

Regular Session, 2013

# ACT No. 35

HOUSE BILL NO. 236

BY REPRESENTATIVES LEOPOLD, BILLIOT, CHANEY, CONNICK, GAROFALO,  
GISCLAIR, GUINN, HARRISON, JAMES, JONES, AND SCHEXNAYDER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 40:6(A) and R.S. 56:424(E) and 433(C), (G), and (J), to enact R.S. 40:6(H) and LAC 51:IX.3.335(B), and to repeal R.S. 56:433(D), relative to violations of oyster harvesting laws; to increase the penalties for harvesting from closed waters; to increase the penalties for harvesting in violation of the health time restrictions; to repeal the prohibition removal from the natural reefs of oysters for steamed oysters; and to provide for related matter.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:6(A) is hereby amended and reenacted and R.S. 40:6(H) is hereby enacted to read as follows:

§6. Penalties for violation of state Sanitary Code

A. ~~Whoever~~ Except as provided otherwise in Subsection H of this Section, whoever violates any provision of the sanitary code, except those provisions dealing with isolation or quarantine of communicable disease, shall be fined not more than twenty-five dollars or be imprisoned for not more than ten days, or both, for the first offense. For the second offense, he shall be fined not less than twenty-five dollars nor more than fifty dollars or be imprisoned for not less than ten days nor more than thirty days, or both. For any subsequent offense, he shall be fined one hundred dollars or be imprisoned for not less than thirty days, or both.

\* \* \*

H. Any violation of the rules and regulations contained in Chapter 3 of Part IX of Title 51 of the Louisiana Administrative Code pertaining to refrigeration of oysters, clams, and mussels, shall constitute a class four violation as delineated in



1           hours of community service. If available, the hours shall be served in a litter  
 2           abatement community service program. During the period in which the violator is  
 3           prohibited from possession of an oyster harvester license for a first offense, the  
 4           violator may be present on a vessel harvesting or processing oysters only if that  
 5           vessel is equipped with and is actively using a vessel monitoring system as  
 6           prescribed in R.S. 56:424.1.

7                   (b) For a second violation of this Subsection, the violator's oyster harvester  
 8           license shall be revoked, and no new such license shall be issued for three years  
 9           from the date of conviction. In addition, the violator shall be sentenced to perform  
 10           no less than ninety hours of community service. If available, the hours shall be  
 11           served in a litter abatement community service program. During the period in which  
 12           the violator is prohibited from possession of an oyster harvester license for a second  
 13           violation, the violator shall not be present on a vessel harvesting or processing  
 14           oysters.

15                   (c) For a third or subsequent violation of this Subsection, the violator's oyster  
 16           harvester license shall be revoked, and no new such license shall be issued for ten  
 17           years from the date of the third or subsequent conviction. In addition, the violator  
 18           shall be sentenced to perform no less than one hundred twenty hours of community  
 19           service. If available, the hours shall be served in a litter abatement community  
 20           service program. During the period in which the violator is prohibited from  
 21           possession of an oyster harvester license for a third or subsequent violation, the  
 22           violator shall not be present on a vessel harvesting or processing oysters.

23                                   \*       \*       \*

24           §433. Culling oysters taken from natural reefs; size limits

25                                   \*       \*       \*

26                   C. No person shall take oysters from the natural reef of the waters of the  
 27           state during the period beginning the day following the closing date set by the  
 28           commission pursuant to Paragraph (B)(1) of this Section and ending the Tuesday  
 29           following Labor Day, nor shall any person take oysters from the natural reefs during  
 30           any closure of such reefs as set by the commission or department. No person shall

1 can, shuck, or pack any oysters from the natural reefs during the closure period. This  
2 provision does not prevent any lessee of oyster bedding grounds from harvesting his  
3 own oysters and using them for personal home consumption or for sale during the  
4 time of closure.

5 \* \* \*

6 G. No provisions of this Section shall prevent the department from  
7 exercising its option to close the natural grounds to all oyster fishing as provided in  
8 Subsection B, and no person shall take oysters from the natural reefs during any such  
9 closure.

10 \* \* \*

11 J.(1) ~~A~~ Except for a violation of the provisions of Subsection C or G of this  
12 Section, violation of the provisions of this Section shall constitute a class two  
13 violation.

14 (2) A violation of Subsection C or G of this Section shall constitute a class  
15 six violation. In addition to the penalties associated with a class six violation, the  
16 violation shall be sentenced to perform no less than forty hours of community service.  
17 If available, the hours shall be served in a litter abatement community service  
18 program.

19 \* \* \*

20 Section 3. LAC 51:IX.3.335(B) is hereby enacted to read as follows:

21 §335. Penalties Relative to Shell-Stock Refrigeration

22 \* \* \*

1                    B. Any violation of LAC 51:IX.3.327 through 333 shall constitute a class  
 2                    four violation as delineated in R.S. 56:34(A) but shall not include forfeiture of  
 3                    anything seized in connection with the violation as required by R.S. 56:34(B).  
 4                    Section 4. R.S. 56:433(D) is hereby repealed in its entirety.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_