

S T A T E O F N E W Y O R K

2438--A

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the agriculture and markets law, in relation to the regulation of aquaculture; and to repeal section 11-1909 of the environmental conservation law relating to private trout and black bass hatcheries

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

1 Section 1. Section 11-1909 of the environmental conservation law is
2 REPEALED.
3 S 2. Paragraph a of subdivision 1 of section 11-1319 of the environ-
4 mental conservation law, as amended by chapter 193 of the laws of 1992,
5 is amended to read as follows:
6 a. This section governs possession, transportation and sale of all
7 fish taken in waters of the state, including the marine and coastal
8 district except (1) trout and black bass raised under permit from the
9 department and identified as provided in section [11-1909] 96-Z-41 OF
10 THE AGRICULTURE AND MARKETS LAW, (2) fish taken from a farm fish pond
11 licensed as provided in section 11-1911, and (3) fish taken from
12 licensed fishing preserve waters as provided in section 11-1913.
13 S 3. Subdivision 1 of section 11-1501 of the environmental conserva-
14 tion law, as amended by chapter 193 of the laws of 1992, is amended to
15 read as follows:
16 1. This title 15 of the Fish and Wildlife Law and regulations adopted
17 pursuant hereto do not apply to (a) the taking of fish by angling as
18 permitted in title 13; (b) the taking of fish or the use of nets in the
19 marine and coastal district as defined in section 13-0103, or in a trout

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

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1 or black bass hatchery operated under permit from the department as
2 provided in section [11-1909] 96-Z-41 OF THE AGRICULTURE AND MARKETS
3 LAW, or in a farm fish pond licensed as provided in section 11-1911 or
4 in a fishing preserve licensed as provided in section 11-1913; (c) the
5 sale or taking for sale of bait fish named in section 11-1315.

6 S 4. The agriculture and markets law is amended by adding a new arti-
7 cle 5-E to read as follows:

8 ARTICLE 5-E

9 REGULATION OF AQUACULTURE

10 SECTION 96-Z-40. LEGISLATIVE INTENT.

11 96-Z-41. PRIVATE TROUT AND BLACK BASS HATCHERIES.

12 96-Z-42. EXAMINATION OF REGULATORY POLICIES.

13 96-Z-43. AQUACULTURE TASK FORCE.

14 S 96-Z-40. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DECLARES THAT
15 AQUACULTURE IS AMONG THE FASTEST GROWING SEGMENTS OF THE GLOBAL AGRICUL-
16 TURE MARKETS, WITH NEW YORK'S FISH-FARMING INDUSTRY SUPPLYING FISH TO A
17 VARIETY OF MARKETS, AND THAT THIS BODY SHOULD SEEK WAYS TO DEVELOP THE
18 FISH-FARMING BUSINESS AS AN ALTERNATIVE CASH CROP FOR FARMS ACROSS THE
19 STATE.

20 S 96-Z-41. PRIVATE TROUT AND BLACK BASS HATCHERIES. 1. THE DEPARTMENT
21 IN ITS DISCRETION MAY ISSUE TO ANY PERSON A HATCHERY PERMIT, VALID
22 DURING THE CALENDAR YEAR OF ISSUE, TO PROPAGATE, RAISE AND SELL TROUT.
23 THE DEPARTMENT SHALL ESTABLISH BY ORDER REGULATIONS GOVERNING THE IDEN-
24 TIFICATION AND TRANSPORTATION OF TROUT RAISED UNDER SUCH A PERMIT, OTHER
25 THAN BY INDIVIDUAL TAGGING, WHICH ARE OFFERED FOR SALE, SOLD OR TRANS-
26 PORTED.

27 2. THE DEPARTMENT IN ITS DISCRETION MAY ISSUE TO ANY PERSON A HATCHERY
28 PERMIT, VALID DURING THE CALENDAR YEAR OF ISSUE, TO PROPAGATE, RAISE AND
29 SELL BLACK BASS. THE DEPARTMENT SHALL ESTABLISH BY ORDER REGULATIONS
30 GOVERNING THE IDENTIFICATION AND TRANSPORTATION OF BLACK BASS RAISED
31 UNDER SUCH A PERMIT, OTHER THAN BY INDIVIDUAL TAGGING, WHICH ARE OFFERED
32 FOR SALE, SOLD OR TRANSPORTED.

33 S 96-Z-42. EXAMINATION OF REGULATORY POLICIES. IN ORDER TO ACHIEVE THE
34 GOALS SET FORTH IN SECTION 96-Z-40 OF THIS ARTICLE, THE STATE SHALL
35 EXAMINE AVAILABLE REGULATORY AND POLICY CHANGES THAT WOULD IMPROVE THE
36 PROFITABILITY OF AQUACULTURE IN NEW YORK AND ADOPT ONLY POLICIES THAT:

37 1. ALLOW FOR THE SALE OF LIVE FISH TO DOMESTIC MARKETS LEGALLY AND
38 SAFELY;

39 2. ARE NOT OVERLY BURDENSOME TO THE OPERATOR OF AN AQUACULTURE FACILI-
40 TY; AND

41 3. DO NOT REQUIRE INDIVIDUAL IDENTIFICATION OR TAGGING AS A METHOD OF
42 TRACKING DOMESTICALLY-RAISED FISH.

43 S 96-Z-43. AQUACULTURE TASK FORCE. 1. AN AQUACULTURE TASK FORCE IS
44 HEREBY CREATED TO CONDUCT THE EXAMINATION DESCRIBED IN SECTION 96-Z-42
45 OF THIS ARTICLE AND DETERMINE THE VIABILITY OF ADOPTING A REGULATORY
46 SYSTEM WITH PROMOTION AND PROTECTION OF THE AQUACULTURE INDUSTRY AS ITS
47 GOAL FOR THE STATE.

48 2. THE TASK FORCE SHALL CONSIST OF TEN MEMBERS, EACH TO SERVE FOR A
49 TERM OF TWO YEARS, TO BE APPOINTED AS FOLLOWS: ONE SHALL BE APPOINTED BY
50 THE TEMPORARY PRESIDENT OF THE SENATE AND ONE BY THE MINORITY LEADER OF
51 THE SENATE; ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND
52 ONE BY THE MINORITY LEADER OF THE ASSEMBLY; AND SIX SHALL BE APPOINTED
53 BY THE GOVERNOR. THE APPOINTEES SHALL BE BROADLY REPRESENTATIVE OF THE
54 GEOGRAPHIC AREAS OF THE STATE AND INCLUDE REPRESENTATIVES OF THE AQUA-
55 CULTURE INDUSTRY, ETHNIC POPULATION AND LOCAL GOVERNMENT AND THE PUBLIC
56 AT LARGE. NO MORE THAN FOUR APPOINTEES SHALL BE LEGISLATORS. COMMIS-

1 SIONERS OF THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
2 TION SHALL BE EX-OFFICIO MEMBERS. THE GOVERNOR SHALL DESIGNATE THE
3 CHAIRMAN AND VICE CHAIRMAN FROM AMONG HIS APPOINTEES. VACANCIES IN THE
4 MEMBERSHIP OF THE COMMISSION AND AMONG ITS OFFICERS SHALL BE FILLED IN
5 THE MANNER PROVIDED FOR ORIGINAL APPOINTMENTS.

6 3. THE TASK FORCE MAY EMPLOY AND AT PLEASURE REMOVE SUCH PERSONNEL AS
7 IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS AND FIX THEIR
8 COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR.

9 4. THE TASK FORCE MAY MEET WITHIN AND WITHOUT THE STATE AND SHALL HOLD
10 PUBLIC HEARINGS, AND SHALL HAVE ALL THE POWERS OF A LEGISLATIVE COMMIT-
11 TEE PURSUANT TO THE LEGISLATIVE LAW.

12 5. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
13 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
14 INCURRED IN THE PERFORMANCE OF THEIR DUTIES HEREUNDER.

15 6. TO THE MAXIMUM EXTENT FEASIBLE, THE TASK FORCE SHALL BE ENTITLED TO
16 REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILI-
17 TIES, RESOURCES, AND DATA OF ANY COURT, DEPARTMENT, DIVISION, BOARD,
18 BUREAU, COMMISSION, OR AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION
19 THEREOF AS IT MAY REASONABLY REQUEST TO CARRY OUT PROPERLY ITS POWERS
20 AND DUTIES HEREUNDER.

21 7. THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS OF THE
22 SUSTAINABLE DEVELOPMENT TASK FORCE ON OR BEFORE NINETY DAYS AFTER THE
23 EFFECTIVE DATE OF THIS SECTION AND THE TASK FORCE SHALL CONVENE ITS
24 FIRST MEETING ON OR BEFORE SIXTY DAYS THEREAFTER.

25 8. THE TASK FORCE SHALL MAKE A PRELIMINARY REPORT TO THE GOVERNOR AND
26 THE LEGISLATURE OF ITS FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS BY
27 APRIL FIRST, TWO THOUSAND ELEVEN AND A FINAL REPORT OF ITS FINDINGS,
28 CONCLUSIONS, AND RECOMMENDATIONS NOT LATER THAN DECEMBER THIRTY-FIRST,
29 TWO THOUSAND ELEVEN, AND SHALL SUBMIT WITH ITS REPORTS SUCH LEGISLATIVE
30 PROPOSALS AS IT DEEMS NECESSARY TO IMPLEMENT ITS RECOMMENDATIONS.

31 S 5. This act shall take effect immediately.