1984 LOUISIANA FISHERIES LAWS: A REVIEW AND ANALYSIS

By Fred Whitrock

Legal Advisory Service

Louisiana Sea Grant College Program

Louisiana State University

Baton Rouge, Louisiana

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INTRODUCTION

The Louisiana Legislature, during the 1984 regular session, met for approximately 12 weeks[1] and considered 3025 bills and 472 resolutions.[2] Of these, the Senate Natural Resources Committee considered over 100 that were introduced in the Senate and over 40 that were introduced in the House of Representatives. The House Natural Resources Committee considered over 130 that were introduced in the House and 40 that were introduced in the Senate. Over 80 of these bills and resolutions, if enacted into law, would directly affect the fishing industry. All 80 were considered by one or both of the natural resources committees.[3] Of these, 23[4] were passed into law. All but four of these 23 were amended by one or both natural resources committees, the House floor, or the Senate floor.[5] Each of these 23 contained from one[6] to more than 20[7] express changes to the existing fishing laws. With this large number of bills and resolutions and the relatively short period of time for consideration, each bill and resolution may not have received the attention necessary to ensure that it would make only the intended changes and not have any unintended results.

Six months have passed since most of the new laws became effective,[8] which has allowed plenty of time to determine many of the acts' actual effects. Most of the acts have had their intended effects, although in several cases they have also had some unforeseen effects. One act[9] only had part of its intended effect, and the actual effect of another remains to be seen.[10]

Several acts changed laws that had remained relatively unchanged in the past. Extensions on butterfly nets are now prohibited,[11] as is the use of seines to commercially harvest shrimp;[12] nets cannot be left unattended;[13] outside state waters (from the coast to three miles offshore) are closed to shrimping for part of the year;[14] separate licenses are required for beam trawls and butterfly nets;[15] the licenses and regulations for harvesting oysters from Calcasieu Lake have been overhauled;[16] and the shrimp count has been changed.[17]

Other acts made changes in laws that seemingly change every year. Several mesh sizes for nets have been changed;[18] the application periods for various licenses have been changed;[19] and the opening and closing dates for various seasons have been changed.[20]

The Governor's Task Force on Finfish Management was created in the fall of 1983 to recommend changes in the laws for better management of saltwater finfish. The task force recommended passage of five bills.[21] Four of these were passed into law and account for approximately 75% of the changes passed in 1984 affecting finfish.

This article will examine the changes made in the fishing laws in 1984 and their effects, both direct and indirect, foreseen and unforeseen. Several acts restrict nonresident access to Louisiana fisheries resources through increased license fees, reciprocity provisions, and limited license application periods. One act prohibits the use of gear which is used almost exclusively by fishermen of Vietnamese descent, and another describes a boundary within inside state

waters to divide the outside state waters. The constitutionality of these provisions will also be examined.

Several resolutions were passed affecting Louisiana fisheries resources. Most of these either provided for suspension of laws for only a temporary period or requested some type of action by the Louisiana Department of Wildlife and Fisheries. Most of these will not be discussed.[22]

Finally, it is nearly impossible to determine every effect these changes will have. It is quite likely that more effects will become apparent as time passes and through the actual application of the laws.

I. LAWS AFFECTING ALL FISHERIES

a. Increase in License Fees

Act 230 increases most commercial fisheries license fees by five dollars, with the increase earmarked for use by the Louisiana Seafood Promotion and Marketing Board. The board was created in 1981 to:

> ...enhance the public image of commercial fishery products, thereby promoting the consumption of these products and, further, to assist the seafood industry, including commercial fishermen and wholesale and retail dealers, in market development so as to better utilize existing markets and to aid in the establishment of new marketing channels. Attention to the promotion and marketing of non-traditional and underutilized species of seafood would be inherent in the purpose of the council established herein.[23]

Given the power to contract and lend,[24] the board was limited to the funds allocated by the legislature or by some other source. Although the board was created in 1981, the legislature never provided funding. In 1983, the Gulf and South Atlantic Fisheries Development Institute granted the board $25,000. This was well below the amount considered necessary for the board to fulfill its goals, but did give it the opportunity to meet and determine its role in promoting and marketing Louisiana seafood.

The board realized it would need a more consistent source of funding than annual appropriations and grants. It recommended the introduction and passage of House Bill 983 (Act 230), which would raise almost every commercial fishing license by five dollars, thereby generating annual funding of approximately $300,000.[25] These funds will be earmarked for use by the board and deposited directly into the newly created Seafood Promotion and Marketing Fund. Normally, all funds collected by the Louisiana Wildlife and Fisheries Commission are deposited into the Conservation Fund and the legislature then appropriates funds to to the Louisiana Wildlife and Fisheries Commission, to be used for programs and purposes as designated by the legislature.[26] Bypassing the Conservation Fund provides more stability

to the board by decreasing the possibility that the legislature will divert the funds going to the Seafood Promotion and Marketing Fund to other programs.

The increase is applied to all commercial fishing license fees, including gear license fees, vessel license fees, and retail and wholesale licenses, and covers the finfish, crab, shrimp, oyster, fish farm, and clam fisheries.[27] The only license fees not covered are the fees related to oyster lease application and rental[28] and the wholesale minnow dealer's license.[29] It is likely the board felt the funds should come from licenses relating directly to the harvest and sale of seafood and therefore did not attempt to increase the oyster lease and application fees. All oyster harvest and sale license fees were increased, making them comparable with the license fees increased in the other fisheries. Adding the lease and application fees would place a greater burden on the oyster industry than that imposed on the other fisheries. The minnow dealer's license may have been overlooked because of its physical location in the statutes. It is well separated from the other license sections.

The act provides that five dollars from any license fee established on or after January 1, 1984, will be deposited in the special Seafood Promotion and Marketing Fund. By setting January 1, 1984, as the effective date, the act covers all future licenses as well as any licenses created during the 1984 legislative session. Four such licenses were created in other pieces of legislation during the 1984 session: the tonging and vessel licenses for harvesting oysters on Calcasieu Lake,[30] the beam trawl/butterfly net license,[31] and the finfish seller's license.[32]

The only question concerning these and future licenses is whether the five dollars deposited in the fund will be derived from the license fee as stated in the legislation or whether five dollars must be added to that amount. The determinitive language in Act 230 states:

> ...increase in each of the commercial fisheries license fees imposed by House Bill No. 983 of the 1984 Regular Session <u>or derived from the fee imposed on any commercial fisheries license established on or after January 1, 1984.</u> (underlining added)

A plain reading of this provision tends to indicate that for license fees established on or after January 1, 1984, the five dollars comes from the fee as stated in the establishing act. The assumption is that the legislature, in establishing a new license, will take into consideration the five dollars going to the fund and set the fee accordingly.

This assumption can easily be made for license fees established in future years but it is more tenuous for the four license fees established concurrently with Act 230. It is unlikely the legislature considered the five-dollar increase in determining the proper license fees when Act 230 was still in the legislative process. Further, the fee for the resident oyster vessel license for Calcasieu Lake, one of the four licenses enacted during 1984, is set at five dollars. Under

the above analysis, the entire fee would be deposited in the Seafood Promotion and Marketing Fund. It is unlikely the legislature intended that result.

For these four licenses the Department of Wildlife and Fisheries has interpreted this provision to mean that the five dollars is added onto the fee stated in the acts.[33] This eliminates the possibility that the entire fee for the Calcasieu Lake vessel license will go to the fund and also generates the most income for the department.

b. Tax Exemption

Two complementary Acts, 687 and 866, tighten the availability of tax exemption certificates for commercial fishermen. Commercial fishermen are exempted from paying sales and use taxes for certain products, goods, and services used for commercial fishing.[34] In the past, any holder of a commercial fishing license could get the certificate. Since many "noncommercial" fishermen acquire commercial licenses,[35] they could also acquire the exemption certificate, thereby defeating the intent of the law. The Governor's Task Force on Finfish Management (see Finfish) acknowledged there was a problem with sport fishermen being able to obtain a tax exemption certificate but could not find a solution and therefore did not recommend any changes in the laws. They only raised the problem for possible future consideration.[36] Acts 687 and 866 were introduced independently of the task force, and provide a partial solution.

Previously, a vessel receiving a tax exemption certificate had to be used primarily for commercial fishing.[37] Act 687 adds two requirements to this provision. One new requirement provides that the commercial fishing must be a trade or business. The second requirement states that possession of a commercial license is not the sole criterion for issuance of the exemption certificate. An additional criterion, provided by Act 866, requires a fisherman to submit a notarized affidavit stating he derives or intends to derive his primary source of income from commercial fishing. The act defines primary source of income as "not less than 50%."

The acts do not state whether the fisherman must submit the statement only once, thereby not being required to submit a new one for each annual renewal of the certificate, or whether an additional statement is required for each renewal application. The Department of Wildlife and Fisheries has interpreted this provision as requiring a new statement each year, regardless of whether the fisherman held a certificate of tax exemption the preceding year.[38]

II. FINFISH

Of the nine acts passed during the past legislative session concerning finfish, four were recommended by the Governor's Task Force on Finfish Management. Considering that each act contained several changes, the task force's recommendations accounted for approximately 75% of the changes in the finfish laws.

The task force was created on August 30, 1983,[39] by then-Governor David Treen, "To review ongoing management activities affecting saltwater finfish, expressly spotted seatrout [speckled trout] and red drum [redfish] and to make recommendations (including the preparation of legislation) addressing the protection and proper management of the coastal finfish resources."[40] The task force was especially concerned with redfish and speckled trout because these two are the most highly sought species of edible finfish found in the saltwater areas of Louisiana.[41]

Controversy concerning whether speckled trout and redfish should be subject to commercial harvest or restricted only to sport fishing has existed for several years in the Gulf of Mexico. Texas eliminated the commercial harvest of these two species in 1983[42] and Alabama placed a two-year moratorium on their commercial harvest in 1984.[43] Several pieces of legislation were introduced in the Louisiana Legislature in 1984 which would have specifically or effectively eliminated the commercial harvest of speckled trout and redfish either in all Louisiana waters or in only the Calcasieu Lake area.[44] Because of opposition by commercial fishermen, not one of these bills was passed.[45]

The task force, composed of representatives of the Louisiana Department of Wildlife and Fisheries, the Louisiana Wildlife and Fisheries Commission, commercial fishermen, sports fishermen, consumers, the Louisiana Restaurant Association, and university fisheries scientists,[46] drafted five bills and one resolution. Four of the five bills were enacted and the resolution was adopted.[47]

Most of the task force's recommended changes in the laws were incorporated into House Bill 1697, passed as Act 295. This act made approximately 14 changes in the finfish laws, including mesh size and length limitations for nets and an increase in the minimum length for speckled trout, as well as the creation of a new finfish licensing scheme. The other task force Acts are Act 278, limiting the number of redfish and speckled trout a fisherman can have in possession; Act 279, prohibiting unattended nets; and Act 235, which changes the definition of underutilized species.

House Concurrent Resolution 71 was the sole resolution recommended by the task force and it was adopted by the legislature. It requests the Department of Wildlife and Fisheries to use revenues received from the increase in fees resulting from the license changes recommended by the task force for the creation and operation of a coastal finfish management section. The function of the section would be to "perform research on, and make recommendations for, the proper management of Louisiana's coastal finfish resources."

a. Nets

Act 295 changes the mesh-size limits of trammel nets, seines, and gill nets used in the saltwater areas of the state. The minimum mesh size for gill nets is decreased from two inches square to one and three-quarters inches. The reason for the change is to decrease the average length of commercially harvested speckled trout. A two-inch

mesh catches, on average, a 19.2-inch trout, while a one and three-quarters inch mesh reduces that length to 17.1 inches.[48] This is still well above the minimum legal length of 12 inches.[49]

The law stating the mesh size for trammel nets previously gave only a minimum mesh size for the inner and outer layers.[50] Act 295 increases the minimum mesh size for the inner layer from "not less than one inch square" to "one and five-eighths inches square." The previous three-inch square minimum mesh size for the outer layers is retained, but the maximum mesh for outer layers is set at a size not exceeding 12 inches square. Previously, there was no maximum mesh size limit for the outer layers.

The act also adds a provision for gill nets and trammel nets, that the maximum overall length of 1200 feet applies to two or more connected nets. Previously, this provision applied only to seines.[51] This standardizes the overall length of all finfish nets used in the saltwater areas of the state.

Act 295 also changed the mesh size on saltwater seines from a minimum of one-inch square to one-inch square. As stated above, the mesh size for a gill net, before the change by Act 295, was a minimum of two inches square. In the past, a seine could have been used with a mesh size between one and two inches square, whereas a gill net could not. This created a loophole in the law which could have allowed fishermen to use a gill net with a mesh size between one and two inches and call it a seine, thereby making an illegal net legal.[52]

An unexpected result of the change in the mesh size was its effect on some fresh and saltwater commercial fisherman in the Franklin, Louisiana, area. These fishermen were using a seine (bottom roller rig seine) with a one and one-half inch mesh to catch freshwater bait fish and saltwater commercial finfish. The minimum mesh size on freshwater seines is two inches,[53] but with an experimental permit[54] from the Department of Wildlife and Fisheries, the fishermen were able to catch freshwater bait fish with a one and one-half inch mesh seine, so long as no commercial freshwater finfish were taken. Before Act 295, the mesh on a seine used in saltwater areas could not be less than one inch square. Therefore, a one and one-half inch mesh was legal to catch saltwater commercial finfish and, with an experimental permit, freshwater bait fish. The problem arose because it was uneconomical to catch the freshwater bait fish without being able to catch saltwater commercial finfish. The one-inch square mesh size imposed by Act 295 eliminated part of the commercial livelihood of these fishermen.[55]

Act 295 also amends the provision on saltwater finfish seines by eliminating the chinchera net exception.[56] The chinchera net is a type of seine originally brought to Louisiana by the Islenos Indians in the eighteenth century.[57] In 1983, the Louisiana Legislature provided an exception to the length limitations for the chinchera net.[58] The length limitation provided that a seine could not exceed 1200 feet in length, nor could two or more seines be connected so that the overall length exceeded 1200 feet. The exception allowed two or more chinchera nets to

be connected to exceed 1200 feet where each individual net was less than 1200 feet in length.

Act 295 also standardizes and increases the penalty for a violation of net size and length provisions. In 1981 the legislature attempted to standardize the penalty provisions for violation of the various wildlife and fisheries laws[59] by establishing seven penalty provisions.[60] Prior to this standardization, several different penalty provisions were scattered throughout the laws.[61]

Through this standardization, an attempt was made to refer violations of the laws to one of the standardized penalties. Violation of the net size and length provisions resulted in a class-one penalty.[62] Unfortunately, several of the prior penalties were overlooked in the standardization. One of these penalties covers the same net size and length provisions as the class one penalty.[63] While neither of these two provisions has been repealed, Act 295 removed the net size and length provision from their coverage. A violation of this provision is now a class-two penalty,[64] which substantially increases both the fines and the time of imprisonment.

The task force also considered the issue of unattended seines, gill nets, and trammel nets. They found that these unattended nets created a danger on navigable waters by entangling outboard motors and propellers. This has resulted in two known sinkings.[65] Also, some nets were left unattended for periods of a week and longer, leading to deterioration of the entrapped fish, resulting in a wasted fishery resource.[66] The task force recommended that all unattended seines, gill nets, and trammel nets be prohibited. The legislature agreed and passed Act 279 after adding butterfly nets and beam trawls used to take shrimp, and adding an exception for unattended nets attached to a wharf at a camp.

Act 930, not a task force recommendation, provides a license for slat traps similar to that used for hoop nets.[67] For each set of 15 slat traps a license fee of ten dollars is required. Further, as with hoop nets, Act 930 allows the owner to employ helpers to use or set the traps without each helper being required to obtain a commercial fisherman's license. The act requires that slat traps, unlike hoop nets, be tagged with tags furnished by the Department of Wildlife and Fisheries if the traps are being used to catch catfish. Previously, there was no gear license for slat traps. The fisherman only had to obtain a resident commercial fishing license.[68]

Another change not based on on a task force recommendation is found in Act 516, concerning the use of a barbless spear to catch flounder in saltwater areas of the state. This act also prohibits the use of lead nets on hoop nets set in flooded regions where the water is out of the actual bed of the natural stream or lake when the hoop net is set within 500 feet of the actual stream bed to take freshwater or saltwater game fish. Further, the act prohibits the taking of garfish, which could previously be taken with a spear, gun, bow and arrow, and traps.[69]

b. Finfish Length and Possession Restrictions

Acts 273 and 295 provide by act what has been done in the past by resolution. The Wildlife and Fisheries Commission can suspend or reduce the 11-inch size limit on channel catfish in the areas of the state where biological data indicate that the suspension or reduction would not be detrimental to the catfish population. For the Lac des Allemandes area this same provision has in the past been accomplished by resolution.[70] The reason for this suspension is the abundance of stunted channel catfish in certain areas of the state. The commission found that the vast majority of channel catfish in some areas are under the 11-inch minimum harvestable length, that these catfish are sexually mature at a length less than 11 inches, and that the suspension has been watched since 1981 and no detrimental effects have been found.[71] Resolutions are a temporary measure, and can be effective for no longer than one year.[72] The effect of this change allows the commission to decrease the minimum size limit for periods longer than one year. In fact, the commission during its January, 1985, meeting extended the minimum size exception until January 1, 1990.[73]

Act 278, another change recommended by the task force, changes the possession limit of speckled trout and redfish for saltwater sport fishermen. Previously, the possession limit was twice the daily catch limit.[74] The new law sets the possession limit at the same number as the daily catch limit.[75] The daily catch limit of a combined total of 50 has not been changed.

The only provision in Act 295 that specifically refers to speckled trout increases the minimum commercially harvestable length from 11 inches to 12 inches.[76]

c. Licenses

By far the biggest change produced by Act 295 concerns the licensing requirement for saltwater fishing. A new saltwater angling license is required for game fishermen fishing south of the saltwater boundary line.[77] The license costs $5.50 for both residents and nonresidents and must be purchased in addition to any other required license. The law still retains the "cane pole" exception for a "resident using a rod or fishing pole, hook and line without a reel or artificial bait."[78]

The task force examined the license structure for commercial fishing and found inequities in the cost of obtaining licenses to enter the different fisheries.[79] Their recommendation was to eliminate those inequities and to restrict the commercial fishery to those with a "serious intention of entering the commercial fishery."[80] The result, found in Act 295, was the establishment of the finfish seller's license, required for each person "taking saltwater commercial finfish or bait species for sale." The fee for the seller's license is $105 for residents and $405 for nonresidents. Residents and nonresidents must now purchase the seller's license in addition to any required vessel license and gear licenses.

The act also repealed the provision containing the commercial angler's license. This provision stated:

> Validly licensed commercial fishermen, whether residents or nonresidents, shall be entitled to angle for commercial fish with rod and reel and sell any fish taken by such method only upon first purchasing a commercial angler's license at a cost of two hundred fifty dollars.[81]

The repeal of this provision results in one of two possible effects. First, it prohibits validly licensed commercial fishermen from angling for commercial fish with a rod and reel. This, in effect, makes the rod and reel illegal gear for commercial fishing. Second, it only eliminates the specific commercial angler's license in lieu of the new finfish seller's license. This would not prohibit use of a rod and reel but would require the fisherman to obtain the proper licenses to use a rod and reel (a finfish seller's license). Which of these two interpretations is correct will depend on the determination of whether a rod and reel is a legal method to take commercial fish. If it is a legal method, then the second interpretation is correct. If it is not, then the repealed section was not only a licensing provision but a provision allowing use of specific gear which would otherwise be illegal.

Section 320 B, which gives the legal methods of taking commercial fish, states: "commercial finfish may be taken with any pole, line,... and by no other means..."[82] The section does not expressly state "rod and reel," so for a rod and reel to be legal gear, another section must specifically allow its use or it must be considered a pole. No other section specifically provides for use of a rod and reel; therefore, some other section must define rod and reel as a pole.

The definition of angling states: "... "Angle" means to fish with rod, fishing pole, or hook and line, with or without a reel."[83] A pamphlet on Louisiana fishing laws produced by the Louisiana Department of Wildlife[84] states that a legal method of taking game fish is "by means of rod (or fishing pole)" thereby equating a rod with a pole. Further, the repealed provision was in Section 337, which is, by title, a licensing provision.[85] Every provision in this Section, with the possible exception of the repealed provision, provides for the license or licenses needed to fish commercially. These all tend to support the conclusion that a rod and reel is a legal method for taking commercial fish.

On the other hand, all the sections in which a rod and reel is mentioned refer to taking game fish.[86] Also, in the section listing the legal methods to take game fish,[87] rod is specifically included. This lends support to the conclusion that a rod and reel is strictly a legal method to take game fish and therefore could not be used to take commercial fish without a specific statutory provision.

Act 295 also eliminated the variable fee based on length for seines, gill nets, trammel nets, and purse seines. Prior to Act 295, the license fee was based on the length of the net:

> C. On each separate saltwater fish seine, gill net, trammel net, or purse seine less than six hundred feet in length, the owner or user thereof shall pay an annual license fee of ten dollars. On each separate saltwater fish seine, gill net, trammel net, or purse seine six hundred feet or more, the owner or user thereof shall pay a license fee of twenty dollars. On each separate saltwater menhaden seine used for the purpose of taking menhaden or other herring-like fish, the annual menhaden license fee shall be fifty dollars.[88]

The act now provides a flat license fee of $30 "for a maximum of 1200 feet or any fraction thereof." For the fisherman who uses only one net this change represents a $5 increase. Many other fishermen, normally those fishing in the bays, use several smaller nets.[89] The effect of the change on these fishermen is much more dramatic. A fisherman may use four 400-foot nets, in which case the new license would cost $120 dollars, or $60 more than under the previous law.

The act standardizes the application period for all licenses required to catch and sell saltwater finfish. Previously, application for nonresident vessel licenses must have been made during the period of January 1-31 for each year.[90] There was no stated application date for other finfish licenses. Act 295 requires that the gear license and the finfish seller's license must be applied for during the period of October 1-31 for the next season. These time periods refer solely to saltwater licenses. Licenses for freshwater commercial fishing are not affected.[91]

Act 323 gives the Wildlife and Fisheries Commission authority to issue permits, rules, and regulations concerning the taking of freshwater or saltwater game fish while scuba diving.

d. Underutilized Species

The task force also recommended a change in the definition of underutilized species in order to:

1. more accurately reflect changing conditions in the fishery through modification of the species listed as examples,

2. preclude the necessity of future modifications of this species list by listing them as examples, but that the definition should not be the sole determination of whether an experimental permit is issued.[92]

After some modification by the legislature, white trout and sheepshead were removed from the definition and gafftopsail catfish, hardhead catfish, spot, pinfish, and silver eel were added. Further, the wording

was changed from "includ[ing] but not limited to" these species to "[h]istorically this has included" these species.

e. Black Drum & Pompano

Trammel nets, seines, gill nets, and other webbing are prohibited from the waters surrounding the Chandeleur Islands. Shrimp trawls, menhaden purse seines, and pompano nets are exempted from this prohibition, although pompano nets are subject to certain restrictions. Previously, pompano nets could only be used in these waters during the period of May 1 through September 30.[93] Both Acts 516 and 784 extend the season one month to October 31. The acts also provide that black drum as well as pompano can be taken. Unlike several other acts that amend the same sections,[94] Acts 516 and 784 amend this section in exactly the same way and therefore do not present any inconsistencies or conflicts.

III. SHRIMP

The 1984 session produced several changes to the shrimp industry. Thirteen acts were enacted directly affecting the shrimp fishery.

a. Notice for Season Change

Act 120 amends the notice requirement for the Wildlife and Fisheries Commission to open or close a shrimp season. The act requires the commission, once a decision has been reached to open or close a season, to give the public at least 72 hours' notice before the opening or closure can take effect. The law has always provided for public notice before a special meeting could be held in which the commission would decide to open or close a season, but prior to this change, once the decision was made, the WFC could open or close the season immediately.[95]

b. Licenses

The Governor's task force on Finfish Management, as discussed above, was created in 1983 to recommend changes in the law to ensure the proper management of saltwater finfish. Several of their recommendations directly affect the shrimp industry.

One task force recommendation, Act 295, requires shrimp fishermen to purchase a finfish seller's license to sell finfish. In the past, shrimp fishermen were excepted from obtaining any additional fishing licenses to sell finfish caught in their trawls while they were shrimping:

> The holder of a shrimp seine or trawl license may sell, in addition to the legal size shrimp, any legal size fish or crustaceans that happen to be caught in the shrimp seine or trawl and the holder of a trawl license may sell fish taken with pole and line or cast net without the payment of additional license or licenses[96].

Act 295 amended this section to read:

> The holder of a trawl license may sell, in addition to the legal size shrimp, any other legal size crustaceans that happen to be caught in the trawl. Any holder of a shrimp trawl license wishing to sell finfish must first possess the resident seller's license at a fee of one hundred dollars or a nonresident seller's license at a fee of four hundred dollars as defined in R.S. 56:337(C)(2). (underlining added)

The change by Act 295 removes the exception that shrimp fishermen can sell finfish caught in their trawls while trawling without purchasing the necessary finfish seller's license. Likewise, shrimp fishermen can no longer catch fish by use of a pole and line or cast net without purchasing the seller's license. To do either of the above, the shrimp fisherman must acquire the seller's license at a cost of $105 for residents and $405 for nonresidents. Further, as discussed above, it is questionable whether any finfish caught with a pole and line can be commercially sold, even with the finfish seller's license.[97]

Act 693 created a specific license for beam trawls and butterfly nets. Previously, beam trawls and butterfly nets were considered trawls for licensing purposes.[98] As such, they were included under the finfish license exception for trawls. As stated above, the holder of a trawl license can now only sell crustaceans of legal size caught in the nets without any other license. Act 693 moved beam trawl and butterfly net licensing to a new subsection, but did not move the exception. As the new law is written, the holder of a beam trawl/butterfly net license must obtain the other necessary "crustacean" licenses[99] in order to sell any crustaceans, while the holder of the trawl license does not.

Two acts, 299 and 628, change the application period for obtaining a shrimp vessel license.[100] Previously, a shrimp vessel license had to be purchased during the one month period of January 1 through February 1. Both acts now allow Louisiana residents to obtain shrimp vessel licenses at any time of the year. Unfortunately, these two acts differ on when nonresidents can purchase the same license. Act 628 allows nonresidents to obtain the license at any time of the year while Act 299 retains the January 1 through February 1 period.

c. Nets

Harvesting shrimp by use of "chopsticks" was a method introduced in Louisiana several years ago by the Vietnamese.[101] While very little research has been conducted on the use and effect of chopsticks, what little information is available has indicated their use to be a more efficient and advantageous method of taking shrimp than traditional methods.[102] Basically, chopsticks consist of a net suspended between two long poles. The poles, extending from the front of the boat, are crossed and pushed ahead with the net trailing underneath the vessel.[103] Skids, attached to the ends of the poles, skim over the water bottom. The maximum depth chopsticks can be used is limited by the length of the

poles.[104] In Louisiana, chopsticks were used only to a depth of 10 to 15 feet. Advantages of chopsticks over traditional trawling appear to be a better catch rate, an increase in the percentage of time actually fishing, lower drag rate, less susceptibility to damage from underwater obstructions, and a higher quality shrimp because the bag is emptied more often.[105] No disadvantages have been proven, but one rumored disadvantage is that the skids, on soft water bottoms, dig trenches that destroy oyster beds and entangle traditional trawls.[106]

The first problem with chopsticks concerned their net classification for licensing and regulation purposes. The Department of Wildlife and Fisheries determined chopsticks to be beam trawls[107] and therefore limited the net opening to not more than 22 feet at its widest point.[108]

In Act 693, the 1984 legislature outlawed the use of chopsticks to catch shrimp. The act also defined chopsticks as:

> a triangular-shaped beam trawl formed by the crossing of two poles or uprights at the top and a fixed cable or line at the base to restrict the opening with webbing attached or suspended between the beams or poles to form a trawl or catch bag and which is deployed or fished from a moving motor vessel.

Act 693 was originally introduced to provide a separate license for beam trawls and butterfly nets. The Senate Natural Resources Committee added the provision prohibiting the use of chopsticks to take shrimp. The act passed the Senate the same day the chopsticks provision was discussed and adopted by the Natural Resources Committee.[109] Within seven days it passed the House and was enrolled.[110]

Acts 255 and 295 prohibit the use of extensions of any kind, commonly referred to as sweepers, which extend the dimensions of a beam trawl or butterfly net beyond the limits set by law. Previously, the law set the legal dimensions for single beam trawls or butterfly nets at 22 feet by 22 feet and the individual nets on double beam trawls and butterfly nets at 12 feet by 12 feet.[111] The use of extensions provided a method to circumvent the maximum dimensions. Extensions, under Louisiana law, are called "lead nets" or "wing nets" and are defined as:

> ... a panel of netting of any mesh size or length, with or without weights and floats attached to one or both sides of the mouth of a cone-shaped net having flues or throats, and set so as to deflect or guide fish toward the mouth of the net.[112]

Deflecting or guiding shrimp toward the mouth of the net, in effect, increases the mouth of the net beyond the dimensions set by law. The prior law did not expressly condone or prohibit the use of sweepers, but their use has been accepted over the years.

All this changed in the spring of 1984 when the Department of Wildlife and Fisheries requested the Louisiana attorney general's office to issue an opinion stating whether the use of extensions was legal. On April 16, 1984, the attorney general issued an opinion stating they were illegal.

> In view of the clear language contained in the above quoted statues, if any person uses extensions or leads attached to or used in conjunction with a beam trawl or butterfly net, which in combination, exceed the maximum size permitted in the statute, such person is in violation of the law.[113]

This opinion resulted in the quick passage of Senate Concurrent Resolution 54, which suspended the law making extensions illegal. The resolution was to be effective until 60 days after the 1985 regular session or until legislation relating to extensions was enacted during the 1984 session.

Three bills were introduced specifically regulating extensions. One would allow their use[114] and two would prohibit their use entirely.[115] The two that prohibited their use were passed into law. As stated above, Acts 255 and 295 prohibit the use of any type of extension that extends the dimensions of a beam or butterfly net beyond the set legal limits.

Acts 255 and 295 are complementary on the prohibition of extensions but differ on the maximum legal dimensions of the nets. Act 255 retains the prior limits of 12 feet by 12 feet for the individual nets on a double beam trawl or butterfly net and 22 feet by 22 feet for the net on a single beam trawl or butterfly net. Act 295 agrees with these dimensions but provides an exception for double beam trawls and butterfly nets used on a vessel. Under Act 295 the individual nets of a double beam trawl or butterfly net, when used on a vessel, can measure 16 feet horizontally by 12 feet vertically.

When two acts or provisions of the law regulate the same subject, an attempt must be made to give effect to both provisions.[116] The Department of Wildlife and Fisheries has attempted to read Acts 255 and 295 together by taking the position that the prohibition on the use of extensions under Act 255 is effective along with the increased size limit for nets used off a vessel under both Acts 295 and 255. Their reasoning is that Act 255 only concerns the prohibition of extensions, whereas Act 295 concerns the exception for use on a vessel as well as the prohibition of extensions.[117] Therefore, by reading the two together, both the prohibition on extensions and the increased size allowed off vessels are effective.

Another bill introduced on recommendation of the Finfish Task Force prohibits unattended seines, gill nets, or trammel nets in saltwater areas of the state. The reason was that unattended nets were a hazard to navigation and resulted in a wasted fish species.[118] The House Natural Resources Committee amended this bill to prohibit taking shrimp by use of unattended nets and specifically included unattended beam trawls and butterfly nets as prohibited nets.[119] Finally, the House

floor provided an exception for unattended nets attached to a wharf at a camp.[120] In its final version, Act 279 prohibits unattended seines, gill nets, trammel nets, butterfly nets, or beam trawls which are used to catch shrimp or fish from saltwater areas of the state, unless the net is attached to a wharf at a camp.

Another change recommended by the Finfish Task Force and passed into law is the elimination of the use of seines to take shrimp from the saltwater areas of the state. The task force recommended this to eliminate a loophole in the law. A seine used to take saltwater finfish must have a mesh size of one inch square,[121] whereas without the repeal, a shrimp seine could have a mesh size of no less than three-quarters inch bar but no more than one-inch bar.[122] A fisherman, by acquiring the proper shrimp license and the finfish seller's license, could legally take and sell finfish caught with a shrimp seine with a mesh size smaller than one-inch square. This would defeat the purpose of the change in the law.

The same effect could be reached by setting the shrimp seine mesh size at the same size as the finfish seine, but while use of a shrimp seine is a historic method to take shrimp in Louisiana waters and was used extensively in the past, none are used today. Eighty-seven shrimp seine licenses were issued by the Department of Wildlife and Fisheries in 1983 and 94 were issued in 1984,[123] all of which were used to take finfish. The task force, because of this, recommended its use be eliminated. Act 295 repeals all language referring to shrimp seines[124] except for those used to catch bait shrimp. The new law only allows use of a seine to catch bait shrimp where the seine is less than 100 feet in length and is operated on foot with no mechanical devices.[125]

d. Shrimp Count

For the first time since 1942 the shrimp count has been changed. From 1942 until 1984 the possession count on saltwater shrimp remained at no more than an average of 68 specimens to the pound.[126] Act 586 made four important changes in the law. First, under the new law, the count is increased to no more than an average of 100 specimens to the pound. Second, the count applies to fishermen when they are catching the shrimp or when the shrimp are on board the vessel, and the count also applies to possession by a first buyer. Third, the count applies to shrimp taken in inside or outside waters of the state. Fourth, the count is limited to white shrimp.

The 100 count is an average and Act 586 does not specify if it refers to shrimp with the heads on or heads off. The Louisiana Supreme Court, in the case of Sevin v. Louisiana Wildlife and Fisheries Commission, decided this issue by holding that the count applies to saltwater shrimp in their "natural state," with natural state being "fresh saltwater shrimp with their heads on."[127]

The second major change in the shrimp count law by Act 586 expands the class of persons covered by the count. Previously, anyone taking or having in possession any saltwater shrimp that averaged more than 68 specimens to a pound were covered by the count law.[128] Act 586

clarifies this to mean possession "aboard a vessel or at the dock" and adds possession "by a first buyer thereof." This change was probably a result of the Sevin case, which restricted the application of the count law to "only the taking and possession of inside shrimp...."[129] Shrimp taken from the coast seaward were precluded. As a practical matter, as a result this decision, enforcement of the count law became almost impossible. The shrimper only had to state he caught the shrimp in outside waters and it would be nearly impossible for the enforcement agent to prove otherwise. While Act 586 attempts to slightly increase the class of persons covered by the count, it still only applies to shrimp taken in Louisiana waters.

The third change, then, only moves the enforcement problems seaward by three miles. The wording of the act states that the count law applies to "white shrimp taken in inside or outside waters of Louisiana." Shrimp taken in waters more than three miles off the coast are therefore excluded. Under the previous count law, to circumvent prosecution, shrimpers only had to state the shrimp were caught in outside waters of the state. Under the new law they only have to state that the shrimp were caught in federal waters. Enforcement remains nearly impossible. The obvious intent of the count law was for the count to apply regardless of where the shrimp were taken. But, by stating that the count applies only to state waters, the law is limited to shrimp harvested from state inside and outside waters. If the act was written without the wording, "taken from inside or outside waters of the state," then by virtue of the Sevin case and Act 692, the law would still only apply to state inside and outside waters.[130]

Even with an affirmative statement that the count applies to shrimp harvested in state and federal waters, the state would not be able to enforce the count law over shrimp harvested in federal waters. States have broad authority to regulate the harvest of fish from federal waters and this regulatory authority can be exercised unless preempted by the federal government under the Supremacy Clause of the United States Constitution.[131] Preemption is, generally, the principle that a state cannot regulate an activity which the United States has reserved for regulation at the federal level.[132]

In absence of federal regulation, the states have been able to regulate fishing in federal waters for conservation and management purposes, so long as the state has jurisdiction over the fisherman.[133] Such jurisdiction has typically been established by state citizenship, state registration or licensing (fishermen and vessels which fish the state waters as well as federal waters), and use of state ports and facilities.[134]

To conserve and properly manage a fishery resource, states have enacted laws which set minimum size limits over fish taken from any waters, state or federal,[135] or have set gear restrictions regulating the use of gear and equipment in either state or federal waters.[136] These laws allow dockside enforcement by prohibiting possession of undersized fish or possession of illegal gear.[137] This makes enforcement easier and does not allow the fisherman to circumvent the purpose of the laws by alleging the fish were taken, or the gear used,

in federal waters. The courts have recognized the states' interest in managing and conserving fish stocks and allowed state regulation over both state and federal waters so as not to defeat the legitimate state purposes by allowing the laws to apply only to state waters.[138] The Louisiana shrimp count law could apply to both state and federal waters if it were written to include both state and federal waters, and if not preempted by any federal laws or regulations. As written, the law is limited to shrimp taken in state waters. Further, even if it is written to include both federal and state waters, it would be preempted by the Magnuson Fishery Conservation and Management Act.[139]

The Magnuson Act, passed in 1976, set up a national conservation and management system over the fishery resources of the United States by giving exclusive management over all fish found within the fishery conservation zone (3 to 200 miles) to the federal government.[140] Regional fishery management councils were set up to prepare fishery management plans to achieve the optimum yield for each species.[141] The Gulf of Mexico Fishery Management Council held the responsibility to set up a fishing plan for shrimp in the Gulf of Mexico.[142] The council developed a plan for shrimp which was adopted and became effective on May 15, 1981.[143]

The Gulf Shrimp Plan specifically regulates the harvestable size of shrimp taken from federal waters by stating, "There are no minimum size requirements for shrimp harvested in [federal waters]."[144]

The term "shrimp" covers all species of saltwater shrimp found in the Gulf of Mexico,[145] including the white shrimp Louisiana is attempting to regulate. This regulation preempts any state law that would directly or indirectly regulate the minimum harvestable size of shrimp from federal waters.

This does not preclude the state from setting a minimum size limit for shrimp taken from state waters, as the Louisiana law is written at present. It does, as discussed above, render enforcement ineffective because the state, in prosecuting a violation, must prove the shrimp were taken from state waters. Without actually catching the fisherman in state water in the act of trawling and/or pulling a catch on board the vessel, this element is nearly impossible to prove. It is also likely that the fisherman, if caught, could only be prosecuted for the undersized shrimp in the net. The fisherman could allege that any undersized shrimp in the vessel's hold were taken in federal waters.

Act 586 did increase the coverage of the count restriction in an attempt to make enforcement easier, but as stated above, any attempt to enforce the count against anyone in possession of undersized shrimp, either in state waters or at the dock, would be ineffective.

An associated problem with the shrimp count concerns the taking of sea bobs. Sea bobs (*Xiphopeneus kroyeri*) are a separate species of shrimp caught only in outside state waters, normally when the white and brown shrimp are out of season or not of a harvestable size or quantity.[146] Sea bobs can be harvested from state waters year-round

(except during the outside closure) and are specifically exempted from the count restriction.[147]

In many instances there is some bycatch of white shrimp during the harvest of sea bobs.[148] This raises the issue of whether the shrimp count applies to the small number of white shrimp in a sea bob catch. If a direct application of the count law is applied and if no exception is available, then the count does apply. Theoretically, just one white shrimp in a sea bob catch is subject to the count law.

The fourth change limits the count to white shrimp. Before the change no distinction was made between different species of shrimp. All saltwater shrimp were included with certain express exceptions.[149] The count law does not apply to any shrimp taken during the spring season or for brown shrimp taken from November 15 to December 20.[150] Act 586 specifically states that the count applies to white shrimp but the exception for brown shrimp was not repealed. A strong assumption exists that all phrases of a law have some effect.[151] Therefore, if a reasonable reading of this exception exists it should be given effect. One possible reading is that the exception only states when no count can apply and, indirectly, the Wildlife and Fisheries Commission could place a count, the same as the white count or another, on brown shrimp at any other time. Act 586 does not give the commission the express authority to place a count on brown shrimp but neither does it expressly prohibit them from setting a count. The authority would have to come from some other section. The commission and the Department of Wildlife and Fisheries are given control over the shrimp fishery in several sections[152] and are given the power to adopt rules and regulations not inconsistent with other provisions of the laws.[153] By reading the sections together, it is possible that the commission has the authority to set a count on brown shrimp independent of the white shrimp count at any time of the year except from November 15 to December 20 or during the spring shrimp season.

e. Closure of Outside State Waters

One overall change in the laws made during the 1984 legislative session specifically gave the Wildlife and Fisheries Commission control of shrimp in both state inside and state outside waters. As stated above, Act 586 specifically provides that the shrimp count law applies to shrimp taken in state inside and state outside waters. Act 692 adds a provision empowering the Department of Wildlife and Fisheries to enforce the laws regulating shrimp in inside and outside waters. This may only be more of a clarification brought about because of the Sevin case, rather than a change. This case held that the subpart of the Louisiana laws regulating shrimp applied to shrimp taken from state inside waters.[154] The complete extent of this decision has never been decided but Act 692 clarifies any question as to the extent of the shrimp laws by specifically giving the commission control over both state inside and outside waters.

Act 692 and Act 300 close, for the first time, the state outside waters for part of the year. While both acts provide for a closure, both also provide different requirements and different closure dates.

Act 300 is the simpler of the two and provides an automatic, required closure of all state outside waters from January 15 to March 15, allowing for a 15-day leeway period for the opening and closing dates. The use of the leeway period is left to the discretion of the Wildlife and Fisheries Commission "as determined to be appropriate," but 72 hours' notice must be given before exercising the leeway period. This provision is relatively clear and easily understood. Unfortunately the closure provision of Act 692 is not so clear nor so understandable.

Act 692 sets the dates between which the closure takes place but leaves the decision on whether to invoke the closure to the complete discretion of the commission. Further, Act 692 divides the outside waters into two zones with different closure dates for each zone. One zone, defined as "on the west bank of the Mississippi River" (west waters) can be closed, but for no more than 60 days, during the period of January 15 to March 15. The second zone is defined as "on the east bank of the Mississippi River" (east waters) and can be closed for no more than 60 days during the period of February 15 to April 15. Further, according to the best biological data available to the commission, the opening or closing date can be changed by 15 days. If the commission exercises the 15-day leeway period, 72 hours' notice must be given before the change becomes effective.

There are two obvious problems with the closure provision of Act 692. First, the closure is only for outside waters. The boundary between state inside and state outside waters is statutorily defined[155] and generally follows the coast. Inside waters are those landward of the line and outside waters are those seaward of the line.[156]

The Mississippi River falls entirely in the inside waters of the state,[157] but the act attempts to divide the outside waters into zones using this inside boundary. Any reference to the Mississippi River in dividing outside waters can only refer to a line starting at the mouth of the Mississippi River and extending seaward three miles. If it is assumed that the boundary line starts at the point where the mouth of the Mississippi River intersects the statutory inside-outside boundary line, the problem becomes at which pass at the mouth of the Mississippi River should the line start and in which direction should it be extended. No fewer than five passes could reasonably be considered,[158] with two being the most likely choices: Southwest Pass and South Pass.[159] A large area of water would be affected depending on the choice.

Aside from the problem of determining the dividing line for the outside waters, Act 692 and Act 300 conflict with each other on two other provisions. First, Act 300 is restrictive; it requires the commission to close the outside waters, allowing discretion only over the decision of whether to invoke the leeway period. Act 692, on the other hand, is permissive; it gives the commission complete discretion on whether or not to invoke a closure.

The second provision in conflict concerns the closure dates. Act 300 sets closure dates of January 15 through March 15 for all outside

state waters. Act 692 provides the same dates for the west waters, but sets a February 15 through April 15 closure for the east waters.

When provisions of two acts conflict, an attempt must be made to read the two acts together so that both are given effect. In this regard the Louisiana Supreme Court has stated:

> If acts can be reconciled by a fair and reasonable interpretation, it must be done, since the repeal of a statute by implication is not favored and will not be indulged if there is any other reasonable construction. Moreover, where two acts relating to the same subject are passed at the same legislative session, there is a strong presumption against implied repeal, and they are to be construed together, if possible, so as to reconcile them, giving effect to each. In the latter case this Court quoted with approval the following language: 'Where it is possible to do so, it is the duty of the courts in the construction of statutes, to harmonize and reconcile laws***.' These rules are particularly applicable to statutes passed at or about the same time, or at the same session of the legislature since it is not presumed that the same body of men would pass conflicting and incongruous acts.[160]

One possible reconciliation of these two acts is based on the fact Act 300 is mandatory, in that the outside waters will automatically close on January 15 and remain closed until March 15 unless the Wildlife and Fisheries Commission takes some action. Act 692 is permissive, and none of the closure provisions contained in the act can have any effect until the commission takes some affirmative action. Therefore, so long as the commission takes no action, Act 692 is not applicable, Act 300 will take effect, all outside waters will close on January 15 and reopen on March 15, and the two acts will not conflict with each other.

The conflict arises when the commission takes some action concerning the dates of the closure. Both acts provide for a 15-day leeway period on the closing and opening of the outside waters; however, Act 300 leaves the ability to invoke the leeway period to the complete discretion of the commission,[161] whereas Act 692 requires any change in the closing and opening of the waters to be based on biological evidence.[162]

If the commission does take some action, thereby invoking both acts, they can almost be completely reconciled. As stated above, Act 300 requires a closure from January 15 through March 15, but allows a 15-day leeway period on both the closing and opening dates. The act does not set a minimum or maximum number of days the season must remain closed. Therefore, the closing date can be advanced to December 31 and the opening date postponed to March 30, resulting in a 90-day closure. Alternatively, the closing date can be postponed until January 30 and the opening date advanced to February 28, resulting in a 30-day closure.

In either case, or any variation thereof, the waters must be closed from January 30 to February 28. Because Act 300 leaves use of the leeway up to the complete discretion of the commission, the only "mandatory" closure is from January 30 to February 28th.

Act 692, like Act 300, sets a 30-day minimum closure when the 15-day leeway period is used permissively (i.e., postpone the closure 15 days and advance the opening 15 days). Unlike Act 300, Act 692 prohibits a closure longer than 60 days. The west waters are given the same closure dates as are the waters under Act 300. But by limiting the closure to 60 days, the west waters must close between December 31 and January 30 and must then open between February 28 and March 30.

For east waters, the closure must start between January 30 and February 28 and close between March 30 and April 30. For both waters, the closure can be postponed and the opening can be advanced independently of each other, but if the closure is advanced, the opening must be advanced not less than the same number of days. Conversely, if the opening is postponed, the closure must be postponed not less than the same number of days. In addition, for the east waters to close during the mandatory closure required under Act 300, the 15-day leeway period must be invoked.

In summary, if the two acts are to be reconciled, the commission must advance the closing dates for the east waters to January 30, and because of the 60-day maximum closure, advance the opening date to March 30. All the outside waters are then closed during the mandatory closure of January 30 to February 28 as required by Act 300, neither of the zones closes before December 31 or reopens after March 30 as prohibited by Act 300, and neither is closed for more than 60 days. This scenario almost works. Under Act 692 the leeway period can only be invoked on the basis of the best biological data. It is unlikely the best biological data will coincidentally parallel the only possible way the two acts can be reconciled.

The commission, during its December 1984 meeting, closed the state's outside waters for the period of January 15 to March 15.[163] This was an affirmative action thereby invoking both acts and requiring some attempt at reconciliation. But they have ignored the dates set by Act 692 for the east waters (with or without use of the leeway period to advance the closure 15 days). There is no way in which the two acts can be reconciled using this closure period. The closure the commission chose is exactly the same closure mandated by Act 300, which would have taken effect had the commission done nothing. If it had not taken the action, Act 693 would not have been invoked and there would be no need to reconcile the two acts. But, by taking this action, the commission ignored the statutory requirements of Act 693.

IV. OYSTERS

a. Calcasieu Lake

Excluding the acts that affect all fishermen, only one act was passed directly affecting the oyster industry. Act 402 overhauls the

oyster harvesting laws for Calcasieu Lake. In 1981 the legislature recognized the "unique make-up" of the water bottoms of Calcasieu Lake, prohibited the use of dredges, and provided substantial criminal penalties for a violation.[164] Because of the unique biological aspects, the Wildlife and Fisheries Commission promulgated several specific regulations concerning the oyster industry on Calcasieu Lake. The regulations, which must be adopted annually, have remained relatively unchanged over the years. The 1982 regulations provide a good example:[165]

(1) That the oyster season in Calcasieu Lake be fixed to extend from one half hour before sunrise on Monday, November 1, 1982, through one-half hour after sunset on Thursday, March 31, 1983, with the right being reserved to close the said season sooner if biologically justifiable.

(2) That oyster fishing be limited to only the use of tongs and to daylight hours.

(3) The open areas shall be confined to the area of Calcasieu Lake, with the exception of Calcasieu River and Ship Channel, East Fork, West Fork and Oyster Bayou which shall be closed.

(4) The three-inch culling law shall be observed by all fishermen fishing the area and the culls shall be scattered around the perimeter of the reefs to provide for future harvesting.

(5) All oysters shall be put into sacks before leaving the oyster fishing area in Calcasieu Lake. Oysters not in sacks leaving the fishing area in Calcasieu Lake shall be confiscated and the violator subject to penalty set forth in Title 56, Section 115.

(6) The taking of oysters for commercial purposes shall be limited to 15 sacks per boat per day.

(7) The taking of oyster for home consumption shall be limited to three bushels (two sacks per boat per day).

(8) All commercial fishing of oysters shall be done only with proper licenses, and the sacks of oysters shall be properly tagged before leaving the fishing vessel. All sacks entering into commerce shall be tagged.

The dredging prohibition, several of these regulations, and several new provisions have been placed into a new section that provides solely and specifically for the harvest of oysters from Calcasieu Lake.[166]

Act 402 mandates an open season beginning on November 15 and ending on March 15, but the Wildlife and Fisheries Commission can change the opening and closing dates by up to two weeks. This change can only occur after a finding by the commission that there is a need for the change based on biological data. Two existing provisions that apply to the entire state oyster fishery give the Department of Wildlife and Fisheries greater control over the taking of oysters from natural reefs.

One provision allows the commission to determine which reefs (or parts thereof) can be harvested and to suspend the taking of oysters from any natural reef.[167] It is likely this provision can only be invoked prior to the opening of a season. The other provision grants the department the authority to close an oyster season between January 1 and April 1.[168] If these two provisions are applicable, the commission and department have more control over opening and closing the oyster season from Calcasieu Lake than that granted by Act 402.

Under Louisiana law, when interpreting a provision of the law, all applicable provisions must be read together, so as to give effect to all the provisions.[169] Using this approach, it is likely that these two existing provisions are applicable, but only when Act 402 does not sufficiently protect the oyster fishing in Calcasieu Lake. As stated in the two provisions, affirmative action must be taken by the commission to invoke either or both of them; therefore, Act 402 would take effect until overruled by one of the other two.

Another change by Act 402 reduces the maximum commercial catch from 15 to 10 sacks per boat per day, but leaves the recreational limit at 2 sacks per boat per day.

Probably the biggest change brought by Act 402 increases both the number of licenses and the fees required to harvest oysters from Calcasieu Lake. As in the past, oysters can only be taken with hand tongs, but now, each person on board a vessel commercially harvesting oysters must be licensed. This is an individual license, so that each person must have a license and the license must have been issued to that person. There can be no blanket license covering everyone on the vessel, nor can the owner or operator purchase several licenses and issue them to whoever is working for him. The fee for the tonging license is $30 dollars for residents and $255 for nonresidents. While requiring each person on board to have a tonging license, the act only requires the person actually tonging to have the license in his possession. It does not state whether a person not tonging must have the license in possession. This seeming inconsistency was probably inadvertent, but it may give rise to a significant question of enforcement.[170]

Prior to Act 402, all oyster vessels were charged a license fee based on the vessel's carrying capacity. No distinction was made between vessels harvesting oysters on Calcasieu Lake and those harvesting oysters from other areas of the state.[171] Because of the limited commercial harvest allowed on Calcasieu Lake, no vessels were licensed at more than the minimum fee of $1 per vessel. Also, no distinction was made between resident and nonresident vessels. Act 402 removes vessels harvesting oysters on Calcasieu Lake from this standard license fee and provides an annual flat fee of $5 per vessel for resident vessels and $10 per vessel for nonresident vessels.

Overall, before Act 402, the most anyone had to pay to harvest oysters from Calcasieu Lake was the $1 per vessel tonnage fee. Now the minimum fee is $35 for residents and $260 for nonresidents.

Finally, all licenses must be purchased annually during the period of August 1 through September 10. This provision eliminates the special application period enacted in 1983 of the 30 days immediately preceding the opening of the Calcasieu Lake oyster season.[172]

All vessels used to harvest oysters commercially must be self-propelled. Self-propelled is defined in the act as "...the vessel shall travel under its own power to its harvest area and when loaded with oysters, shall travel under its own power to the place where the oysters are unloaded." The purpose of this provision is to eliminate the practice of "wagon-training," whereby one motorized boat tows several vessels out to their harvest area and later tows them back to port.[173] Further, once the oysters are brought on board a vessel, they cannot be transferred until the vessel returns to shore.

Unlike several other licensing laws,[174] Act 402 expressly states that these laws apply irrespective of any reciprocal agreements with other states.

V. CRAWFISH

a. Mesh Size of Nets

For the first time, crawfish nets were the subject of mesh size limitations. Act 706 provides for a minimum mesh size of three-quarters of one inch on all crawfish nets. This applies to nets used to harvest wild or pond crawfish. An unusual provision of Act 706 provides for an effective date of January 1, 1986, one and one-half years after passage.

VI. CONSTITUTIONALITY

a. Privileges and Immunities

Reciprocal agreements normally provide an equality of laws or regulations between two states. The laws of Louisiana have always contained several reciprocity sections concerning fish and wildlife. These have, in the past, provided for consistent regulations over fish and wildlife in boundary areas between two states,[175] or have provided for equal license fees for both residents and nonresidents.[176]

In the case of license fees, Louisiana would typically enter into a reciprocal agreement with another state whereby residents of that state would pay the same license fees as Louisiana residents if the other state charged Louisiana residents the same fee as that state charged its own residents.[177] Or, in other cases, Louisiana charges nonresidents the same fee that the other state charges a Louisiana resident.[178] Reciprocal agreements for several commercial and recreational fishing license fees have, in the past, been reached with Alabama, Florida, Mississippi, and Texas.

This past year saw a change in the focus of reciprocity. During the 1984 session, the legislature passed three bills that contained reciprocity provisions. Unlike the past agreements, which pertained only to license fees or regulations in boundary areas, these new

provisions limit the nonresident to certain "privileges and licenses" that their state grants to Louisiana residents. Act 693 expressly applies reciprocity to the use of butterfly nets, but only with states adjacent to Louisiana. Act 295 provides for reciprocal "privileges and licenses" but only as they apply to saltwater finfish and only to residents of states bordering on the Gulf of Mexico. Act 843 allows the WFC to enter into reciprocal agreements covering "rules and regulations pertaining to the taking or protection of any species ... of fish ...", but only with Alabama, Arkansas, Mississippi and Texas. Also under Act 843, if no reciprocal agreement is reached, residents of those states can only be granted the same "rights and privileges" as their state grants to Louisiana residents. This act includes most of the reciprocity provisions contained in Acts 295 and 693.

Act 693 specifically provides for the privileges and licenses involved with using a butterfly net to take shrimp. If a state adjacent to Louisiana prohibits the use of butterfly nets in its states waters, then residents of that state are prohibited from using a butterfly net in Louisiana waters. Louisiana, under Act 295, can only allow nonresidents from Alabama, Florida, Mississippi, and Texas to take those species of commercial saltwater finfish which their state allows residents of Louisiana to take. Act 295 states:

> Notwithstanding any other provision of law to the contrary, residents of Alabama, Florida, Mississippi, and Texas shall be granted or sold privileges and licenses to take and possess commercial finfish equal to those privileges and licenses granted or sold to Louisiana residents by the nonresidents's state.

This provision is somewhat broader than Act 693, and cover a different species. Act 843 is broader than both Act 295 and 693. It covers all species of fish, saltwater and freshwater. But Act 843 is limited in that it only applies to residents of Alabama, Arkansas, Mississippi, and Texas. The Department of Wildlife and Fisheries requested an attorney general's opinion concerning the interpretation of Acts 295 and 693.[179] The opinion interprets these provisions as discussed above.[180] It is likely that the department would interpret Act 843 in the same manner as Acts 295 and 693 as it applies to residents of Alabama, Arkansas, Mississippi, and Texas.

The Louisiana Department of Wildlife and Fisheries appears to be only enforcing Act 693. Residents of Texas and Mississippi are being denied beam trawl/butterfly net licenses. These are the only states bordering the Gulf of Mexico that prohibit the use of butterfly nets in their state waters.[181] This license applies solely to the use of beam trawl and butterfly nets used to harvest shrimp. Therefore, by denying it to Texas and Mississippi residents, Louisiana is denying the same thing that Texas and Mississippi deny Louisiana residents.

In other cases, other states prohibit certain fishing activities which, in Louisiana, are covered under a more general license. This general fishing license covers not only the prohibited activity, but

several others as well. To prohibit to nonresidents a specific activity pursuant to Acts 295 and 683 which is covered under a more general license, Louisiana would have to deny to nonresidents the general license (which would deny the nonresidents more than their state denies Louisiana residents), place restrictions on the license (prohibiting nonresidents from the specific fishing activity), or create a license covering only the prohibited activity. As an example, Texas and Alabama prohibit the commercial harvest of speckled trout and redfish.[182] Louisiana must prohibit Texas and Alabama residents from commercially harvesting these two species in Louisiana waters. The Louisiana license needed to catch speckled trout and redfish is the finfish seller's license, which is a general fishing licensing allowing the harvest of any legal species of saltwater commercial finfish.[183] Louisiana, to comply with the provisions of Acts 295 and 693, must deny the finfish seller's license to residents of Texas and Alabama, place restrictions on these nonresidents prohibiting them from catching speckled trout and redfish in Louisiana waters, or create a license specific to the taking of speckled trout and redfish and not allow residents of Texas and Alabama to purchase it. Louisiana is not doing any of these. Residents of Texas and Alabama can purchase the finfish seller's license without any restrictions.[184]

The constitutionality of Act 693 as written and of Acts 295 and 843 as interpreted by the Department of Wildlife and Fisheries is in question. The department recognized this and requested an opinion by the attorney general of Louisiana.[185] The attorney general's office has issued an opinion[186] stating that Acts 295 and 693 are probably unconstitutional, as violations of the Privileges and Immunities Clause of the United States Constitution.[187]

After a brief historical review of the United States Supreme Court's interpretation of the Privileges and Immunities clause, the attorney general states that prohibiting nonresidents the same privileges and licenses granted Louisiana residents would constitute discrimination against those nonresidents. The Privileges and Immunities Clause prohibits discrimination against nonresidents unless "the nonresidents constitute a peculiar source of evil at which the statute is aimed"[188] and that there is a "reasonable relationship between the danger represented by the non-citizens as a class and the ...discrimination practiced upon them."[189] The opinion concludes that the statute is unconstitutional without evidence that the nonresidents will have an adverse affect on the resources of the state and that the adverse affect is sufficient to constitute a peculiar source of the evil.

Taking this opinion farther, the courts have never allowed this extreme discrimination against nonresidents. In one of the cases discussed in the attorney general's opinion,[190] a South Carolina statute provided a resident shrimp vessel license at $25 per vessel and a nonresident shrimp vessel license at $2500 per vessel. The court found this unconstitutional because it effectively excluded nonresidents from shrimp fishing in South Carolina waters, there was no difference in the type of vessel or fishing method used by nonresidents, and there was no limit on the number of shrimp vessel licenses that could be issued. The

court stated that some discrimination could take place in the form of increased license fees to compensate the state for any added enforcement burden or conservation funds derived from taxes imposed only on residents, but that:

> We would be closing our eyes to reality, we believe, if we concluded that there was a reasonable relationship between the danger represented by non-citizens as a class, and the severe discrimination practiced upon them.[191]

In a more recent case,[192] the state of Virginia passed a law prohibiting nonresidents from taking fish from Virginia waters except with certain gear. This law is nearly identical to the acts passed by Louisiana restricting the type of gear a nonresident can use. Act 693 restricts the type of gear residents of Texas or Mississippi can use to take shrimp from Louisiana by prohibiting the use of butterfly nets. If other states prohibit a certain gear to take fish, then Acts 295 and 843 would likewise prohibit residents of those states from taking the same species of fish from Louisiana waters with the same type of gear. It is important to note that residents of Virginia, in the Virginia case, and Louisiana residents, as well as residents of states that do not prohibit that specific gear, have unlimited access to the fishery resource. In all these instances, the state allows residents to use the gear that is prohibited to nonresidents. The court, in the Virginia case, held specifically:

> To the extent that the Virginia statutes proscribe nonresidents from commercially [fishing] in Virginia waters, they are repugnant to the Privileges and Immunities clause and must fall.[193]

Several other changes in the laws discussed in this article do not provide for reciprocity, but do restrict some commercial fishing privileges to nonresidents. These changes raise privileges and immunities issues similar to these discussed above. As stated above, a state cannot discriminate against nonresidents solely because they are nonresidents. The nonresident must be the "evil" the state is trying to prevent and the method used must be reasonable. This is not to say a state is without power to manage and conserve a fishery resource. Along with some other restrictions, a state can charge nonresidents a higher license fee to compensate the state for any extra enforcement burden or any conservation expenditures from taxes imposed on residents.[194] But this increased license fee cannot be so large as to effectively exclude or restrict nonresidents for the purpose of reserving the resource for residents.[195] The courts have not set any formula or amount above which a fee is prohibited, but they have regularly struck down laws which provide for large differences in fees where no proof exists that the difference is a reasonable amount to compensate the state. Specifically, in relation to the difference in fees and the proof required, the United States Supreme Court has stated:

> Constitutional issues affecting taxation [do] not turn on even approximate mathematical determination. But

something more is required than [a] bold assertion to establish a reasonable relation between the higher fee and the higher cost to the [state][196]

The United States Supreme Court has struck down a law requiring a nonresident to pay $2500 for a shrimp vessel license when residents only pay $25.[197] The Supreme Court has also ruled unconstitutional a nonresident commercial fishery license costing $50 when the equivalent resident license was $5.[198] The Federal Court of Appeals for the Fifth Circuit, which handles cases arising out of Texas, Louisiana, and Mississippi ruled unconstitutional a Texas law that charged nonresidents a license tax of $200 plus a commercial fishery boat license fee of $25 when a resident only had to pay from $3 to no more than $15 for the same boat license.[199] Finally, the Louisiana State Supreme Court held unconstitutional a Louisiana licensing law that charged nonresidents a commercial shrimp fishery license fee of $200 while residents only paid a $10 to $25 net license.[200] The court also struck down a nonresident oyster harvest and transport license fee of $200 when no fee was charged to residents.[201] Even though the states made the claim that these differences in fees were required for conservation and management measures, in all three cases the courts ruled that the nonresidents were not the evil which would allow such drastic discrimination. Further, these large differences were much more than the amount necessary to compensate the state for the added enforcement and conservation expenditures. They were instead only a method to limit the access of nonresidents to the commercial fisheries of the state.

Act 295 requires nonresidents to purchase a nonresident saltwater finfish seller's license at a fee of $405 plus a nonresident vessel license for $205 in order to take saltwater finfish from state waters. A resident must only pay $105 for the seller's license and $10, $15, or $55 (depending on the vessel length) for a vessel license. Act 402 provides license fees for harvesting oysters from Calcasieu Lake. A nonresident must pay $255 for a nonresident tonging license while a resident only has to pay $30.

The license provisions of these two acts certainly raise the issue of constitutionally under the Privileges and Immunities Clause and, if challenged, the State of Louisiana would be required to show that the difference was reasonable to compensate the state for added enforcement or for conservation funds paid only by residents. In comparing these license fee differences with those the courts have struck down, it is unlikely the state could succeed in convincing a court that the differences were for compensation and not as a means to restrict nonresidents from commercially harvesting Louisiana's fisheries resources.

One other act does not provide higher license fees or gear restrictions, but rather restricts the application period for shrimp vessel licenses for nonresidents. Act 299 allows residents to apply for a shrimp vessel licenses all year but nonresidents can only apply during the month of January. No reported cases have ruled on such an issue, but it does restrict nonresident access to the Louisiana fishery and therefore raises privileges and immunities questions. In order for this

provision to be constitutional, the state must show it has a sufficient management purpose. Considering the court's strict reading of privileges and immunities cases, it is likely this provision is unconstitutional.

b. Vagueness

Act 692 prohibits harvesting shrimp in outside state waters during part of the year. The outside waters are divided into two zones with different closure periods. The zones, as stated in the act, are "waters on the east bank of the Mississippi River" and "waters on the west bank of the Mississippi River." As discussed above, one problem with Act 692 is that the two outside zones are divided by a line totally within inside waters, the Mississippi River. The mouth of the Mississippi River is at a point where the inside waters meet the outside waters, but no portion of the river extends into the outside waters.

The Due Process Clause of the United States Constitution[202] requires that "the language of a statute have a generally accepted meaning sufficient to give adequate warning of the conduct proscribed and provide standards to judges and juries to fairly administer the law."[203] A statute is unconstitutionally vague and does not meet this due process requirement if "men of common intelligence must guess as to its meaning," or, phrased differently, if ordinary people cannot understand what conduct is prohibited the law will be void because of vagueness.[204] On the other hand, "every statute is presumed to be constitutional and the court is bound to uphold the constitutionality of a statute when it is reasonably possible to do so."[205]

It is within this framework that Act 692 must be examined. Two recent cases discuss the issue of vagueness as it relates to Louisiana boundary lines. In one, a federal court was presented with the question of the constitutionality of the boundary line dividing the inside and outside waters of Louisiana.[206] The boundary line was defined using three different descriptive systems: landmarks coupled with metes and bounds, longitude and latitude coordinates, and Lambert's System bounds. The line roughly followed the coastline but in many places it crossed open water where there were no landmarks. The three systems were consistent with one another except in three places. These three deviations and the lack of markers where the line crossed open water were the basis for the allegation that the line was unconstitutionally vague. The court found that the deviations were so obvious that any reasonable reading would lead to the proper coordinates.[207] The court also held that use of an unmarked imaginary line drawn by statute was, by itself, no reason to hold the line unconstitutionally vague.[208]

The other case, a Louisiana Supreme Court case, arose from an earlier version of the same boundary line.[209] The line dividing the inside and outside waters of the state was statutorily defined by a written description of landmarks and directions as well as with a line drawn on a map. The written description and line on the map conflicted in several places. The Louisiana Supreme Court held the statute unconstitutionally vague because it required unreasonable speculation as

to the exact location of the boundary line. Specifically, the court stated:

> All persons are entitled to be informed by law as to what the state commands or prohibits, and no one should be required to speculate as to the meaning of [criminal] statutes.[210]

Vagueness is one of degree. In both of these cases, the statute gave more than one description of the same boundary, with some inconsistencies between the descriptions. One case held the inconsistencies important enough to make the boundary unconstitutionally vague and the other case did not.

In these cases, vagueness is based on inconsistencies between the boundary lines, but the lines are within the waters they are dividing. In Act 692, the boundary line is not within the water it is dividing. It is completely within inside waters while attempting to divide outside waters into zones. Certainly some speculation would be required to extend that line to determine its proper location in the outside waters.

c. Equal Protection

Act 693, discussed above,[211] prohibits the use of chopstick beam trawls. Chopsticks are a method used primarily, or possibly exclusively, by fishermen of Vietnamese descent. Since this prohibition is primarily limited to one group, a question of equal protection under the fourteenth amendment of the United States Constitution is raised.

The Equal Protection Clause prohibits a state government from discriminating against one group of people as opposed to other similarly situated people. If the groupings are based on national origin, race, or alienage, it is a "suspect classification," and if discrimination is found, the state must prove that the law is necessary to further a compelling state interest.[212] This is a very high standard and one seldom proven. Fishermen of Vietnamese descent probably fall within a suspect classification based on national origin.[213]

A law is invalid under the Equal Protection Clause only if discrimination is found in one of three ways. First, the law is written in a discriminatory manner (invalid on its face). An example is an Idaho estate statute stating that in determining the administrator for an estate, males were to be given preference over females.[214] Second, the law is facially neutral (valid on its face), but is enforced in a discriminatory manner. A municipal ordinance which prohibited operation of laundries in wooden buildings except by a special variance granted by the city council was unconstitutional because it was enforced only against Chinese resident aliens. Every application for the variance brought to the council by a Chinese resident alien was denied, while every variance by a white resident was granted.[215] Third, the law is facially neutral and is uniformly enforced, but was written with a discriminatory purpose.

Act 693 is facially neutral. It prohibits everyone from using chopsticks. It is likely that it will be uniformly enforced. Anyone, Vietnamese or otherwise, will be prosecuted for using chopsticks. The result of the act, though, will affect, almost exclusively, fishermen of Vietnamese descent. This discriminatory impact, by itself, is not enough. To be violative of the Equal Protection Clause, the purpose of the legislation must be to preclude Vietnamese fishermen from the shrimp fishery. An actual intent to discriminate must be shown.[216] Nonetheless, a statute which does result in a disproportionate impact on one class may be examined more closely by the courts, because this is evidence, but not proof, that the statute had an invidious purpose.[217] In showing an invidious purpose, the challengers do not need to present direct evidence, such as admissions from state legislators. Circumstantial evidence, based on the disproportionate effect of the law and the history of discrimination against this class in this area, may be sufficient to show a discriminatory purpose.[218] Once purposeful discrimination is shown, the courts will apply strict scrutiny standards requiring a compelling state interest.

If a discriminatory purpose cannot be proven, then the statute will be judged under a less stringent standard, called a rationality standard. Under this rationality standard, so long as the law has a legitimate state purpose and the legislators had reason to believe the law would promote that purpose, the law is not unconstitutional.[219] Louisiana does not record the legislative history of state acts; therefore, it is nearly impossible to determine the purpose behind the chopsticks prohibition. As discussed above, no studies have been concluded which give any indications as to the advantages or disadvantages of the use of chopsticks; however, several advantages and a couple of disadvantages have been speculated.[220]

Conservation and protection of fishery resources has long been held to be a legitimate state purpose.[221] Therefore, any state legislation regulating the fishery will be upheld so long as it has a rational relationship to a permissible state objective, and so long as the law is not arbitrary.[222] If no express legislative purpose can be found, any legitimate purpose will suffice. Further, even if other methods exist that would be better or fairer, the method chosen will not be invalidated.[223]

CONCLUSION

The 1985 regular session of the Louisiana Legislature convened on April 15, 1985, and will consider at least 72 bills and two resolutions concerning the fishing industry.[224] Of these, 34 bills and the two resolutions would affect changes made during the 1984 legislative session or the recommendations made by the Governor's task force on Finfish Management. It is impossible to know whether these bills and resolutions are in reaction to the 1984 changes or are being supported by groups that would like the changes irrespective of the 1984 changes and the task force recommendations. This article, though, could not be complete without a brief discussion of several of these bills and their effect on the acts discussed above.

Only one bill recommended by the task force did not pass in 1984. That bill redefined purse seines and prohibited their use in Breton and Chandeleur Sounds.[225] Breton and Chandeleur Sounds are the only state inside waters in which a purse seine can be used.[226] In 1985, seven bills have been introduced concerning purse seines. Four of these solely redefine purse seine,[227] two solely restrict its use,[228] and one does both.[229] Not one of the 1985 bills is identical to the task force bill, but all five are similar.[230]

The task force bill of 1984 would have completely prohibited the use of purse seines in all state inside waters[231] and a small portion of the state outside waters.[232] Of the three 1985 bills restricting the use of purse seines, two prohibit the use in all state inside and state outside waters with no exceptions.[233] The other completely prohibits purse seines in state inside waters and only allows their use in state outside waters with an experimental permit.[234]

Another change in the finfish laws made in 1984 which has produced numerous bills in 1985 is the unattended net law.[235] As discussed above, seines, gill nets, trammel nets, butterfly nets, and beam trawls cannot be left unattended unless attached to a wharf at a camp.[236] Three bills have been introduced providing numerous changes to the law. House Bill 321 provides an exception for gill nets, allowing them to be left unattended. House Bill 493 removes the wharf at a camp exception and redefines unattended net to require the owner to be physically within 100 feet of the net. Finally, House Bill 1134 requires nets to be marked with buoys and processed at least once every 30 hours.

Act 295 of 1984, also recommended by the Finfish Task Force, changed the mesh size of saltwater finfish seines from "a minimum of one inch" to "one inch". This was done to eliminate the seine-gill net loophole.[237] Two bills introduced this year allow a variable size mesh for finfish seines. House Bill 319 provides a minimum mesh size of one inch to a maximum of one and one-fourth inches while House Bill 1882 sets the minimum mesh size at one and one-fourth inches and the maximum at one and one-half inches. Enactment of either of these two bills would once again provide a loophole allowing a gill net with a mesh less than one and three-quarters inches to be licensed as a seine.

Two bills have been introduced that correct an oversight in last year's Act 295, the major Finfish Task Force bill. Act 295 created the saltwater angling license for sport fishermen fishing in saltwater areas of the state. The saltwater areas of the state are the waters south of a line, defined by law, running from the Texas border to the Mississippi border,[238] and certain lakes north of the line.[239] Act 295 required the saltwater angling license for fishermen fishing south of the line but failed to include the saltwater lakes north of the line. Senate Bill 781 and House Bill 1135 correct the oversight by specifically including those lakes.

Several of the 1984 acts provided for reciprocity between Louisiana and its neighboring states. These provided, generally, that if a Louisiana resident could not take certain fish from another state's waters then that state's residents could not take the same species of

fish from Louisiana waters.[240] This trend is continued in 1985 by the introduction of Senate Bill 638 which prohibits the transportation into and the sale of redfish and speckled trout to states that prohibit the commercial harvest of redfish and speckled trout from its own waters. This bill is obviously aimed at Texas and Alabama, as those two states are the only states bordering the Gulf of Mexico that prohibit the commercial harvest of speckled trout and redfish.[241] This bill, if enacted, would be subject to the same constitutional analysis as the other reciprocity laws.[242]

As in past years several bills have been introduced concerning the shrimp fishery. Unlike past years, though, the number of bills introduced this year is greatly reduced. Changes affecting shrimp net provisions make up the bulk of the bills this year, with several appearing to be in direct response to laws enacted in 1984. Three bills directly or indirectly pertain to chopstick-beam trawls, which were outlawed in 1984.[243] House Bill 1718 repeals the chopstick prohibition enacted last year and specifically includes chopsticks in the definition of beam trawl. House Bill 1833 and Senate Bill 783 would eliminate any mention of chopsticks in the law. This would allow the use of chopsticks with an experimental permit issued by the Department of Wildlife and Fisheries under the Underutilized Species Law.[244] These two bills would also reverse the shrimp gear laws from allowing any gear not illegal (and which meets the various length and mesh requirements) to only allowing certain gear with all others prohibited. Both bills would allow butterfly nets, trawls, and cast nets but prohibit all other types of gear unless permitted by the Department of Wildlife and Fisheries under the Underutilized Species Law.

House Bill 1833 and Senate Bill 783 would have two primary effects on chopsticks. First, if House Bill 1718 is enacted into law as well as either House Bill 1833 or Senate Bill 783, chopsticks would effectively be prohibited because, as defined by House Bill 1718, chopsticks would be beam trawls, which would not be legal gear under either House Bill 1833 or Senate Bill 783. Second, by removing all reference to chopsticks in the laws, the department could issue an experimental permit for their use.[245]

The primary Finfish Task Force act, Act 295, prohibited the use of seines to take shrimp.[246] House Bill 1882, introduced this year, changes the mesh size of shrimp seines. This would effectively relegalize the use of shrimp seines.

The legislature, in 1984, enacted two conflicting laws closing the state's outside waters to shrimping for part of the year.[247] These two laws close the waters from approximately the middle of January to the middle of March. Two bills introduced in 1985 clear up much of the conflict between the two laws, but if both are passed, they will provide a few new conflicting provisions. House Bill 1855 and Senate Bill 640 both extend the closure to the opening of the spring brown shrimp season.[248] House Bill 1855, though, is permissive. It grants the Wildlife and Fisheries Commission the power to close the waters but does not require a closure. Senate Bill 640, on the other hand, is

restrictive, requiring the closure, while allowing the commission a 15-day leeway period at its complete discretion.[249]

Even though a shrimp count law seems doomed to failure, the legislature does not appear ready to abandon it. As discussed above, federal regulations prohibit a size limit on white shrimp taken from federal waters.[250] While this does not prohibit Louisiana from setting a size limit on shrimp taken from state waters,[251] it does require the state to prove the shrimp were taken in state waters. This requirement is nearly impossible to prove, thus making enforcement ineffective. House Bill 495 provides that all shrimp in possession, no matter where taken, must meet the shrimp count law. This is a landing law which is prohibited when in conflict with a federal management plan.[252] House Bill 495, if passed, would likely, at best, not change the present shrimp count law. At worst it would eliminate the shrimp count as it applies to shrimp taken from state waters.

An unusually large number of bills have been introduced concerning crawfish. Unlike last year when only two bills were introduced,[253] 18 bills have so far been introduced in 1985 concerning crawfish. Only one of the 1984 bills was enacted into law and it set a mesh size for crawfish traps. As is stated above,[254] Act 706 sets the mesh size for crawfish traps at a minimum of three-quarters of an inch, but it does not become effective until January 1, 1986. Only three of the 1985 bills affect Act 706, but the three run the spectrum of possible changes. House Bill 278 repeals the mesh size requirement, House Bill 1882 increases the requirement, and House Bill 1685 retains the mesh size set last year.

FOOTNOTES

1. The Senate and House of Representatives convened on Monday, April 16, 1984, and adjourned on Thursday, July 5, 1984. The Senate met for 45 days and the house for 54 days.

2. Senate Bill Status System, July 15, 1984 (final).

3. Id.

4. Actually 24 bills were enacted into law. Act 179 moved the legal domicile of of the Department of Wildlife and Fisheries from New Orleans to Baton Rouge (except for the Seafood Section) and will not be discussed in this article.

5. Status System, supra note 2.

6. Acts 120, 273, 278, 299, 323, 628, 706, and 866.

7. Act 295.

8. New laws become effective 60 days after the legislature adjourns unless the act specifies a different date. The sixtieth day after adjournment for 1984 was September 7. Eighteen of the 23 laws become effective on this day. Acts 255 and parts of Act 295 became effective on the date of the Governor's signature which, in both cases, was before September 7. Act 930 and the rest of Act 295 became effective on January 1, 1985, and Act 706 will become effective on July 1, 1986.

9. Act 586, discussed infra at pg. 15 (Shrimp, Shrimp Count).

10. Act 706 does not become effective until January 1, 1986.

11. Acts 255 and 295.

12. Act 295.

13. Act 279.

14. Acts 300 and 692.

15. Act 693.

16. Act 402.

17. Act 586.

18. Act 295.

19. Acts 295, 299, and 678.

20. Acts 300, 402, 516, 692, and 784.

21. Report to the Governor by the Governor's Task Force on Saltwater Finfish Management, February 28, 1984 [hereinafter cited as Task Force Report].

22. Only Senate Concurrent Resolution 54 and House Concurrent Resolution 71 will be discussed.

23. La. R.S. 56:587.1.

24. La. R.S. 56:587.4.

25. This amount is based on approximately 63,000 licenses issued in 1983. Figures provided by the Louisiana Department of Wildlife and Fisheries, Commercial License Section.

26. All funds collected from any source are deposited into the state treasury and credited to the Bond Security and Redemption Fund in an amount sufficient to pay any obligations secured by the full faith and credit of the state. Once paid, the remaining funds are deposited into the appropriate individual funds. Thus before a fishing fee is divided and the appropriate amounts are placed in the Conservation and Seafood Promotion and Marketing Funds, the monies must flow through the Bond Security and Redemption Fund. La.Const.Art. VII, §9(B).

27. The specific sections are: La. R.S. 56:332C, 337A(2)(a),(3),(4), B, C, D, 340B, D, 341A, 342A, 412(2), 435D, 443C, 445A, B, C, 472A, 473A, B, 500A(1), (2), (4), 501B, 502A, 503. Act 295 of 1984 repealed Section 337A(4) and 500A(1), and renumbered 337A(3) as 337A(3)(a). Act 402 of 1984 added several new license fees by enacting La. R.S.56:435.1. Act 693 of 1984 added a new license fee by amending La. R.S. 56:500A(3) and renumbered section 500 A(4) as 500A(5).

28. La. R.S. 56:427 and 428.

29. La. R.S. 56:634; the Louisiana Department of Wildlife and Fisheries, according to its commercial license application form, has added an additional $5 to the minnow dealers license fee.

30. Act 402.

31. Act 693.

32. Act 295.

33. Louisiana Department of Wildlife and Fisheries news release #84-106 (9/20/84); see also Louisiana Hunting, Fishing and Motorboat Regulations 1984-85, Louisiana Department of Wildlife and Fisheries publication.

34. La. R.S. 47:305.20.

35. As an example, a recreational shrimp fisherman is only exempted

from acquiring a shrimp trawl license when using a trawl not exceeding 16 feet in length. The same commercial trawl license required for a commercial fisherman is required for a sport fisherman using a larger trawl.

36. Task Force Report, <u>supra</u> note 21, at 26.

37. La. R.S. 47:305.20.

38. Letter from Donald Puckett, General Counsel for the Louisiana Department of Wildlife and Fisheries (9/9/84).

39. Executive Orders 83-13, 83-21, and 83-24.

40. Task Force Report, <u>supra</u> note 21, at Executive Summary pg. 1.

41. Task Force Report, <u>supra</u> note 21, at 1.

42. Tex. Parks & Wild. Code Ann. §§66.201, .2013 (West 1983).

43. Alabama Department of Conservation and Natural Resources Regulations 220-3-.08 (1983).

44. House Bills 518, 1386, and 1531.

45. In fact, not one made it out of the House of Representatives' Natural Resources Committee. <u>Senate Bill status System</u>, July 5, 1984 (final).

46. Executive Orders, <u>supra</u> note 39.

47. The four bills that were enacted into law were House Bills 1242 (Act 278), 1243 (Act 235), 1244 (Act 279), and 1697 (Act 295). House Bill 1246 failed and House Concurrent Resolution 71 passed. House Bill 1246 would have redefined purse seine.

48. Condry, Adkins, Wascom, <u>A Yield-Per-Recruit Analysis of Spotted Sea Trout</u>, Gulf Research Report, in press.

49. La. R.S. 56:326.

50. La. R.S. 56:322C(3).

51. La. R.S. 56:322C(2).

52. Conversation with Dr. Richard Condry, Governor's Task Force on Saltwater Finfish Management (4/23/85).

53. La. R.S. 56:322E(2).

54. La. R.S. 56:571B.

55. Conversation with Sandy Corkern, Associate Area Agent-Fisheries, LSU Cooperative Extension Service (12/7/84).

56. La. R.S. 322C(2).

57. Act 640, 1983.

58. Id.

59. 1981 La. Acts 837.

60. Title 56 Subpart B Enforcement Procedures. The penalty provisions are Sections 31-38.

61. La. R.S. 56: 322C(6)(e), 336, 347, 409C, 435E(3), and 555, for example.

62. La. R.S. 56:355.

63. La. R.S. 56:347.

64. La. R.S. 56:32 states a class two violation; Act 279 also provides a class two penalty for violation of §322.

65. Task Force Report, supra note 21, at 8.

66. Id.

67. La. R.S. 56:337B(1).

68. La. R.S. 56:337A.

69. La. R.S. 56:320C.

70. La.S.Con.Res. 10, 9th Leg., Reg. Sess., 1983 La. Sess. Law Serv. 601 (West); La.S.Con.Res. 53, 8th Leg., Reg. Sess., 1982 La. Sess. Law Serv. 767 (West).

71. La.Admin.Reg. November, 1984.

72. A resolution that suspends a law can only be effective until the sixtieth day after final adjournment of the next regular session. La.Const.Art. III, §20.

73. Louisiana Department of Wildlife and Fisheries News Release #85-09 (1/23/85).

74. La. R.S. 56:325.1.

75. Id.

76. Id.

77. La. R.S. 56:322A.

78. La. R.S. 56:33A(2).

79. Task Force Report, _supra_ note 21, at 21.

80. _Id_.

81. La. R.S. 56:337A(4).

82. La. R.S. 56:320B.

83. La. R.S. 56:8(7).

84. _Louisiana Hunting, Fishing and Motorboat Regulations 1984-85_, Louisiana Department of Wildlife and Fisheries publication.

85. "§337. License for commercial fishermen, net licenses; boat licenses".

86. La. R.S. 56:333A, 320A, and 8(7).

87. La. R.S. 56:320A.

88. La. R.S. 56:337C.

89. Corkern, _supra_ note 55.

90. La. R.S. 56:337A(3).

91. Act 295 expressly applies only to saltwater licenses.

92. Task Force Report, _supra_ note 21, at 10.

93. La. R.S. 56:406A(1).

94. Acts 300 and 692 amend La. R.S. 56:497; Acts 299 and 628 amend La. R.S. 56:500.

95. La. R.S. 56:497A.

96. La. R.S. 56:500A(3).

97. Discussed _infra_ at page 9 (Finfish, Licenses).

98. Prior to Act 693, La. R.S. 56:499B stated:

> For the purposes of licenseing, beam trawls and butterfly nets shell be considered as trawls and R.S. 56:500 shall apply.

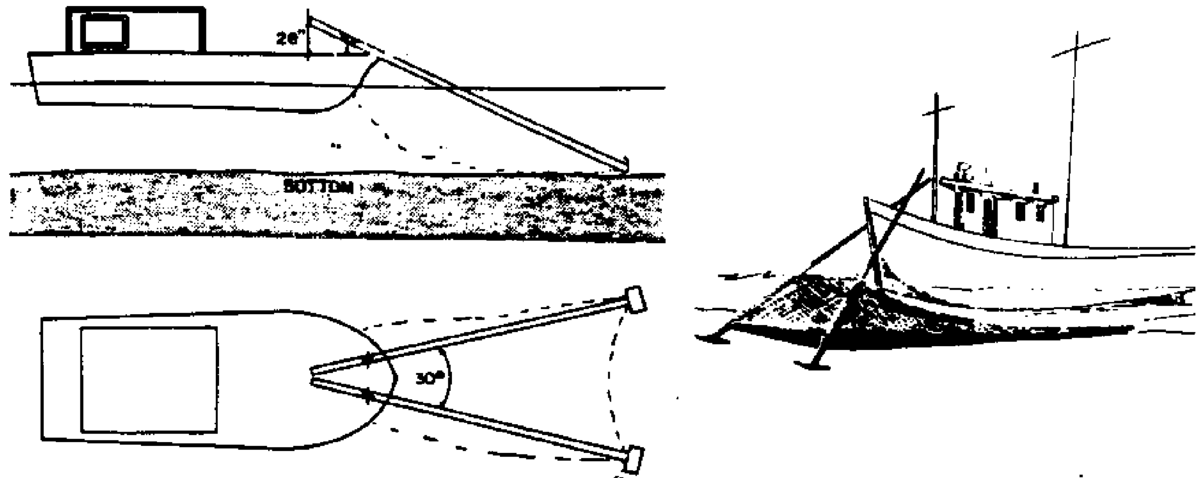
99. The only other "crustacean license" applicable is a crab license under La. R.S. 56:332.

100. La. R.S. 56:500A(5) makes no distinction between net and vessel licenses, but this provision is limited to vessel licenses. Net licenses, unless otherwise limited, can be obtained at any time of the year.. 81 Op.Atty.Gen. 1096 (1981).

101. Correspondence from Major Inspector Tommy Candies, Louisiana Department of Wildlife and Fisheries, Enforcement Division, to Dr. J. David Bankston, Jr., Marine Resources Engineer, Louisiana State University Cooperative Extension Service (9/30/83).

102. Correspondence from Dr. J. David Bankston, Jr. to Major Inspector Tommy Candies (9/12/83); see also note 101.

103.



Schematic drawing of deployment of chopstick beam trawl (from Fisheries and Wildlife Newsletter, October 21, 1983, LSU Cooperative Extension Service, Plaquemines Parish Office publication).

104. Bankston, *supra* note 102.

105. *Id*.

106. Times Picayune, June 10, 1984, at 7, col. 1.

107. Candies, *supra* note 101; La. R.S. 56:8(10) defines beam trawl as:

> "Beam trawl" means a type of trawl, the mouth of which is held open by a beam while being fished.

108. La. R.S. 56:499; Candies, *supra* note 101.

109. *Official Journal of the Senate*, 36th Day's Proceedings, June 21, 1984, pg. 39.

110. *Senate Bill Status System*, July 5, 1984 (final).

111. La. R.S. 56:499; Candies, *supra* note 101.

112. La. R.S. 56:8(58).

113. 84 Op.Atty.Gen. 349 (1984).

114. Senate Bill 407.

115. Senate Bill 456, House Bill 1697.

116. Chappuis v. Reggie, 62 So.2d 92, 95 (La. 1952).

117. Correspondence from Donald Puckett, General Counsel, Louisiana Department of Wildlife and Fisheries to Corky Perret (9/19/84).

118. Discussed infra at page 7; (Finfish, Nets).

119. Official Journal of the House of Representatives, 17th Day's Proceedings, May 17, 1984, pg. 12.

120. Official Journal of the House of Representative, 19th Day's Proceedings, May 19, 1984, pg 18, amendments by Mr. D'Gerolamo.

121. Act 295.

122. La. R.S. 56:500A(1).

123. Telephone conversation with the Louisiana Department of Wildlife and Fisheries, Commercial License Section (2/7/85).

124. La. R.S. 56:499, 500A(1),(3).

125. La. R.S. 56:497B.

126. La, R.S. 56:497B.

127. 283 So.2d 690 (La 1973); see also Department of Wildlife and Fisheries news release 84-109 (9/24/84).

128. La. R.S. 56:498B.

129. 283 So.2d 690, 693 (La. 1973).

130. The Louisiana Supreme Court in the Sevin case, supra note 127, read this section together with the other sections governing the shrimp industry and held that the count law only applied to shrimp taken from inside state waters. Act 692, 1984, increased the Department of Wildlife and Fisheries authority over the shrimp industry by specifically including both inside and outside waters. By reading the Sevin decision together with Act 692, the count law would apply to shrimp taken from inside and outside state waters if the law did not specify.

131. U.S.Const.Art. VI, cl.2.

132. Greenberg & Shapiro, Federalism In The Fishery Conservation Zone: A New Role For The States In An Era Of Regulatory Reform, 55 S. Cal. L. Rev. 641, 649, 652 (1982).

133. Skiriotes v. Florida, 313 U.S. 69 (1941).

134. Greenberg & Shapiro, *supra* note 132 at 653.

135. *Id.* at 652

136. *Skiriotes v. Florida*, 313 U.S. 69 (1941).

137. Greenberg & Shapiro, *supra* note 132 at 652.

138. *Id.* at 650.

139. 16 U.S.C. §1801 et seq. (1976).

140. 16 U.S.C. §1801 (1976).

141. 16 U.S.C. §1801a (1976).

142. 16 U.S.C. §1852a(5) (1976).

143. 46 Fed. Reg. §27,489 (1981); 16 U.S.C. §1801 (1976).

144. 50 C.F.R. §658.25 (1984).

145. 50 C.F.R. §658.1 (1984).

146. Conversation with Tee John Mialjevich, President, Concerned Shrimpers of Louisiana, Inc.

147. La. R.S. 56:498C.

148. Tee John Mialjevich, *supra* note 146.

149. *Id.*

150. La. R.S. 56:498 states ". . . and from November 15 to December 20 when these shall be no limitation as to count on the brown, or Brazilian-type shrimp (Penaus aztecus) . . . "

151. *Chappuis v. Reggie*, 62 So.2d 92, 95 (La. 1952); *Groves v. Board of Trustees of Teacher's Retirement System of La.*, 324 So.2d 587, 594 (La. Ct. App. 1975), writ denied 326 So.2d 378 (La. 1976).

152. La. R.S. 56:6(15), 312, 493.

153. La. R.S. 56:6(10).

154. *Sevin v. La. Wildlife and Fisheries Comm.*, 283 So.2d 690 (La. 1973).

155. La. R.S. 56:495A.

156. La. R.S. 56:495B states:

> B. All waters of the state shoreward of the line described in Subsection A hereof

within which the tide regularly rises and falls or into which salt water shrimp migrate are inside waters. All waters seaward of the line described in Subsection A of this Section are outside waters.

157. La. R.S. 56:495A.

158. Southwest Pass, South Pass, Southeast Pass, Pass A Loutre, and Main Pass.

159. Southwest Pass is the major navigational route of the Mississippi River and is also the pass used to divide Zone 1 and Zone 2 for shrimping in inside state waters. South Pass is the other navigational route.

160. Chappuis v. Reggie, 62 So.2d 92, 95 (La 1952).

161. "... allowing for a fifteen-day leeway on the opening and closing of such outside waters as determined to be appropriate by the commission ..."

162. "... opening and closing ... as determined by the best biological data available to the commission."

163. Louisiana Wildlife and Fisheries Commission, Minutes of 12/5/84 Board Meeting.

164. 1981 La. Acts 836 (enacting La. R.S. 56:435E).

165. La. Admin. Reg. August 1982.

166. La. R.S. 56:435.1.

167. La. R.S. 56:433B.

168. La. R.S. 56:433E.

169. Sevin v. La. Wildlife and Fisheries Comm., 283 So.2d 690, 693 (La. 1973).

170. Conversation with Paul Coreil, Associate Area Agent-Fisheries, LSU Cooperative Extension Service (December, 1984).

171. La. R.S. 56:443C.

172. Act 601, 1983.

173. Coreil, supra note 170

174. La. R.S. 56:33A(3)(b), 500F, 561.

175. La. R.S. 56:673, 674.

176. La. R.S. 56:334B, 500E.

177. La. R.S. 56:500E.

178. La. R.S. 56:334B.

179. Letter from Donald Puckett, General Counsel, Louisiana Department of Wildlife and Fisheries (9/27/84).

180. 84 Op.Atty.Gen. 852 (1984).

181. Commercial License Section, _supra_ note 123.

182. Alabama Regulations 220-3-.08, 1983; Tex. Parks & Wild. Code Ann. §66.201 (West 1983).

183. La. R.S. 56:337C(2) states:

> (2) in lieu of the license provided for in Subsection A(2), each resident taking saltwater commercial finfish or bait species for sale must purchase a seller's license at a cost of one hundred-five dollars and a nonresident must purchase this license at a cost of four hundred-five dollars per annum....

La. R.S. 56:8(81) defines saltwater commercial fish as "any species of saltwater fish taken for commercial purposes."

184. Commercial License Section, _supra_ note 123.

185. Puckett, _supra_ note 179.

186. 84 Op.Atty.Gen. 852 (1984).

187. U.S.Const.Art. IV, §2.

188. 84 Op.Atty.Gen. 852 (1984).

189. _Id._

190. _Toomer v. Witsell_, 334 U.S. 385 (1948).

191. _Id._ at pg. 399.

192. _Tangier Sound Watermen's Ass'n v. Douglas_, 541 F.Supp. 1287 (E.D. Va. 1982).

193. _Id._ at page 1307

194. _Toomer v. Witsell_, 334 U.S. 385, 399 (1948).

195. _Id._ at pg. 398.

196. Mullany v. Anderson, 342 U.S. 415, 418 (1952).

197. Toomer v. Witsell, 334 U.S. 385 (1948).

198. Mullany v. Anderson, 342 U.S. 415 (1952).

199. Steed v. Dodgen, 85 F.Supp. 956 (5th Cir. 1949).

200. Gospodonovich v. Clements, 108 F.Supp. 234 (E.D. La. 1953) appeal dismissed, 334 U.S. 911 (1953).

201. Id.

202. U.S.Const.amend. V.

203. State v. Prestridge, 399 So.2d 564, 571 (La. 1981).

204. Kolender v. Lawson, 461 U.S. 352, 357 (1983).

205. Sevin v. La. Wildlife and Fisheries Comm., 283 So.2d 690, 694 (La. 1973).

206. LaBauve v. La. Wildlife and Fisheries Comm., 444 F.Supp. 1370 (E.D. La. 1978).

207. Id. at 1381.

208. Id.

209. State v. Dardar, 241 So.2d 905 (La. 1970).

210. Id. at 908.

211. Discussed infra at page 12 (Shrimp, Nets).

212. La Bauve v. La. Wildlife and Fisheries Comm., 444 F.Supp. 1370, 1381 (E.D. La. 1978).

213. Korematsu v. U.S., 323 U.S. 214 (1944).

214. Reed v. Reed, 404 U.S. 71 (1971).

215. Yick Wo v. Hopkins, 118 U.S. 356 (1886).

216. Washington v. Davis, 426 U.S. 229 (1976); City of Mobile v. Bolden, 446 U.S. 55 (1980); Rogers v. Lodge, 458 U.S. 613 (1982).

217. Crawford v. Board of Education, 458 U.S. 527 (1982).

218. Rogers v. Lodge, 458 U.S. 613, 616 (1982).

219. Western and Southern Life Ins, Co. v. State Board of Equality of California, 451 U.S. 648, 668 (1981).

220. Candies, supra note 101; Bankston, supra note 102.

221. Greenberg & Shapiro, supra note 132.

222. LaBauve v. La. Wildlife and Fisheries Comm., 444 F.Supp. 1370, 1382 (E.D. La. 1978).

223. Solis v. Milo, 524 F.Supp. 1069, 1074 (S.D. Tx. 1981).

224. As of April 30, the last day bills can be introduced except by approval of two-thirds of both the House of Representatives and the Senate, 51 House bills and 21 Senate bills were introduced concerning the fishery resources of the state.

225. House Bill 1246, 1984.

226. An experimental permit pursuant to the Underutilized Species Law, La. R.S. 56:571B, is required for use of a purse seine in Breton and Chandeleur Sounds. La. R.S. 56:322C(16)(1).

227. House Bills 840 and 1133, 1984, Senate Bills 351 and 453, 1984.

228. Senate Bills 352 and 355, 1984.

229. House Bill 839, 1984.

230. The present definition of purse seine and the definition as changed by the Finfish Task Force bill is:

> §8. Definitions
>
> * * *
>
> (78) "Purse seine" means any net or device commonly known as a purse seine [using a tom weight and/or a power block to handle the net and then] and/or ring net that can be pursed or closed by means of a drawstring or other device that can be drawn to close the bottom of the net, or the top of the net, or both. Such nets are constructed of mesh of such size and design as not to be used primarily to entangle commercial-size fish by the gills or other bony projection. (underlining added).

The present definition is with the underlined words removed and the Finfish Task Force definition is with the bracketed words removed. Senate Bill 351 is identical to the Task Force definition without the last sentence. House Bill 1133 and Senate Bill 453 are identical to each other and would change the definition to:

> (78) "Purse seine" means any net or device commonly known as a purse seine which uses a tom weight and/or a power block to handle the net and is

capable of being pursed by means of a drawstring or other device that can be drawn to close the bottom or top of the net, or both. Such nets are constructed of mesh of such size and design as not to be used primarily to entangle commercial-size fish by the gills or other bony projection.

Finally, House Bills 839 and 840, also identical to each other, redefine purse seine as:

> (78) "Purse seine" means any net or device commonly known as a purse seine using a tom weight and/or a power block to handle the net and/or capable of being pursed by means of a drawstring or other device that can be drawn to close the bottom, or top of the net, or both. Such nets are constructed of mesh of such size and design as not to be used primarily to entangle commercial-size fish by the gills or other bony projection.

231. State inside waters are statutorily defined at La. R.S. 56:495.

232. This area is one mile wide and stretches the length of Breton and Chandeleur Sounds. La. R.S. 56:406A(2).

233. House Bill 839, 1984 and Senate Bill 352, 1984.

234. Senate Bill 355, 1984.

235. 1984 La. Acts 279.

236. Discussed <u>infra</u> at page 7 (Finfish, Nets) and at page 14 (Shrimp, Nets).

237. Discussed <u>infra</u> at page 6 (Finfish, Nets).

238. La. R.S. 56:322A.

239. La. R.S. 56:322B.

240. 1984 La. Acts 295, 693, and 843.

241. Tex. Parks and Wild. Code Ann. §66.201 (West 1983); Alabama Department of Conservation and Natural Resources Regulations 220-3-.08 (1983).

242. Discussed <u>infra</u> at page 24 (Constitutionality, Privileges and Immunities).

243. 1984 La. Acts 693.

244. La. R.S. 56:578.

245. The Department of Wildlife and Fisheries will not issue an

experimental permit for gear expressly prohibited by law.

246. Discussed _infra_ at page 15 (Shrimp, Nets).

247. 1984 La. Acts 300 and 692.

248. The spring shrimp season must open no later than May 25. La. R.S. 56:497.

249. House Bill 1855, 1984, also eliminates the 72-hour notice requirement for special shrimp seasons enacted in 1984 La. Acts 120.

250. Discussed _infra_ at page 15 (Shrimp, Shrimp Count).

251. As Louisiana did in 1984 La. Acts 586.

252. Greenberg & Shapiro, _supra_ note 132 at 669.

253. This does not include the license fee increase pursuant to 1984 La. Acts 230.

254. Discussed _infra_ at page 24 (Crawfish, Mesh Size of Nets).