

LOUISIANA COASTAL LAW



LCL 50
SEPT 84

Wildlife and Fisheries 1
Ports, Levees & Waterways .. 4
Oil, Gas & Minerals 5

Water, Air & Noise Pollution .. 5
Toxic/Hazardous Materials 6
Miscellaneous Acts 7

1984 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

This annual Legislative issue of "Louisiana Coastal Law" is devoted to summarizing acts and resolutions enacted during the 1984 Regular Session of the Louisiana Legislature. Legislation having a general impact on the environment in Louisiana is covered. Most of these laws became effective upon the signature of Governor Edwards or on September 3, 1984. However, some acts have effective dates later than this, in which case the date is noted in the summary.

The following abbreviations have been used throughout these summaries: DEQ, La. Department of Environmental Quality; DHHR, La. Department of Health and Human Resources; DNR, La. Department of Natural Resources; DOTD, La. Department of Transportation and Development; DWF, La. Department of Wildlife and Fisheries; EPA, U.S. Environmental Protection Agency; LPG, liquified petroleum gas; WFC, La. Wildlife and Fisheries Commission.

WILDLIFE & FISHERIES

A number of important changes were made in the wildlife and fisheries laws during the 1984 Legislative Session. Of particular interest, four of five bills introduced on recommendation of the Governor's Task Force on Finfish Management were passed into law. The Task Force was created in November 1983 to "develop a proper management plan to assure the protection and proper management of finfish in the coastal areas of Louisiana." It was composed of commercial fisherman, recreational fisherman, consumers, restauranters, fisheries scientists, the Louisiana Wildlife and Fisheries Commission, and the Louisiana Department of Wildlife and Fisheries. The result of the discussions between these often adverse groups produced recommendations for changes in several fisheries law. Of the five bills introduced pursuant to the recommendations, only one failed to pass. Act 295 provides an increase in the minimum length for spotted seatrout, introduction of the commercial finfish sellers license, elimination of the use of shrimp seines, and a requirement that a shrimper purchase a finfish sellers license to sell finfish. Act 279 prohibits unattended nets, seines, and trawls. Act 235 redefines underutilized species. Act 278 reduces the possession limit for spotted sea trout and red drum to equal the daily catch limit.

Other changes in the fisheries laws brought about this year include an increase in most fishing licenses with the proceeds going to the Seafood

Promotion and Marketing Board (Act 230), closure of state outside waters (Act 300 and 692), overhaul of the oyster laws for Calcasieu Lake (Act 402), separate license for beam trawls and butterfly nets (Act 693), minimum mesh size for crawfish traps (Act 706), and the outlawing of chopsticks (Act 693).

While not as many major changes occurred in the wildlife laws, one requires anyone turning 16 on or after September 1, 1985 to complete a hunter safety course (Act 149) and another creates the Louisiana Wildlife Stamp Research Program to fund wildlife research (Act 883).

Below is a complete summary of the new wildlife and fisheries laws.

ACT 120 (Nunez & Patti) Provides for 72 hours notice before a decision of the WFC to open or close a shrimp season can take effect.

ACT 149 (F. Thompson et al.) Requires completion of a DWF approved firearm and hunter education course for persons 16 years old or older prior to obtaining a hunting license. Requires DWF to adopt rules to regulate firearm and hunter education courses by 12/31/84; provides effective date of when persons born on 9/1/69 become 16; provides that a person who does not need a hunting license also does not need a certificate; provides that should federal fund be unavailable the certificate shall not be required until the legislature appropriates the money.

ACT 179 (Benoit et al.) Changes domicile of the DWF and the WFC from New Orleans to Baton Rouge; provides that the Seafood Division of the DWF will remain located in New Orleans.

ACT 230 (M. Hebert et al.) Increases most fishing licenses by \$5; creates Seafood Promotion and Marketing Fund; provides that monies from \$5 increase be deposited into the Fund to be used by the Seafood Promotion and Marketing Board for purposes of seafood promotion and marketing.

ACT 235 (Benoit et al.) Removes white trout, spanish mackerel and sheephead from the definition of underutilized species, but adds gafftopsail and hardhead catfish, spot, pinfish, and silver eel.

ACT 244 (Kelly et al.) Exempts rules and regulations pertaining to hunting seasons promulgated by the DWF and WFC from the provisions of 49:968 relative to legislative oversight and review.

ACT 255 (Lauricella) Increases measurement for ~~individual nets of double butterfly nets and beam~~ trawls on vessels from 12 by 12 feet to 16 feet horizontal by 12 feet vertical; prohibits the use of extensions or beam trawls and butterfly nets which increase the overall dimensions beyond the legal limits.

ACT 273 (Kember & Guarisco) Provides that WFC can suspend or reduce the size limit on channel catfish in those areas of the state where it would not be detrimental to the resource.

ACT 276 (Adley) Doubles penalty for hunting of deer at night, taking deer or turkeys during closed season, hunting turkeys at night; hunting illegal deer or turkeys during open season; increases fine for 2nd and 3rd violation.

ACT 277 (Benoit) Requires a retailer of canned alligator parts and each restaurant selling prepared alligator meat for human consumption to annually secure a \$5 license from the DWF.

ACT 278 (Benoit et al.) Provides that the possession limit of spotted sea trout and red drum is the same as the daily catch limit.

ACT 279 (Benoit et al.) Prohibits unattended seines, gill nets, trammel nets, butterfly nets, and beam trawls; provides exception for nets attached to a wharf at a camp in saltwater areas of La.

ACT 295 (Ullo et al.) Deletes chinchara net exception from seine net length; sets mesh size of outer layers of trammel nets at a maximum of 12 inches square or 24 inches stretched; changes minimum mesh size of the inner layers of trammel nets to a minimum mesh of 1 5/8 inches square or 3 1/4 inches stretched; prohibits trammel net length to exceed 1200 feet by connecting 2 or more nets; changes minimum mesh size of gill nets to 1 3/4 inches square or 3 1/2 inches stretched; prohibits gill net length to exceed 1200 feet by connecting 2 or more nets; sets penalty of a class 2 violation for violation of §320c(5) (monofilament use); changes size limit on spotted sea trout to 12 inches; requires a saltwater angling license at a fee of \$5.50 for anyone fishing south of the saltwater line; exempts persons using a rod or pole, hook and line without a reel or artificial bait from purchasing angling license; requires nonresident commercial fishermen taking saltwater commercial finfish to apply for their licenses during the period 10/1-10/31; changes the annual license fee for each separate saltwater fish seine, gill net, trammel net, or purse seine to \$25 for a maximum of 1200 feet or fraction thereof and requires that the license be

applied for during the period of 10/1-10/31; requires that persons taking saltwater commercial finfish or bait species for sale must purchase a seller's license at a cost of \$100 for residents and \$450 for nonresidents and requires that this license be applied for during the period of 10/1-10/31; eliminates any use of a shrimp seine except for the taking of bait; prohibits the use of extensions on beam trawls or butterfly nets which increase the overall dimensions beyond those set by law; requires any shrimp fisherman who wants to sell finfish to purchase a seller's license; repeals the section on the use of shrimp seines (500A(1)). The provisions relating to mesh sizes of seines, trammel nets, and gill nets in 56:322(C)(2),(3), and (4) have an effective date of 1/1/85.

ACT 299 (Chabert et al.) Allows resident commercial shrimpers to obtain a vessel license at any time of the year. Retains one month period for nonresidents.

ACT 300 (Chabert et al.) Prohibits shrimping in state outside waters from Jan. 15 to March 15; provides 15 day leeway period for closing and opening outside waters; provides that the WFC give 72 hour notice before exercising leeway.

ACT 311 (Kelly) Increases membership on Northwest Louisiana Game and Fish Preserve Commission (Black Lake Fish and Game Preserve Commission) from 5 to 7 members; provides that the two additional members be owners or operators of commercial fishing camps or establishments in the Preserve.

ACT 323 (McPherson) Gives the WFC authority to regulate the taking by permit of game fish with scuba gear.

ACT 402 (Newman) For Calcasieu Lake: provides for a commercial tonging license for each person on board a vessel; provides that all vessels used to take oysters be self-propelled; provides that harvested oysters cannot be transferred to another vessel; provides for a 10 one and 1/2 bushel sack commercial limit per boat per day; provides for a 2 sack recreational limit per boat per day; provides for the open season; provides for vessel licenses and fees; provides for penalties.

ACT 433 (Cambell & Russell) Provides that it shall be legal for one or more licensed hunters to hunt raccoons or opossums at night with lights.

ACT 516 (Benoit et al.) Prohibits the taking of game fish by use of hoop nets with leads in overflow areas; provides that flounder can be taken as a game fish with a barbless spear in saltwater; changes the closing date of the open season for using pompano nets from September 30 to October 31; allows the taking of black drum with pompano nets; prohibits fishing black drum as well as pompano in Breton or Chandeleur Sound at night

ACT 586 (Lauricella et al.) Specifies that the shrimp to which the possession count applies are those taken in either inside or outside waters and which are aboard a vessel or at the dock or which are in the possession of a first buyer; maintains exception to count restriction for spring season, from 11/15 to 12/20, and for sea bobs and bait shrimp; provides for a 100 per lbs count restriction for white shrimp.

ACT 628 (Nunez) Allows commercial shrimping vessel licenses, for both residents and nonresidents, to be obtained throughout the year.

ACT 670 (Sumlin) Prohibits the hunting, shooting, taking game quadrupeds or game birds, across a highway or road right of way.

ACT 687 (M. Hebert) Requires that a resident commercial fisherman must operate his fishing vessel primarily for commercial fishing to be exempt from state and local sales, use, lease, and services taxes; provides that mere possession of a commercial license is not the sole determination.

ACT 692 (Benoit et al.) Gives the WFC exclusive control and management over the shrimp industry in both inside and outside state waters; provides that outside waters may be closed for up to 60 days, with 15 day leeway period; provides for 72 hours notice prior to opening or closing; provides outside closure for waters to the west of the Miss. River be within the period of 1/15 to 3/15 and waters east of the Miss. River within the period 2/15-4/15; clarifies that the test trawl is measured along the corkline.

ACT 693 (Benoit et al.) Provides for specific licenses for beam trawls and butterfly nets and sets a \$25 license for each individual net; provides that a resident of any state adjacent to Louisiana which prohibits use of butterfly nets may not use butterfly nets in Louisiana; prohibits the use of chopsticks.

ACT 706 (Kember & Guarisco) Provides for minimum mesh of crawfish traps of 3/4 inch square for taking wild or pond crawfish for commercial purposes; provides effective date of 1/1/86.

ACT 724 (Campbell et al.) Creates the Louisiana Help Our Wildlife Program (LHOWP) within the DWF; creates LHOW Fund with monies from legislative appropriations, federal monies given to the state for enforcement of anti-poaching laws, and fines; provides that monies in the Fund be used for rewards for information leading to the conviction of poachers, promotional and educational campaigns, and toll free telephone numbers.

ACT 784 (Nunez & Patti) Changes the closing date of the open season for using Pompano nets from September 30 to October 31; allows the taking of black drum with pompano nets; prohibits the taking of black drum as well as pompano in Breton and Chandeleur Sounds at night.

ACT 843 (Russell et al.) Provides that the WFC may enter into reciprocal agreements with Alabama, Arkansas, Mississippi, and Texas pertaining to rules concerning wildlife and fish; provides that residents of those three states where no reciprocal agreement is entered into shall be charged a fee for a license equal to the amount charged by that state to a La. resident purchasing a license in that state.

ACT 866 (Lauricella) Requires a notarized affidavit that a person intends to derive at least 50% of his income from commercial fishing before the DWF can issue a certificate of tax exemption.

ACT 883 (Atkins & Sumlin) Creates the Louisiana Wildlife Stamp Research Program to fund scientific research regarding wildlife & the La. Wildlife Stamp Research Council as an advisory body; Creates the Louisiana Wildlife Stamp Research Fund and the Conservation Fund; provides for placing monies into the funds and for use of these monies; effective date of 8/1/85.

ACT 930 (Benoit et al.) Provides for a license fee of \$5 per each set of 15 slat traps; provides that commercial fishermen's helpers do not need to have a

commercial fisherman's license; effective date of 1/1/85.

CONCURRENT RESOLUTIONS

HCR 37 (M. Hebert) Allowed for the application of a shrimp vessel license and oyster vessel license during the period of May 15, 1984-May 30, 1984.

HCR 71 (Benoit et al.) Urges the DWF to use additional revenues received from any increases in fishing licenses to create and operate a coastal finfish management section within the Office of Coastal and Marine Resources to perform research on and make recommendations for the proper management of coastal finfish resources.

HCR 169 (Laborde) Urges the DWF to abandon plans to draw down the water level in Spring Bayou Game Management Area in Avoyelles Parish.

HCR 170 (Laborde) Urges the DWF to allow handicapped persons, certified by a doctor as not able to walk long distances or over rough terrain, to use an all-terrain 3-wheeler vehicle to travel to and from wildlife management areas.

HCR 247 (Patti) Continues task force on Water Quality in Oyster Propagating Areas. Requires that a report on findings and recommendations be made prior to the 1985 Regular Session.

HCR 259 (LeBleu) Memorializes Congress to immediately institute a study to determine the impact of importation of foreign shrimp on the U.S. market.

SCR 28 (Nunez & Guidry) Provides for creation of a task force on shrimp management; provides for membership, powers, duties, and functions.

SCR 29 (Nunez) Provides for creation of special legislative committee on underwater obstructions to study and reevaluate the problem of hangs; prohibits the promulgation of rules and regulations by the DNR until the committee presents it's report.

SCR 36 (Landry) Suspends that part of La. R.S. 56:326 relative to the minimum size limit on channel cat, locally called white, eel cat, or willow cat; specifies suspension starting date of 6/15/84 and changes suspension termination date to 1/1/85.

SCR 54 (Nunez & Patti) Suspends that part of La. R.S. 56:499(A) to the extent of allowing sweeper devices on butterfly nets and beam trawls; provides that this suspension shall terminate 60 days after the 1985 Regular Session or until pertinent legislation enacted during the 1984 Regular Session becomes effective, whichever occurs first.

STUDY REQUESTS

SSR 6 (Kelly) Requests the Senate Natural Resources Committee to study the advisability of exempting taxidermy from the game quadruped and game bird purchase and sale prohibition.

SSR 7 (Kelly) Requests the Senate Natural Resources Committee to study the advisability of authorizing federal fish and wildlife agents to enforce Louisiana wildlife and fisheries laws and regulations.

CONCURRENT STUDY REQUESTS

SCSR 10 (Kelly) Requests the House and Senate Natural Resources Committees to meet and jointly study the advisability of allowing the use of poisoned arrows to hunt deer.

PORTS, LEVEES, WATERWAYS

A surprisingly large number of bills were introduced concerning port commissions and levee boards. Approximately thirty bills were introduced attempting to increase the governors power over the appointment process for board and commission membership. Of these, only a few became law. Other Acts create the Lafayette Parish Bayou Vermilion District (Act 161), the Bulk Cargo Offshore Terminal Commission (Act 314), and provide police officers of the Atchafalaya Basin Levee District with general police powers on the levee and waterways of the District (Act 913).

Listed below are summaries of the new laws concerning ports, levees, and waterways.

ACT 161 (Gomez et al.) Creates Lafayette Parish Bayou Vermilion District for enhancing the general condition of Bayou Vermilion; provides for jurisdiction throughout Lafayette Parish.

ACT 263 (Lauricella) Changes the name of Jefferson Levee District to East Jefferson Levee District.

ACT 269 (Kelly) Gives the Red River Waterway Commission the added authority to develop hydro-electric power at the various locks and dams on the Red River.

ACT 270 (Kelly) Provides for transfer of maintenance & operation of certain dams to the Office of Public Works in the DOTD.

ACT 287 (Dewitt) Excludes from the Rapides Parish Port Commission's control any port facility owned or operated by the City of Alexandria.

ACT 314 (Kiefer et al.) Creates the Bulk Cargo Offshore Terminal Commission; provides for duties and powers; provides in regard for pilots for facilities.

ACT 328 (Dimos et al.) For the Greater Ouachita Port Commission, increases the debt and millage limits.

ACT 498 (Fernandez) Provides that the governing authority of a deepwater port commission may lease property it owns on a navigable river or river bed to riparian owners on a long term basis without public bidding; excludes any river within the La. Natural and Scenic Rivers Systems.

ACT 652 (Kiefer et al.) Provides that 5 members of the Orleans Levee District Board of Commissioners shall be appointed by the governor for a concurrent term; one member shall be appointed by the mayor from the city council and the 7th shall be ex officio the mayor or an executive employee of his office; provides for senate confirmation and reconfirmation every 2 years.

ACT 679 (Borne) Increases Lafourche Basin Levee Board of Commissioners from 7 to 9; provides for additional members appointment; provides for senate confirmation and reconfirmation every 2 years.

ACT 798 (Cain et al.) Allows members on the board of the Lake Charles Harbor and Terminal District to be reappointed by the Governor to no more than one successive term; provides that one member be from ward 4 and one member be of a racial minority from Calcasieu Parish; provides for one nonvoting member appointed by the governing authority of Cameron Parish; provides that members of the Greater Krotz Springs Port Commission be appointed by the governor to serve at his pleasure; provides for senate confirmation and reconfirmation every 2 years.

ACT 828 (D. Gerolamo et al.) For the Louisiana Offshore Terminal Authority, increases the number of commissioners from 9 to 11; provides that 4 rather than 2 members shall be selected at large; provides that majority vote rules except for selection of executive director where 7 votes are required; provides that one member be selected from the parish offshore of which the terminal will be located.

ACT 888 (Sevario) Provides that the members of the Greater Baton Rouge Port Commission Board of Commissioners will serve at the pleasure of the appointing governor; provides for selection and confirmation of members; provides up to \$75 per diem; provides that governor shall appoint Greater Krotz Springs Port Commission members to serve at his pleasure; provides for senate confirmation.

ACT 907 (Sevario) Creates new boundary for the Amite Basin Drainage and Water Conservation District; reduces board membership from 17 to 13, and changes make-up of board membership.

ACT 911 (Brady) Creates the Little River Commission for the purpose of promoting sports and recreational usage of the Little River; provides for members and terms.

ACT 913 (Kember) Provides for Atchafalaya Basin Levee District police officers to maintain order and exercise general police powers on the levees and in the waterways of the district; provides for per diem and meetings of levee board members.

ACT 952 (Uillo et al.) Increases the membership of the Greater Jefferson Port Commission from 5 to 9; changes membership selection to gubernatorial appointment; deletes provisions regarding member qualifications; provides language regarding powers, travel, and per diem for Commission.

ACT 956 (McPherson) Provides the Red River Waterway Commission with the power to expropriate property.

CONCURRENT RESOLUTIONS

SCR 68 (Newman & Theriot) Memorializes Congress to provide engineering data acquired under the federal floodplain program to state and local governments for their comment before the start of construction.

OIL, GAS, & MINERALS

Numerous laws were enacted pertaining to oil, gas, and minerals.

ACT 201 (Nunez et al.) Provides the state with authority to sell natural gas in-kind royalties to depressed energy-intensive industries within Louisiana; provides valuation of in-kind gas; permits the Mineral Board to set the sale price for in-kind gas; provides that in-kind gas will be used for bona fide human needs.

ACT 214 (F. Thompson et al.) Requires rules and regulations relating to the design and construction of liquified petroleum gas containers to conform to recognized national standards; removes other minimum requirements; deletes revocations of licenses based on conviction of listed felony by dealer; lists accepted odorants; provides that anyone violating the LPG Commission's rules be liable for all damages resulting from a fire or explosion resulting from the violation; retains present liability insurance requirements; adds provision to recommend 1.5 lbs of odorant be added at point of odorization; adds requirement of 3 year inspection by the Commission.

ACT 302 (Kelly & Fernandez) Provides that each mineral lease entered into by the Mineral Board identify the leased land by section, township, and range, whenever ascertainable.

ACT 303 (Kelly & Fernandez) Provides that a mineral lease must include the lessee's complete address; makes lessee responsible for informing lessor of any subsequent address changes; provides for making the Secretary of State the lessee's agent when lessee is unable to be reached by certified mail.

ACT 345 (Cusimano) Provides for determination of costs and cost recovery for owners within pooled units; provides for risk charges; limits risk charges to tracts subject to an oil, gas, and mineral lease; provides that production expenses and risk charges shall not apply to royalty portions; effective date of 1/1/85

ACT 559 (Chabert) Requires mineral lessee to notify lessor of the expiration of a lease within 90 days of the expiration of production which had maintained the lease and the expiration of all other rights to maintain the lease.

ACT 562 (Nunez et al.) Provides for nonpayment of severance tax for a tertiary recovery project until the project has reached payoff from total production of investment costs, expenses for tertiary project, and interest; defines qualified tertiary recovery project.

ACT 768 (Lauricella) Provides new definition of "pool"; provides that the Assistant Secretary of the Office of Conservation of the DNR can order the unit operation of any pools in the same field; defines "royalty owners" and "owner".

ACT 839 (Kimball) Provides for the granting to state agencies and political subdivisions mineral servitudes on lands formerly controlled by such agencies or subdivisions which have been lost to the state by erosion or subsidence; provides requirements for fixing boundaries; provides that the law applies only to lands subject to mineral leases granted by agency or subdivision; provides requirements for fixing boundaries.

ACT 959 (Fernandez et al.) Directs the Office of Lands and Natural Resources of the DNR to release and quitclaim all mineral interests in certain lands in E. Baton Rouge Parish to the American Lung Association of La.

CONCURRENT RESOLUTIONS

HCR 249 (Sumlin et al.) Memorializes the President and Congress to resolve the offshore mineral lease revenue sharing controversy with the governor and state delegation.

WATER, AIR & NOISE POLLUTION

The Louisiana Department of Environmental Quality was tentatively abolished during the Ninth Extraordinary Session but was revived during the General Session by Act 342. Other Acts broadened the scope of water pollution regulation within the state (Act 317), and added noise pollution to the list of environmental disturbances regulated by the Department of Environmental Quality and exempted from the Air Control Laws some on-site controlled burning for agricultural and trapping purposes (Act 316).

Following are summaries of air, water, and noise pollution laws enacted this past session.

ACT 117 (Lauricella et al.) Changes name of the DEQ Office of Air Quality to Office of Air Quality and Nuclear Energy; corrects technical errors in former law.

ACT 254 (Lauricella & Fernandez) Provides that the DEQ Office of Air Quality shall have responsibility with respect to noise pollution, however, local governments may pass ordinances which are at least as strict as the state regulations; defines noise as the intensity, duration, and character of sounds from all sources; prohibits the discharge of noise pollution.

ACT 316 (Lauricella) Adds exemption of burning cotton gin wastes and controlled burning of pastureland or marshland for trapping or livestock production from La. Air Control Law.

ACT 317 (Lauricella et al.) For La. Environmental Quality Act, broadens definition of "water pollution"; prohibits discharge of "any other substance" that would tend to cause water pollution in violation of any regulation.

ACT 319 (Lauricella et al.) Provides Secretary of DEQ authority to promulgate rules and regulations for cleanup and remediation of any pollution of waters in the state, including termination of operating authority of hazardous waste sites.

CONCURRENT RESOLUTIONS

HCR 56 (Johnson) Urges the governor to appropriate monies needed for additional laboratory equipment to monitor and test drinking water to the Office of Health Services and Environmental Quality.

TOXIC/HAZARDOUS MATERIALS

The Legislature spent the 1984 session tightening up the toxic/hazardous materials laws. Numerous terms were defined or clarified, including disposal (Act 104), hazardous waste (Act 412), hazardous substance (Act 791), and imminent hazard (Act 826). Act 335 permits the award of exemplary damages when the actions of the defendant indicate a wanton or reckless disregard for the safety of the public in the manner of the storage, handling, or transportation of hazardous or toxic substances. Penalties of up to \$25,000 a day are provided for by Act 791 when it is found that persons are involved with improper or careless disposal of hazardous or toxic substances. The Alternative Technologies Research and Development Trust Fund is established by Act 803. It requires research into alternative methods of disposal.

The following summaries list the Acts relating to toxic and hazardous materials.

ACT 104 (Kimball) Provides, relative to the tax on the storage of hazardous waste, that the estimate of the amount of hazardous waste stored be measured in dry rather than wet weight tons; clarifies the definition of "Disposal" to mean waste which is stored in such a manner as to become part of the surrounding land; provides that waste stored longer than 90 days is presumed to constitute disposal for tax purposes but these wastes shall not be taxed again at ultimate disposal and the tax shall not be applied to a disposer or generator who voluntarily removes waste from an inactive or abandoned site.

ACT 108 (Laborde et al.) Changes time periods for the determination of hazardous waste content for taxing purposes.

ACT 116 (Lauricella et al.) Relative to the Environmental Quality Act, redefines "person" to include trusts, joint stock companies, associations, etc.; redefines pollutant to include radioactive wastes.

ACT 141 (Laborde) Provides for \$5/ton tax rate for hazardous waste disposed on the site of generation and \$10/ton rate for other sites.

ACT 190 (Cain et al.) Prohibits the discharge of any hazardous waste, as defined by the La. Environmental Quality Acts, into any underground waters of the state, except discharges permitted under the underground injection Control Program.

ACT 333 (Fernandez) Provides with respect to transportation of hazardous material, that imminent hazard exists when transportation presents an imminent and substantial endangerment to the health or the

environment; provides penalties for violation; provides for qualifications of transport vehicle drivers; effective date of 1/1/85.

ACT 335 (Bradley & C.R. Jones) Provides that exemplary damages may be awarded if plaintiff's injuries were caused by the defendant's wanton or reckless disregard for the public safety in the storage, handling, or transportation of hazardous or toxic substances.

ACT 412 (Kiefer et al.) Provides definition for term "hazardous waste" relative to the transportation of hazardous waste.

ACT 416 (Kiefer et al.) Provides for stiffer penalty for violation of transportation of hazardous materials law.

ACT 419 (Kiefer et al.) For transportation of hazardous wastes, requires state regulations to include federal EPA procedures; deletes requirement of bond or other evidence of financial responsibility.

ACT 514 (Fernandez) Transfers the Solid Waste Board of Certification and Training to the DEQ.

ACT 669 (Lowenthal) Requires holder of interim status for the generation, transport, storage, treatment, or disposal of hazardous waste to submit an application for a standard permit when requested to do so by the Secretary of DEQ or the Environmental Control Commission.

ACT 674 (Fernandez) Gives the Secretary of the DEQ broader authority to test, monitor, and clean up a hazardous waste site, provides that the Secretary can declare a site abandoned, close a site, revoke permits, or take other actions and applies to all sites where there is leaking, spilling, discharge, or movement of hazardous waste; the Secretary may order abatement, clean up, or containment of a site subsequent to the submission of a plan to test, monitor, analyze, contain, or clean up such site.

ACT 791 (Fernandez) Provides that persons involved with improper or careless disposal of hazardous substances are liable for cleanup costs; defines hazardous substance and persons liable; provides penalty of up to \$25,000/day.

ACT 795 (Fernandez) Abolishes Environmental Control Commission; transfers ECC authority to Secretary of the DEQ; creates Hazardous Waste Advisory Board and gives functions; provides assistant Secretary of Office of Conservation with the authority to regulate

underground injection of hazardous wastes; transfers La. Resource Recovery and Development Authority from DEQ to DNR.

ACT 803 (Fernandez) For hazardous waste, provides for initial fee which discourages land disposal; establishes Alternative Technologies Research and Development Trust Fund; provides that monies from fees be deposited into the Fund; provides use of monies for research into alternative methods of disposal; requires the Secretary, not later than 1/1/86, to determine what feasible, environmentally sound alternatives are available in the state for handling wastes; adds provision requiring the Secretary to promulgate rules and regulations which identify categories of wastes and to set target dates for ending land disposal; adds provision which prohibits any land disposal within this state of any waste or material which endangers or may endanger public health or the environment if land disposed; provides exception for some special wastes; provides civil penalty of \$100,000 for violations.

ACT 824 (Fernandez) Requires a register listing the names of each facility environmental coordinator; provides that monies from the Environmental Programs

Trust Fund can be utilized when federal or state funds become unavailable; provides for issuance of emergency cease and desist orders; provides for waiver of hearings for the assessment of civil penalties; provides public comments relating to penalties; requires reporting of discharges; requires the Secretary of the DEQ to promulgate rules and regulations requiring registration of hazardous waste generators.

ACT 825 (Fernandez) Provides that under the Environmental Quality Act any enforcement or permit action becomes effective upon issuance and notice to respondent; provides appeal to commission; provides for use of Environmental Emergency Response Fund monies in the event of a radiation related disaster.

ACT 826 (Fernandez) For the Hazardous Waste Control Law, defines "waste" and "reusable material"; provides that this law only applies to hazardous waste imported into La. from a foreign country; defines "imminent hazard"; provides for criminal penalties; prohibits the operation of hazardous material transport vehicle while in the possession of or under the influence of alcohol or drugs.

MISCELLANEOUS ACTS

Various laws were enacted concerning the environment of Louisiana which do not fit neatly into the above categories.

The 1984 session of the legislature repealed the Uniform Boating Acts which had set out most of the rules regarding pleasure boating in Louisiana. Virtually all of these rules are now incorporated, with a few changes, into the Motorboat and Vessels Act. Penalties for violation of various regulations, including required equipment regulations, have been increased. In addition, the new laws require that children 12 years old and younger wear U.S. Coast Guard approved life preservers whenever they are in any boat under 26 feet in length, when the boat is in motion. (Act 288). The Governor vetoed SB 633 which would have increased membership on the Louisiana Coastal Commission and instead signed into law Act 408 which dissolves the Louisiana Coastal Commission and replaces it with the Louisiana Coastal Advisory Council, which will now advise the Secretary of the DNR on coastal related issues but will have no substantive power. Also signed into law was Act 764 which increased the severance tax on shells to six cents per ton.

These and other Acts of general interest are summarized below.

ACT 288 (Benoit et al.) For motorboats and vessels, defines "water-craft" and "sailboat"; provides for careless and reckless operation, negligent homicide, interference with navigation, intoxication, incapacity of operator, accidents, overloading, restricted areas, waterskiing, mufflers, racing, identification number, numbering system, required equipment, boat liveries, prohibited operation, local regulations, enforcement, penalties, and false

applications; repeals the Uniform Pleasure Boating Acts (34:850.1 et seq.) but transfers substantially all these provisions to the Motorboat and Vessels Acts (34:851.1 et seq.).

ACT 336 (D. Hebert & Russell) Provides for marketing of pet turtles, provides that all turtle farmers must use the "Siebeling Method" to eradicate bacterial infections; provides definitions; provides penalties; provides for promulgation of operations inspection rules; effective date of 7/1/85.

ACT 342 (Fernandez) Provides that provisions of SCR 3 of the Ninth Extraordinary Session which suspended the act creating DEQ (Acts 1983 No. 97) is repealed.

ACT 375 (Kiefer) Deletes requirement that the membership of a public trust created by the governor for import-export purposes be composed of one member from each congressional district; provides that trustees serve at the governor's pleasure and that the governor selects the chairman; provides for Senate confirmation followed by reconfirmation every two years; terminates terms of trustees holding office prior to July 16, 1984.

ACT 377 (Kelly & Bajolie) Defines the 8 regional planning commissions which assist the office of public works in the preparation of the report showing priorities for the funding of water resources projects; authorizes regional planning commissions to form an association to coordinate comprehensive planning and development programs; ratifies the Louisiana Association of Planning and Development Districts.

ACT 408 (Kiefer) Eliminates the DNR Louisiana Coastal Commission; provides for reconsideration of coastal zone decisions by the Secretary of DNR, and for judicial review of the final decision; creates the Louisiana Coastal Advisory Council to advise the secretary on coastal matters.

ACT 755 (Lauricella et al.) Creates the State Lands and Waterbottoms Management Fund; provides that monies from the lease of state-owned lands and revenues received from the sale of property adjudicated to the state for unpaid taxes be deposited in the Fund; places a \$250,000 cap on the fund; provides that monies be used for survey, aerial photographs, placing boundary markers, and title-related research.

ACT 764 (Lauricella et al.) Provides that the Secretary of the DWF has management authority over all timber on state land under the jurisdiction of the DWF including the authority to lease or sell the timber.

ACT 793 (D. Hebert & Russell) Increases severance tax on shells from four to six cents per ton (2000 pounds).

ACT 842 (Johnson & Ullo) Creates the Southern Louisiana Drinking Water Study Commission within DHHR; provides for membership, duties, and funding; provides that no state funds shall be used to carry out the purposes of this Act.

ACT 903 (Cross et al.) Provides for the Secretary of the DEQ to reimburse local political subdivisions or volunteer fire departments for expenses incurred by performing services in response to a declared emergency resulting from a violation of the Environmental Quality Act.

CONCURRENT RESOLUTIONS

HCR 54 (Lynn) Urges the Secretary of DHHR to amend the appropriate food, drug, and cosmetic regulations to provide for the use of fish and fish products in the preparation and manufacturing of sausage.

HCR 56 (Johnson) Urges the governor to appropriate to the Office of Health Services and Environmental Quality monies needed for additional laboratory equipment to monitor and test drinking water.

HCR 141 (Patri & LeBleu) Urges the Governor to implement the plan proposed by the Senate and House Committees on Natural Resources on Special Projects for Coastal Louisiana.

SCR 110 (Nunez) Continues the Energy Development Study Commission to study the extent of La. energy resources; provides for membership.

SCR 131 (Kelly) Expresses legislation appreciation to the Water Resources Study Commission for its work in identifying problems and proposing solutions to Louisiana's water resources; urges the state to employ the recommendations.

VETOED BILLS

SB 633 (Kiefer) Increases membership on the La. Coastal Commission from 23 to 25; provides for selection of members, with the governors selections serving at his pleasure; provides that the governor shall select the chairman.

LCL is an advisory service of the LSU Sea Grant Program (NOAA, U.S. Dept. of Comm.). Materials may be reproduced if credit is given. Distributed free on written request. Editors: Mike Wascom and Fred Whitrock. Managing Editors: Amy Grose and William Repaske. Staff Assistant: Kerry Lee Long.



LOUISIANA STATE UNIVERSITY
SEA GRANT LEGAL PROGRAM
56 LAW CENTER, LSU
BATON ROUGE, LA 70803

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