

6534

2017-2018 Regular Sessions

I N S E N A T E

June 1, 2017

Introduced by Sen. O'MARA -- (at request of the Department of Environmental Conservation) -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the management of certain marine species by order, crab permits, and whelk sales

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 3 of section 11-0303 of the environmental  
2 conservation law, as amended by chapter 193 of the laws of 2015, is  
3 amended to read as follows:  
4 3. The department may, until December thirty-first, two thousand eigh-  
5 teen, fix by ORDER OR regulation measures for the management of striped  
6 bass, including size limits, catch and possession limits, open and  
7 closed seasons, closed areas, restrictions on the manner of taking and  
8 landing, requirements for permits and eligibility therefor, recordkeep-  
9 ing requirements, requirements on the amount and type of fishing effort  
10 and gear, and requirements relating to transportation, possession and  
11 sale, provided that such regulations OR ORDERS are no less restrictive  
12 than requirements set forth in this chapter and provided further that  
13 such regulations OR ORDERS are consistent with the compliance require-  
14 ments of applicable fishery management plans adopted by the Atlantic  
15 States Marine Fisheries Commission and with applicable provisions of  
16 fishery management plans adopted pursuant to the Federal Fishery Conser-  
17 vation and Management Act (16 U.S.C. S 1800 et seq.). THE COMMISSIONER  
18 MAY ISSUE ORDERS FOR THE PURPOSE OF ESTABLISHING SIZE, CATCH AND  
19 POSSESSION LIMITS AND OPEN AND CLOSED SEASONS NECESSARY TO IMPLEMENT  
20 INTERSTATE OR STATE-FEDERAL INTERJURISDICTIONAL MANAGEMENT PLANS. NOTICE  
21 OF THE REQUIREMENTS ADOPTED BY SUCH ORDER SHALL BE PROVIDED BY DEPART-  
22 MENT PRESS RELEASE AND ANY OTHER MEANS THAT THE DEPARTMENT DETERMINES TO  
23 BE APPROPRIATE AND EFFECTIVE, INCLUDING POSTING ON THE DEPARTMENT'S

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 PUBLIC WEBSITE AT LEAST TEN DAYS PRIOR TO THE EFFECTIVE DATE. SUCH ORDER  
2 SHALL BE FILED IN THE COMMISSIONER'S OFFICE AND A CERTIFIED COPY SHALL  
3 BE FILED IN THE OFFICE OF THE SECRETARY OF THE STATE.

4 S 2. Subdivision 2 of section 13-0105 of the environmental conserva-  
5 tion law, as added by chapter 365 of the laws of 1994, is amended to  
6 read as follows:

7 2. Prior to proposing regulations OR ORDERS for the management of  
8 marine fish, mollusks (Phylum mollusca) or crustaceans (Class crustacea)  
9 found in the marine and coastal district, the department shall identify  
10 recreational and commercial fisheries interests which may be affected by  
11 the proposed regulations OR ORDERS and directly consult with such inter-  
12 ests. Such consultation may include, as appropriate, the conduct of  
13 meetings with invited representatives of fisheries interests, public  
14 information meetings, public hearings, direct mailings of information  
15 and public comment solicitations, and publication of proposals and  
16 comment solicitations in trade publications, and other measures. Such  
17 consultation shall include a meeting with the marine resources advisory  
18 council. No consultation shall be required prior to proposing emergency  
19 regulations. THE COMMISSIONER MAY ISSUE ORDERS FOR THE PURPOSE OF ESTAB-  
20 LISHING SIZE, CATCH AND POSSESSION LIMITS AND OPEN AND CLOSED SEASONS  
21 NECESSARY TO IMPLEMENT INTERSTATE OR STATE-FEDERAL INTERJURISDICTIONAL  
22 MANAGEMENT PLANS. NOTICE OF THE REQUIREMENTS ADOPTED BY SUCH ORDER SHALL  
23 BE PROVIDED BY DEPARTMENT PRESS RELEASE AND ANY OTHER MEANS THAT THE  
24 DEPARTMENT DETERMINES TO BE APPROPRIATE AND EFFECTIVE, INCLUDING POSTING  
25 ON THE DEPARTMENT'S PUBLIC WEBSITE AT LEAST TEN DAYS PRIOR TO THE EFFEC-  
26 TIVE DATE. SUCH ORDER SHALL BE FILED IN THE COMMISSIONER'S OFFICE AND A  
27 CERTIFIED COPY SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF THE  
28 STATE.

29 S 3. Subdivision 16 of section 13-0329 of the environmental conserva-  
30 tion law, as amended by chapter 132 of the laws of 2015, is amended to  
31 read as follows:

32 16. The department may, until December thirty-first, two thousand  
33 eighteen, adopt regulations OR ORDERS for Atlantic States Marine Fisher-  
34 ies Commission Areas One, Two, Three, Four, Five, and Outer Cape Cod, to  
35 implement conservation measures that affect landings of lobsters, pursu-  
36 ant to the recommendations of the respective Area's Lobster Conservation  
37 Management Team as required by the Interstate Fishery Management Plan  
38 for American Lobster adopted by the Atlantic States Marine Fisheries  
39 Commission.

40 S 4. Subdivision 1 of section 13-0339 of the environmental conserva-  
41 tion law, as amended by chapter 156 of the laws of 2003, is amended to  
42 read as follows:

43 1. a. The taking of fish with nets in the marine and coastal district  
44 is governed by sections 13-0333, 13-0335, 13-0341, 13-0343, 13-0347 and  
45 11-1521, and regulations OR ORDERS adopted pursuant to sections 11-0303,  
46 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c,  
47 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter. The  
48 taking of fish by other means, in the marine and coastal district, is  
49 governed by title 13 of article 11 of the Fish and Wildlife Law, subject  
50 to restrictions in section 13-0343 as to certain waters, and to  
51 provisions of sections 13-0347 and 11-1521 and regulations OR ORDERS  
52 adopted pursuant to section 11-0303 of this chapter as to striped bass  
53 and sections 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b,  
54 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g as to other  
55 species of marine fish. The taking, and sale or taking for sale, of  
56 certain bait fish are governed by section 11-1315 of this chapter.

1 b. Open seasons, minimum size limits and catch limits for fish other  
2 than the marine species named in subdivisions 2 and 3 of this section  
3 are specified by regulations OR ORDERS adopted pursuant to sections  
4 11-0303, 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b,  
5 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chap-  
6 ter. All shortnose sturgeon irrespective of size and all Atlantic stur-  
7 geon under the size limits prescribed by regulations OR ORDERS adopted  
8 pursuant to section 11-1303 of this chapter taken in gill nets shall be  
9 immediately returned to the water without unnecessary injury. Other fish  
10 named by regulations OR ORDERS adopted pursuant to sections 11-0303,  
11 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c,  
12 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter and under  
13 the size limits prescribed in such regulations OR ORDERS, shall not be  
14 bought, sold or trafficked in.

15 c. The sale, possession and transportation of fish, other than the  
16 marine species named in subdivisions 2 and 3 of this section are  
17 governed by sections 11-1319, 11-1521 and 13-0347, and regulations OR  
18 ORDERS adopted pursuant to sections 11-0303, 11-1303, 13-0338,  
19 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d,  
20 13-0340-e, 13-0340-f and 13-0340-g of this chapter.

21 S 5. Section 13-0340 of the environmental conservation law, as amended  
22 by chapter 147 of the laws of 2016, is amended to read as follows:

23 S 13-0340. Bluefish (*Pomatomus saltatrix*).

24 The department may, until December thirty-first, two thousand nine-  
25 teen, fix by ORDER OR regulation measures for the management of bluefish  
26 (*Pomatomus saltatrix*), including size limits, catch and possession  
27 limits, open and closed seasons, closed areas, restrictions on the  
28 manner of taking and landing, requirements for permits and eligibility  
29 therefor, recordkeeping requirements, requirements on the amount and  
30 type of fishing effort and gear, and requirements relating to transpor-  
31 tation, possession and sale, provided that such regulations OR ORDERS  
32 are no less restrictive than requirements set forth in this chapter and  
33 provided further that such regulations OR ORDERS are consistent with the  
34 compliance requirements of applicable fishery management plans adopted  
35 by the Atlantic States Marine Fisheries Commission and with applicable  
36 provisions of fishery management plans adopted pursuant to the Federal  
37 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

38 S 6. Section 13-0340-a of the environmental conservation law, as  
39 amended by chapter 148 of the laws of 2016, is amended to read as  
40 follows:

41 S 13-0340-a. Weakfish (*Cynoscion regalis*).

42 The department may, until December thirty-first, two thousand nine-  
43 teen, fix by ORDER OR regulation measures for the management of weakfish  
44 (*Cynoscion regalis*), including size limits, catch and possession limits,  
45 open and closed seasons, closed areas, restrictions on the manner of  
46 taking and landing, requirements for permits and eligibility therefor,  
47 recordkeeping requirements, requirements on the amount and type of fish-  
48 ing effort and gear, and requirements relating to transportation,  
49 possession and sale, provided that such regulations OR ORDERS are no  
50 less restrictive than requirements set forth in this chapter and  
51 provided further that such regulations OR ORDERS are consistent with the  
52 compliance requirements of applicable fishery management plans adopted  
53 by the Atlantic States Marine Fisheries Commission and with applicable  
54 provisions of fishery management plans adopted pursuant to the Federal  
55 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

1 S 7. Section 13-0340-b of the environmental conservation law, as  
2 amended by chapter 189 of the laws of 2015, is amended to read as as  
3 follows:

4 S 13-0340-b. Fluke - summer flounder (*Paralichthys dentatus*).

5 The department may, until December thirty-first, two thousand seven-  
6 teen, fix by ORDER OR regulation measures for the management of fluke or  
7 summer flounder (*Paralichthys dentatus*), including size limits, catch  
8 and possession limits, open and closed seasons, closed areas,  
9 restrictions on the manner of taking and landing, requirements for  
10 permits and eligibility therefor, recordkeeping requirements, require-  
11 ments on the amount and type of fishing effort and gear, and require-  
12 ments relating to transportation, possession and sale, provided that  
13 such regulations OR ORDERS are no less restrictive than requirements set  
14 forth in this chapter and provided further that such regulations OR  
15 ORDERS are consistent with the compliance requirements of applicable  
16 fishery management plans adopted by the Atlantic States Marine Fisheries  
17 Commission and with applicable provisions of fishery management plans  
18 adopted pursuant to the Federal Fishery Conservation and Management Act  
19 (16 U.S.C. S 1800 et seq.).

20 S 8. Section 13-0340-c of the environmental conservation law, as  
21 amended by chapter 136 of the laws of 2015, is amended to read as  
22 follows:

23 S 13-0340-c. Winter flounder (*Pleuorenetes americanus*).

24 The department may, until December thirty-first, two thousand seven-  
25 teen, fix by ORDER OR regulation measures for the management of winter  
26 flounder (*Pleuorenetes americanus*), including size limits, catch and  
27 possession limits, open and closed seasons, closed areas, restrictions  
28 on the manner of taking and landing, requirements for permits and eligi-  
29 bility therefor, recordkeeping requirements, requirements on the amount  
30 and type of fishing effort and gear, and requirements relating to trans-  
31 portation, possession and sale, provided that such regulations OR ORDERS  
32 are no less restrictive than requirements set forth in this chapter and  
33 provided further that such regulations OR ORDERS are consistent with the  
34 compliance requirements of applicable fishery management plans adopted  
35 by the Atlantic States Marine Fisheries Commission and with applicable  
36 provisions of fishery management plans adopted pursuant to the Federal  
37 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

38 S 9. Subdivision 1 of section 13-0340-d of the environmental conserva-  
39 tion law, as amended by chapter 140 of the laws of 2016, is amended to  
40 read as follows:

41 1. The department may, until December thirty-first, two thousand nine-  
42 teen, fix by ORDER OR regulation measures for the management of blackf-  
43 ish (*Tautoga onitis*), including size limits, catch and possession  
44 limits, open and closed seasons, closed areas, restrictions on the  
45 manner of taking and landing, requirements for permits and eligibility  
46 therefor, recordkeeping requirements, requirements on the amount and  
47 type of fishing effort and gear, and requirements relating to transpor-  
48 tation, possession and sale, provided that such regulations OR ORDERS  
49 are no less restrictive than requirements set forth in this chapter and  
50 provided further that such regulations OR ORDERS are consistent with the  
51 compliance requirements of applicable fishery management plans adopted  
52 by the Atlantic States Marine Fisheries Commission and with applicable  
53 provisions of fishery management plans adopted pursuant to the Federal  
54 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

1 S 10. Section 13-0340-e of the environmental conservation law, as  
2 amended by chapter 191 of the laws of 2015, is amended to read as  
3 follows:

4 S 13-0340-e. Scup (*Stenotomus chrysops*).

5 The department may, until December thirty-first, two thousand seven-  
6 teen, fix by ORDER OR regulation measures for the management of scup  
7 (*Stenotomus chrysops*), including size limits, catch and possession  
8 limits, open and closed seasons, closed areas, restrictions on the  
9 manner of taking and landing, requirements for permits and eligibility  
10 therefor, recordkeeping requirements, requirements on the amount and  
11 type of fishing effort and gear, and requirements relating to transpor-  
12 tation, possession and sale, provided that such regulations OR ORDERS  
13 are no less restrictive than requirements set forth in this chapter and  
14 provided further that such regulations OR ORDERS are consistent with the  
15 compliance requirements of applicable fishery management plans adopted  
16 by the Atlantic States Marine Fisheries Commission and with applicable  
17 provisions of fishery management plans adopted pursuant to the Federal  
18 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

19 S 11. Section 13-0340-f of the environmental conservation law, as  
20 amended by chapter 194 of the laws of 2015, is amended to read as  
21 follows:

22 S 13-0340-f. Black sea bass (*Centropristis striata*).

23 The department may, until December thirty-first, two thousand seven-  
24 teen, fix by ORDER OR regulation measures for the management of black  
25 sea bass (*Centropristis striata*), including size limits, catch and  
26 possession limits, open and closed seasons, closed areas, restrictions  
27 on the manner of taking and landing, requirements for permits and eligi-  
28 bility therefor, recordkeeping requirements, requirements on the amount  
29 and type of fishing effort and gear and requirements relating to trans-  
30 portation, possession and sale, provided that such regulations OR ORDERS  
31 are no less restrictive than requirements set forth in this chapter and  
32 provided further that such regulations OR ORDERS are consistent with the  
33 compliance requirements of applicable fishery management plans adopted  
34 by the Atlantic States Marine Fisheries Commission and with applicable  
35 provisions of fishery management plans adopted pursuant to the Federal  
36 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

37 S 12. Subdivision 1 of section 13-0331 of the environmental conserva-  
38 tion law, as amended by chapter 325 of the laws of 1999, is amended to  
39 read as follows:

40 1. No person shall take crabs, including horseshoe crabs (*Limulus sp.*)  
41 for commercial purposes without first obtaining a permit from the  
42 department. For purposes of this subdivision, a presumption of "commer-  
43 cial purposes" shall be made wherein one takes or lands more than fifty  
44 crabs in any one day or sells or barter or offers for sale or barter  
45 any crabs he or she has taken. Permits shall be issued to individuals  
46 only but may be endorsed for use on a vessel, in which case it shall  
47 cover all persons on board such vessel. THE PERMIT HOLDER MUST BE PRES-  
48 ENT AND ON BOARD SUCH VESSEL AT ALL TIMES WHILE THE PRIVILEGES OF SUCH  
49 PERMIT ARE BEING EXERCISED AND WHILE CRAB FISHING GEAR OWNED BY THE  
50 PERMIT HOLDER IS BEING SET OUT OR RETRIEVED.

51 S 13. Section 13-0334 of the environmental conservation law is amended  
52 by adding a new subdivision 8 to read as follows:

53 8. NO PERSON SHALL PURCHASE WHELK OR CONCH FROM A LICENSED HARVESTER  
54 FOR THE PURPOSES OF RESALE, TRADE OR BARTER, SHIPPING, TRANSPORT, OR  
55 OTHER TRAFFIC WITHOUT FIRST OBTAINING A VALID MARINE FOOD FISH AND CRUS-

1 TACEAN DEALERS AND SHIPPER'S LICENSE FROM THE DEPARTMENT. SUCH PERSONS  
2 SHALL ALSO REPORT TO THE DEPARTMENT ALL TRANSACTIONS OF WHELK OR CONCH.  
3 S 14. This act shall take effect immediately, provided however that  
4 the amendments to section 13-0331 and section 13-0334 of the environ-  
5 mental conservation law made by sections twelve and thirteen of this act  
6 shall take effect January 1, 2018.