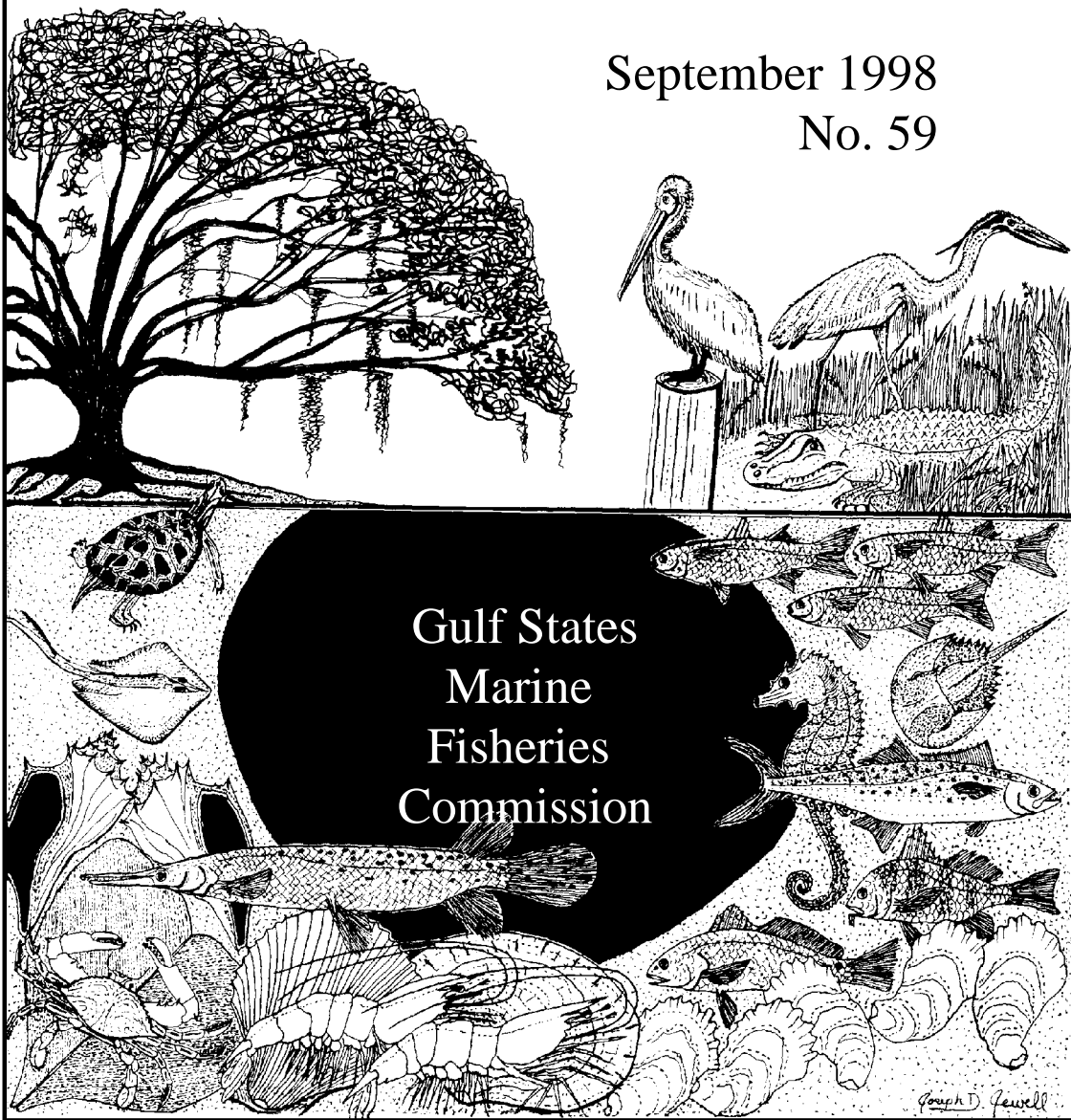


STATE LEGISLATION
AFFECTING MARINE FISHERIES
IN THE GULF OF MEXICO
1998

September 1998
No. 59



Gulf States Marine Fisheries Commission

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Edited by:
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INTRODUCTION

During its spring meeting held on March 15 and 16, 1990 in Orange Beach, Alabama, the Gulf States Marine Fisheries Commission (GSMFC) elected to begin the production of an annual report which provides a listing and brief summary of all bills affecting marine fisheries which became law in a given year in the five Gulf States. This represents the eighth such report and constitutes a compilation of all measures affecting marine fisheries which became law in 1998. Copies are available from GSMFC, (228) 875-5912 until supplies are exhausted.

STATE CONTACT PERSONS

The details of any given piece of legislation are not provided in this report. In the event that anyone is particularly interested in a specific piece of legislation, the following contact persons are provided:

Texas:	Ralph Rayburn, Executive Office Texas Parks and Wildlife Department (512) 389-4530
Louisiana:	John Roussel Louisiana Department of Wildlife and Fisheries (504) 765-2801
Mississippi:	Tom Van Devender Mississippi Department of Marine Resources (228) 374-5000
Alabama:	David Dean, Legislative Liaison Alabama Department of Conservation and Natural Resources (334) 242-3165
Florida:	Lee Schlesinger Florida Marine Fisheries Commission (850) 487-0554

TEXAS

The Texas State Legislature meets every two years, except for special sessions. They did not meet in 1998 but will meet again in 1999, beginning the second Tuesday in January.

LOUISIANA

The Louisiana State Legislature met in 1998; however, they only addressed fiscal issues. The legislature will meet in 1999 to discuss a variety of issues, beginning in March.

MISSISSIPPI

The Mississippi State Legislature met in 1998 beginning January 6 and lasted 90 days. The following legislation affecting marine fisheries which resulted from that session was signed into law:

HB 1256

Removes the requirement that an equal amount of oyster shells be replanted in each county.

HB 1257

Eliminates the requirement that at least one oyster reef per county must be opened during oyster season.

HB 1377

Provides that the commission on marine resources shall not issue a commercial fishing license to a nonresident if the nonresident's state does not issue a comparable license to Mississippi residents.

SB 2681

Provides for a "free saltwater sports fishing day."

ALABAMA

The Alabama State Legislature met in 1998 beginning January 30 and lasted 96 days. However, there was no legislation affecting marine fisheries which was signed into law.

FLORIDA

The Florida State Legislature met in 1998 beginning March 3 and lasted 60 days. The following legislation affecting marine fisheries which resulted from that session was signed into law:

Marine Fisheries Commission

- < Marine Fisheries Commission 10/1/99 sundown provision is deleted
- < Marine species produced by certified aquaculture operations are exempted from Marine Fisheries Commission rule making authority
- < Marine Fisheries Commission's quality control authority is deleted if such authority is delegated to the Department of Agriculture and Consumer Services

Appropriations

- < Continuation funding for the Marine Fisheries Commission is provided as requested, and the allocation of recreational fishing license funds to the Marine Fisheries Commission is raised from not more than 2.5% to not more than 5% of the funds collected (the allocation for marine research is lowered from 30% to 27.5%)
- < \$275,000 for red tide research and \$200,000 for stock enhancement research is appropriated to Department of Environmental Protection/Mote Marine Laboratory
- < \$100,000 is provided to the jellyfish industry in Walkulla County

Nets

- < The possession of any gill or entangling net, or any seine net larger than 500 square feet in mesh area, is prohibited on any airboat or on any other vessel less than 22 feet in length and on any vessel less than 25 feet in length if primary vessel power is mounted forward of the vessel center point unless authorized by Marine Fisheries Commission rule (a violation of this provision is declared a major violation)
- < Marine Fisheries Commission is directed to initiate rule making by 7/1/98 to adjust by rule the use of gear on vessels longer than 22 feet where primary vessel power is mounted forward of the vessel center point to prevent illegal gill net use in state waters and to provide reasonable opportunities for legal net gear use in adjacent federal waters
- < Marine Fisheries Commission is required to adopt rules to prohibit the possession and sale of mullet taken in illegal gill or entangling nets - penalties provided

- < Nets made of “multistrand monofilament” multifilament material are prohibited - multistrand monofilament does not include nets made of braided or twisted nylon, cotton, linen twine, or polypropylene twine
- < Marine Fisheries Commission is authorized to adopt rules pursuant to statutory illegal use of nets provisions

Finfish

- < Marine Fisheries Commission no longer must annually determine the number of tarpon tags that may be issued
- < The provision that allowed mullet west of the Ochlockonee River to be designated a restricted species only in October and November is repealed
- < Black drum and jack crevalle are added to the “food fish” statutory definition
- < A moratorium on the issuance of new marine life endorsements is effective 7/1/98 - 7/1/02
- < Various provisions are established regarding the renewal and transfer of marine life endorsements
- < Marine Fisheries Commission is required to prepare a report by July 1, 2000, to the Governor and legislative leaders regarding options for the establishment of a limited entry program for the marine life fishery
- < Marine life endorsements may only be issued to persons or corporations holding a valid restricted species endorsement

Stone Crab

- < The stone crab trap moratorium is extended until 7/1/2000
- < The transfer of stone crab endorsements to family members is allowed under certain conditions
- < The commercial harvest and sale of stone crabs is prohibited unless the harvester possesses a valid Saltwater Products License with Restricted Species and stone crab endorsements

Blue Crab

- < A moratorium on the issuance of new blue crab trap endorsements is effective from 7/1/98 until 7/01/02, and certain renewal provisions apply
- < The transfer of blue crab endorsements to family members and from boat to boat is allowed under certain conditions
- < The commercial harvest and sale of blue crabs is prohibited unless the harvester possesses a valid Saltwater Products License with Restricted Species and blue crab endorsements

Lobster

- < A spiny lobster trap certificate surcharge of \$5.00 or 25% of actual market value , whichever is greater, is established
- < The lease of lobster trap tags or certificates is prohibited, beginning 7/01/03
- < Lobster trap violation penalties are increased
- < Department of Environmental Protection is authorized to adopt rules regarding crawfish closed season reports
- < Reporting provisions regarding the importation and handling of crawfish during the closed season are amended

Enforcement/Penalties

- < Penalty and enforcement statutory provisions are amended and combined into one section
- < A violation involving an unlicensed person, firm, or corporation buying saltwater products is a major violation, and Department of Environmental Protection may assess the following penalties:
 - 1st violation: a civil penalty of up to \$2,500 and suspension of wholesale/retail dealer's license up to 90 days
 - 2nd violation occurring within 12 months of a prior violation: a civil penalty of up to \$5,000 and suspension of wholesale/retail dealer's license up to 180 days

3rd or subsequent violation occurring within a 24 month period: Department of Environmental Protection shall assess a civil penalty of \$5,000 and suspend the wholesale/retail dealer's license up to 24 months

(Proceeds from above shall be deposited in MRCTF - 40% for administration, 60% for law enforcement)

< Confidential saltwater products reports may be shared with other states under certain conditions

< The following additional penalties for violations of dealer record keeping provisions apply:

1st violation: a civil penalty of up to \$1,000

2nd violation committed within 24 months of any previous violation: a civil penalty of up to \$2,500

3rd or subsequent violation committed within 36 months of any previous 2 violations: a civil penalty of up to \$5,000

(Proceeds for the above shall be deposited into the MRCTF for administration, auditing, and law enforcement purposes)

< Any licensed retail dealer or any restaurant licensed by DBPR is prohibited to buy saltwater products from any person other than a licensed wholesale or retail dealer

< Courts are required to certify the disposition of any alleged offense for which a citation has been issued regarding any fisheries statutes or Marine Fisheries Commission rules to the Department of Environmental Protection within 10 days

Delegations and Rule Making Authority

< Department of Environmental Protection is authorized to issue Special Application License's as provided by statute and Marine Fisheries Commission rules to permit the capture and possession of saltwater species protected by law and used for aquaculture purposes, and to promulgate Special Application License rules as provided by statute and Marine Fisheries Commission rules

< A Special Application License for any person to use gear not authorized by statute or Marine Fisheries Commission rule is required

< Department of Environmental Protection is authorized to issue Special Application License's to permit the harvest or cultivation of oysters, clams, mussels, and crabs,

- < under certain conditions
- < Certain Department of Environmental Protection penalties, carriage of nets, and shrimp statutory provisions are clarified

Licenses

- < Totally and permanently disabled persons are exempted from Restricted Species income requirements under certain conditions
- < The resident \$10/10-day recreational saltwater fishing license is deleted
- < Various game and fishing license provisions are revised

Punta Gorda

- < The harvest of any saltwater fish except by hook and line within any manmade saltwater canal in Punta Gorda is prohibited, and a violation of this provision is a criminal offense and a 2nd degree misdemeanor

Brevard County Clams

- < The length of required Department of Environmental Protection Brevard County semiannual clam seminars is reduced by half
- < All harvest of clams for any purpose is prohibited from any submerged land within 75 feet of an Indian River or Banana River shoreline which abuts residential property or within 75 feet of any canal bank
- < Brevard County clam license and harvesting statutes are sunsetted on 7/01/01

Aquaculture

- < Various aquaculture provisions and certain aquaculture permit consolidation procedures are established
- < Marine aquaculture producers are now regulated by the Department of Agriculture and Conservation Services
- < Marine aquaculture producers are allowed to apply income from the sale of aquaculture products to renew an existing restricted species endorsement
- < The harvest of shellfish within a distance of 25 feet outside legally marked aquaculture lease boundaries or within setback and access corridors in certain aquaculture lease areas and use zones is prohibited

Other

- < Obsolete, duplicative, and confusing statutory language related to saltwater fisheries is removed

- < The Governor is prohibited from nominating any person for appointment to the federal fisheries management councils who is or who has been at any time in the past 24 months a lobbyist for any entity whose interests are or could be affected by actions or decisions of such councils