

2024 Regular Session

SENATE BILL NO. 391

BY SENATOR CARTER

CIVIL PROCEDURE. Provides relative to the use of public things and obstruction of public use. (8/1/24)

1 AN ACT
2 To amend and reenact Civil Code Arts. 452, 458, and 3413, relative to the use of public
3 things and obstruction of public use; to provide relative to the right to fish; to provide
4 relative to the right to land; to provide for the inclusion of water bodies; to provide
5 for definitions; and to provide for related matters.
6 Be it enacted by the Legislature of Louisiana:
7 Section 1. Civil Code Arts. 452, 458, and 3413 are hereby amended and reenacted
8 to read as follows:
9 Art. 452. Public things and common things subject to public use.
10 Public things and common things are subject to public use in accordance with
11 applicable laws and regulations. Everyone has the right to fish in the rivers, ports,
12 roadsteads, ~~and~~ harbors, **and in waters of the state accessible by a naturally**
13 **navigable water body**, and the right to land on the seashore **and banks**, to fish, to
14 shelter himself, to moor ships, to dry nets, and the like, provided that he does not
15 cause injury to the property of adjoining owners.
16 The seashore within the limits of a municipality is subject to its police power,
17 and the public use is governed by municipal ordinances and regulations.

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Art. 458. Works obstructing the public use.

Works built without lawful permit on public things, including the sea, the seashore, and the bottom of natural ~~navigable waters~~ **water bodies comprised of running waters of the state**, or on the banks of navigable rivers, that obstruct the public use may be removed at the expense of the persons who built or own them at the instance of the public authorities, or of any person residing in the state.

The owner of the works may not prevent their removal by alleging prescription or possession.

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Art. 3413. Wild animals, birds, fish, and shellfish

Wild animals, birds, fish, and shellfish in a state of natural liberty either belong to the state in its capacity as a public person or are things without an owner. The taking of possession of such things is governed by particular laws and regulations.

The owner of a tract of land may forbid entry to anyone for purposes of hunting or fishing, and the like, **subject to the rights of the public to use public things in accordance with Article 452**. Nevertheless, despite a prohibition of entry, captured wildlife belongs to the captor.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Hanna Gettys.

DIGEST

SB 391 Original

2024 Regular Session

Carter

Present law (C.C. Art. 452) provides that public things and common things are subject to public use in accordance with applicable laws and regulations.

Present law provides that everyone has the right to fish in the rivers, ports, roadsteads, and harbors, and the right to land on the seashore, to fish, to shelter himself, to moor ships, to dry nets, and the like, provided that he does not cause injury to the property of adjoining owners.

Proposed law retains present law and adds that everyone has the right to fish in the waters of the state accessible by a naturally navigable water body, and the right to land on banks.

Present law (C.C. Art. 458) provides that works built without lawful permit on public things, including the sea, the seashore, and the bottom of natural navigable waters, or on the banks of navigable rivers, that obstruct the public use may be removed at the expense of the

persons who built or own them at the instance of the public authorities, or of any person residing in the state.

Proposed law retains present law and clarifies that natural navigable waters include water bodies comprised of running waters of the state.

Present law (C.C. Art. 3413) provides that wild animals, birds, fish, and shellfish in a state of natural liberty either belong to the state in its capacity as a public person or are things without an owner. The taking of possession of such things is governed by particular laws and regulations.

Present law provides that the owner of a tract of land may forbid entry to anyone for purposes of hunting or fishing, and the like.

Present law provides that despite a prohibition of entry, captured wildlife belongs to the captor.

Proposed law retains present law and adds that the owner of a tract of land may forbid entry to anyone for purposes of hunting or fishing, and the like, subject to the rights of the public to use public things in accordance with present law.

Effective August 1, 2024.

(Amends C.C. Arts. 452, 458, and 3413)