

Regular Session, 2008

ACT No. 922

HOUSE BILL NO. 1383 (Substitute for House Bill No. 1281 by Representative Wooton)

BY REPRESENTATIVES WOOTON, BALDONE, AND RICHARD AND SENATOR DUPRE

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AN ACT

To enact R.S. 36:610(L) and R.S. 56:433.1, relative to taking oysters from the public seed grounds; to provide for an oyster seed ground vessel permit; to provide for eligibility for such permit; to provide for the terms and conditions of such permit; to establish the Oyster Seed Ground Vessel Permit Appeals Board; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 36:610(L) is hereby enacted to read as follows:

§610. Transfer of agencies to Department of Wildlife and Fisheries

* * *

L. The Oyster Seed Ground Vessel Permit Appeals Board (R.S. 56:433.1(C)) is placed within the Department of Wildlife and Fisheries and shall exercise and perform its powers, duties, functions, and responsibilities in the manner provided for agencies transferred in accordance with Part III of Chapter 22 of this Title.

Section 2. R.S. 56:433.1 is hereby enacted to read as follows:

§433.1. Oyster seed ground vessel permit; Oyster Seed Ground Vessel Permit Appeals Board

A.(1) Any oysters taken from the public natural reefs or the oyster seed grounds or reservations, except those in Calcasieu Lake or Sabine Lake, shall be placed only on a vessel which has an oyster seed ground vessel permit issued exclusively by the department pursuant to rules and regulations promulgated by the commission. Such permit shall be issued in the name of the vessel owner and shall identify the vessel permitted by including the state registration number or the United

1 States Coast Guard documented number. The permit shall identify the vessel that
2 may possess and transport oysters taken from the public natural reefs and seed
3 grounds. The permit does not grant any rights to the oyster resource or any rights to
4 harvest oysters from the waters of the state and shall not be sold, exchanged, or
5 otherwise transferred. The permit is valid for one year, beginning on January first
6 of each calendar year and expiring on December thirty-first of the same calendar
7 year, and permit holders who hold a valid permit during the prior year may renew the
8 permit at any time of the year for the current license year and from November
9 fifteenth for the immediately following license year. The cost of the permit shall be
10 fifteen dollars for residents and sixty dollars for nonresidents.

11 (2) Vessel owners, as listed in the official record of the department at the
12 time of application, who meet the requirements of Subsection B of this Section shall
13 have the right to submit to the department a new application for an oyster seed
14 ground vessel permit. No new applications for such vessel permits shall be accepted
15 after December 31, 2009.

16 (3) The taking of oysters from the public natural reefs or the oyster seed
17 grounds or reservations without an oyster seed ground vessel permit shall be a class
18 two violation subject to the penalties provided in R.S. 56:32 and to the requirements
19 of R.S. 56:424.1.

20 B. The following vessel owners, as listed in the official records of the
21 department at the time of application for the permit or who can, at the time of
22 application, demonstrate to the department that ownership of that vessel has
23 transferred to them, shall be eligible to receive an oyster seed ground vessel permit:

24 (1) Any person who owned a vessel that was licensed at any time during
25 license years 2004, 2005, 2006, or before May 31 in license year 2007 and can
26 demonstrate through trip ticket submissions that his vessel had oyster landings in the
27 state of Louisiana between January 1, 2004, and May 31, 2007.

28 (2) Any person who purchased or constructed a vessel and licensed that
29 vessel in the state of Louisiana between January 1, 2004, and April 30, 2008, and
30 who can demonstrate through trip ticket submissions that oysters were landed on that

1 vessel in the state of Louisiana between the time of the vessel's purchase or
2 construction and July 1, 2008.

3 (3) Any person who can provide evidence that he has a vessel that is under
4 construction in the state of Louisiana that is at least fifty percent complete on July
5 1, 2008.

6 C. There is hereby created the Oyster Seed Ground Vessel Permit Appeals
7 Board to be composed of Louisiana licensed oyster harvesters who hold oyster seed
8 ground vessel permits appointed as follows:

9 (1) Two members appointed by the Louisiana Oyster Dealers and Growers
10 Association, one member to be appointed from the coastal parishes located between
11 the Mississippi/Louisiana state line and the Plaquemines/Jefferson Parish line,
12 including Orleans Parish, and one member to be appointed from the coastal parishes
13 located between the Plaquemines/Jefferson Parish line and the Louisiana/Texas state
14 line.

15 (2) One member appointed by the Plaquemines Oyster Association to be
16 appointed from the coastal parishes located between the Mississippi/Louisiana state
17 line and the Plaquemines/Jefferson Parish line.

18 (3) One member appointed by the Terrebonne Oyster Association to be
19 appointed from the coastal parishes located between the Plaquemines/Jefferson
20 Parish line and the Louisiana/Texas state line.

21 (4) One member appointed by the Southwest Pass Oyster Dealers and
22 Growers Association to be appointed from the coastal parishes located between the
23 Plaquemines/Jefferson Parish line and the Louisiana/Texas state line.

24 (5) One member appointed by the United Commercial Fisherman's
25 Association to be appointed from the coastal parishes located between the
26 Mississippi/Louisiana state line and the Plaquemines/Jefferson Parish line.

27 (6) One member appointed by the Delta Commercial Fisherman's
28 organization to be appointed from the coastal parishes located between the
29 Mississippi/Louisiana state line and the Plaquemines/Jefferson Parish line.

1 (7) One member who is an oyster grower appointed by the president of the
2 Louisiana Farm Bureau Federation to be appointed from the coastal parishes located
3 between the Mississippi/Louisiana state line and the Plaquemines/Jefferson Parish
4 line.

5 (8) One member appointed by the Louisiana Oystermen Association to be
6 appointed from the coastal parishes located between the Mississippi/Louisiana state
7 line and the Plaquemines/Jefferson Parish line, including Orleans Parish.

8 D.(1) The Oyster Seed Ground Vessel Permit Appeals Board is established
9 to hear appeals of oyster seed ground vessel permit applications denied by the
10 department. The board shall be limited to determinations of the eligibility of a
11 permit applicant for a permit and to instances where a permit may be issued based
12 on a determination of hardship. The commission shall promulgate guidelines to be
13 used by the board to determine an applicant's eligibility and whether or not an
14 applicant should be granted a permit. Such determination shall require a favorable
15 vote of a majority of the appointed members of the board and the record of decision
16 shall clearly state the reasons or rationale for granting or denying the permit.

17 (2) The board shall be subject to the Open Meetings Law and the Public
18 Records Act. A quorum is required to conduct business. Vacancies shall be filled
19 in the same manner as the original appointment.

20 (3) Any decision of the board or the department regarding issuance or the
21 lack of issuance of a permit may be appealed de novo to the Nineteenth Judicial
22 District Court.

23 E. The provisions of this Section shall be applicable to license year 2009 and
24 thereafter and shall become null and void and of no effect beginning on November
25 15, 2013, and thereafter.

26 Section 3. The Wildlife and Fisheries Commission, with the consultation from the
27 Louisiana Oyster Task Force, shall, no later than April 1, 2009, promulgate and adopt rules
28 and regulations under the Administrative Procedure Act to provide for the administration of
29 oyster seed ground vessel permits, renewals of such permits, and the disposition of permits
30 which are no longer attached to a vessel.

1 Section 4. The provisions of this Act shall be applicable to license year 2009 and
2 thereafter and shall become null and void and of no effect beginning on November 15, 2013,
3 and thereafter.

4 Section 5. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____