

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 R.S. 56:34(A) but shall not include forfeiture of anything seized in connection with
2 the violation as required by R.S. 56:34(B).

3 Section 2. R.S. 56:424(E), 433(C), (G), and (J) are hereby amended and reenacted
4 to read as follows:

5 §424. Taking of oysters

6 * * *

7 E.(1) No person shall harvest, possess, sell, barter, trade, purchase, or
8 exchange or attempt to sell, barter, trade, or exchange oysters in the state of
9 Louisiana or in interstate commerce unless such oysters are taken from areas
10 approved by the state health officer in accordance with R.S. 40:5.3. Unless otherwise
11 permitted by the Department of Wildlife and Fisheries, when any vessel is found to
12 be harvesting within an unapproved or closed area, all oysters on board the vessel
13 shall be deemed to have been taken from unapproved or closed waters and shall be
14 deemed to constitute a hazard to the safety, health, and welfare of the citizens of the
15 state. In addition, no oysters taken from sources outside of Louisiana shall be sold
16 in Louisiana, unless taken from areas approved by the state authorities having
17 jurisdiction, and unless secured from oyster dealers whose state certifications have
18 been endorsed by the United States Food and Drug Administration Public Health
19 Services for interstate shipment. All oysters found in violation of this Paragraph
20 shall be seized and ordered returned to the water. Any violation of this Paragraph
21 shall constitute a class ~~four~~ six violation under the provisions of ~~R.S. 56:34~~ R.S.
22 56:36.

23 (2)(a) In addition to all other penalties provided ~~hereunder in this Section,~~
24 ~~whoever violates~~ for the first violation of this Subsection ~~shall have~~ the oyster
25 harvester's license ~~or licenses~~ under which the violation occurred shall be revoked
26 by the department and for the period for which it or they were issued. ~~For the first~~
27 ~~offense, the license or licenses shall not be reinstated~~ no new such license shall be
28 issued for one year thereafter from the date of the conviction. ~~For the second and~~
29 ~~subsequent offenses, the license or licenses shall not be reinstated for three years~~
30 ~~thereafter.~~ In addition, the violator shall be sentenced to perform no less than forty

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 violator 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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____