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I N S E N A T E

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Introduced by Sens. JOHNSON, GRISANTI -- 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 commercial fishing licenses

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

1 Section 1. Section 13-0328 of the environmental conservation law, as
2 amended by chapter 366 of the laws of 2007, is amended to read as
3 follows:
4 S 13-0328. Commercial licenses; limited entry.
5 1. Commercial food fish licenses. Commercial food fish licenses
6 provided for by section 13-0335 of this title shall be issued as
7 follows:
8 a. [for the period beginning July first, nineteen hundred ninety-nine
9 and ending December thirty-first, nineteen hundred ninety-nine, the
10 following persons shall be eligible to be issued a commercial food fish
11 license:
12 (i) persons who held a valid commercial food fish license in nineteen
13 hundred ninety-eight;
14 (ii) persons who held a valid commercial food fish license in nineteen
15 hundred ninety-six but not in nineteen hundred ninety-seven; and
16 (iii) persons who submitted applications to the department during the
17 period commencing January first, nineteen hundred ninety-nine and ending
18 on the effective date of this section and who were eligible to receive
19 such license but had not been issued such license during such period.
20 b.] for the period beginning January first, two thousand [four] TWELVE
21 through December thirty-first, two thousand [eleven] FIFTEEN, the number
22 of [residential] RESIDENT commercial food fish licenses and the number

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

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1 of [non-residential] NON-RESIDENT commercial food fish licenses shall
2 not exceed the following annual limits:

3 (i) [for two thousand four, the number of licenses shall be limited to
4 the greater of the number of licenses issued in two thousand two or the
5 number of licenses issued in two thousand three;

6 (ii) for two thousand five, the number of licenses shall be limited to
7 the number of licenses issued in two thousand four, plus fifty percent
8 of any difference between the number of licenses issued in two thousand
9 four and the limit established in subparagraph (i) of this paragraph;

10 (iii) for two thousand six, the number of licenses shall be limited to
11 the number of licenses issued in two thousand five, plus fifty percent
12 of any difference between the number of licenses issued in two thousand
13 five and the limit established in subparagraph (ii) of this paragraph;

14 (iv) for two thousand seven, the number of licenses shall be limited
15 to the number of licenses issued in two thousand six, plus fifty percent
16 of any difference between the number of licenses issued in two thousand
17 six and the limit established in subparagraph (iii) of this paragraph;

18 (v)] for two thousand [eight] TWELVE, the number of licenses shall be
19 limited to the number of licenses issued in two thousand [seven] ELEVEN,
20 plus fifty percent of any difference between the number of licenses
21 issued in two thousand [seven] ELEVEN and [the limit established in
22 subparagraph (iv) of this paragraph] ONE THOUSAND FIFTY-THREE;

23 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses
24 shall be limited to the number of licenses issued in two thousand
25 [eight] TWELVE, plus fifty percent of any difference between the number
26 of licenses issued in two thousand [eight] TWELVE and the limit estab-
27 lished in subparagraph [(v)] (I) of this paragraph;

28 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses
29 shall be limited to the number of licenses issued in two thousand [nine]
30 THIRTEEN, plus fifty percent of any difference between the number of
31 licenses issued in two thousand [nine] THIRTEEN and the limit estab-
32 lished in subparagraph [(vi)] (II) of this paragraph;

33 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of
34 licenses shall be limited to the number of licenses issued in two thou-
35 sand [ten] FOURTEEN, plus fifty percent of any difference between the
36 number of licenses issued in two thousand [ten] FOURTEEN and the limit
37 established in subparagraph [(vii)] (III) of this paragraph.

38 [c.] B. for the period beginning January first, two thousand TWELVE
39 through December thirty-first, two thousand [eleven] FIFTEEN, persons
40 who were issued a commercial food fish license in the previous year
41 shall be eligible to be issued such license.

42 [d.] C. for the period beginning January first, two thousand [four]
43 TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the
44 department shall issue commercial food fish licenses to persons who were
45 not issued such license in the previous year provided that the total
46 number of such licenses issued to such persons does not exceed the
47 difference between the number of licenses established in paragraph [b] A
48 of this subdivision and the number of such licenses issued pursuant to
49 paragraph [c] B of this subdivision, subject to the following:

50 (i) licenses shall be issued in the order in which the applications
51 were received, except that where multiple applications are received by
52 the department on the same day, applicants for whom the department has
53 received notice of successful completion of an apprenticeship pursuant
54 to subdivision seven of this section shall be considered by the depart-
55 ment prior to other applicants;

56 (ii) licenses may be issued to individuals only;

(iii) licenses shall be issued to applicants who are sixteen years of age or older at the time of the application; and

(iv) licenses shall be issued only to persons who demonstrate in a manner acceptable to the department that they received an average of at least fifteen thousand dollars of income over three consecutive years from commercial fishing or fishing, or who successfully complete a commercial food fish apprenticeship pursuant to subdivision seven of this section. As used in this subparagraph, "commercial fishing" means the taking and sale of marine resources including fish, shellfish, crustacea or other marine biota and "fishing" means commercial fishing and carrying fishing passengers for hire. Individuals who wish to qualify based on income from "fishing" must hold a valid marine and coastal district party and charter boat license. No more than ten percent of the licenses issued each year based on income eligibility pursuant to this paragraph shall be issued to applicants who qualify based solely upon income derived from operation of or employment by a party or charter boat.

2. Commercial lobster permits. Commercial lobster permits provided for by section 13-0329 of this title shall be issued as follows:

[a. for the period beginning July first, nineteen hundred ninety-nine and ending December thirty-first, nineteen hundred ninety-nine, the following persons shall be eligible to be issued a commercial lobster permit:

(i) persons who held a valid commercial lobster permit in nineteen hundred ninety-eight;

(ii) persons who held a valid commercial lobster permit in nineteen hundred ninety-six but not in nineteen hundred ninety-seven; and

(iii) persons who submitted applications to the department during the period commencing January first, nineteen hundred ninety-nine and ending on the effective date of this section and who were eligible to receive such permit but had not been issued such permit during such period.

b.] for the period beginning January first, two thousand TWELVE, through December thirty-first, two thousand [eleven] FIFTEEN, only persons who were issued a commercial lobster permit in the previous year shall be eligible to be issued such permit.

3. Commercial crab permits. Commercial crab permits provided for by section 13-0331 of this title shall be issued as follows:

a. [for the period beginning July first, nineteen hundred ninety-nine and ending December thirty-first, nineteen hundred ninety-nine, the following persons shall be eligible to be issued a commercial crab permit:

(i) persons who held a valid commercial crab permit in nineteen hundred ninety-eight;

(ii) persons who held a valid commercial crab permit in nineteen hundred ninety-six but not in nineteen hundred ninety-seven; and

(iii) persons who submitted applications to the department during the period commencing January first, nineteen hundred ninety-nine and ending on the effective date of this section and who were eligible to receive such permit but had not been issued such permit during such period.

b.] for the period beginning January first, two thousand [four] TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the number of [residential] RESIDENT commercial crab permits and the number of [non-residential] NON-RESIDENT commercial crab permits shall not exceed the following annual limits:

1 (i) [for two thousand four, the number of permits shall be limited to
2 the greater of the number of permits issued in two thousand two or the
3 number of permits issued in two thousand three;
4 (ii) for two thousand five, the number of permits shall be limited to
5 the number of permits issued in two thousand four, plus fifty percent of
6 any difference between the number of permits issued in two thousand four
7 and the limit established in subparagraph (i) of this paragraph;
8 (iii) for two thousand six, the number of permits shall be limited to
9 the number of permits issued in two thousand five, plus fifty percent of
10 any difference between the number of permits issued in two thousand five
11 and the limit established in subparagraph (ii) of this paragraph;
12 (iv) for two thousand seven, the number of licenses shall be limited
13 to the number of permits issued in two thousand six, plus fifty percent
14 of any difference between the number of permits issued in two thousand
15 six and the limit established in subparagraph (iii) of this paragraph;
16 (v)] for two thousand [eight] TWELVE, the number of permits shall be
17 limited to the number of permits issued in two thousand [seven] ELEVEN,
18 plus fifty percent of any difference between the number of permits
19 issued in two thousand [seven] ELEVEN and [the limit established in
20 subparagraph (iv) of this paragraph] SIX HUNDRED SIXTEEN;
21 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of permits
22 shall be limited to the number of permits issued in two thousand [eight]
23 TWELVE, plus fifty percent of any difference between the number of
24 permits issued in two thousand [eight] TWELVE and the limit established
25 in subparagraph [(v)] (I) of this paragraph;
26 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of permits
27 shall be limited to the number of permits issued in two thousand [nine]
28 THIRTEEN, plus fifty percent of any difference between the number of
29 permits issued in two thousand [nine] THIRTEEN and the limit established
30 in subparagraph [(vi)] (II) of this paragraph;
31 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of permits
32 shall be limited to the number of permits issued in two thousand [ten]
33 FOURTEEN, plus fifty percent of any difference between the number of
34 permits issued in two thousand [ten] FOURTEEN and the limit established
35 in subparagraph [(vii)] (III) of this paragraph.
36 [c.] B. for the period beginning January first, two thousand TWELVE
37 through December thirty-first, two thousand [eleven] FIFTEEN, persons
38 who were issued a commercial crab permit in the previous year shall be
39 eligible to be issued such permit.
40 [d.] C. for the period beginning January first, two thousand [four]
41 TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the
42 department shall issue commercial crab permits to persons who were not
43 issued such permit in the previous year provided that the total number
44 of such permits issued to such persons does not exceed the difference
45 between the number of permits established in paragraph [b] A of this
46 subdivision and the number of such permits issued pursuant to paragraph
47 [c] B of this subdivision, subject to the following:
48 (i) permits shall be issued in the order in which the applications
49 were received, except that where multiple applications are received by
50 the department on the same day, applicants for whom the department has
51 received notice of successful completion of an apprenticeship pursuant
52 to subdivision seven of this section shall be considered by the depart-
53 ment prior to other applicants;
54 (ii) permits may be issued to individuals only;
55 (iii) permits shall be issued to applicants who are sixteen years of
56 age or older at the time of the application; and

1 (iv) permits shall be issued only to persons who demonstrate in a
2 manner acceptable to the department that they received an average of at
3 least fifteen thousand dollars of income over three consecutive years
4 from commercial fishing or fishing, or who successfully complete an
5 apprenticeship pursuant to subdivision seven of this section. As used in
6 this subparagraph, "commercial fishing" means the taking and sale of
7 marine resources including fish, shellfish, crustacea or other marine
8 biota and "fishing" means commercial fishing and carrying fishing
9 passengers for hire. Individuals who wish to qualify based on income
10 from "fishing" must hold a valid marine and coastal district party and
11 charter boat license. No more than ten percent of the permits issued
12 each year based on income eligibility pursuant to this paragraph shall
13 be issued to applicants who qualify based upon income derived from oper-
14 ation of or employment by a party or charter boat.

15 4. Commercial whelk or conch licenses. Commercial whelk or conch
16 licenses provided for by section 13-0330 of this title shall be issued
17 as follows:

18 a. for the period beginning January first, two thousand [four] TWELVE
19 through December thirty-first, two thousand [eleven] FIFTEEN, the number
20 of [residential] RESIDENT commercial whelk or conch licenses and the
21 number of [non-residential] NON-RESIDENT commercial whelk or conch
22 licenses shall not exceed the following annual limits:

23 (i) [for two thousand four, the number of licenses shall be limited to
24 three hundred or the number of licenses issued in two thousand three,
25 whichever is greater;

26 (ii) for two thousand five, the number of licenses shall be limited to
27 the number of licenses issued in two thousand four, plus fifty percent
28 of any difference between the number of licenses issued in two thousand
29 four and the limit established in subparagraph (i) of this paragraph;

30 (iii) for two thousand six, the number of licenses shall be limited to
31 the number of licenses issued in two thousand five, plus fifty percent
32 of any difference between the number of licenses issued in two thousand
33 five and the limit established in subparagraph (ii) of this paragraph;

34 (iv) for two thousand seven, the number of licenses shall be limited
35 to the number of licenses issued in two thousand six, plus fifty percent
36 of any difference between the number of licenses issued in two thousand
37 six and the limit established in subparagraph (iii) of this paragraph;

38 (v) [for two thousand [eight] TWELVE, the number of licenses shall be
39 limited to the number of licenses issued in two thousand [seven] ELEVEN,
40 plus fifty percent of any difference between the number of licenses
41 issued in two thousand [seven] ELEVEN and [the limit established in
42 subparagraph (iv) of this paragraph] TWO HUNDRED SEVENTY-ONE;

43 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses
44 shall be limited to the number of licenses issued in two thousand
45 [eight] TWELVE, plus fifty percent of any difference between the number
46 of licenses issued in two thousand [eight] TWELVE and the limit estab-
47 lished in subparagraph [(v)] (I) of this paragraph;

48 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses
49 shall be limited to the number of licenses issued in two thousand [nine]
50 THIRTEEN, plus fifty percent of any difference between the number of
51 licenses issued in two thousand [nine] THIRTEEN and the limit estab-
52 lished in subparagraph [(vi)] (II) of this paragraph;

53 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of
54 licenses shall be limited to the number of licenses issued in two thou-
55 sand [ten] FOURTEEN, plus fifty percent of any difference between the

1 number of licenses issued in two thousand [ten] FOURTEEN and the limit
2 established in subparagraph [(vii)] (III) of this paragraph.

3 b. for the period beginning January first, two thousand [four] TWELVE
4 through December thirty-first, two thousand [eleven] FIFTEEN, persons
5 who were issued a commercial whelk or conch license in the previous year
6 shall be eligible to be issued such license.

7 c. for the period beginning January first, two thousand [four] TWELVE
8 through December thirty-first, two thousand [eleven] FIFTEEN, persons
9 who were not issued a commercial whelk or conch license in the previous
10 year shall be eligible to be issued such license provided that the total
11 number of such licenses issued to such persons shall not exceed the
12 difference between the number of licenses established in paragraph a of
13 this subdivision and the number of such licenses issued pursuant to
14 paragraph b of this subdivision, subject to the following:

15 (i) licenses shall be issued in the order in which the applications
16 were received, except that where multiple applications are received by
17 the department on the same day, applicants for whom the department has
18 received notice of successful completion of an apprenticeship pursuant
19 to subdivision seven of this section shall be considered by the depart-
20 ment prior to other applicants;

21 (ii) licenses may be issued to individuals only;

22 (iii) licenses shall be issued to applicants who are sixteen years of
23 age or older at the time of the application; and

24 (iv) licenses shall be issued only to persons who demonstrate in a
25 manner acceptable to the department that they received an average of at
26 least fifteen thousand dollars of income over three consecutive years
27 from commercial fishing or fishing, or who successfully complete an
28 apprenticeship pursuant to subdivision seven of this section. As used in
29 this subparagraph, "commercial fishing" means the taking and sale of
30 marine resources including fish, shellfish, crustacea or other marine
31 biota and "fishing" means commercial fishing and carrying fishing
32 passengers for hire. Individuals who wish to qualify based on income
33 from "fishing" must hold a valid marine and coastal district party and
34 charter boat license. No more than ten percent of the licenses issued
35 each year pursuant to this paragraph shall be issued to applicants who
36 qualify based upon income derived from operation of or employment by a
37 party or charter boat.

38 5. Marine and coastal district party and charter boat licenses. Marine
39 and coastal district party and charter boat licenses provided for by
40 section 13-0336 of this title shall be issued as follows, except that
41 this subdivision shall not apply to the owner or operator of a party
42 boat or charter boat whose vessel is classified by the United States
43 Coast Guard as an Inspected Passenger Vessel and which is licensed to
44 carry more than six passengers:

45 a. for the years two thousand eight through two thousand [eleven]
46 FIFTEEN, the annual number of marine and coastal district party and
47 charter boat licenses issued shall not exceed [the number issued in two
48 thousand seven by more than one hundred licenses] FIVE HUNDRED
49 SEVENTEEN.

50 b. for the years two thousand eight through two thousand [eleven]
51 FIFTEEN, persons who were issued a marine and coastal district party and
52 charter boat license in the previous year shall be eligible to be issued
53 such license.

54 c. for the years two thousand eight through two thousand [eleven]
55 FIFTEEN, the department shall issue marine and coastal district party
56 and charter boat licenses to persons who were not issued such license in

1 the previous year, provided that the total number of [such] licenses
2 issued [to such persons] does not exceed [the difference between the
3 annual limit established in paragraph a of this subdivision and the
4 number of such licenses issued in the previous year pursuant to para-
5 graph b of this subdivision] FIVE HUNDRED SEVENTEEN, subject to the
6 following:

7 (i) licenses shall be issued in the order in which the applications
8 were received;

9 (ii) licenses shall be issued only to persons who hold an Uninspected
10 Passenger Vessel license issued by the United States Coast Guard.

11 6. License or permit reissuance.

12 a. Notwithstanding the provisions of subdivisions one, two, three and
13 four of this section, the department may permit reissuance of a license
14 or permit to a member of the immediate family of the prior holder of
15 such license or permit; provided that the individual to whom the license
16 or permit is being reissued is at least sixteen years of age. The
17 department may permit a license or permit holder to designate in writing
18 a member of his or her immediate family to whom the license or permit
19 shall be reissued in the event that the license or permit holder dies
20 prior to surrendering his or her license or permit to the department.

21 b. In the event that a designated immediate family member does not
22 wish to engage in the commercial fishing activities authorized by such
23 license or permit, the department may permit such person to identify an
24 alternate person to whom the license or permit shall be reissued. The
25 department is authorized to adopt regulations concerning the reissuance
26 of licenses or permits pursuant to this subdivision.

27 [b.] C. The holder of a reissued license or permit shall engage in the
28 activity authorized by the license or permit within three years of the
29 reissuance date. If the license or permit holder fails to engage in such
30 activity during the three years following reissuance, the license or
31 permit shall lapse at the end of the three year period and shall not be
32 renewed unless the department, in its discretion, determines that the
33 license or permit holder's inactivity was justified by significant hard-
34 ship or unavoidable circumstances.

35 7. Commercial license apprenticeship program. The department is
36 authorized to adopt regulations establishing an apprenticeship program
37 for persons who wish to obtain a commercial crab permit pursuant to
38 section 13-0331 of this title, a commercial food fish license pursuant
39 to section 13-0335 of this title or a commercial whelk (conch) license
40 pursuant to section 13-0330 of this title. Upon successful completion of
41 the apprenticeship program, a person shall become eligible to receive a
42 commercial crab permit, commercial food fish license or a commercial
43 whelk (conch) license, as applicable, subject to the provisions of para-
44 graph [d] C of subdivision one, paragraph [d] C of subdivision three,
45 and paragraph c of subdivision four of this section, respectively.

46 S 2. This act shall take effect December 31, 2011.