S. 56:433(A) to increase allowable percentage of undersized oysters and dead shells from 5% to 15% of cargo lot. Exempts seed oysters to be used or bedding purposes and provides that each half shell over one inch long shall be counted as one shell.

Act 1019 (HB 1705 Martin, Theriot)
Amends R.S. 56:152(B) to require that artists competing to design the duck stamp in the fourth and fifth year of the competition be domiciled in or natives of Louisiana.

Act 1022 (HB 2117 Diez)
Enacts R.S. 56:318.1 to provide for special fishing tournament permits to be issued by secretary of Department of Wildlife and Fisheries for the taking of certain species of fish outside normal size limits.

Adopted Resolutions

HCR 37 (Patti)
Recreates a special task force to study and make recommendations on the decline in production of molluscan shellfish in the state and to propose solutions to better manage the molluscan shellfish propagating areas. Adds members to Task Force.

COSTAL RESOURCES AND PUBLIC LANDS

Act 98 (HB 347 Theriot, et al)
Amends R.S. 49:213.30(G) to require the secretary of the Department of Natural Resources to waive coastal use permit fees for individuals deemed by the secretary to be involved in coastal restoration activities.

Act 118 (HB 1616 Scogin)
Amends R.S. 14:67 to provide that Department of Agriculture and Forestry be primarily responsible for collecting information regarding theft of timber and shall assist law enforcement agencies in investigations of such thefts.

Act 176 (HB 1625 Dastugue)
Amends R.S. 3:4271 to require that, for every tree, ten inches in diameter breast height or greater, cut down on public lands or under authority of a state agency, two replacement trees shall be planted. Provides for exceptions.

HCR 57 (Roach)
A resolution creating the Calcasieu Lake Fish and Shrimp Task Force to study the regulation of fishing and shrimping in Calcasieu Lake.

HCR 103 (Thompson, et al)
Recognizes the Louisiana Aquaculture Association as promoting the aquaculture industry in Louisiana, particularly research and marketing of aquacultural products.

HCR 220 (Gunter, Sen. Rayburn)
Authorizes and directs the Wildlife and Fisheries Commission to annually provide a detailed accounting of the dedicated portion of hunting license fees to the House and Senate Natural Resources Committees. All accountings shall be approved by the legislative auditor.

SCR 22 (Hinton)
Creates a special task force to study mussel resources and development in the waterways of this state.

SCR 70 (Thompson, Rep. Patti)
Urges and requests the secretary of the Department of Wildlife and Fisheries to conduct a study in order to carefully calculate the maximum allowable fees that may be charged to nonresidents for hunting and fishing licenses to compensate the state for added enforcement efforts, along with conservation and preservation programs.

SCR 73 (Mc Pherson)
Urges and requests the Department of Wildlife and Fisheries and the United States Fish and Wildlife Service to develop a five year management plan for each individual wildlife management area and wildlife refuge in the state.

SCR 76 (Mc Pherson)
Urges and requests the secretary of the Department of Wildlife and Fisheries to inform the Legislature, the Wildlife and Fisheries Commission, the affected department personnel, and the public of any plans for substantive reorganization of the agency's functional organizational structure, and the rationale for such plans, prior to implementation.

SCR 82 (Mc Pherson)
Urges and requests the Department of Wildlife and Fisheries to determine the minimum requirements for including those persons under the age of sixteen and over the age of sixty in the total number of basic hunting and fishing licenses for the purposes of receiving federal funds.

Act 451 (HB 1432 Roach)
Amends R.S. 49:213.7 (E) to provide that no right of ownership, servitude, or use shall be created in the public with respect to any private lands on waters affected by activities funded in whole or part by expenditure of funds from the Wetlands Conservation and Restoration Fund. Also provides that money in the Fund is to be appropriated by the Legislature only to the coastal restoration division of the office of coastal restoration and management. (see also Acts 661 & 936)

Act 508 (HB 2007 Roach, et al)
Amends R.S. 49:213 to modify the procedures for development and approval of the Coastal Wetlands Conservation and Restoration Plan. Requires public hearing in coastal area 60 days prior to submission of plan to legislature; consultation with governing authorities and state legislators in coastal par-

ishes before hearings; publication of hearing schedules in state register, official state journal, and official parish journals; and receipt of comments. Changes method of approval of plan by legislature.

Act 548 (SB 606 Ewing)

Amends R.S. 56:1685(C) thereby designating Caney Creek Lake as an official state park.

Act 555 (SB 855 Lauricella)

Authorizes division of administration to enter into agreement with city of Harahan to transfer title to certain land to Harahan. Provides for liability on the part of Harahan and related matters.

Act 607 (SB 560 Kelly et al)

Authorizes Department of Health and Hospitals to transfer property located in Rapides Parish to Department of Transportation and Development for the construction of a portion of Interstate Highway 49.

Act 639 (HB 977 Guzzardo)

Authorizes transfer of certain land in Pine Grove from Department of Natural Resources to St. Helena parish.

Act 661 (HB 1717 Bolin, et al)

Amends R.S. 49:213.4 (A)(3) and 213.7(E)(1) to provide that any money appropriated from the Wetlands Conservation and Restoration Fund for restoration or conservation projects shall go only to the coastal restoration division within the Department of Natural Resources. Amends 214.4 (B)(1), enacts R.S. 49:214.4 (C)(8), and repeals R.S. 49:213.4(C)(b) and 49.214.4(B)(3) to provide that the secretary of the Department of Natural Resources shall receive monies appropriated from the Wetlands Conservation and Restoration Fund, implement programs and projects, and develop guidelines for cost sharing agreements with public and private entities undertaking approved coastal restoration projects (see Acts 451 & 936).

Act 662 (HB 1766 Benoit, Patti)

Amends R.S. 49:214.30(C) to require the coastal use permitting authority to deny applications for permit if applicant fails to provide information requested by the authority within 60 days of request.

Act 669 (HB 2112 Deano)

Authorizes transfer or lease of certain state property to the first recreation district of St. Tammany parish from the Department of Health and Hospitals.

Act 845 (SB 869 Rayburn)

Authorizes division of administration to transfer certain property located in Pine Grove to the St. Helena Parish Police Jury.

Act 936 (SB 171 Kelly, et al)

Amends R.S. 49:213.4(A)(3), 213.7(E)(1), and 214.4(B)(1) and enacts R.S. 49:214.4 (C)(8). This Act is for all intents and purposes identical to Act 661 and identical to part of Act 451.

Act 1040 (HB 2098 Warner, et al)

Enacts R.S. 49:214.41 which directs the secretary of the Department of Natural Resources to adopt regulations requiring mitigation for coastal wetland losses from activities carried out under coastal use permits. Provides for definitions, methods of evaluation, variances, mitigation banking, areas of special significance, and related matters.

Act 609 (SB 605 Ewing)

Authorizes Jackson Parish Watershed District Board of Commissioners to transfer property on Caney Creek Reservoir to the office of state parks in the Department of Culture, Recreation and Tourism for the purpose of creating Caney Creek State Park.

Adopted Resolutions

HR 6 (Roach, et al)

A resolution to approve the 1990-91 fiscal year Coastal Wetlands Conservation and Restoration Plan.

ENVIRONMENT / DEPARTMENT OF ENVIRONMENTAL QUALITY

Act 29 (HB 1039 Martin, Thompson)

Enacts R.S. 3:3222(B)(7) to require that applicants for state experimental use permits for pesticides pay a \$200 application fee.

Act 30 (HB 1043 Martin et al)

Amends R.S. 3:3243(F) to require aircraft and rotorcraft used to apply pesticides to be marked in accordance with Federal Aviation Administration regulations.

Act 127 (HB 1628 Thompson)

Amends R.S. 3:3209(A) and 3210(A) and (C) to make the penalty schedule for minor violations of Louisiana Pesticide Law and the pesticide fund provisions applicable to the water pollution provisions of the Louisiana Pesticide Law.

Act 136 (HB 1040 Martin, et al)

Amends R.S. 3:3271-3279 and repeals 3202 (10) and 3280 to completely revise the Louisiana Waste Pesticide Law. Provides authority to the Department of Agriculture and Forestry divisions of pesticide and environmental programs; provides for cooperative agreements with governmental agencies, monitoring of wastes, investigations, remedial measures, citizens complaint, civil penalties, exceptions, and related matters.

Act 141 (HB 1288 Theriot, et al)

Amend R.S. 30:2012 (F) (4) and (G) to require owners or operators of

facilities being inspected by the Department of Environmental Quality to provide to DEQ reasonable copies within a reasonable time of records determined by DEQ to be necessary for enforcement. Places burden of proof on owner or operator.

Act 197 (HB 1706 Bradley)

Amends R.S. 30:2024 (A) to provide that in Department of Environmental Quality enforcement or permit actions, denial by the department of a request for a hearing entitles the alleged violator to apply for a de novo review of the department's action in the Nineteenth Judicial District Court for East Baton Rouge Parish.

Act 245 (HB 1237 Bolin, et al)

Amends R.S. 30:2011 (C) (1), 2054 (A), 2060 (E), (F), (G), (H), and 2054 (A) and R.S. 36:231 (C) (1) and 238 (B) to change the name of the Office of air quality and nuclear energy (within the Department of Environmental Quality) to the Office of air quality and radiation protection.

Act 249 (HB 1376 Roach, et al)

Amends R.S. 30:2025 (E) (1) to make intentional violation of Louisiana Environmental Quality Act, subject to a civil penalty of up to one million dollars above the actual cost to the state of the damage sustained.

Act 257 (HB 646 Thompson)

Enacts R.S. 40:5.6 which requires the Department of Health and Hospitals

Office of Public Health to perform all inspections and tests on public water supplies as may be required under the Federal Safe Drinking Water Act at no cost to parishes or municipalities.

Act 273 (HB 1 Cain, et al)

Enacts R.S. 30:2207 which prohibits anyone operating a commercial hazardous waste treatment or disposal facility within Louisiana from treating or disposing of hazardous wastes generated in another state which: prohibits treatment or disposal of hazardous wastes within that state and has facilities for such treatment, or has no hazardous waste treatment or disposal facilities and has not entered into an interstate or regional agreement for hazardous waste disposal under CERCLA. Provides for related matters.

Act 281 (HB 666 Jackson, et al)

Repeals R.S. 40:1131-1137 relative to maintenance and removal of garbage from vessels within the Port of New Orleans.

Act 282 (HB 883 Melancon, Decuir)

Enacts R.S. 40:690 which prohibits sale in state of metal beverage containers that require detaching metal parts in opening. Provides for exceptions, definitions.

Act 418 (HB 373 Irvin)

Amends R.S. 40:1749.1(C)(1) and (E) which exempts those public buildings constructed after 1978 from the Asbestos Hazardous Materials Detection program unless it is determined there is a possibility that hazardous materials or asbestos may be present in these structures.

Act 505 (HB 1805 Rosch, Holden)

Amends R.S. 30:2157 to provide that a land owner who has constructive knowledge that his land has been used for disposal of hazardous wastes or as a solid waste landfill, and such wastes remain on the property, must comply with the requirements of this section for recording the location of the waste site in the mortgage and conveyance records of the parish in which the property is located. Provides for revised conditions and procedures for removing the recordation if the waste no longer poses a threat to health or the environment. Provides that failure to record notice of waste sites is grounds for redhibition. Provides for prescription, venue, and related matters.

Act 588 (HB 1548 Theriot, et al.)

Amends R.S. 30:2295 to delete the requirement that generators of waste subject to Louisiana Environmental Quality Act file a report with the Department of Environmental Quality prior to August 1, 1988 detailing its plans for waste reduction through 1988.

Act 628 (HB 538 Holden, et al.)

Enacts R.S. 30:2025 to provide for recovery of funds and resources expended by the National Guard or local governmental agencies in emergency response situations for cleanup or other measures taken as a result of violations of environmental regulations.

Act 649 (HB 1241 Bolin, et al)

Enacts R.S. 30:2193(E)(4), (5) and (6) to provide exceptions to the prohibition of land disposal of hazardous waste. Includes treated waste, waste which has been granted a variance, and waste for which no treatment standard exists.

Act 681 (HB 1243 Bolin, et al.)

Amends R.S. 30:2273 and enacts R.S. 30:2277.1 to clarify 2277.1 definition of owner operator, or lessee of property containing pollution source or facility. Provides state has priority ranking over all other liens, privileges encumbrances, and security interests in cases involving such property.

Act 682 (HB 1315 Haik)

Enacts R.S. 30:2423 which prohibits recyclers to possess aluminum materials consisting of official highway signs, signals or traffic guard rails unless accompanied by an act of sale from a public entity owning these items. Provides for a maximum \$500 penalty for violation.

Act 686 (HB 1413 DeWitt, et al)

Amends R.S. 30:2022 to provide procedures for applications for permits, licenses, registration or variances from the Department of Environmental Quality. Requires secretary to establish review criteria for application for new

facilities and substantial modifications by April 20 1991. Provides for deadlines for determinations and related matters.

Act 700 (SB 393 McPherson)

Amends R.S. 25:1111(C) and R.S. 32:289(A)(1) to establish Legal presumption that once possession of litter (before throwing), been established a rebuttable presumption exists that possessor committed the act of throwing.

Act 716 (SB 91 Picard, et al)

Enacts R.S. 30:2154(C) which prohibits issuance of new permits or promulgation of regulations which allow construction or operation of medical waste incinerator until such rules and regulations are specifically authorized by law. Provides for timetable for issuing regulations and for related matters.

Act 781 (HB 1442 Smith)

Enacts R.S. 33:8041-8047 which creates LaSalle-Grant Solid Waste Disposal District. Provides for purposes, boundaries, creation of board of six members, powers and duties, and related matters.

Act 927 (SB 2 Nunez)

Enacts R.S. 30:751&752 and R.S. 39 to require the Commissioner of administration to purchase or lease, for any state agency, only vehicles capable of and equipped for using an alternative fuel after September 1, 1990. Provides for exceptions, defines alternative fuels. Requires that 30% of the state vehicles be capable of alternative fuel use by 1994, 50% by 1996. Provides that assistant secretary of office of Conservation Department of Natural Resources shall regulate all equipment and vehicles involved in natural gas conversion operations. Provides for vehicle inspection by inspector of Louisiana Liquefied petroleum Gas Commission.

Act 949 (SB 1097 Doland, Roach)

Enacts R.S. 25:1119 prohibits use or disposal of glass drink containers on state beaches. Provides penalties of \$100-\$500 and for related matters.

Act 950 (SB 1149 Johnson)

Amends R.S. 33:4904 and enacts R.S. 33:3885.2, 33:4065.1 through 4065.6 and 33:4067 which provide for water sewerage and drainage matters in Livingston Parish, Lake Pontchartrain-Catherine Sewage and Water Management District, and the Cameron Parish Sewerage and Water Board for District No. 1. Provides for purposes, composition, powers, funding, and related matters. Renews special tax for the sewerage, water and drainage system of the city of New Orleans.

Act 954 (SB 309 Nunez et al)

Enacts R.S. 33:1418 to require that vehicles purchased by political subdivisions after September 1991 be capable of and equipped for using an alternative fuel. Provides timetable for fleet conversion, waivers, and exceptions.

Act 974 (SB 1028 Jumonville)

Amends R.S. 30:2205 to increase the balance which can be maintained in the Hazardous Waste Site Cleanup Fund from two million to three million in fiscal year 1990-1991 and four million thereafter. Requires that 25% of the funds generated by the hazardous waste tax go to the Fund.

Act 979 (HB 1880 Bolin)

Amends R.S. 30:2193(D) and (E) to change the date after which land disposal of hazardous waste will be prohibited from January 1, 1991 to January 1, 1992. Provides exceptions and for other exceptions to be established by regulation.

Act 988 (SB 510 Fields, Holden)

Amends R.S. 30:2025(F)(3) and 2183(G)(3) to provide for criminal penalties of a \$25,000 fine and/or six months in prison for knowingly omitting material information or knowingly and intentionally making false statements in any application, record, manifest, report, plan, label, or document filed or required to be maintained under the Environmental Quality Act or to falsify, tamper, or render inaccurate monitoring devices required under the Environmental Quality Act.

Act 998 (SB 1027 Jumonville)

Amends 30:2226(H) to require the secretary of Department of Environmental Quality to carry out a research program for evaluating, testing, development,

and demonstration of alternative or innovative technologies which may be used in hazardous waste site cleanups which better protect human health and the environment.

Act 1001 (SB 1109 McPherson, Odinet)

Enacts R.S. 30:2158 which requires the office of solid and hazardous waste (within the Department of Environmental Quality) to develop in cooperation with local governments and the Louisiana Resource Recovery and Development Authority, a plan for establishment of regional sanitary landfills. Provides criteria and for more criteria to be established by regulation. Provides for notice, hearings, timetable, and for related matters.

Act 1010 (HB 1118 Downer, Patti)

Amends R.S. 30:2154 (B) (1) and enacts R.S. 30:2154 (B)(7) to direct the Department of Environmental Quality to develop and promulgate rules, regulations, and standards concerning siting of stations for the off-loading and transloading of treated solid waste and sewage sludges and to adopt and promulgate rules, regulations, and standards for the advance notification of affected local governments.

Act 1012 (HB 1287 Theriot, et al)

Amends R.S. 30:2173 and 2180 (D) (1) and repeals R.S. 30:2180 (D) (3) to remove infectious waste from the definitions of hazardous waste and reusable material. Authorizes secretary to promulgate rules regulating the transportation, incineration and disposal of infectious waste. Removes other requirements and prohibitions and provides for related matters.

Act 1014 (HB 1343 Holden, et al)

Amends R.S. 30:2194 (B) (1) and (6) and (c), 2195.1 (B), 2195.2 (B) (3) (E), and 2195.3 (A); enacts R.S. 30:2194 (B) (10), (11), and (12) and 2195.4 (C); and repeals R.S. 30:2195.3 (C) to provide changes in the funding mechanism for the Underground Storage Tank Trust Fund and method of appropriation for uses of the Fund. Provides for a fee on the first sale or delivery of a motor fuel upon withdrawal from bulk, provides for exceptions, record keeping, definitions and related matters.

Act 1037 (HB 690 DeWitt)

Enacts R.S. 30:2039 which prohibits any new commercial solid or hazardous waste disposal facilities or new commercial solid waste or sanitary landfills in Rapides Parish within two miles of municipalities or boundaries of land on which public schools or health care facilities are located. Exempts existing facilities.

Act 1074 (HB 1228 LeBlanc)

Enacts R.S. 30:2154 (B) (7) which directs the secretary of the Department of Environmental Quality to prohibit solid waste disposal without written authorization by DEQ and notice by DEQ to the local governing authority and

the public. Provides time periods and methods for public notice. Provides for exceptions and for related matters.

Adopted Resolutions

HR 12 (Carrier)

Urges the Municipal, Parochial, and Cultural Affairs Committee in cooperation with DEQ and other public and private entities to study solid waste management to develop a statewide regional integrated solid waste management plan for the orderly establishment of regional integrated solid waste disposal facilities. Provides for related matters.

HCR 177 (Toomy)

Directs the Department of Agriculture and Forestry's, Structural Pest Control Commission, to review its rules, regulations, and policies regarding termite contracts and their content, and the enforcement of such contracts.

HCR 212 (Roach, Holden)

Urges and requests the Department of Environmental Quality to conduct a study of available alternative fuels and to develop a clean air fuels plan. It recommends that the department identify and utilize existing information on the kinds, availabilities, emissions, and performances of alternative fuels, survey initiatives in this area taken by other states, and account for federal proposals associated with the currently developing Clean Air Act amendments.

HCR 221 (Roach, Holden)

Urges and requests that DEQ study emissions of chlorofluorocarbons and other chemicals that contribute to the destruction of the ozone layer of the earth, and include recommendations for legislation and regulations.

HCR 260 (Bradley)

Urges and requests the U.S. EPA to recalculate permit effluent limitations for 2,3,7,8 -TCDD (dioxin) for bleached kraft pulp and paper mills in Louisiana in the same manner and using the same parameters and criteria as used in other states.

SR 53 (Jefferson, et al)

Amends and readopts the introductory paragraph of Senate Rule Number 13.1 (A) and Senate Rule Number 13.4 (11) and to adopt Senate Rule Numbers 13.1 (A) 16 and 13.4 (16) to create the standing committee on environmental quality, which shall consist of seven members.

PORTS, HARBORS, AND WATERWAYS

Act 32 (HB 1289 Theriot Picard)

Amends R.S. 34:333.2 to increase the number of members of the Abbeville Harbor and Terminal District board of commissioners from five to six members. Provides for appointment of three members by Vermillion parish police jury, one of whom shall be a racial minority member.

Act 258 (HB 736 Scogin, et al)

Amends R.S. 56:1845 and 1847 to modify the procedure for nomination, recommendation, and designation of natural and scenic rivers. Provides that the legislature may declassify, with or without recommendation, any river from the natural and scenic river system. Requires recommendations for or against declassification be made within 120 days from date of nomination. Provides that the portion of the Amite River exempted from natural and scenic river classification due to the proposed construction of the Darlington Reservoir will remain in the Natural and Scenic River System until approval and funding of the reservoir. Likewise, if the reservoir is not approved or funded by September 1, 1997.

Act 401 (SB 459 Kelly)

Amends R.S. 34:3156 to authorize the Natchitoches Parish Port Commission to expropriate any property, such as wharves or landings necessary for the benefit and advantage of the commission including industrial park development in the manner provided in Part XVIII of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950.

Act 402 (SB 508 Bankston et al)

Amends R.S. 34:1224(B) to authorize the Greater Baton Rouge Port Commission to levy a property tax up to 2.5 mills on property within the port area after approval in an election by a majority of port area electors in accordance with law.

Act 481 (HB 2108 DeWitt, McPherson)

Amends R.S. 34:335.2(A)(2) to provide for at large appointment of members to the Alexandria Port Authority from Rapides, Grant, and Avoyelles Parishes.

Act 929 (SB 86 Foster)

Enacts R.S. 38:90.5(C) 90.12(E) which requires that the first expenditures of fiscal year 1990-1991 from Statewide Flood Control Program shall be used to conduct a statewide flood protection needs study involving problem areas requiring projects of one million dollars or more. Exempts the Bayou Yokely Basin project for which the St. Mary Drainage District Number One may utilize its own funds for construction. Provides for related matters.

Adopted Resolutions

HCR 26 (Orr)

A resolution which nominates that portion of Bayou D'Arbonne from the dam at Lake Claiborne through Claiborne, Lincoln, and Union Parishes to Lake D'Arbonne for inclusion in the Louisiana Natural and Scenic Rivers System.

HCR 60 (Stelly)

Nominates a portion of the Calcasieu River south from the mouth of the Whiskey Chitto River to the Highway 171 bridge over the Calcasieu River at Moss Bluff for inclusion in the Louisiana Natural and Scenic Rivers System.

HCR 107 (Deano)

Nominates Bayou Chinchuba in St. Tammany Parish for inclusion in Louisiana Natural and Scenic Rivers System.

HCR 181 (Strain, et al.)

Nominates the Bogue Falaya River in St. Tammany Parish for inclusion in the Louisiana Natural and Scenic Rivers System.

OIL, GAS, AND MINERALS

Act 31 (HB 1203 Ater)

Amends R.S. 3:3704 and enacts R.S. 3:3703, 3705, 3706, and 3707 to allow the Agricultural Industry Board to resolve all unfinished business relating to cooperative endeavors between the state of Louisiana and private enterprise for the promotion of the agricultural ethanol production industry in the state. Provides that the chapter shall cease to be effective and be repealed when all business has been resolved.

Act 37 (HB 936 Melancon, et al)

Amends R.S. 31:149 to provide that the prescription of nonuse for mineral rights to land acquired by the United States or the State of Louisiana or any subdivision or agency of either shall not run after such acquisition even if the land is subsequently transferred to a third person, public or private.

Act 192 (HB 1426 Bolin, et al)

Amends R.S. 30:4 (c)(1) and (16)(a) and R.S. 30:4.1 (B)(1) to authorize commissioner of conservation to make rules and regulations relating to plugging of oil and gas wells, closure of associated pits, removal of equipment, structures, and trash, and general site clean up.

Act 240 (HB 710 Siracusa, et al)

Enacts R.S. 30:431 to provide that liquefied petroleum gas trucks from other states may transport LP gas through Louisiana without obtaining Louisiana licenses and permits, if the trucks meet all federal and home state requirements and provided the governor of Louisiana has joined with the governor of the other state in declaring an LP gas emergency.

Act 247 (HB 1279 Laborde, et al)

Amends R.S. 3:1351, 1353(B), 1354, 1355(A) & (B) and 1356 (A) & (B) and enacts R.S. 3:1353(C) to provide that the Liquefied Petroleum Gas Commission has authority to regulate the storage, utilization, sale, or transportation of anhydrous ammonia. Extends the Commission's authority to all anhydrous ammonia rather than just anhydrous ammonia fertilizer as in the previous law.

Act 551 (SB 631 Nelson)

Amends R.S. 47:633 (7)(c) to clarify severance tax rates on oil produced from stripper wells. Provides definitions and provides for regulations.

Act 582 (HB 1349 Roach)

Amends R.S. 30:25 (A)(4) to exclude "recovery pits" from the definition of production pits which, when located in wetlands, are required to be closed in accordance with this section.

Act 598 (SB 167 Kelly et al)

Amends R.S. 30:6(G) to authorize the commissioner of the office of conservation within the Department of Natural Resources to impose civil penalties if he determines that a violation has occurred or there has been non compliance with compliance order. Provides for public hearing if requested by the violator before final action taken.

Act 599 (SB 168 Kelly, et al)

Amends R.S. 30:544 and 705(A), R.S. 33:4525, and R.S. 40:1896 to revise and substantially increase civil and criminal penalties for violations of laws and regulations related to the control and regulation of: natural resources and energy, hazardous liquid pipelines and malodorants in gases. Provides for recovery of attorneys fees by legal counsel employed or retained by the state.

Act 605 (SB 549 Kelly, et al)

Amends R.S. 30:204(c) to clarify when a drilling permit is amended thereby requiring an amendment fee, requires amount of fee to be set by rule making.

Act 606 (SB 550 Kelly)

Amends R.S. 30:18 (A) to provide that those who purchases oil and gas from violators of laws, rules, or regulations of Title 30 Chapter (1) may be required by the commissioner of conservation to hold in escrow any monies allocated to such violators.

Act 666 (HB 1996 Downer)

Amends R.S. 33:4546 to generally increase the powers and authority of the Louisiana Municipal Natural Gas Purchasing and Distribution Authority and related matters.

Act 684 (HB 1351 Sour, Nunez)

Amends R.S. 30:809 to provide that after January 1, 1991 oil, gas, or mineral leases include any oil, gas, or mineral which may be considered a geothermal resource (unless excluded in the lease) and a separate geothermal lease is not required.

Act 782 (HB 1450 Downer)

Enacts R.S. 33:4160.1 through 4160.14 to authorize municipalities and parishes to construct natural gas distribution systems. Provides for levying of assessments for improvements and financing costs, establishment of regulations and related matters.

Act 971 (SB 366 Swearingen)

Amends R.S. 31:179 to provide that the owner of a mineral right or interest therein is not a necessary party to an action for partition of the land subject to his right or interest.

Act 996 (SB 968 Brinkhaus)

Amends R.S. 30:2022 and R.S. 49:214.30(C)(2) and enacts R.S. 30:26 and R.S. 56:6 (26) to require the Department of Environmental Quality, the Department of Natural Resources, and the Department of Wildlife and Fisheries to respond to all applications for permit, license, registration variance, or compliance schedule relating to oil and gas wells and pipelines within thirty days and provide written reasons for denial of such applications within thirty days of the decision.

Act 1017 (HB 1645 Downer, et al)
Amends R.S. 30:142 (A) to provide that the Mineral Board is authorized to adopt rules under the Administrative Procedure Act to assess fees from the purchaser to recover costs associated with the sale of in-kind royalties.

Act 1018 (HB 1646 Downer, et al)
Amends R.S. 30:136 (A) to authorize the Mineral Board to adopt rules under the Administrative Procedure Act for assessment of fees to cover the costs of processing requests for reimbursements of overpayments by lessees or royalty payers. Requires the board to implement procedures to ensure timely payment of bonuses, rentals, royalties, and shut-in payments payable to the state.

MISCELLANEOUS

Act 67 (HB 735 Scogin, et al)
Enacts R.S. 44.4(19) to provide that Louisiana Natural Heritage Program database information on rare, threatened, or endangered species or unique natural communities shall be exempt from the public record laws.

Act 80 (HB 845 Alexander)
Repeals R.S. 3:1791 and 17992, relation to destruction of Johnson grass and R.S. 3:1801-1805 relative of destruction of Nodding Thistle.

Act 114 (HB 917 Bradley)
Amend R.S. 3:1736 and repeals R.S. 3:1735 to provide civil penalties of \$5000 per day for violations relative to sweet potato disease control regulations to be assessed only after an adjudicatory hearing under the Administrative Procedure Act. Authorizes adjudicatory commissioners to assess costs against offender, seek enforcement, and to seek injunctive relief in district court.

Act 115 (HB 918 Bradley)
Amends R.S. 3:1653, 1654 to provide for civil penalties of \$5000 per day for violations of crop disease and pest control regulations to be assessed only after an adjudicatory hearing under the Administrative Procedure Act.

Act 119 (HB 1036 Dimos, et al)
Amends 3:1312 (D) 1316 enacts 3.1312 (I) and (J) authorizes fertilizer commission representatives to inspect any premises where there is bulk storage of dry or liquid fertilizers in the state. Authorizes inspection of records relating to the storage and distribution of fertilizer. Authorizes commissioner to set construction standards for fertilizer storage facilities and to inspect for compliance. Provides penalties for violations.

Act 828 (SB 293 Campbell, Jumonville)
Amends R.S. 9:2800.4 to provide that an uncompensated landowner is not liable for damages to persons allowed to glean crops on his land unless the loss occurs by an intentional act or negligence of the owner.

Act 894 (HB 1191 Dastugue, et al)
Amends R.S. 34:851.19-23 to provide for sailboat registration procedures, classification and exemption, required equipment, and related matters.

Louisiana Coastal Law is an advisory service of the L.S.U. Sea Grant Program (National Oceanic and Atmospheric Administration, U.S. Department of Commerce.) Materials may be reproduced if credit is given. Distributed free on written request. Editors: Michael Wascom and Jim Wilkins. Managing Editor: Rick Thorton. Associate Editor: Tony Walker. Staff Assistant: Blair Carnahan.



LOUISIANA STATE UNIVERSITY
SEA GRANT LEGAL PROGRAM
170 LAW CENTER, L.S.U.
BATON ROUGE, LA 70803-1018

Non-Profit
Org.
U.S. Postage
PAID
Permit No. 733
Baton Rouge