

STATE OF NEW YORK

9007

IN SENATE

May 3, 2022

Introduced by Sen. MAY -- (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 authority of the department of environmental conservation to manage marine species; and to amend chapter 305 of the laws of 2013 amending the environmental conservation law relating to the management of American lobster, in relation to the effectiveness thereof

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 258 of the laws of 2021, is
3 amended to read as follows:

4 3. The department may~~[, until December thirty first, two thousand~~
5 ~~twenty four,~~] fix by 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 are no less restrictive than
12 requirements set forth in this chapter and provided further that such
13 regulations are consistent with the compliance requirements of applica-
14 ble fishery management plans adopted by the Atlantic States Marine Fish-
15 eries Commission and with applicable provisions of fishery management
16 plans adopted pursuant to the Federal Fishery Conservation and Manage-
17 ment Act (16 U.S.C. § 1800 et seq.).

18 § 2. Section 11-1303 of the environmental conservation law, as amended
19 by chapter 221 of the laws of 2019, is amended to read as follows:

20 § 11-1303. Open seasons, size and catch limits and manner of taking fish
21 fixed by regulation.

22 Notwithstanding any other provision of this chapter, the department
23 may~~[, until December thirty first, two thousand twenty two,~~ fix by
24 regulation open seasons, size and catch limits and manner of taking of

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

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1 all species of fish in all waters of the state, except marine fish named
2 in subdivisions 2 and 3 of section 13-0339 of this chapter and except to
3 the extent that such open seasons, size and catch limits and manner of
4 taking are otherwise specifically provided for in article 13 of this
5 chapter.

6 § 3. Subdivision 3 of section 13-0323 of the environmental conserva-
7 tion law, as amended by chapter 220 of the laws of 2019, is amended to
8 read as follows:

9 3. The department may[, ~~until December thirty-first, two thousand~~
10 ~~twenty-two,~~] fix by regulation measures for the management of oysters
11 (Family Ostreidae) including size limits, catch and possession limits,
12 open and closed seasons, closed areas, restrictions on the manner of
13 taking and landing, requirements for permits and eligibility therefor,
14 recordkeeping and identification requirements, requirements on the
15 amount and type of fishing effort and gear, and requirements relating to
16 transportation, possession and sale, provided that such regulations are
17 no less restrictive than requirements set forth in this chapter.

18 § 4. Subdivision 8 of section 13-0325 of the environmental conserva-
19 tion law, as amended by chapter 219 of the laws of 2019, is amended to
20 read as follows:

21 8. The department may[, ~~until December thirty-first, two thousand~~
22 ~~twenty-two,~~] adopt by regulation measures for the management of hard
23 clams (*Mercenaria mercenaria*), soft or steamer clams (*Mya arenaria*), and
24 razor clams (*Ensis* sp.), including size limits, catch and possession
25 limits, open and closed seasons, closed areas, restrictions on the
26 manner of taking and landing, requirements for permits and eligibility
27 therefor, recordkeeping and identification requirements, requirements on
28 the amount and type of fishing effort and gear, and requirements relat-
29 ing to transportation, possession and sale, provided that such regu-
30 lations are no less restrictive than requirements set forth in this
31 chapter.

32 § 5. Section 13-0327 of the environmental conservation law, as amended
33 by chapter 262 of the laws of 2021, is amended to read as follows:

34 § 13-0327. Scallops.

35 The department may[, ~~until December thirty-first, two thousand twen-~~
36 ~~ty-four,~~] adopt by regulation measures for the management of scallops
37 (Family Pectinidae) including size limits, catch and possession limits,
38 open and closed seasons, closed areas, restrictions on the manner of
39 taking and landing, requirements for permits and eligibility therefor,
40 recordkeeping and identification requirements, requirements on the
41 amount and type of fishing effort and gear, and requirements relating to
42 transportation, possession and sale, provided that such regulations are
43 no less restrictive than requirements set forth in this chapter.

44 § 6. Subdivision 16 of section 13-0329 of the environmental conserva-
45 tion law, as amended by chapter 122 of the laws of 2021, is amended to
46 read as follows:

47 16. The department may[, ~~until December thirty-first, two thousand~~
48 ~~twenty-four,~~] adopt regulations for Atlantic States Marine Fisheries
49 Commission Areas One, Two, Three, Four, Five, and Outer Cape Cod, to
50 implement conservation measures that affect landings of lobsters, pursu-
51 ant to the recommendations of the respective Area's Lobster Conservation
52 Management Team as required by the Interstate Fishery Management Plan
53 for American Lobster adopted by the Atlantic States Marine Fisheries
54 Commission.

55 § 7. Section 6 of chapter 305 of the laws of 2013, amending the envi-
56 ronmental conservation law relating to the management of American

1 lobster, as amended by chapter 122 of the laws of 2021, is amended to
2 read as follows:

3 § 6. This act shall take effect on the thirtieth day after it shall
4 have become a law; provided that subdivision 17 of section 13-0329 of
5 the environmental conservation law, as added by section two of this act,
6 shall expire and be deemed repealed December 31, ~~2024~~ 2027.

7 § 8. Subdivision 6 of section 13-0330 of the environmental conserva-
8 tion law, as amended by section 1 of item P of subpart A of part XXX of
9 chapter 58 of the laws of 2020, is amended to read as follows:

10 6. The department may~~[, until December thirty-first, two thousand~~
11 ~~twenty-three,]~~ fix by regulation measures for the management of whelk or
12 conch (*Busycon* and *Busycotypus* spp.), including size limits, catch and
13 possession limits, open and closed seasons, closed areas, restrictions
14 on the manner of taking and landing, requirements for permits and eligi-
15 bility therefor, recordkeeping requirements, requirements on the amount
16 and type of fishing effort and gear, and requirements relating to trans-
17 portation, possession and sale, provided that such regulations are no
18 less restrictive than requirements set forth in this chapter and
19 provided further that such regulations are consistent with the compli-
20 ance requirements of applicable fishery management plans adopted by the
21 Atlantic States Marine Fisheries Commission and with applicable
22 provisions of fishery management plans adopted pursuant to the Federal
23 Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

24 § 9. Subdivision 7 of section 13-0331 of the environmental conserva-
25 tion law, as amended by section 1 of item J of subpart A of part XXX of
26 chapter 58 of the laws of 2020, is amended to read as follows:

27 7. The department may~~[, until December thirty-first, two thousand~~
28 ~~twenty-three,]~~ fix by regulation measures for the management of crabs of
29 any kind including horseshoe crabs (*Limulus* sp.), including size limits,
30 catch and possession limits, open and closed seasons, closed areas,
31 restrictions on the manner of taking and landing, requirements for
32 permits and eligibility therefor, recordkeeping requirements, require-
33 ments on the amount and type of fishing effort and gear, and require-
34 ments relating to transportation, possession and sale, provided that
35 such regulations are no less restrictive than requirements set forth in
36 this chapter and provided further that such regulations are consistent
37 with the compliance requirements of applicable fishery management plans
38 adopted by the Atlantic States Marine Fisheries Commission and with
39 applicable provisions of fishery management plans adopted pursuant to
40 the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et
41 seq.).

42 § 10. Subdivision 4 of section 13-0338 of the environmental conserva-
43 tion law, as amended by section 1 of item N of subpart A of part XXX of
44 chapter 58 of the laws of 2020, is amended to read as follows:

45 4. The department may~~[, until December thirty-first, two thousand~~
46 ~~twenty-three,]~~ fix by regulation measures for the management of sharks,
47 including size limits, catch and possession limits, open and closed
48 seasons, closed areas, restrictions on the manner of taking and landing,
49 requirements for permits and eligibility therefor, recordkeeping
50 requirements, requirements on the amount and type of fishing effort and
51 gear, and requirements relating to transportation, possession and sale,
52 provided that such regulations are no less restrictive than requirements
53 set forth in this chapter and provided further that such regulations are
54 consistent with the compliance requirements of applicable fishery
55 management plans adopted by the Atlantic States Marine Fisheries Commis-
56 sion and with applicable provisions of fishery management plans adopted

1 pursuant to the Federal Fishery Conservation and Management Act (16
2 U.S.C. §1800 et seq.).

3 § 11. Subdivision 1 of section 13-0339-a of the environmental conser-
4 vation law, as amended by chapter 293 of the laws 2011, paragraph a as
5 amended by section 1 of item F of subpart A of part XXX of chapter 58 of
6 the laws of 2020, paragraph b as amended by chapter 235 of the laws of
7 2019, paragraph c as amended by section 1 of item E of subpart A of part
8 XXX of chapter 58 of the laws of 2020, paragraph d as amended by section
9 1 of item G of subpart A of part XXX of chapter 58 of the laws of 2020,
10 paragraph e as amended by chapter 229 of the laws of 2019, paragraph f
11 as amended by chapter 230 of the laws of 2019, paragraph g as amended by
12 section 1 of item I of subpart A of part XXX of chapter 58 of the laws
13 of 2020, paragraph h as amended by section 1 of item O of subpart A of
14 part XXX of chapter 58 of the laws of 2020, and paragraph i as amended
15 by chapter 237 of the laws of 2019, is amended to read as follows:

16 1. The department may fix, by regulation, measures for the management
17 of the following species:

18 a. Atlantic cod (*Gadus morhua*) [~~until December thirty-first, two thou-~~
19 ~~sand twenty-three~~],

20 b. American eel (*Anguilla rostrata*) [~~until December thirty-first, two~~
21 ~~thousand twenty-two~~],

22 c. Atlantic and shortnose sturgeon (*Acipenser oxyrhynchus* and *brevi-*
23 *rostrum*) [~~until December thirty-first, two thousand twenty-three~~],

24 d. Atlantic herring (*Clupea harengus*) [~~until December thirty-first,~~
25 ~~two thousand twenty-three~~],

26 e. American shad (*Alosa sapidissima*) [~~until December thirty-first, two~~
27 ~~thousand twenty-two~~],

28 f. alewife (*Alosa pseudoharengus*) [~~until December thirty-first, two~~
29 ~~thousand twenty-two~~],

30 g. blueback herring (*Alosa aestivalis*) [~~until December thirty-first,~~
31 ~~two thousand twenty-three~~],

32 h. squid (cephalopoda) [~~until December thirty-first, two thousand~~
33 ~~twenty-three~~], and

34 i. hickory shad (*Alosa mediocris*) [~~until December thirty-first, two~~
35 ~~thousand twenty-two~~].

36 § 12. Section 13-0340 of the environmental conservation law, as
37 amended by chapter 218 of the laws of 2019, is amended to read as
38 follows:

39 § 13-0340. Bluefish (*Pomatomus saltatrix*).

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

54 § 13. Section 13-0340-a of the environmental conservation law, as
55 amended by chapter 238 of the laws of 2019, is amended to read as
56 follows:

1 § 13-0340-a. Weakfish (*Cynoscion regalis*).

2 The department may[, ~~until December thirty-first, two thousand twen-~~
3 ~~ty-two,~~] fix by regulation measures for the management of weakfish
4 (*Cynoscion regalis*), including size limits, catch and possession limits,
5 open and closed seasons, closed areas, restrictions on the manner of
6 taking and landing, requirements for permits and eligibility therefor,
7 recordkeeping requirements, requirements on the amount and type of fish-
8 ing effort and gear, and requirements relating to transportation,
9 possession and sale, provided that such regulations are no less restric-
10 tive than requirements set forth in this chapter and provided further
11 that such regulations are consistent with the compliance requirements of
12 applicable fishery management plans adopted by the Atlantic States
13 Marine Fisheries Commission and with applicable provisions of fishery
14 management plans adopted pursuant to the Federal Fishery Conservation
15 and Management Act (16 U.S.C. § 1800 et seq.).

16 § 14. Section 13-0340-b of the environmental conservation law, as
17 amended by section 1 of item L of subpart A of part XXX of chapter 58 of
18 the laws of 2020, is amended to read as follows:

19 § 13-0340-b. Fluke - summer flounder (*Paralichthys dentatus*).

20 The department may[, ~~until December thirty-first, two thousand twen-~~
21 ~~ty-three,~~] fix by regulation measures for the management of fluke or
22 summer flounder (*Paralichthys dentatus*), including size limits, catch
23 and possession limits, open and closed seasons, closed areas,
24 restrictions on the manner of taking and landing, requirements for
25 permits and eligibility therefor, recordkeeping requirements, require-
26 ments on the amount and type of fishing effort and gear, and require-
27 ments relating to transportation, possession and sale, provided that
28 such regulations are no less restrictive than requirements set forth in
29 this chapter and provided further that such regulations are consistent
30 with the compliance requirements of applicable fishery management plans
31 adopted by the Atlantic States Marine Fisheries Commission and with
32 applicable provisions of fishery management plans adopted pursuant to
33 the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et
34 seq.).

35 § 15. Section 13-0340-c of the environmental conservation law, as
36 amended by section 1 of item Q of subpart A of part XXX of chapter 58 of
37 the laws of 2020, is amended to read as follows:

38 § 13-0340-c. Winter flounder (*Pleuorenetes americanus*).

39 The department may[, ~~until December thirty-first, two thousand twen-~~
40 ~~ty-three,~~] fix by regulation measures for the management of winter
41 flounder (*Pleuorenetes americanus*), including size limits, catch and
42 possession limits, open and closed seasons, closed areas, restrictions
43 on the manner of taking and landing, requirements for permits and eligi-
44 bility therefor, recordkeeping requirements, requirements on the amount
45 and type of fishing effort and gear, and requirements relating to trans-
46 portation, possession and sale, provided that such regulations are no
47 less restrictive than requirements set forth in this chapter and
48 provided further that such regulations are consistent with the compli-
49 ance requirements of applicable fishery management plans adopted by the
50 Atlantic States Marine Fisheries Commission and with applicable
51 provisions of fishery management plans adopted pursuant to the Federal
52 Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

53 § 16. Subdivision 1 of section 13-0340-d of the environmental conser-
54 vation law, as amended by chapter 236 of the laws of 2019, is amended to
55 read as follows:

1 1. The department may[, ~~until December thirty first, two thousand~~
2 ~~twenty two,~~] fix by regulation measures for the management of blackfish
3 (*Tautoga onitis*), including size limits, catch and possession limits,
4 open and closed seasons, closed areas, restrictions on the manner of
5 taking and landing, requirements for permits and eligibility therefor,
6 recordkeeping requirements, requirements on the amount and type of fish-
7 ing effort and gear, and requirements relating to transportation,
8 possession and sale, provided that such regulations are no less restric-
9 tive than requirements set forth in this chapter and provided further
10 that such regulations are consistent with the compliance requirements of
11 applicable fishery management plans adopted by the Atlantic States
12 Marine Fisheries Commission and with applicable provisions of fishery
13 management plans adopted pursuant to the Federal Fishery Conservation
14 and Management Act (16 U.S.C. § 1800 et seq.).

15 § 17. Section 13-0340-e of the environmental conservation law, as
16 amended by section 1 of item M of subpart A of part XXX of chapter 58 of
17 the laws of 2020, is amended to read as follows:

18 § 13-0340-e. Scup (*Stenotomus chrysops*).

19 The department may[, ~~until December thirty first, two thousand twen-~~
20 ~~ty three,~~] fix by regulation measures for the management of scup (*Steno-*
21 *tomus chrysops*), including size limits, catch and possession limits,
22 open and closed seasons, closed areas, restrictions on the manner of
23 taking and landing, requirements for permits and eligibility therefor,
24 recordkeeping requirements, requirements on the amount and type of fish-
25 ing effort and gear, and requirements relating to transportation,
26 possession and sale, provided that such regulations are no less restric-
27 tive than requirements set forth in this chapter and provided further
28 that such regulations are consistent with the compliance requirements of
29 applicable fishery management plans adopted by the Atlantic States
30 Marine Fisheries Commission and with applicable provisions of fishery
31 management plans adopted pursuant to the Federal Fishery Conservation
32 and Management Act (16 U.S.C. § 1800 et seq.).

33 § 18. Section 13-0340-f of the environmental conservation law, as
34 amended by section 1 of item H of subpart A of part XXX of chapter 58 of
35 the laws of 2020, is amended to read as follows:

36 § 13-0340-f. Black sea bass (*Centropristis striata*).

37 The department may[, ~~until December thirty first, two thousand twen-~~
38 ~~ty three,~~] fix by regulation measures for the management of black sea
39 bass (*Centropristis striata*), including size limits, catch and
40 possession limits, open and closed seasons, closed areas, restrictions
41 on the manner of taking and landing, requirements for permits and eligi-
42 bility therefor, recordkeeping requirements, requirements on the amount
43 and type of fishing effort and gear and requirements relating to trans-
44 portation, possession and sale, provided that such regulations are no
45 less restrictive than requirements set forth in this chapter and
46 provided further that such regulations are consistent with the compli-
47 ance requirements of applicable fishery management plans adopted by the
48 Atlantic States Marine Fisheries Commission and with applicable
49 provisions of fishery management plans adopted pursuant to the Federal
50 Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

51 § 19. Section 13-0340-g of the environmental conservation law, as
52 amended by chapter 123 of the laws of 2021, is amended to read as
53 follows:

54 § 13-0340-g. Monkfish (*Lophius americanus*, *Lophius reticulatus* and
55 *Lophius gastrophysus*).

1 The department may[, ~~until December thirty-first, two thousand twenty-four,~~] fix by regulation measures for the management of monkfish
2 (Lophius americanus, Lophius reticulatus and Lophius gastrophysus),
3 including size limits, catch and possession limits, open and closed
4 seasons, closed areas, restrictions on the manner of taking and landing,
5 requirements for permits and eligibility therefor, recordkeeping
6 requirements, requirements on the amount and type of fishing effort and
7 gear, and requirements relating to transportation, possession and sale,
8 provided that such regulations are no less restrictive than requirements
9 set forth in this chapter and provided further that such regulations are
10 consistent with the compliance requirements of applicable fishery
11 management plans adopted by the Atlantic States Marine Fisheries Commis-
12 sion and with applicable provisions of fishery management plans adopted
13 pursuant to the Federal Fishery Conservation and Management Act (16
14 U.S.C. § 1800 et seq.).

15
16 § 20. Subdivision 3 of section 13-0360 of the environmental conserva-
17 tion law, as amended by section 1 of item K of subpart A of part XXX of
18 chapter 58 of the laws of 2020, is amended to read as follows:

19 3. Notwithstanding any other provision of this chapter, the department
20 may[, ~~until December thirty-first, two thousand twenty-three,~~] adopt
21 regulations restricting the taking of fish, shellfish and crustacea in
22 any special management area designated pursuant to subdivision two of
23 this section. Such regulations may restrict the manner of taking of
24 fish, shellfish and crustacea in such areas and the landing of fish,
25 shellfish and crustacea which have been taken therefrom. Such regu-
26 lations shall be consistent with all relevant federal and interstate
27 fisheries management plans and with the marine fisheries conservation
28 and management policy set forth in section 13-0105 of this article.

29 § 21. Article 13 of the environmental conservation law is amended by
30 adding a new title 9 to read as follows:

31 TITLE 9

32 MARINE MAMMALS AND SEA TURTLES PROTECTION ACT

33 Section 13-0901. Short title.

34 13-0903. Definitions.

35 13-0905. Department authority.

36 § 13-0901. Short title.

37 This act shall be known and may be cited as the "marine mammals and
38 sea turtles protection act".

39 § 13-0903. Definitions.

40 1. For purposes of this title, the following definitions shall apply:

41 a. "Marine mammal" means any mammal which: (i) is morphologically
42 adapted to the marine environment (including members of the orders Sire-
43 nia, Pinnipedia and Cetacea), or (ii) primarily inhabits the marine
44 environment.

45 b. "Sea turtle" means the following species of marine reptiles:
46 loggerhead sea turtle (Caretta caretta), kemp's ridley sea turtle (Lepi-
47 dochelys kemp), green sea turtle (Chelonia mydas), leatherback sea
48 turtle (Dermochelys coriacea) and hawksbill sea turtle (Eretmochelys
49 imbricate).

50 § 13-0905. Department authority.

51 The department hereby is authorized to adopt regulations for the
52 protection of marine mammals and sea turtles, including but not limited
53 to measures to prevent harassment, such as restrictions on viewing,
54 feeding, and interacting with marine mammals and sea turtles.

55 § 22. This act shall take effect immediately.