

4072--A

Cal. No. 435

2011-2012 Regular Sessions

I N S E N A T E

March 16, 2011

Introduced by Sens. ZELDIN, JOHNSON, LAVALLE, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to the harvesting of surf clams and ocean quahogs; and providing for the repeal of such provisions upon the expiration thereof

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

1 Section 1. Subdivision 15 of section 13-0309 of the environmental  
2 conservation law, as added by chapter 512 of the laws of 1994, paragraph  
3 a as amended by chapter 323 of the laws of 1999, is amended and a new  
4 subdivision 16 is added to read as follows:  
5 15. [Unless and until regulations are adopted implementing a compre-  
6 hensive long-term management plan for the protection of surf clams and  
7 ocean quahogs in New York waters prepared in conjunction with the surf  
8 clam/ocean quahog management advisory board pursuant to section 13-0308,  
9 of this title, the following restrictions shall apply in addition to any  
10 consistent regulations adopted prior to the date upon which such section  
11 shall take effect:  
12 a. a weekly catch limit not to exceed twenty-eight cages;  
13 b. an annual catch limit in certified waters of the Atlantic Ocean for  
14 surf clams not to exceed five hundred thousand bushels in the aggregate;  
15 c. an annual catch limit in certified waters other than the Atlantic  
16 Ocean for surf clams not to exceed fifty thousand bushels in the aggre-  
17 gate; and  
18 d. requiring permittees to report on a weekly basis the number of  
19 bushels harvested in the previous seven day period, and provide that the  
20 failure to file such weekly report may result in the revocation of such

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

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1 person's permit by the department.] COOPERATIVE HARVESTING. NOTWITH-  
2 STANDING ANY OTHER PROVISION OF THIS CHAPTER OR RULE OR REGULATION,  
3 PERSONS HOLDING HARVESTING PERMITS IN NEW YORK'S ATLANTIC OCEAN SURF  
4 CLAM/OCEAN QUAHOG FISHERY ARE HEREBY AUTHORIZED TO COOPERATIVELY HARVEST  
5 ANY PORTION OF THE PERSON'S INDIVIDUAL FISHING QUOTA (IFQ) BY USE OF ANY  
6 VESSEL THAT IS ELIGIBLE TO HARVEST SHELLFISH IN THE FISHERY, SUBJECT TO  
7 THE FOLLOWING:

8 A. SUCH COOPERATIVE HARVESTING SHALL COMPLY WITH DAILY CATCH LIMITS  
9 ESTABLISHED FOR THE FISHERY BY THE DEPARTMENT WHICH SHALL BE COUNTED  
10 AGAINST BOTH THE IFQ HOLDER VESSEL'S AND THE HARVESTING VESSEL'S DAILY  
11 CATCH LIMITS.

12 B. THE HARVESTING VESSEL USED TO CATCH SUCH IFQ OR PORTION THEREOF  
13 SHALL BE IDENTIFIED TO THE DEPARTMENT IN BOTH THE IFQ HOLDER'S AND THE  
14 HARVESTING VESSEL'S REPORT TO THE DEPARTMENT.

15 C. IN COOPERATIVE HARVESTING THERE SHALL BE NO REQUIREMENT THAT THE  
16 CAPTAIN OF THE IFQ HOLDER'S VESSEL BE ON BOARD THE HARVESTING VESSEL  
17 DURING HARVESTING.

18 D. IN COOPERATIVE HARVESTING THE IFQ HOLDER WILL PROVIDE THE CAPTAIN  
19 OF THE HARVESTING VESSEL WITH SUCH CAGE TAGS AS ARE NECESSARY TO ACCOUNT  
20 FOR THE HARVEST ATTRIBUTABLE TO SUCH IFQ HOLDER.

21 E. NOTHING HEREIN DESCRIBED SHALL ALTER THE DAILY, WEEKLY OR ANNUAL  
22 CATCH LIMITS OBTAINABLE BY ANY IFQ HOLDER WITHIN THE FISHERY.

23 16. CONSOLIDATION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER  
24 OR RULE OR REGULATION, ANY PERSON WHO HOLDS AN ATLANTIC OCEAN SURF  
25 CLAM/OCEAN QUAHOG PERMIT IS AUTHORIZED TO REQUEST THE DEPARTMENT TO  
26 CONSOLIDATE THE INDIVIDUAL FISHING QUOTA (IFQ) OR PORTIONS THEREOF  
27 ESTABLISHED FOR ITS VESSEL ONTO ONE OR MORE SUCH VESSELS AS THE PERMIT-  
28 TEE MAY DIRECT, SUBJECT TO THE FOLLOWING:

29 A. VESSELS UPON WHICH ANY IFQ OR PORTION OF AN IFQ ARE PLACED UNDER  
30 THIS PROVISION MUST HOLD A DEPARTMENT-ISSUED PERMIT TO PARTICIPATE IN  
31 THE FISHERY.

32 B. UPON TRANSFERRING THE ENTIRETY OF AN IFQ FROM ONE VESSEL TO ANOTHER  
33 OR OTHERS, THE TRANSFERRING VESSEL SHALL BECOME INELIGIBLE TO PARTIC-  
34 IPATE IN THE FISHERY UNTIL SUCH TIME AS THE VESSEL IS PROPERLY IDENTI-  
35 FIED FOR USE TO THE DEPARTMENT ON ANOTHER ATLANTIC OCEAN SURF CLAM/OCEAN  
36 QUAHOG HARVESTING PERMIT.

37 S 2. This act shall take effect immediately and shall expire and be  
38 deemed repealed December 31, 2013.