

2019 Regular Session

HOUSE BILL NO. 355

BY REPRESENTATIVE GISCLAIR

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

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

1 AN ACT

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

5 Be it enacted by the Legislature of Louisiana:

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

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

11 \* \* \*

12 B.(1) No person shall keep or sell immature female crabs or adult female  
13 crabs in berry stage, that is, when ~~they~~ the adult females are carrying the eggs or  
14 young attached to the abdomen. All immature female crabs and crabs in berry stage  
15 taken by any means shall be returned immediately to the waters, unless the immature  
16 female crabs are in the premolt stage and are being held for processing as soft shell  
17 crabs or being sold to a processor for the producing of soft shell crabs. However, a  
18 legally licensed commercial crab fisherman may have ~~in his workbox~~ an incidental

1 take of immature female crabs or crabs in berry stage in an amount equal to not more  
2 than ~~two~~ five percent of the total number of crabs in his possession.

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

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

12 \* \* \*

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

16 (2) In addition to all other penalties provided in this Subsection, for the first  
17 violation of this Subsection, the department shall suspend or revoke the violator's  
18 crab trap gear license for a period of one year from the date of the conviction and no  
19 new crab trap gear license shall be issued to the violator during the period of  
20 suspension or revocation. During the period in which the violator's license is  
21 suspended or revoked, the violator may be present on a vessel commercially  
22 harvesting or processing crabs only if that vessel is equipped with and is actively  
23 using a vessel monitoring system accessible to the department as prescribed in R.S.  
24 56:424.1. In addition, the violator shall be sentenced to perform no less than forty  
25 hours of community service. If available, the hours shall be served removing  
26 abandoned crab traps as a part of the derelict crab trap removal program or in a litter  
27 abatement community service program.

28 (3) In addition to all other penalties provided in this Subsection, for a second  
29 violation of this Subsection, the department shall suspend or revoke the violator's

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

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

21 \* \* \*

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

25 (2) In addition to the penalties associated with a class four violation under the  
26 provisions of R.S. 56:34, for the first conviction of a class four violation of this  
27 Section, the court shall also sentence the violator to perform forty hours of  
28 community service. If a litter abatement community service is available, the hours  
29 shall be served in a community service litter abatement program. In addition, for a

1 period of one year from the date of conviction, the violator may be present on a  
2 vessel harvesting or possessing crabs only if the vessel is equipped with and is  
3 actively using a vessel monitoring system accessible to the Department of Wildlife  
4 and Fisheries as prescribed in R.S. 56:424.1(B).

5 (3) In addition to the penalties associated with a class four violation under the  
6 provisions of R.S. 56:34, for the second conviction of a class four violation of this  
7 Section, the court shall revoke or suspend the violator's crab trap gear license for one  
8 year from the date of the conviction and no new crab trap gear license shall be issued  
9 to the violator during the period of suspension or revocation. During such revocation  
10 or suspension, the violator may be present on a vessel harvesting or possessing crabs  
11 only if the vessel is equipped with and is actively using a vessel monitoring system  
12 accessible to the Department of Wildlife and Fisheries as prescribed in R.S.  
13 56:424.1(B). The court shall also sentence the violator to perform forty hours of  
14 community service. If a litter abatement community service is available, the hours  
15 shall be served in a community service litter abatement program.

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

27 (5) For a fourth or subsequent conviction of a class four violation of this  
28 Section, the court shall revoke or suspend the violator's crab trap gear license for ten  
29 years from the date of the last conviction and no new crab trap gear license shall be

issued to the violator during the period of suspension or revocation. During such  
revocation or suspension, the violator may be present on a vessel harvesting or  
possessing crabs only if the vessel is equipped with and employs an operating vessel  
monitoring system as described in R.S. 56:424.1(B) that is accessible to the  
Department of Wildlife and Fisheries. In addition, the court shall sentence the  
violator to perform no less than one hundred twenty hours of community service. If  
a litter abatement community service is available, the hours shall be served in a  
community service litter abatement program.

9 \* \* \*

# DIGEST

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

HB 355 Engrossed

2019 Regular Session

## Gisclair

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

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

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

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

1st offense between \$400 & \$950      or      imprisonment for more than 120 days, or both.

2nd offense between \$750 & \$999      &      imprisonment between 90 and 180 days.

3rd offense or more between  
\$1,000 & \$5,000 & imprisonment between 180 days and 2  
years.

Provides forfeiture of anything seized in connection with the violation.

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

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

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

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

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

1st offense: Performance of 40 hours of community service preferably in litter abatement and mandatory use of an approved vessel monitoring system (VMS) on any vessel used by the violator for a one-year period.

2nd offense: Suspension of crab trap gear license for one year; 40 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the one-year suspension period.

3rd offense: Suspension of crab trap gear license for three years; 90 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the three-year suspension period.

4th offense: Suspension of crab trap gear license for 10 years; 120 hours community service preferably in litter abatement; prohibited from being on a vessel fishing for crabs for duration of the suspension.

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

Summary of Amendments Adopted by House

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

1. Add the following enhancements to class four punishments for crab-related violations other than theft of crab traps or crabs from within a trap:

1st offense: Performance of 40 hours of community service preferably in litter abatement and mandatory use of an approved vessel monitoring system (VMS) on any vessel used by the violator for a one-year period.

2nd offense: Suspension of crab trap gear license for one year; 40 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the one-year suspension period.

3rd offense: Suspension of crab trap gear license for three years; 90 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the three-year suspension period.

4th offense: Suspension of crab trap gear license for 10 years; 120 hours community service preferably in litter abatement; mandatory use of an approved VMS on any vessel used by the violator for the ten-year suspension period.