

STATE OF NEW YORK

7844

2021-2022 Regular Sessions

IN ASSEMBLY

May 27, 2021

Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

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 383 of the laws of 2011, subdivision 1 as amended by
3 chapter 21 of the laws of 2019, paragraphs a and b and the opening para-
4 graph of paragraph c of subdivision 1 as amended by section 1 and subdi-
5 visions 2, 3, 4 and 5 as amended by section 2 of item R of subpart A of
6 part XXX of chapter 58 of the laws of 2020, subparagraph (iv) of para-
7 graph c of subdivision 1 as amended by chapter 490 of the laws of 2019,
8 and paragraph d of subdivision 6 as added by chapter 264 of the laws of
9 2014, is amended to read as follows:

10 § 13-0328. Commercial licenses; limited entry.

11 1. Commercial food fish licenses. Commercial food fish licenses
12 provided for by section 13-0335 of this title shall be issued as
13 follows:

14 a. for the period beginning January first, two thousand eighteen
15 through December thirty-first, two thousand ~~twenty-one~~ twenty-two, the
16 number of resident commercial food fish licenses and the number of non-
17 resident commercial food fish licenses shall not exceed the following
18 annual limits:

19 (i) for two thousand eighteen, the number of licenses shall be limited
20 to the number of licenses issued in two thousand seventeen, plus fifty
21 percent of any difference between the number of licenses issued in two
22 thousand seventeen and nine hundred sixty-nine;

23 (ii) for two thousand nineteen, the number of licenses shall be limit-
24 ed to the number of licenses established in subparagraph (i) of this
25 paragraph;

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

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1 (iii) for two thousand twenty, the number of licenses shall be limited
2 to the number of licenses established in subparagraph (i) of this para-
3 graph; ~~[and]~~

4 (iv) for two thousand twenty-one, the number of licenses shall be
5 limited to the number of licenses established in subparagraph (i) of
6 this paragraph; ~~and~~

7 (v) for two thousand twenty-two, the number of licenses shall be
8 limited to the number of licenses established in subparagraph (i) of
9 this paragraph.

10 b. for the period beginning January first, two thousand ~~[twenty]~~ twen-
11 ty-one through December thirty-first, two thousand ~~[twenty-one]~~ twenty-
12 two, persons who were issued a commercial food fish license in the
13 previous year shall be eligible to be issued such license.

14 c. for the period beginning January first, two thousand ~~[twenty]~~ twen-
15 ty-one through December thirty-first, two thousand ~~[twenty-one]~~ twenty-
16 two, the department shall issue commercial food fish licenses to persons
17 who were not issued such license in the previous year provided that the
18 total number of such licenses issued to such persons does not exceed the
19 difference between the number of licenses established in paragraph a of
20 this subdivision and the number of such licenses issued pursuant to
21 paragraph b of this subdivision, subject to the following:

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

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

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

31 (iv) licenses shall be issued only to persons who demonstrate in a
32 manner acceptable to the department that they received an average of at
33 least fifteen thousand dollars of income over three consecutive years
34 from commercial fishing or fishing, or who successfully complete a
35 commercial food fish apprenticeship pursuant to subdivision seven of
36 this section. As used in this subparagraph, "commercial fishing" means
37 the taking and sale of marine resources including fish, shellfish, crus-
38 tacea or other marine biota and "fishing" means commercial fishing and
39 carrying fishing passengers for hire. Individuals who wish to qualify
40 based on income from "fishing" must hold a valid marine and coastal
41 district party and charter boat license. No more than ten percent of the
42 licenses issued each year based on income eligibility pursuant to this
43 paragraph shall be issued to applicants who qualify based solely upon
44 income derived from operation of or employment by a party or charter
45 boat. For the income evaluation of this subdivision, the department may
46 consider persons who would otherwise be eligible but for having served
47 in the United States armed forces on active duty, provided that such
48 individual (1) has received an honorable or general discharge, or (2)
49 has a qualifying condition, as defined in section three hundred fifty of
50 the executive law, and has received a discharge other than bad conduct
51 or dishonorable from such service, or (3) is a discharged LGBT veteran,
52 as defined in section three hundred fifty of the executive law, and has
53 received a discharge other than bad conduct or dishonorable from such
54 service, shall not be deemed ineligible.

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

1 for the period beginning January first, two thousand [~~twenty~~] twenty-
2 one, through December thirty-first, two thousand [~~twenty-one~~]
3 twenty-two, only persons who were issued a commercial lobster permit in
4 the previous year shall be eligible to be issued such permit.

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

7 a. for the period beginning January first, two thousand eighteen
8 through December thirty-first, two thousand [~~twenty-one~~] twenty-two, the
9 number of resident commercial crab permits and the number of non-resi-
10 dent commercial crab permits shall not exceed the following annual
11 limits:

12 (i) for two thousand eighteen, the number of permits shall be limited
13 to the number of permits issued in two thousand seventeen, plus fifty
14 percent of any difference between the number of permits issued in two
15 thousand seventeen and five hundred sixty-three;

16 (ii) for two thousand nineteen, the number of permits shall be limited
17 to the number of permits established in subparagraph (i) of this para-
18 graph;

19 (iii) for two thousand twenty, the number of permits shall be limited
20 to the number of permits established in subparagraph (i) of this para-
21 graph; and

22 (iv) for two thousand twenty-one, the number of licenses shall be
23 limited to the number of licenses established in subparagraph (i) of
24 this paragraph; and

25 (v) for two thousand twenty-two, the number of licenses shall be
26 limited to the number of licenses established in subparagraph (i) of
27 this paragraph.

28 b. for the period beginning January first, two thousand [~~twenty~~] twen-
29 ty-one through December thirty-first, two thousand [~~twenty-one~~] twenty-
30 two, persons who were issued a commercial crab permit in the previous
31 year shall be eligible to be issued such permit.

32 c. for the period beginning January first, two thousand [~~twenty~~] twen-
33 ty-one through December thirty-first, two thousand [~~twenty-one~~] twenty-
34 two, the department shall issue commercial crab permits to persons who
35 were not issued such permit in the previous year provided that the total
36 number of such permits issued to such persons does not exceed the
37 difference between the number of permits established in paragraph a of
38 this subdivision and the number of such permits issued pursuant to para-
39 graph b of this subdivision, subject to the following:

40 (i) permits shall be issued in the order in which the applications
41 were received, except that where multiple applications are received by
42 the department on the same day, applicants for whom the department has
43 received notice of successful completion of an apprenticeship pursuant
44 to subdivision seven of this section shall be considered by the depart-
45 ment prior to other applicants;

46 (ii) permits may be issued to individuals only;

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

49 (iv) permits shall be issued only to persons who demonstrate in a
50 manner acceptable to the department that they received an average of at
51 least fifteen thousand dollars of income over three consecutive years
52 from commercial fishing or fishing, or who successfully complete an
53 apprenticeship pursuant to subdivision seven of this section. As used in
54 this subparagraph, "commercial fishing" means the taking and sale of
55 marine resources including fish, shellfish, crustacea or other marine
56 biota and "fishing" means commercial fishing and carrying fishing

1 passengers for hire. Individuals who wish to qualify based on income
2 from "fishing" must hold a valid marine and coastal district party and
3 charter boat license. No more than ten percent of the permits issued
4 each year based on income eligibility pursuant to this paragraph shall
5 be issued to applicants who qualify based upon income derived from oper-
6 ation of or employment by a party or charter boat.

7 4. Commercial whelk or conch licenses. Commercial whelk or conch
8 licenses provided for by section 13-0330 of this title shall be issued
9 as follows:

10 a. for the period beginning January first, two thousand eighteen
11 through December thirty-first, two thousand [~~twenty-one~~] twenty-two, the
12 number of resident commercial whelk or conch licenses and the number of
13 non-resident commercial whelk or conch licenses shall not exceed the
14 following annual limits:

15 (i) for two thousand eighteen, the number of licenses shall be limited
16 to the number of licenses issued in two thousand seventeen plus fifty
17 percent of any difference between the number of licenses issued in two
18 thousand seventeen and two hundred fifty-two;

19 (ii) for two thousand nineteen, the number of licenses shall be limit-
20 ed to the number of licenses established in subparagraph (i) of this
21 paragraph;

22 (iii) for two thousand twenty, the number of licenses shall be limited
23 to the number of licenses established in subparagraph (i) of this para-
24 graph; [~~and~~]

25 (iv) for two thousand twenty-one, the number of licenses shall be
26 limited to the number of licenses established in subparagraph (i) of
27 this paragraph; and

28 (v) for two thousand twenty-two, the number of licenses shall be
29 limited to the number of licenses established in subparagraph (i) of
30 this paragraph.

31 b. for the period beginning January first, two thousand [~~twenty~~] twen-
32 ty-one through December thirty-first, two thousand [~~twenty-one~~] twenty-
33 two, persons who were issued a commercial whelk or conch license in the
34 previous year shall be eligible to be issued such license.

35 c. for the period beginning January first, two thousand [~~twenty~~] twen-
36 ty-one through December thirty-first, two thousand [~~twenty-one~~] twenty-
37 two, persons who were not issued a commercial whelk or conch license in
38 the previous year shall be eligible to be issued such license provided
39 that the total number of such licenses issued to such persons shall not
40 exceed the difference between the number of licenses established in
41 paragraph a of this subdivision and the number of such licenses issued
42 pursuant to paragraph b of this subdivision, subject to the following:

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

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

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

52 (iv) licenses shall be issued only to persons who demonstrate in a
53 manner acceptable to the department that they received an average of at
54 least fifteen thousand dollars of income over three consecutive years
55 from commercial fishing or fishing, or who successfully complete an
56 apprenticeship pursuant to subdivision seven of this section. As used in

1 this subparagraph, "commercial fishing" means the taking and sale of
2 marine resources including fish, shellfish, crustacea or other marine
3 biota and "fishing" means commercial fishing and carrying fishing
4 passengers for hire. Individuals who wish to qualify based on income
5 from "fishing" must hold a valid marine and coastal district party and
6 charter boat license. No more than ten percent of the licenses issued
7 each year pursuant to this paragraph shall be issued to applicants who
8 qualify based upon income derived from operation of or employment by a
9 party or charter boat.

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

17 a. for the years two thousand [~~twenty~~] ~~twenty-one~~ through two thousand
18 [~~twenty-one~~] ~~twenty-two~~, the annual number of marine and coastal
19 district party and charter boat licenses issued shall not exceed five
20 hundred seventeen.

21 b. for the years two thousand [~~twenty~~] ~~twenty-one~~ through two thousand
22 [~~twenty-one~~] ~~twenty-two~~, persons who were issued a marine and coastal
23 district party and charter boat license in the previous year shall be
24 eligible to be issued such license.

25 c. for the years two thousand [~~twenty~~] ~~twenty-one~~ through two thousand
26 [~~twenty-one~~] ~~twenty-two~~, the department shall issue marine and coastal
27 district party and charter boat licenses to persons who were not issued
28 such license in the previous year, provided that the total number of
29 licenses issued does not exceed five hundred seventeen, subject to the
30 following:

31 (i) licenses shall be issued in the order in which the applications
32 were received;

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

35 6. License or permit reissuance.

36 a. Notwithstanding the provisions of subdivisions one, two, three and
37 four of this section, the department may permit reissuance of a license
38 or permit to a member of the immediate family of the prior holder of
39 such license or permit; provided that the individual to whom the license
40 or permit is being reissued is at least sixteen years of age. The
41 department may permit a license or permit holder to designate in writing
42 a member of his or her immediate family to whom the license or permit
43 shall be reissued in the event that the license or permit holder dies
44 prior to surrendering his or her license or permit to the department.

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

51 c. The holder of a reissued license or permit shall engage in the
52 activity authorized by the license or permit within three years of the
53 reissuance date. If the license or permit holder fails to engage in such
54 activity during the three years following reissuance, the license or
55 permit shall lapse at the end of the three year period and shall not be
56 renewed unless the department, in its discretion, determines that the

1 license or permit holder's inactivity was justified by significant hard-
2 ship or unavoidable circumstances.

3 d. For purposes of this section, "immediate family" shall include
4 spouse, sibling, parent, child, grandparent, grandchild, and~~[, in addi-~~
5 ~~tion,]~~ all other persons who are related by blood, marriage or adoption
6 to the license or permit holder ~~[and domiciled in the house of the~~
7 ~~license or permit holder]~~ to the third degree of consanguinity.

8 7. Commercial license apprenticeship program. The department is
9 authorized to adopt regulations establishing an apprenticeship program
10 for persons who wish to obtain a commercial crab permit pursuant to
11 section 13-0331 of this title, a commercial food fish license pursuant
12 to section 13-0335 of this title or a commercial whelk (conch) license
13 pursuant to section 13-0330 of this title. Upon successful completion of
14 the apprenticeship program, a person shall become eligible to receive a
15 commercial crab permit, commercial food fish license or a commercial
16 whelk (conch) license, as applicable, subject to the provisions of para-
17 graph c of subdivision one, paragraph c of subdivision three, and para-
18 graph c of subdivision four of this section, respectively.

19 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
20 sion, section, or item of this act shall be adjudged by any court of
21 competent jurisdiction to be invalid, such judgment shall not affect,
22 impair, or invalidate the remainder thereof, but shall be confined in
23 its operation to the clause, sentence, paragraph, subdivision, section,
24 or item thereof directly involved in the controversy in which such judg-
25 ment shall have been rendered. It is hereby declared to be the intent of
26 the legislature that this act would have been enacted even if such
27 invalid provisions had not been included herein.

28 § 3. This act shall take effect December 31, 2021. Effective imme-
29 diately, the addition, amendment and/or repeal of any rule or regulation
30 necessary for the implementation of this act on its effective date are
31 authorized to be made and completed on or before such effective date.