



# LOUISIANA COASTAL LAW

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## 1992 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1992 Regular Session of the Louisiana Legislature. Legislation having a general impact on Louisiana coastal resources and environment is covered. Unless otherwise indicated these laws became effective on August 21, 1992

and were passed during the regular session. Further information about these laws or resolutions can be obtained by contacting the Sea Grant Legal Program, Room 170, Law Center, LSU, Baton Rouge, Louisiana 70803, (504) 388-5931.

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### WILDLIFE AND FISHERIES

#### Act 41 (HB 1714 Cooley)

Removes elk breeding from regulation by the Department of Wildlife and Fisheries, adds elk to the list of farm raised exotic animals regulated by the Department of Agriculture. The raising of elk now requires a license from the Department of Agriculture and minimum fence height of 7 ft. (Amends R.S. 3:3102(A), 3104 and 56:171(A) and 177)

#### Act 44 (HB 198 Smith)

Declares hoopnets, castnets, and shrimp traps as part of the cajun and creole heritage of the state and encourages their preservation. (Enacts 49:170.3)

#### Act 45 (HB 267 John)

Adds *Pistia stratiotes* (water lettuce), *Silvinia* spp. (*Silvinia*), *Lythrum salicaria* (Purple loosestrife) and *Eichornia crassipes* (water hyacinth) to the list of noxious plants that cannot be

imported or knowingly transported into the state without a written permit. Provides for related matters. (Amends R.S. 56:328(B))

#### Act 46 (HB 291 Odinet)

Provides that the Wildlife and Fisheries Commission shall annually set aside one or more areas east of the Mississippi River for the exclusive use of oyster sackers. The total area shall not exceed 1/4 of total oyster seed area east of the Mississippi and the Commission may, by rule, create size restrictions for the areas. (Enacts 56:433(B) (2))

#### Act 49 (HB 656 Odinet)

Designates Sabine Lake, Calcasieu Lake, West And East Pass of Calcasieu River, Oyster Bayou in Cameron Parish, Lake Maurepas, Lake Ponchartrain, Lake St. Catherine, Chef Menteur Pass, the Rigolets, Unknown Pass, Pass Manchac, and parts of Calcasieu Ship Channel, along with,

generally, the areas south of Louisiana Highway 82 and the Intracoastal Waterway as "saltwater areas." (Amends 56:322(B))

**Act 50 (HB 657 Pierre and Bagneris)**

Changes the law on prohibited methods for taking bass, crappie and bream from freshwater. It is now not only illegal to use nets or traps in the taking of these species but it is also illegal to possess nets or traps when taking these species in freshwater. (Amends R.S. 56:320(A)(2))

**Act 51 (HB 659 Patti and Bagneris)**

Allows recreational oyster fishermen to harvest oysters in a leased area with the written permission of the lease holder and reduces the recreational sack limit to one sack per day. (Amends R.S. 56:424(C))

**Act 52 (HB 665 Durand and Bagneris)**

Adds the general term "stupefying devices" to the list of prohibited methods for taking fish in fresh or saltwater. The list now includes spears, poisons, stupefying devices, explosives, guns, tree-topping devices, lead nets, electricity, or any instrument or device capable of producing an electric current used in shocking fish. (Amends R.S. 56:320(C))

**Act 53 (HB 671 Schneider)**

Provides that the Department of Wildlife and Fisheries' annually adopted rules concerning marine finfish are effective for a period of time equal to the length of the marine finfish season. Provides for related matters. (Amends 49:967 (D)(2))

**Act 54 (HB 809 Roach)**

Increases the size limit of castnets used for recreational or commercial fishing from six feet to eight feet six inches. (Amends R.S. 56:302(A)(4), 305(B)(13), and 500(B))

**Act 55 (HB 895 Montgomery)**

Establishes the "Louisiana Weights and Measures Law," which creates the nine-member Louisiana Commission of Weights and Measures within the Department of Agriculture and Forestry. Gives the Department powers of inspection, testing, stop use orders, and seizure. The Act includes specific provisions on fish and other seafood, which must be sold by weight, although shellfish may be sold by weight, measure, or count. Oysters are specifically regulated by mode of sale, weights, and container sizes. For example, oyster meats may be sold at fluid volume, net drained weight, or count at retail. Inspectors are given extensive authority. Farm-raised catfish, also particularly regulated, shall be weighed as they are unloaded from the live haul truck at the processing plant; all water shall be drained from weighing baskets. (Enacts R.S. 3:4601 through 4652, and 30:47 through 50. Amends 51:783 and repeals 55:1 through 162.)

**Act 81 (HB 365 Triche)**

Fishermen are now prohibited from possessing bowfin eggs (roe) that are not naturally connected to a whole fish whether they are on the water or on land. (Amends R.S. 56:326.5(B))

**Act 94 (HB 663 Triche and Bagneris)**

Clarifies that it is unlawful to hunt with the aid of artificial light at any time except as prescribed by this chapter. This prohibition does not apply to the use of a hand-held light by a hunter for ingress or egress during nondaylight hours. (Amends R.S. 56:124(9))

**Act 109 (HB 1249 Roach)**

Provides that in the event of a closure of an oyster season in Calcasieu Lake by the Wildlife and Fisheries Commission or office of public health for more than seven days, a licensed oyster fisherman may harvest up to fifteen one and one-half bushel sacks of oysters per boat per day for a period of three consecutive calendar days immediately following reopening of the season. After that the harvest limit shall revert to ten one and one-half bushel sacks. (Enacts R.S. 56:435.1(H))

**Act 162 (HB 201 Smith)**

Adds one governor's appointee to the Seafood Promotion and Marketing Board, bringing the total membership to fifteen. The new member shall represent the wild catfish industry. The quorum of the board is raised from 7 to 8. (Amends R.S. 56:578.2 (A) & (C))

**Act 174 (HB 627 Smith and Chabert)**

Adds "plumb staff beam trawls", not exceeding, sixteen feet to the general definition of a trawl. A plumb staff beam trawl is a net which is used when the vessel is underway that does not use otter boards but is held open laterally by a horizontal beam and two vertical beams. (Amends R.S. 56:8(100))

**Act 187 (HB 1733 Triche)**

Prohibits the taking of bowfin or bowfin eggs during the months of December, January, and February. (Enacts R.S. 56:326.6)

**Act 193 (HB 1950 Theriot —subs. for HB 667)**

Creates the "natural heritage account" within the Conservation Fund. Starting July 1st, 1993, persons between 16 and 60 are required to have a Wild Louisiana Stamp, hunting license, or fishing license in order to use department-administered lands. The Wild Louisiana Stamp shall cost no more than 10 dollars. From July 1st, 1993 until July 1st 1994 failure to possess the stamp will be subject to a fine of 15 dollars. After July 1st, 1994, it shall be a class one violation. (Enacts R.S. 56:10 (B)(6), 109(D), and 1832)

**Act 222 (HB 1031 Siracusa)**

Requires holders of oyster leases to mark leased areas and prohibits harvesting from unmarked areas. Seeded areas shall be clearly marked with prominent, durable signs stating

**"No Trawling or Seining - Oyster Lease."** (Amends R.S. 56:430(B) (1) and (2))

**Act 256** (HB 1089 Accardo and Landry)

Redefines "fish" to mean all finfish, shellfish, and crustaceans. Defines "amphibians" as any vertebrate in the class amphibia; "reptile" as any vertebrate in the class reptilia — except alligators. Places regulation of reptiles and amphibians under the authority of the Department of Wildlife and Fisheries, and creates the 12-member Reptile and Amphibian Task Force. Provides that persons involved in noncommercial collection of native reptiles and amphibians shall have basic fishing licenses; violation is a class one offense. Provides for licensing requirements for commercial trade in native reptiles and amphibians and for scientific collection. Provides for collection methods and related matters. (Amends R.S. 56:8(38) and 306.1, enacts 56:632 through 635, and repeals 56:326(A)(10), 330, and 331)

**Act 268** (SB 457 Morial)

Makes it unlawful for any container manufacturer, distributor, dealer, supplier or wholesaler to sell or distribute shucked oyster containers to anyone that has not been certified by the Seafood Sanitation Unit of Public Health, Department of Health and Hospitals. The oyster packer, distributor, or purchaser shall not resell shucked oyster containers. (Enacts R.S. 56:449 (I))

**Act 410** (HB 1701 McCallum and Hinton)

Creates and provides penalties for the crime of theft of an alligator. Theft of an alligator is the misappropriation or taking of an alligator, an alligator's skin, or a part of an alligator, without the consent of the owner to the misappropriation or taking or inducement by means of fraud. (Enacts R.S. 14:67.13)

**Act 434** (HB 319 Stelly)

Exempts residents sixty years of age or older from bow hunting licenses, permits, or paying fees for hunting with a bow or crossbow during bowhunting season. (Amends R.S. 56:104 (B) (1) and 123 (D) (1))

**Act 436** (HB 418 Deville)

Prohibits the taking or attempted taking of fish from Chicot Lake by use of yo-yo or trigger device. (Enacts R.S. 56:320.1)

**Act 456** (HB 912 Deano)

Deletes the legal size limit on commercial soft shell crabs. It is now required that crabs less the five inches in width possessed by a fisherman for processing as a softshell crab or sold by him to a processor must be identifiable as premolt crabs and must be held in a separate container marked "peelers" or "busters". (Amends R.S. 56:326(A)(2))

**Act 498** (HB 921 Roach)

Increases the one time allocation to be paid from the

Rockefeller Wildlife Refuge and Game Protection Fund to the Department of Wildlife and Fisheries for an initial design of a nature trail and visitor's center at the Rockefeller Wildlife Refuge and Game Preserve. (Amends R.S. 56:797 (D) (7))

**Act 499** (HB 923 Roach)

Regulates the taking, raising, and sale of alligators and other non-game quadrupeds. Also provides for licensing of trappers, alligator hunters, fur buyers, and dealers. Regulates shipping, tagging, and record keeping and provides for penalties. (Amends R.S. 56:8(3), (5.1), (6), (47), and (48); 251 (A)(1), (2), (4), and (6), 253(A), (B), and (E), 255(A) and (B), 256(A), 257(B), 258, 259(D) (E), (F), and (H), 261, 262, and 263. Enacts R.S. 56:8(6.1), (33.1), (37.1), (46.1), (95.1), 251(B), 253(F), and 257 (C). Repeals R.S. 56:253(C)(3) and 254.)

**Act 528** (HB 1314 Theroit and Bankston)

Changes and clarifies degree of penalties for Wildlife and Fisheries violations (Title 56). Class one violations include "Hunter's orange" display, class two violations now include traps and wild quadrupeds, foxes and bobcats, selling and raising of wildlife, daily take, possession, and size limits; freshwater fish, seines, nets or webbing in Lake Bogue Chitto, trawling at night on White and Brand Lake, and trammel nets, etc. in Lake Calcasieu. Class three violations now include licenses for alligators, shipping of furs and alligators out of state, shipping in state, trespass on areas set aside for propagation of fish, closed seasons; closed zones; advertisement, methods for taking freshwater or saltwater fish, saltwater recreational fish; total length obstruction of streams or lakes by fyke nets or other devices, frogs, monthly returns to the department by dealers and commercial fisherman, issuance and renewal of certificate; transportation of finfish; use of public waters, unlawful removal of oysters, oyster severance tax, underutilized species, and experimental development of mariculture in the coastal zone. Class four violations now include open season; method of taking animals; prohibited devices, setting a trap or snare, seines or nets; size of mesh, use of trammel net, etc. in Breton Islands and Chandeleur Islands, etc. and taking of oysters. Use of aerial surveillance for taking finfish is now of class five A violation. (Amends R.S. 56:8(100), 121.1, 143, 251(A)(1), (3), (4), (5), and (6), 253(A), and (E), 254(C), 258, 259(H), 260, 316, 317, 319(D) and (E), 320(B)(1), (F) and (G), 322(C)(5) and (7) and (J), 325.2, 329, 345(D), 404(C), 406(C), 407, 410, 410.2, 412, 414, 424(D), and 431(D). Enacts 121(C), 140(C), 171(D), 253(F), 325(D), 330(C), 412(B), 446(E), 497(D), 571(D) and 579.1(L). Repeals 253(L)(3).)

**Act 551** (HB 679 Quezaire)

Raises the flat fee for peddlers and itinerant vendors from \$100 to \$200, except for vendors of agricultural products purchased directly from farmers or vendors of seafood

products who has either harvested the seafood himself or has purchased the seafood directly from the commercial fisherman or shrimpers. Their fees will remain \$100. (Amends R.S. 47:359(C)(1))

**Act 568** (SB 595 Chabert and Bergeron)

Enacts provisions allowing use of loran navigational instruments to determine if a person is shrimping inside or outside of Louisiana waters. The Department of Wildlife and Fisheries must use the reading taken from loran instruments located on the shrimping vessel if the vessel is equipped with loran equipment, otherwise the Wildlife and Fisheries' vessel uses its own loran. (Enacts R.S. 56:495(C) an (D))

**Act 590** (SB 1113 Nunez)

Changes the description of the area in which the use of any form of trammel net, seine, gill net, or webbing capable of fishing for speckled sea trout, redfish, or edible fish is prohibited. (Amends R.S. 56:406(2))

**Act 609** (HB 320 Stelly)

Creates a universal license, which includes in addition to the individual basic hunting and basic sport fishing licenses, the saltwater trout, big game, special bow, and muzzleloader licenses applicable to sport fishing and hunting. The fee for the universal license is the same as the sum of the individual licenses. (Amends R.S. 56:646)

**Act 619** (HB 994 Bergeron)

Suspends the possession count on saltwater white shrimp of no more than one hundred to the pound from October 15 through the third Monday in December. Commissions the Shrimp Task force to study and review this Act and the mesh sizes allowed for taking shrimp and report its findings and recommendations regarding any suggested changes in the law to the legislature in 1993. (Amends R.S. 56:498(B)(1))

**Act 638** (SB 425 Nunez)

Eliminates the exemption for Louisiana residents under the age of sixteen from oyster harvesting licenses and makes the provision applicable to both commercial and recreational fisherman. Exempts helpers under R.S. 56:303.3 from the license and removes the provision that all persons on a vessel which contains oysters are deemed to be in possession. (Amends R.S. 56:303.6)

**Act 641** (SB 594 Chabert and Bergeron)

Changes the description for certain points on the line of demarcation for inside and outside waters of the state. The new descriptions are as follows:

(27) Thence in a southeast direction to the most westerly point on the south shore of Pass Wilson lat. 29° 03' 56" N., long. 90° 50' 06" W.

(28) Thence in a southeasterly direction to the U.S. Coast Guard navigational light off the northwest shore of Caillou

Boca, lat. 29° 03' 10" N., long. 90° 50' 27" W.

(32) Thence in an easterly direction along the south shore of Isles Dernieres to a tank battery on the east end of the Isles at Wine Island Pass, lat. 29° 04' 19" N., long. 90° 38' 29" W.

(32)(a) Thence in a northeasterly direction to the most easterly point of the Wine Island rock jetties, lat. 29° 05' 38" N., long. 90° 36' 30" W.

(33) Thence in a southeasterly direction to the tank battery on the west end of Timbalier Island lat. 29° 05' 26" N., long. 90° 32' 16" W.

(Amends R.S. 56:495(A)(27), (28), (32), and (33) and enacts (A)(32)(a))

**Act 644** (SB 647 Barro)

Prohibits the taking from the wild any alligator that is white or albino and provides for enforcement. The act creates exceptions for a landowner or licensed alligator farmer or ranching operators who takes the alligator from the wild for its own protection, and any alligator eggs in the possession of or collected by a licensed alligator farmer or ranching operation which are hatched and contain white or albino alligators. That person may keep them with the approval of the department. (Enacts R.S. 56:280)

**Act 740** (SB 1174 Johnson)

Makes bear wrestling a crime; including the acts of match promotion, receiving money for admission to a match, and selling, buying, having, or training a bear for matches. Penalty shall be not more than 500 dollars, or not more than six months, or both. (Enacts 14:102.10)

**Act 741** (SB 1180 McPherson)

Allows persons hunting on privately-owned, legally-posted land to wear a cap or hat that is completely "hunter orange". This is a change from the old law which had hunters on private lands following the public land requirement of wearing 400 square inches of "hunter orange" clothing. Provides that "hunter orange" requirements shall not apply to hunters using stands on private, posted land, or to bowhunters on posted land where firearms are not allowed. (Amends R.S. 56:143)

**Act 826** (SB 1058 Fields)

Adds requirements for airport planning grant eligibility by requiring applicants to include compensation provisions for landowners affected by airport noise pollution in the airport plan. (Amends R.S. 2:350.2)

**Act 845** (HB 1183 Patti)

Prohibits use of skimmer nets over newly-seeded oyster beds. Enacts a provision allowing DWF to receive \$81,720 for enhancing menhaden predictive models. (Amends R.S. 56:423(B)(2))

**Act 846** (HB 1353 Patti and Nunez)

Allows members of the Wildlife and Fisheries Commission

to hold an oyster lease, providing such member shall not participate in decisions affecting his own leases. (Enacts R.S. 42:1123(19))

**Act 851 (HB 654 Theriot)**

Directs DWF to promulgate regulations for taking of freshwater mussels, and to control permits. Violations shall be class four. Violations of harvest reporting shall be class two. Prohibits shell dredging in Lake Maurepas and Lake Ponchartrain. Until final adoption of DWF regulations the molluscan sanitation requirements of R.S. 40:5.3 shall not apply to mussel harvesting in the freshwater areas designated by R.S. 56:322(A) and (B). (Amends R.S. 56:450. Enacts R.S. 40:5.3(I))

**Act 852 (HB 658 Theriot and Bankston)**

Adds details to the procedure for enforcing civil penalties for wildlife destruction. Requires written notice to offender; requires that adjudicatory hearings take place in the proper regional office, and that defendant receive written notice of the hearings time and place. Provides that failure to pay civil penalties shall result in revocation of violator's licenses. Fishing or hunting without settling the civil penalties shall be a class three violation. (Amends R.S. 56:40.3 and 40.7)

**Act 853 (HB 660 Adley and Bagneris)**

Provides that any person who obtains a recreational hunting or fishing license, when original license has been revoked, shall be guilty of a class three violation. (Amends R.S. 56:31.1(G)(3))

**Act 854 (HB 662 John and Bagneris)**

Alters troutline prohibition to apply to nets in which any segment of the staging line measures more than four feet where any portion of any hook extends above the water's surface. Any violation is class two. (Amends R.S. 321)

**Act 855 (HB 661 John and Bagneris)**

Provides that in addition to size limit violations, daily catch limit violations for redfish (red drum) and speckled trout are subject to the \$25 per fish penalty. (Amends R.S. 56:325.1(C))

**Act 856 (HB 664 Bergeron and Bagneris)**

Extends nonresident basic trip hunting license to five consecutive days. Clarifies muzzleloader license requirement for residents. Increases nonresident hunting license fee to \$150 for the season, \$85 for five consecutive days. Also allows a \$15 fee for nonresident's muzzleloader license. Also increases to the \$35 fee for basic nonresident three-day migratory bird hunting license. Resident bowhunting licenses may be set at \$10.50; nonresident at \$15. (Amends R.S. 56:104(A)(2), (3), (4), and (6); also 105(B))

**Act 857 (HB 668 Jack and Bagneris)**

Prohibits use of a rifle larger than standard .22 rimfire for hunting squirrels and rabbits. (Enacts R.S. 124(1)(e))

**Act 858 (HB 670 Theriot and Bankston)**

Clarifies Department of Wildlife and Fisheries rights in Duck Stamp designs; deletes language giving DWF rights in the original work. Shifts to the artist responsibility for reproduction, design, and marketing of the duck stamp design. (Amends R.S. 56:152(B) and 153)

**Act 859 (HB 673 Theriot and Bankston)**

Changes name of Lifetime License Endowment Fund to Lifetime License Endowment Trust Fund. States that lifetime hunting license shall be in lieu of basic hunting, big game, and bow hunting licenses. A lifetime sports fishing license shall be in lieu of the basic recreational license and the saltwater recreational license. Increases fee for nonresident combination lifetime and fishing license to \$3,000. Applicants for any lifetime licenses must show proof of residency. Submission of false or misleading information is a class four violation. Changes Wildlife Endowment Fund (created in the state treasury) to the Lifetime License Endowment Trust Fund, a public trust fund within the Department of Wildlife and Fisheries. The Fund's principal shall be invested, and interest shall be credited to DWF's Conservation Fund, on a monthly basis. The Trust Fund may receive private contributions. (Amends R.S. 56:649 through 649.4, 649.6, and 650)

**Act 860 (HB 6740 Theriot and Bankston)**

Prohibits clam dredging from 1/2 hour after sunset to 1/2 hour before sunrise. (Amends R.S. 56:474(A))

**Act 874 (HB 1213 Farrar)**

Increases nonresident's basic recreational fishing license to \$20.50; increases nonresident temporary license to \$15.50. Allows nonresidents to buy a two-day basic/saltwater combination license for \$12.50. Provides for charter-vessel licensing, at a cost of \$200 per license; violations shall be class three. (Amends R.S. 56:302.1(A)(1), (B), and (C)(2)(b). Enacts R.S. 56:302.8.)

**Act 966 (HB 1322 Theriot and Bankston)**

Reorganizes current hunting laws without substantively overhauling them. Prohibits hunting wild animals in flooded areas under emergency closure orders, provides for the use of wildlife management areas/refuges by disabled hunters. The Act also outlines the Wildlife and Fisheries Commission's authority for setting seasons and regulating the sale of wild animal parts. Sets standards for taking deer, bear and turkey, and provides for falconry. Clarifies the privileges to which disabled hunters are entitled. (Amends the heading of Part IV of Chapter 1 and the heading of Subpart A of Part IV of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950 and R.S. 56:115. Enacts R.S. 56:6.1(E), 109(D), 116, 116.1, 116.2, 116.3, 116.4, and 128. Repeals R.S. 56:123 and 124.)

**Act 1022** (SB 1351 Campbell, pursuant to SCR 214)  
Names the black bear as the official state mammal. (Enacts 49:161.1)

**Act 1088** (HB 1016 Salter)  
Authorizes DWF and the Sabine River Authority to enter agreement for assigning four permanent wildlife officers to the Toledo Bend Reservoir. The Authority shall bear the costs for two years; cost will thereafter be paid by the department. (Enacts R.S. 38:2325(M) and R.S. 56:55.1)

## RESOLUTIONS

**HR 52** (Ackal, et al.) Urges and requests the DWF to retain the habitat conservation division within the Department, provided that the funds are made available for that purpose in the 1992-1993 General Appropriations Bill.

**HCR 7** (Lang)  
Urges the Department of Wildlife and Fisheries to retain the number of days that deer may be taken with the use of dogs in the 1991-1992 hunting seasons in the regulations proposed for the 1992-1993 deer hunting season.

**HCR 33** (Roach)  
Urges and requests the Department of Wildlife and Fisheries to provide for the marking of the partially submerged rock jetties in the south end of Calcasieu Lake or to request that U.S. Coast Guard mark the jetties.

**HCR 34** (Roach)  
Urges and requests the Department of Wildlife and Fisheries to develop a job training program to teach displaced oyster fisherman alternative methods of fishing and urges and requests the Department of Employment and Training to work in conjunction with Wildlife and Fisheries to facilitate the implementation of a program using Job Training Partnership Act funding, if possible.

**HCR 35** (Roach)  
Urges and requests the Department of Wildlife and Fisheries and Department of Health and Hospitals to develop and implement an oyster "container relaying" program for oyster fishing. Under the program oyster fishermen would be allowed to move oysters from polluted areas to approved areas in special containers and after a specified length of time the oysters could be harvested and sold.

**HCR 42** (Siracusa and Bagneris)  
Suspends the requirement for the development of the receipt form for the commercial fisherman's sales card program until sixty days after the 1993 Regular Session.

**HCR 49** (Roach)  
Urges and requests the Department of Wildlife and Fisheries and the Department of Health and Hospitals to jointly conduct a program to expand the existing public oyster reef in Calcasieu Lake by establishing a relay program to transport oysters to conditionally approved growing areas; to reimburse

oyster fisherman for transporting the oysters; to conduct an oyster seeding program in the conditionally approved growing areas; and to implement relaying and seeding programs in other oyster producing areas of the state.

**HCR 59** (Theriot)  
Urges and requests the division of administration, through its central purchasing agency and the state director of purchasing to review and revise the bid specifications for purchase of catfish for state institutions to allow processors of river catfish to bid competitively with processors of domestic farm raised catfish.

**HCR 61** (Durand)  
Urges and requests the Department of Wildlife and Fisheries to make a stock assessment of the eel population in the Atchafalaya Basin in order to determine if commercial fishing of eel with eel pots should be permitted.

**HCR 70** (Siracusa)  
Urges and requests that the Department of Health and Hospitals, LUMCON, and Department of Wildlife and Fisheries to jointly develop a model program to classify water quality for harvesting oysters or other mollusks based on rainfall or other causative agents.

**HCR 71** (Siracusa and Bergeron)  
Urges and requests the DHH, office of public health, seafood sanitation branch, in conjunction with the DWF, to develop rules and regulations permitting oyster harvesters or lessees to enter closed areas for the purpose of checking oyster resources and to provide for related measures.

**HCR 72** (Siracusa)  
Urges and requests DWF to conduct a study of the effects of crab dredging on the resources and environment of the state and report its findings to the Crab Task Force within one year.

**HCR 74** (Dewitt)  
Urges the Louisiana Wildlife Federation to petition the DWF to grant experimental seasons for hunting raccoons with hounds on all game management areas where both habitat and population make it feasible.

**HCR 191** (Thompson)  
Urges and requests the DWF to study the feasibility of

permitting the purchase of hunting and fishing licenses by credit card by telephone.

**HCR 211 (Patti, et al.)**

Allows the commercial taking of spotted sea trout from sunset on Friday to sunset Sunday during the open season.

**HCR 252 (Patti)**

Urges and requests the DWF to adopt, implement, and enforce vessel speed limits on the Mississippi River in Tiger Pass in Plaquemines Parish.

**HCR 217 (Dewitt)**

Urges and requests the Wildlife and Fisheries Subcommittee of the House Committee on Natural Resources and the Senate Committee on Natural Resources to study the duties and powers of the DWF and the Wildlife and Fisheries Commission and conflicts in statutory provisions governing them.

**HCR 261 (Roach)**

Urges and requests the DWF to reestablish the annual coastwide aerial survey for the nuisance plant *Biden laevis* and to establish an experimental control program.

**SCR 10 (Johnson)**

Provides that the Louisiana Nature and Science Center and the Gulf Coast Herpetological Society act as sponsors for the state contest to select a state amphibian.

**SCR 20 (Chabert)**

Urges and requests DWF and the governor's Task Force on Shrimp Management to study the feasibility of establishing a shrimp sanctuary system in the inside waters of Louisiana to give shrimp larvae an opportunity to mature.

**SCR 51 (Chabert and Bergeron)**

Urges and requests the Senate and House Natural Resources Committees study the possibility of having the legislature setting the offshore shrimping season.

**SCR 53 (Chabert)**

Urges and requests the Senate and House Natural Resources Committees to study whether to allow the offshore shrimping season to be open year-round.

**SCR 132 (Foster)**

Urges and requests the DWF to retain the number of days and dates that deer could be hunted with dogs in the 1991-1992 season in the 1992-1993 season, and to maintain the geographical composition of District 6.

## ENVIRONMENTAL QUALITY

**Act 15 (HB 471 Strain)**

Allows use of "Pesticide Funds" to build and maintain a building on the Baton Rouge campus of LSU to house administrative offices and analytical laboratories to be used in conjunction with "pesticide" programs. Also provides that funds may be used to build and maintain a building to house the offices of the Department of Agriculture. Increases the annual registration fee for pesticide distribution and sale from \$100 to \$300 for each pesticide registered, until January 1, 1998. After Jan. 1, 1998, pesticide registration fee will be \$200 each. Provides for related matters. (Amends R.S. 3:3210(C) and R.S. 3:3221, also see Act 67)

**Act 34 (HB 880 Bowier)**

Requires that parishes with population in excess of 425,000 must have at least one boundary on Lake Ponchartrain before imposing penalties of \$500 or 6 months in parish jail for unauthorized or unpermitted discharges into drainage culverts, lines, or canals. Adds greases and oils, such as but not limited to: cooking oil and fats, motor oil, antifreeze, truck and automotive fluids, paint, paint thinners, and gasoline to the list of materials that such parishes may impose a fine of up to \$5000 for discharging. (Amends R.S. 33:1243 (B))

**Act 58 (HB 1177 Ellington)**

Enacts the "Louisiana Boll Weevil Eradication Law." Creates an eight-member Boll Weevil Eradication Commission, which shall have quarantine powers, may designate eradication zones, and may set regulations prohibiting planting in such zones, as necessary to control the spread of the boll weevil. The act sets various penalties for noncompliance. The act also designates a "Boll Weevil Eradication Fund." (Enacts R.S. 3:1601 through 1616)

**Act 67 (HB 1690 Montgomery)**

Raises the registration from \$100 to \$300 annually for pesticides registered for distribution and sale until Jan. 1, 1998. After Jan 1, 1998, the rate will be \$200 per year for each pesticide registered. Also see Act 15. (Amends 3:3221 A)

**Act 122 (HB 1544 W. Carter)** repealed by Act 669 below  
Act 122 granted immunity to public entities and contractors employed by public entities for actions or omissions committed during the cleaning up of a discharged hazardous waste. It also provided that the cleaning up of a hazardous discharge by either is not an admission of liability. (Enacts R.S. 30:2202 (D))

**Act 669 (HB 1827 Thompson)**

Repealed Act 122. The Act also requires notification by any person who operates a permitted commercial solid waste disposal facility in this state of the pending disposal of non-hazardous materials that were found on any "superfund" site or any site designated by DEQ. Act further provides for the methods of notification. (Enacts R.S. 30:2041)

**Act 168 (HB 500 S. Theriot)**

Declares that oil spill contingency fee information furnished to the office of the Louisiana oil spill coordinator does not violate the non-disclosure privilege of tax records provided that any information furnished is used solely in the exercise of the powers of that office. It also provides that the information acquired shall be held confidential by the office. (Enacts 47:1508 (B) (16))

**Act 169 (HB 527 Theriot)**

Requires registration with the Department of Public Safety and Correction of vehicles and for property to be located in this state to take advantage of the income tax credit for converting to alternative fuels. (Amends R.S. 47:38(B)(2), (D) and 287.757(B)(2) and (D))

**Act 191 (HB 1926 Chaisson)**

Prohibits outdoor advertising within visual observation of Interstate Highway 310 in St. Charles Parish between Interstate Highway 10 and the Mississippi River. (Enacts R.S. 48:461.25)

**Act 269 (HB 497 Bankston)**

Makes it a misdemeanor to offer or accept to transport hazardous materials in a careless or imprudent manner. (Amends R.S. 32:1520(A))

**Act 270 (SB 498 Bankston)**

Makes it a felony violation to even offer or accept to transport hazardous waste in manner that could endanger human life. (Amends R.S. 32:1518 (A))

**Act 327 (SB 213 Landry)**

Establishes a rebuttable presumption that the person, firm, or corporation that possessed illegally dumped trash or litter immediately before the act of dumping or depositing, has committed the offense and is subject to fines and penalties provided therein. (Amends R.S. 25:1111(A) and 32:289(A) and enacts 25:1111(H), 32:289(C)(D),(E) and (F), 414(A)(3))

**Act 337 (SB 439 Morial)**

Requires the secretary of the Department of Environmental Quality to prepare and file an annual Hazardous Waste Importation and Exportation Report on the amount of hazardous waste brought in or shipped out of Louisiana each year. (Enacts R.S. 30:2191.1)

**Act 340 (SB 495 Bankston et al )**

Adds the "offering or accepting for transportation, loading or unloading, or transporting, handling and movement of hazardous materials" to the declaration of activities to be regulated by the state under the Hazardous Materials Transportation and Motor Carrier Safety Laws. (Amends R.S. 32:1501)

**Act 361 and 362 (SB 831 Ullo)**

Changes the Louisiana Beautification Fund to the Keep Louisiana Beautiful Fund. Adds the act of "permitting the intentional or accidental ejection, emission, or escape of litter" to the list of prohibited activities under the litter control laws. Provides for new penalties: first conviction carries a fine of fifty to two hundred and fifty dollars; second conviction carries a fine of three hundred to one thousand two hundred and fifty dollars or eight hours of community service and suspension of driver's license for sixty days; any subsequent conviction has a fine of five hundred to three thousand dollars, loss of license for one year, up to six months in jail, or twenty four hours of community service, or any combination. Provides for distribution of fines and accounting matters. (Amends R.S. 25:1111(A) and (E), 25:1112(A),(B),(C), and (D). Enacts 25:1111(H).)

**Act 426 (SB 1075 DeCuir)**

Provides that under the "Oil Spill Contingency Plan" the coordinator shall locate, identify, mark, and analyze the contents of any abandoned or derelict vessels or structures found within the state. If the vessel or structure contains oil or oil based material it shall be prioritized for removal on the basis of highest risk to human life. The Act also provides that the coordinator shall conduct a study to identify, locate, mark and catalog all facilities, dumps, pits, or reservoirs from which there is an actual or threatened unauthorized discharge of oil in coastal waters and he shall also prioritized the sites for cleanup and abatement of those facilities. The Act further provides that funds available to the office of the Coordinator for administrative and personnel expenses shall be raised from \$250,000 to \$350,000. (Amends R.S. 30:2469(A),(B),(C), and 2884(1) and enacts 30:2469(D) and 2469.1)

**Act 487 (SB 355 Morial)**

Makes it unlawful for any person on board a vessel to intentionally discard into the waters of the state any finished plastic product or other garbage. This includes synthetic ropes and fishing nets. The fine shall be no less than fifty dollars and no more than two hundred dollars per violation. Once notified or cited, each twenty four hour day that the condition remains uncorrected will constitute another violation. (Enacts 25:1120)

**Act 526 (HB 940 Donelon)**

Reduces the hazardous waste disposal tax from sixty dollars per dry weight ton to forty dollars per dry weight ton and



repeals the hazardous waste transportation tax. (Amends R.S. 47:823(A) and repeals 47:833)

**Act 535 (SB 490 Bankston and Bagneris)**

Repeals 30:2367(A) which requires the Department of Agriculture to develop a mechanism for sharing information on hazardous materials with Department of Environmental Quality. (Repeals R.S. 30:2367(A))

**Act 537 (SB 215 Johnson)**

Prohibits the disposal of used refined motor oil by discharge into municipal sewers, drainage systems, surface or ground waters, watercourses or marine waters. (Enacts R.S. 30:2413(M))

**Act 540 (SB 487 Bankston and Ackal)**

Changes the way of determining fees under the "Hazardous Materials" Information Development, Preparedness, and Response Act. Fees are no longer determined by facilities which have multiple locations. They are now determined by owners / operators which have multiple locations. (Amends R.S. 30:2376(B)(1))

**Act 541 (SB 489 Bankston and Nunez)**

Changes the types of reports for which local governing authorities may impose fees or charges under the Hazardous Materials Information, Development, Preparedness, and Response Act. The old law allowed charges of fifty dollars or fifteen dollars for a survey form. The new law changes the survey form to inventory reports. (Amends R.S. 30:2368(D))

**Act 565 (SB 491 Bankston and Ackal)**

Clarifies that under the Hazardous Materials Information, Development, Preparedness, and the Response Act operators are required to report releases of certain hazardous materials in certain reportable quantities as established by rules. Repeals R.S. 30:2369(C) which required submitting updated inventory forms for the status of any hazardous material a facility begins manufacturing or brings onto its premises or ceases to use or whenever there is any significant change in the quantity manufactured, used, released, or started at the facility. (Amends R.S. 30:2369(A) and repeals 30:2369(C))

**Act 566 (SB 492 Bankston and Ackal)**

Removes exemption to reporting requirement for certain materials under the Hazardous Materials Information, Development, Preparedness, and Response Act which were also reported under the Louisiana Pesticide Law or the Louisiana Structural Pesticide Control Law. (Amends R.S. 30:2370(E)(6))

**Act 632 (HB 1961 Durand and Cravins)**

Authorizes St. Martin Parish to establish any public or private facility for the disposal of solid waste within the parish. The types and quantities of the waste to be disposed of at such facility shall be in compliance with a permit

granted by the Department of Environmental Quality. (Enacts R.S. 33:1236.16)

**Act 655 (SB 957 Decuir)**

Creates the Louisiana Litter Reduction and Public Action Commission and the office of litter reduction and public action within the Department of Culture, Recreation, and Tourism. Provides that funds left over after obligations are paid from Bond Security and Redemption Fund shall be paid into the Louisiana Beautification Fund. Authorizes development of "trash bash program," a "beach sweep program," and an "inland water cleanup program." Also authorizes development of a "boater's and fishermen's pledge," the "great Louisiana people's pledge," and "people against littering." (Amends R.S. 25:1101, 1102(2), and (5), 1103(A), and (D), 1105, 1110, 1112(B), and R.S. 36:201(c)(1), 208(H), 209(T), and 918. Enacts 25:1117.1 through 1117.6.)

**Act 664 (SB 1325 Bean, subs. for SB 1271)**

Creates the Waste Tire Management Fund, to be funded from fees collected on the sale of new tires, and other monies received for the Fund's credit — after obligations are paid from the Bond Security and Redemption Fund. Directs the Department of Environmental Quality to promulgate regulations and guidelines for a waste tire program, including standards and permitting procedures for waste tire transporters, processors, and collection sites. The fee imposed on solid waste facilities for resource recovery shall not exceed two dollars per new tire. Exemptions may be provided for by regulation. Starting March 1, 1994, the secretary shall submit an annual report to the Senate and House, and their respective environmental committees. (Enacts R.S. 30:2418(G) through (J))

**Act 665 (SB 482 Bankston)**

Establishes duty of an owner/operator of any facility to report any non-permitted release of a hazardous substance when the reportable quantity has the potential to escape the facility site, as soon as the owner or operator has knowledge of such release. Defines "immediately" to include time to assess potential off-site impact. Removes burden of proof from the owner or operator. (Amends R.S. 30:2373(B) and (C)(1) and (2). Repeals R.S. 30:2373(C)(3).)

**Act 666 (SB 488 Bankston)**

Changes some definitions under the Hazardous Material Information, Development, Preparedness and Response Act. Provides that a natural gas pipeline shall not be classified as a compressed natural gas facility. Substitutes federal DOT regulations for state Department of Public Safety and Corrections Regulations, as a reference for defining "hazardous materials." Adds the "reportable quantity" standard — set by DEQ — to the definition of "release." Particularizes the definition of "trade secret" to include confidential information that may create a competitive

advantage. The definition of "significant change" is repealed. (Amends R.S. 30:2363(5),(6),(10) and (13). Repeals R.S. 30:2363(12))

**Act 670 (HB 1922 Dastugue)**

The Louisiana Automobile Retirement Act; provides for the purchase and disposal of operable motor vehicles built before 1972. The program will be administered by the DEQ's office of air quality and radiation protection. The office shall establish a price schedule, but the maximum price shall be 700 dollars. The program shall operate from self-generated revenues, and from donations. No state funds shall be expended. (Enacts 30:2064)

**Act 698 (HB 1176 Ellington)**

Prohibits smoking in public schools, school grounds, and school buses. School principals may designate smoking areas for school employees, provided such areas are clearly marked. (Enacts R.S. 17:240)

**Act 759 (HB 537 Morrell and Bagneris)**

Creates the "Southeast" Louisiana Waste Management Authority, which shall start working when the secretary of state's office receives resolutions of participation of at least two of the following parishes: Orleans, Plaquemines, St. Bernard, Jefferson, St. James, St. John the Baptist, and St. Charles. Any of these parish or municipalities within them may join the program at any time by filing a resolution of participation. The authority shall exist as a corporation, with powers including the right to sue and be sued, and the right to buy, sell, and lease. The authority may also borrow money and issue bonds, make contracts, and may assume jurisdiction over projects such as waste disposal and pollution control facilities. No power may be exercised outside the authority's normal seven-parish area, unless approved by the parish involved and the DEQ. Provides for membership, officers, compensation and related matters. (Enacts R.S. 30:2331 through 2331.17 [Chapter 14-A of Subtitle II of Title 30 of the Louisiana Revised Statutes of 1950.] )

**Act 919 (SB 984 Ewing)**

Provides a regulation system for solid waste disposal; prohibits industrial waste disposal without advance notice to the Department of Environmental Quality. (Enacts R.S. 30:2154(B)(2)(A) through (e))

**Act 924 (SB 1154 Bankston)**

For purposes of solidwaste recycling, defines "pelletized waste paper" as pellets produced from discarded waste paper that has been removed from solid waste not marketable for recycling. (Enacts R.S. 30:2412(27))

**Act 926 (SB 1246 Bankston and Montgomery)**

Excludes sales of pelletized paper waste from sales taxes, when the paper is sold for use as fuel by an electric utility, or

for industrial uses. (Enacts R.S. 47:301(10)(m) and (n), 302(J) and 331(I))

**Act 943 (HB 370 Holden and Bankston)**

Provides that civil penalties exceeding \$5,000 assessed by the Department of Environmental Quality may be appealed in accordance with the Code of Civil Procedure. Also provides for interest on money judgments. (Enacts R.S. 30:2025(E)(6))

**Act 965 (HB 1317 Durand and Bagneris)**

Provides for interest on civil penalties assessed by the Department of Environmental Quality, when such penalties are upheld. Limits settlement authority to the DEQ secretary, with attorney general's concurrence; attorney general has 90 days to take action, or DEQ any act without concurrence. (Amends R.S. 30:2025(E)(1) and (H))

**Act 967 (HB 1323 Holden and Bagneris)**

Allows the Department of Environmental Quality to lower the criteria for defining a "major source" of some toxic air pollutants, if needed to manage programs required by, or delegated to the state by, the federal Clean Air Act. Criteria which are specified in the act are not subject to this alteration. (Amends R.S. 30:2060(N)(1))

**Act 1005 (SB 539 Dardenne)**

Prohibits smoking in hospitals, with exceptions for smoking in patient rooms, subject to government regulations, hospital standards, and doctor approval. (Enacts R.S. 40:2115)

**Act 1037 (HB 1319 Theriot and Bagneris)**

Creates the small business stationary source technical and environmental compliance assistance program, for the purpose of helping small businesses comply with the Federal Clean Air Act. Also creates an ombudsman's office and the Louisiana Small Business Compliance Advisory Panel. The panel, placed within the DEQ, shall have the power to issue advisory opinions to the DEQ, and to make reports to the EPA. The eight-member panel shall have seven voting members, and include the secretary of the Department of Economic Development. (Enacts R.S. 30:2061 and R.S. 36:239(H))

**Act 1052 (HB 1915 Hopkins, pursuant to HCR 32.)**

Authorizes an owner, producer, or operator of an oil or gas well in the Caddo Pine Island Field in Caddo Parish to dispose of, or reinject certain produced saltwater into the Nacatoch Formation. (Enacts R.S. 30:5(D)(5))

**Act 1054 (SB 80 McPherson and Jetson)**

Designates Interstate 49 as a parkway, and prohibits outdoor advertising along the route. Allows local authorities to make exceptions at intersections. Also limits commercial and industrial activities near the parkway. (Enacts 48:461.25)

**Act 1061 (SB 324 Morial and Murray)**

Creates the New Orleans Regional Recycling and Resource Recovery Authority (NORRA). Its authority may include Orleans, Jefferson, St. Tammany, St. Bernard, and Plaquemines. NORRA's purpose is to promote solid waste recycling and solid waste reduction. NORRA shall have all the powers of a corporation, and shall be a political subdivision of the state. (Enacts 33:8051 through 8056)

**Act 1106 (SB 164 Johnson, Dardenne and Jetson)**

Enacts the "Louisiana Office Indoor Clean Air Law" to protect the health, comfort, and environment of the workers of this state in the office workplace. The Act provides each employer who operates an office in this state shall adopt and maintain a written smoking policy which shall at a minimum provide that an employer shall attempt to reach a reasonable accommodation insofar as possible between the preferences of nonsmoking and smoking employees and where an employer is prohibiting smoking in an office the area must be clearly posted. The Act also provides that in areas used by state government smoking shall be prohibited but at the request of an employee a smoking section shall be designated if allowable under lease and fire provisions. Educational and health facilities are an exception and shall not be required to designate smoking areas. The Act further empowers DHH to adopt rules and regulations to implement the act. (Enacts R.S. 40:1300.21-1300.26)

**Act 1118 (SB 966 Lauricella and Ansaradi)**

Allows a parish that is divided by the Mississippi River which has adopted a home rule charter to create an environmental protection district in accordance with that charter and provides that the district shall have the same power and authority as a district shall have or exercise any power vested in DEQ or U.S. E.P.A. or any power of the Dept. of Agriculture and Forestry. (Enacts R.S. 33:755.1)

**Act 1126 (HB 1312 Theriot and Bagneris)**

Makes the following penalties for violation of DEQ provision permissive rather than mandatory: nine hundred thousand dollars per day per violation and costs of prosecution or imprisonment or both for violations that endanger or could endanger human life or health; twenty five thousand dollars per day per violation and costs of prosecution or imprisonment or both for violations that do not or could not endanger human life or health (which are defined as misdemeanors). The Act also provides that a continuous violation extended beyond a single day shall be considered a single violation. Provides that the misdemeanor penalties above apply to persons willfully or knowingly violating DEQ fee or filing requirements, making false statements on required forms or documents, or falsifying, tampering with, or rendering inaccurate any monitoring device. (Amends R.S. 30:2025 F(1) and (2) and repeals F(3))

**Act 1127 (HB 1318 Theriot and Bankston)**

Enacts a provision to prevent accidental release to the air and to minimize the consequences of any such release of any regulated substance which is known or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment. The act calls for rules and regulations to be promulgated which govern release prevention, detection and correction. The regulations shall require an owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to implement a risk management plan to detect and prevent accidental releases and to minimize the effects of any release. The Act further provides for the monitoring and review of the risk management plans. (Amends R.S. 30:2060(B) and Enacts R.S. 30:2060.1)

**RESOLUTIONS****HR 21 (Roach)**

Directs law enforcement agents to vigorously enforce the litter laws of this state and encourages judges to administer fines or sentence those offenders guilty of littering.

**HCR 63 (Holden)**

Urges and requests that the Department of Environmental Quality continue to publish the Toxic Release Inventory, Corporate Response Challenge, Environmental Progress Report, and the DEQ Newsletter.

**HCR 219 (Adley)**

Suspends until the sixteenth (16th) day following the end of the 1993 Regular Legislative Session the DEQ's authority to adopt and implement any rule that amends or modifies any rule in effect May 1, 1992, or create any new rule that

regulates the mining, extracting, receiving, handling, possessing, owning, using, storing, processing, transferring, or disposing of naturally occurring radioactive materials resulting from the production of oil or gas.

**HCR 256 (Morrell)**

Creates and provides for the membership of the Solid Waste Management Commission. The commission is to study the solid waste management problems that are currently facing the state of Louisiana and report its recommendations to the legislature by January 1, 1993.

**SR 17 (Ewing, Hainkel and Heitneier)**

Directs law enforcement agents to vigorously enforce the litter laws and encourages judges to administer fines or sentence offenders to community service, or both.

**SR 57 (Morial)**

Urges and requests DEQ, DWF, and the Attorney General to study the permitting process of the advanced solid rocket motors (ASRM) test carried out by NASA at the Stennis Space Center in Mississippi and to take the necessary steps to protect the health and safety of the citizens and environment of Louisiana.

**SCR 75 (Decuir, et al.)**

Urges and requests the secretary of DEQ to develop a statewide integrated solid waste management plan to insure proper and economical treatment of solid waste and to submit this plan to the legislature on or before March 1, 1993.

**SCR 79 (Decuir, et al.)**

Urges and requests the commissioner of administration to promulgate rules and regulations to give first priority in the funding for alternate fuels conversion projects to long term projects.

**SCR 139 (Hainkel, et al.)**

Creates the Tangipahoa River Task Force to coordinate the efforts of all state agencies involved in cleaning up the river, to monitor the clean up to insure its safety for recreational use and provides for task force membership.

## COASTAL RESOURCES AND PUBLIC LANDS

**Act 59 (HB 1235 Roach and Patti)**

Empowers the governing authority of any parish to form and create a beachfront development district out of land within the parish or to combine with other parishes in creating a single beachfront district. The districts shall constitute a body corporate and a political subdivision of the state whose purpose shall be to maintain and preserve beaches for use and enjoyment of the citizens and to develop, operate, and maintain recreational facilities and provide for related activities to promote recreation, outdoor activities, and water sports on beaches within the district for the residents of the parish or parishes and visitors to the district. (Enacts Chapter 20-A of Title 33 of the Louisiana Statutes of 1950, comprised of R.S. 33:7571 through 7571)

**Act 124 (HB 1573 Ellington)**

Persons holding a "Golden Age Passport" pursuant to 16 U.S.C. §460 shall be permitted to camp at sites within Louisiana state parks for one-half the normal fee. (Enacts R.S. 56:1692.1)

**Act 128 (SB 28 Ullo)**

Redesignates the West Jefferson Levee District to all lands in the parish of Jefferson lying north of Latitude 29° 17' 52" N and on the west side of the Mississippi River. Designates all the land in the parish of Jefferson lying south of 29° 17' 52" N on the west side of the Mississippi River as the Grand Isle Independent Levee District. (Amends 38:291(R) and Enacts 38:291(S))

**Act 181 (HB 1265 Hebert)**

Authorizes Tangipahoa parish to adopt resolutions creating consolidated gravity drainage districts which will be political subdivisions of the state and shall have all rights, powers, and privileges granted to drainage districts. (Amends Sec. 1,

2, and 3 of Act 19 of 1950 Second Extraordinary Session, as amended by, Act 776 of 1975, Act 384 of 1981, and Act 90 of 198 and repeals Act 264 of 1962)

**Act 182 (HB 1385 Diez and Candy)**

Provides that levee and levee and drainage districts shall have the power to enter private property to make examinations as deemed necessary to carry out their purpose provided that prior written notice is given five days in advance to a resident and 15 days to a non-resident. Notice shall be by certified mail to the last known address of the owner listed in the current assessment record. And the levee or levee and drainage board shall pay for any loss as a result of these activities. (Enacts R.S. 38:301(D))

**Act 230 (HB 1326 Theriot)**

Designates the Jean Lafitte Scenic Highway relative to the Louisiana Byways program as follows: LA 82 east from Grand Chenier to Abbeville; LA 167 from Abbeville to US 90 in Lafayette ; LA 14 west from New Iberia to Holmwood; and LA 27 south from Holmwood to Creole. (Enacts R.S. 56:1948.5 (20))

**Act 265 (SB 208 Crain)**

Designates the Ouachita River in Morehouse and Union parishes from the north banks of Bayou Bartholomew at its intersection with the Ouachita River to the Arkansas State line as a natural and scenic river. This places it under the protection of the "Louisiana Scenic River Act." (Enacts R.S. 56:1847(53))

**Act 356 (SB 764 Dardenne)**

Requires each state agency, and each public and quasi-public agency of the state to comply with all the rules and regulations adopted by any parish or municipality pursuant

to the authority of the National Flood Insurance Act of 1968. An exception is provided for the construction and maintenance of bridges and highways. (Enacts R.S. 38:84.1)

**Act 422 (SB 965 Lauricella)**

Allows the Department of Transportation and Development to provide for incremental funding of rural and urban projects relative to the Statewide Flood Control Program. It also provides that a sponsoring authority using its own funds for project construction which is to be reimbursed by the Statewide Flood Control Program should be repaid within four years of acceptance of the work. (Amends R.S. 38:90.12(C)(3)(d) and enacts 90.5(D))

**Act 815 (SB 145 Hinton)**

Changes law, so that sixty-day notification requirement shall apply to all permits, licenses, and registrations issued by DNR or the commissioner of conservation. The change applies to coastal use permits. (Amends R.S. 30:26(A) and R.S. 49:214.30(C)(2)(b))

**Act 876 (HB 1219 Theriot and Chabert)**

Creates the North LaFourche Conservation, Levee, and Drainage District. Provides for selection of representatives to the South and North LaFourche Levee Districts, and for the overlapping jurisdiction between the South and North districts, the LaFourche Basin Levee District and the Atchafalaya Basin Levee District. Provides for fund transfers to accommodate the shared responsibilities. The LaFourche Basin levee district shall transfer to the South LaFourche Levee District and the North District \$200,000 each. (Amends R.S. 38:291(F)(1), 332, and 333 (A) and (E). Enacts R.S. 38:291 (S).)

**Act 881 (HB 1642 Deano)**

Applies the "rails to trails" program to all abandonment plans, instead of just Category I filings. Provides that the state may not preserve the right-of-way for future transportation uses unless the commissioner of administration has certified to the Interstate Commerce Commission that the state has necessary funds available for the program. Local governments must make similar certifications. (Amends R.S. 56:1781(A), (B)(1) and (3), and 1782 (A) and (B))

**Act 885 (HB 1768 Theriot)**

Provides that as long as \$10 million remains in the Russell Sage-Marsh Island Refuge Fund, all interest and income from investments generated by the Fund shall be transferred annually to the Marsh Island Operating Fund. At the end of the fiscal year, excess monies left in the Operating Fund will be used first to adjust the limit on the Refuge fund, then will be available for use by the Department of Wildlife and Fisheries. Provides that the state treasurer shall invest funds for maintaining Marsh Island in the Operating Fund in order

to earn interest. The Act also authorizes DWF to hire an accountant to compile reports on Marsh Island's funds. (Amends R.S. 56:798(A) and (B), enacts R.S. 56:798 (F).)

**Act 998 (SB 1073 Nunez)**

Explicitly distinguishes Louisiana property law from the state law examined by the United States Supreme Court in the Phillips Petroleum Co. v. Mississippi case. This act's declared purpose is to protect owners of tidally-influenced non-navigable water bottoms. (Enacts R.S. 9:1115.1 through 9:1115.3)

Editor's Note: The passage of Act 998 is the result of several years of controversy that began with the U.S. Supreme Court decision of Phillips Petroleum Co. v. Mississippi, 484 U.S. 469, 108 S. Ct. 791(1988). In Phillips the Court reaffirmed that each state on its admission to the Union had been given title to certain water bottoms which it held in trust for all its citizens. The Court held that all tidelands regardless of navigability were included in these public trust water bottoms. The Court went on to say that the disposition of public trust water bottoms after statehood would be controlled by state law. Louisiana law makes it clear that some tidal water bottoms are within the public trust. For other water bottoms, those that are shallow, tidally influenced, and somewhat removed from the open Gulf the picture is as murky as their waters. Many of these water bottoms have, since 1812, been simultaneously used by the general public, claimed by the state, and claimed by private landowners. There has never been a definitive pronouncement by the state of Louisiana on the general status of shallow tidelands. Indeed, previous legislation and judicial decisions affecting these water bottoms have been ambiguous. The tenuous nature of private claims and the fear that the Phillips decision would tip the balance in favor of public ownership prompted private landowners to marshal an effort to have the legislature declare once and for all that inland non-navigable tidelands are subject to private ownership. Through a long political process during which proponents of the public interest vigorously opposed the legislation, Act 998 was passed. (For an in-depth discussion of the issues surrounding this controversy see "The Public Trust Doctrine in Louisiana" by J. Wilkins and M. Wascom 52 Louisiana Law Review 861, 1992) The actual effect of Act 998 remains to be seen. While it is intended to solidify private ownership claims to inland non-navigable tidal water bottoms, the legality of such a maneuver will most likely be ultimately decided by the courts. This Act, however, does have the potential of severely restricting public access to inland tidal waters for fishing and other activities and denying the state significant mineral revenues.

**Act 1075 (HB 164 Theriot and Bankston)**

Sets a schedule of fees for consistency determinations related to coastal zone management, effective October 1, 1992 the

fee shall be \$300. Some activities—for example those of the DWF and matters concerning the Oil Spill Prevention and Response Act—shall be exempted from consistency fees. Decisions on consistency determinations shall be made within three months of receipt of the consistency determination by the Coastal Management Division, except as provided by federal regulations. Fees collected from consistency determinations shall be among those credited to the Bond Security and Redemption Fund. (Amends R.S. 49:214.32(C) and 214.40(A)(1))

**Act 1128** (HB 1327 Reps. Theriot, Roach, and Picard)  
Provides that the term “balance of the fund” as used in the funding section of the Wetlands Conservation and Restoration Fund shall mean those monies in the Fund which have not been expended or obligated under the Wetlands conservation

and Restoration Plan or otherwise obligated under law. (Enacts R.S. 49:213.7(F))

**Act 1142** (SB 37 Foster and Chabert)

Proposes to amend Article IX Section 4 of the Constitution of Louisiana by converging the title and ownership of certain lands near Bayou Dularge in Section 16 of Township 20 South, Range 16 East, which due to an error in the original government survey of 1838 placed the lands in Section 9, to those persons who have possessed the land in good faith and just title for a minimum of ten years or to those who acquired the land from then, reserving the mineral rights as just and sole compensation from the transfer. The amendment is subject to voter approval at the congressional primary election in 1992. (Proposes an amendment to Article IX Section 4 of the Constitution of Louisiana)

## RESOLUTIONS

**HR 2** (Theriot)

Approves the Louisiana Coastal Wetlands Conservation and Restoration Plan for the 1992-1993 Fiscal Year.

**HR 49** (Patti and Alario)

Urges and requests the DWF to consider the possibility of purchasing a certain wetlands area in Jefferson Parish in the vicinity of Jean Lafitte National Park, Crown Point, and Bayou Barataria, commonly known as Marvis Grove Subdivision.

**HCR 188** (Warner, Odinet, Patti and Nunez)

Memorializes the Congress of the United States to authorize the United State Army Corps of Engineers to evaluate the federal interest in continuing operate the Mississippi River Gulf Outlet (MRGO) and that such evaluation shall include consideration of the environmental costs to Louisiana. If it is found that there is no clear and overriding federal interest in continuing the operation of the MRGO, the act memorializes the Congress to authorize the Corps of Engineers to develop and implement a plan to discontinue all operation and use of the MRGO. If it is found that there is clear and overriding federal interest in continuing the operation of the MRGO, the act memorializes Congress to authorize the Corps of Engineers to develop and implement a plan to mitigate the adverse social, economic, and environmental impact of continued operation.

**HCR 249** (Alario, et al.)

Directs the Dept. of Transportation and Development, the Dept. of Environmental Quality, the Dept. of Natural Resources, the Dept. of Health and Hospitals, the Dept. of Wildlife and Fisheries, and the Dept. of Economic Development to assist and cooperate with the Wetlands Foundation in conducting wetlands research.

**SR 43** (Decuir)

Approves the 1992-1993 Louisiana Coastal Wetlands Conservation and Restoration Plan submitted by the Wetlands Conservation and Restoration Authority in accordance with R.S. 49:214.1 et. seq.

**SCR 18** (Picard)

Nominates Plaquemine Brule Bayou for inclusion within the Louisiana natural and scenic rivers system. Directs DWF to evaluate the bayou and to submit a recommendation to the legislature on its inclusion as a natural and scenic river at least 30 days prior to 1993 Regular Session. Inclusion under the “Louisiana Scenic Rivers Act” would provide for the bayou to be administered in a manner to preserve its natural and physical features and resources.

**SCR 83** (Ullo)

Urges and requests the Wetlands Conservation and Restoration Authority, Department of Transportation and Development, and the U.S. Army Corps of Engineers to examine the feasibility of placing breakwater protection along the coast of Grand Isle.

**SCR 164** (Ullo)

Directs the DNR to develop and implement a pilot project to determine the feasibility of using abandoned pipelines for sediment diversion as part of the coastal restoration program and if it is determined that such program is feasible, the authority shall include a prototype project as part of the annual wetland conservation and restoration plan to be implemented in fiscal year 1993-1994.

**SCR 175** (Crain)

Urges and requests the DWF to purchase Black Bayou Lake located in Ouchita Parish to insure the area remains open to the public.

**SCR 207 (Nunez, et al.)**

Memorializes the Congress of the U.S. to authorize and direct the U.S. Army Corps of Engineers to evaluate the federal interest in continuing to operate the Mississippi River Gulf Outlet and if it is found that there is no overriding federal interest to implement a plan to discontinue all operation and maintenance of the Outlet. Further, if there is an overriding federal interest in continuing operation, to implement a plan to mitigate the social, economic, and environmental impact.

**SCR 219 (Nunez)**

Directs the DNR to renegotiate their contract with the U.S. Army Corps of Engineers on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures.

**SCR 220 (Nunez)**

Urges and requests the U.S. Army Corps of Engineers to renegotiate its contract with the State of Louisiana on the Caernarvon Fresh Water Diversion project to allow the Plaquemines Parish local government to determine the operation procedures.

## **PORTS, HARBORS, AND WATERWAYS**

**Act 40 (HB 1305 Odinet)**

Expands the jurisdiction of the commission of the St. Bernard Port, Harbor and Terminal District. Empowers the board to reasonably regulate the fees and charges for the structures, wakes, and facilities. Requires that leases of facilities administered by the board, require the lessee publish a tariff containing rates and charges. The board shall not grant any preferences in its regulation of international commerce greater than those granted in the same circumstances by the Board of Commissioners of the Port of New Orleans. Empowers the Board to impose rules and regulations, set requirements, preference, safety, environmental standards and generally provide for the regulation of commerce and traffic of the districts. The Board of Commissioners of St.

Bernard Port Harbor and Terminal District shall also have and exercise the powers granted to deep water port commissions pursuant to 9:1102.1 in all cases against riparian owners. All provisions are subject consistency and consent of the Port of New Orleans. (Amends R.S. 34:21, 1701, and 1705. Enacts 34:1703(D) and (E).)

**Act 188 (HB 1770 Morrell)**

Adds the Greater New Orleans AFL-CIO to the list of nominating agencies for the Orleans Parish nominating organization. The organization is charged with nominating candidates to fill the four New Orleans seats on the Board of Commissioners of the Port of Orleans. (Enacts 34:1 (B) (1) (n))

## **OIL, GAS, AND MINERALS**

**Act 168 (HB 500 S. Theriot)**

Declares that oil spill contingency fee information furnished to the office of the Louisiana oil spill coordinator does not violate the non-disclosure privilege of tax records provided that any information furnished is used solely in the exercise of the powers of that office. It also provides that the information acquired shall be held confidential by the office. (Enacts 47:1508 (B) (16))

**Act 177 (HB 1008 Ackal and Bankston)**

All proposals for mineral leases shall be submitted to and examined by the commissioner of administration of the division of administration. The application must now include a map and the payment of two-hundred dollars is to be made to the State Land Office rather than the Office of Mineral Resources. (Amends R.S. 30:125)

**Act 178 (HB 1009 Ackal)**

Provides that upon request of the State Mineral Board, the state land office shall prepare and mail the notices of publication to all people whom the board thinks will be interested in submitting a bid on a mineral lease on public lands. (Amends 30:126(B))

**Act 426 (SB 1075 DeCuir)**

Provides that under the "Oil Spill Contingency Plan" the coordinator shall locate, identify, mark, and analyze the contents of any abandoned or derelict vessels or structures found within the state. If the vessel or structure contains oil or oil based material it shall be prioritized for removal on the basis of highest risk to human life. The Act also provides that the coordinator shall conduct a study to identify, locate, mark and catalog all facilities, dumps, pits, or reservoirs from which there is an actual or threatened unauthorized

discharge of oil in coastal waters and he shall also prioritize the sites for cleanup and abatement of those facilities. The Act further provides that funds available to the office of the Coordinator for administrative and personnel expenses shall be raised from \$250,000 to \$350,000. (Amends R.S. 30:2469(A),(B),(C), and 2884(1) and enacts 30:2469(D) and 2469.1)

**Act 589 (SB 1079 Decuir)**

Changes the Unified Oil and Gas Development Regulatory code to the Unified Oil and Gas Development Regulatory Index. Now all regulatory agencies are to index and summarize, instead of organizing and codifying their rules or regulations relative to oil and gas. Such indexes and summaries are to be filed with the office of the commissioner of conservation, instead of the secretary whether the Department of Natural Resources and the deadline has been changed from March 1, 1992 to December 1, 1992. The act also defines "index and summaries" as a list of all rules and regulations in numerical order which have general or specific applicability to oil and gas development and environmental matters, with accompanying summaries indicating how the

rule applies to oil and gas development. The effective date of the statute is now July 15, 1992. (Amends R.S. 49:954.2)

**Act 1097 (HB 1201 Danelon and Roach)**

Enacts the Louisiana Noncoal Surface Mining Law whose purpose is the reclamation and conservation of land subject to surface disturbance by mining. The DNR, office of conservation, is designated the official agency to administer the regulations and guidelines in this act. The act requires that all new operators obtain a mining permit from the office. When obtaining a permit an operator must submit \$1000 to be deposited in the Noncoal Mine Land Reclamation Fund of the state treasury and a five-year plan for reclamation of the affected land. The permit fee shall be due and payable every five years. Existing operators are required to apply for the permit within 6 months of the effective date (Aug. 1, 1992) of this act. The act also requires that a three cent per ton fee for all minerals as defined in R.S. 30:965(11) be paid by the owner to the state general fund to help provide for the reclamation of abandoned mines further provides for violations of the section. (Enacts R.S. 30:961-979)

**RESOLUTIONS**

**HCR 134 (Slario and Roach)**

Urges and requests the Department of Natural Resources to complete the development of rules pertaining to oil and gas well site clearance and verification procedures and make them available.

**HCR 227 (Copelin)**

Creates the La. Outer Continental Shelf (OCS) Negotiating Team to bargain with the federal government to obtain the

states' fair share of revenues from offshore oil and gas from the federal government and provides for the membership of the OCS Negotiating Team.

**SCR 82 (Decuir et al)**

Urges and requests the Commissioner of Conservation to promulgate rules and regulations to provide incentives for the use of new technologies in horizontal drilling.

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