

2019 Regular Session

HOUSE BILL NO. 355

BY REPRESENTATIVE GISCLAIR

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

FISHING/CRABS: Prohibits the taking of immature female crabs and provides for enhanced penalties for certain crab fishing violations

1 AN ACT

2 To amend and reenact R.S. 56:332(B), (F), and (H), relative to crab fishing; to prohibit the  
3 taking of immature female crabs; to provide for enhanced penalties for certain class  
4 four crab fishing violations; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 56:332(B), (F), and (H) are hereby amended and reenacted to read  
7 as follows:

8 §332. Crabs; release of immature female crabs and crabs in berry stage; method of  
9 taking crabs; time limitations; by-catch; penalties, abandoned crab trap  
10 removal program; escape rings

11 \* \* \*

12 B.(1) No person shall keep or sell immature female crabs or adult female  
13 crabs in berry stage, that is, when ~~they~~ the adult females are carrying the eggs or  
14 young attached to the abdomen. All immature female crabs and crabs in berry stage  
15 taken by any means shall be returned immediately to the waters, unless the immature  
16 female crabs are in the premolt stage and are being held for processing as soft shell  
17 crabs or being sold to a processor for the producing of soft shell crabs. However, a  
18 legally licensed commercial crab fisherman may have ~~in his workbox~~ an incidental  
19 take of immature female crabs in an amount not to exceed five percent or crabs in  
20 berry stage in an amount equal to not more than two percent of the total number of  
21 crabs in his possession.

(2) To determine whether the total number of crabs in possession violates this Subsection, the enforcement agent shall take a random sample of fifty crabs from each crate or group of crabs equivalent to one crate. If more than five percent of the crabs in that fifty crab random sample are immature female crabs or adult crabs in berry stage, the entire number of crabs in that crate or group of crabs equivalent to one crate shall be considered to be in violation.

(3) Crabs in a work box, as defined in R.S. 56:8, shall not be subject to the immature female or adult berry stage restriction while the crabs are held aboard the vessel and the fisherman is actively fishing.

\* \* \*

F.(1) ~~Notwithstanding any other law to the contrary, theft~~ Theft of a crab trap or crabs from within a crab trap shall be prohibited and shall constitute a class 4 ~~four~~ violation punishable as provided in R.S. 56:34.

(2) In addition to all other penalties provided in this Subsection, for the first violation of this Subsection, the department shall suspend or revoke the violator's crab trap gear license for a period of one year from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of suspension or revocation. During the period in which the violator's license is suspended or revoked, the violator may be present on a vessel commercially harvesting or processing crabs only if that vessel is equipped with and is actively using a vessel monitoring system accessible to the department as prescribed in R.S. 56:424.1(B). In addition, the violator shall be sentenced to perform no less than forty hours of community service. If available, the hours shall be served removing abandoned crab traps as a part of the derelict crab trap removal program or in a litter abatement community service program.

(3) In addition to all other penalties provided in this Subsection, for a second violation of this Subsection, the department shall suspend or revoke the violator's crab trap gear license for a period of three years from the date of the conviction and no new crab trap gear license shall be issued to the violator during the period of

1        suspension or revocation. During the period in which the violator's license is  
2        suspended or revoked, the violator may be present on a vessel commercially  
3        harvesting or processing crabs only if that vessel is equipped with and is actively  
4        using a vessel monitoring system accessible to the department as prescribed in R.S.  
5        56:424.1(B). In addition, the violator shall be sentenced to perform no less than  
6        ninety hours of community service. If available, the hours shall be served removing  
7        abandoned crab traps as a part of the derelict crab trap removal program or in a litter  
8        abatement community service program.

9                (4) In addition to the other penalties provided in this Subsection, for a third  
10        or subsequent violation of this Subsection, the violator's crab trap gear license shall  
11        be suspended or revoked for a period of ten years from the date of the conviction and  
12        no new crab trap gear license shall be issued to the violator during the period of  
13        suspension or revocation. During the period in which the violator's license is  
14        suspended or revoked, the violator shall not be present on a vessel commercially  
15        harvesting or processing crabs. In addition, the violator shall be sentenced to  
16        perform no less than one hundred twenty hours of community service. If available,  
17        the hours shall be served removing abandoned crab traps as a part of the derelict crab  
18        trap removal program or in a litter abatement community service program.

19                                \*        \*        \*

20                H.(1) Violation of any provision of this Section constitutes a class four  
21        violation, except as otherwise provided ~~herein~~ in this Section and specifically as  
22        provided in Subsection F of this Section.

23                (2) In addition to the penalties associated with a class four violation under  
24        the provisions of R.S. 56:34, for the first conviction of a class four violation of this  
25        Section, the court shall also sentence the violator to perform forty hours of  
26        community service. If available, the hours shall be served removing abandoned crab  
27        traps as a part of a derelict crab trap removal program or in a community service  
28        litter abatement program.

1           (3) In addition to the penalties associated with a class four violation under  
2           the provisions of R.S. 56:34, for the second conviction of a class four violation of  
3           this Section, the court shall revoke or suspend the violator's crab trap gear license for  
4           one year from the date of the conviction and no new crab trap gear license shall be  
5           issued to the violator during the period of suspension or revocation. During such  
6           revocation or suspension, the violator may be present on a vessel harvesting or  
7           possessing crabs only if the vessel is equipped with and is actively using a vessel  
8           monitoring system accessible to the Department of Wildlife and Fisheries as  
9           prescribed in R.S. 56:424.1(B). The court shall also sentence the violator to perform  
10          forty hours of community service. If available, the hours shall be served removing  
11          abandoned crab traps as a part of a derelict crab trap removal program or in a  
12          community service litter abatement program.

13           (4) For a third conviction of a class four violation of this Section, the court  
14          shall revoke or suspend the violator's crab trap gear license for three years from the  
15          date of the third conviction and no new crab trap gear license shall be issued to the  
16          violator during the period of suspension or revocation. During such revocation or  
17          suspension, the violator may be present on a vessel harvesting or possessing crabs  
18          only if the vessel is equipped with and is actively using an operating vessel  
19          monitoring system as described in R.S. 56:424.1(B) that is accessible to the  
20          Department of Wildlife and Fisheries. In addition, the court shall sentence the  
21          violator to perform no less than ninety hours of community service. If available, the  
22          hours shall be served removing abandoned crab traps as a part of a derelict crab trap  
23          removal program or in a community service litter abatement program.

24           (5) For a fourth or subsequent conviction of a class four violation of this  
25          Section, the court shall revoke or suspend the violator's crab trap gear license for ten  
26          years from the date of the last conviction and no new crab trap gear license shall be  
27          issued to the violator during the period of suspension or revocation. During such  
28          revocation or suspension, the violator may be present on a vessel harvesting or  
29          possessing crabs only if the vessel is equipped with and is actively using an operating

1 vessel monitoring system as described in R.S. 56:424.1(B) that is accessible to the  
 2 Department of Wildlife and Fisheries. In addition, the court shall sentence the  
 3 violation to perform no less than one hundred twenty hours of community service. If  
 4 available, the hours shall be served removing abandoned crab traps as a part of a  
 5 derelict crab trap removal program or in a community service litter abatement  
 6 program.

7 \* \* \*

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### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 355 Reengrossed

2019 Regular Session

Gisclair

**Abstract:** Prohibits the taking of immature female crabs and provides for enhanced penalties for certain crab fishing violations.

Present law prohibits the taking of adult crabs in the berry stage. Proposed law also prohibits the taking of immature female crabs.

Present law allows an incidental take of crabs in berry stage of not more than two percent. Proposed law limits the incidental take of immature female crabs to not more than five percent.

Present law provides that most crab fishing violations are class four violations punishable as follows:

1st offense between \$400 & \$950	or	imprisonment for more than 120 days, or both.
2nd offense between \$750 & \$999	&	imprisonment between 90 and 180 days.
3rd offense or more between \$1,000 & \$5,000	&	imprisonment between 180 days and 2 years.

Provides forfeiture of anything seized in connection with the violation.

Proposed law adds to the class four punishments the following enhancements for theft of crab traps or crabs from within a trap:

1st offense:	Suspension of crab trap gear license for one year; 40 hours community service; mandatory use of an approved vessel monitoring system (VMS) on any vessel used by the violator for the one-year suspension period.
2nd offense:	Suspension of crab trap gear license for three years; 90 hours community service; mandatory use of an approved VMS on any vessel used by the violator for the three-year suspension period.

3rd offense: Suspension of crab trap gear license for 10 years; 120 hours community service; prohibited from being on a vessel fishing for crabs for duration of the suspension.

Proposed law adds to the class four punishments the following enhancements for violations other than theft of crab traps or crabs from within a trap:

- 1st offense: Performance of 40 hours of community service preferably in litter abatement or removal of derelict crab traps.
- 2nd offense: Suspension of crab trap gear license for one year; 40 hours community service preferably in litter abatement or removal of derelict crab traps; mandatory use of an approved VMS on any vessel used by the violator for the one-year suspension period.
- 3rd offense: Suspension of crab trap gear license for three years; 90 hours community service preferably in litter abatement or removal of derelict crab traps; mandatory use of an approved VMS on any vessel used by the violator for the three-year suspension period.
- 4th offense: Suspension of crab trap gear license for 10 years; 120 hours community service preferably in litter abatement or removal of derelict crab traps; prohibited from being on a vessel fishing for crabs for duration of the suspension.

(Amends R.S. 56:332(B), (F), and (H))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Add the following enhancements to class four punishments for crab-related violations other than theft of crab traps or crabs from within a trap:
  - 1st offense: Performance of 40 hours of community service preferably in litter abatement and mandatory use of an approved vessel monitoring system (VMS) on any vessel used by the violator for a one-year period.
  - 2nd offense: Suspension of crab trap gear license for one year; 40 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the one-year suspension period.
  - 3rd offense: Suspension of crab trap gear license for three years; 90 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the three-year suspension period.
  - 4th offense: Suspension of crab trap gear license for 10 years; 120 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the ten-year suspension period.

#### The House Floor Amendments to the engrossed bill:

1. Add "removal of abandoned crab traps as a part of the derelict crab trap removal program" to the litter removal option for the enhanced penalties.

2. Remove the one-year VMS requirement on a first offense for other-than-theft violations.
- 3 Limit incidental take of immature female crabs to 5% of the catch but retain the present law incidental catch of 2% for berried crabs.