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

2858

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sen. MAZIARZ -- 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 enacting the "aquatic nuisance species coalition participation act"

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

Section 1. Article 17 of the environmental conservation law is amended by adding a new title 21 to read as follows:

TITLE 21

AQUATIC NUISANCE SPECIES COALITION PARTICIPATION ACT

SECTION 17-2101. SHORT TITLE.
17-2103. LEGISLATIVE FINDINGS.
17-2105. DEFINITIONS.
17-2107. PARTICIPATION IN GREAT LAKES AQUATIC NUISANCE SPECIES COALITION; OTHER COOPERATIVE AND COORDINATED EFFORTS.

S 17-2101. SHORT TITLE.

THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "AQUATIC NUISANCE SPECIES COALITION PARTICIPATION ACT."

S 17-2103. LEGISLATIVE FINDINGS.

THE LEGISLATURE FINDS THAT AQUATIC NUISANCE SPECIES ALREADY INTRODUCED INTO THE GREAT LAKES, PREDOMINANTLY THROUGH BALLAST WATER DISCHARGES FROM OCEAN-GOING VESSELS, HAVE LED TO SIGNIFICANT ECOLOGICAL AND ECONOMIC IMPACTS. AT LEAST ONE HUNDRED EIGHTY AQUATIC NUISANCE SPECIES ARE ESTABLISHED IN THE GREAT LAKES. SINCE THE OPENING OF THE ST. LAWRENCE SEAWAY IN NINETEEN HUNDRED FIFTY-NINE, BALLAST WATER DISCHARGES FROM OCEAN-GOING VESSELS HAVE BEEN IMPLICATED IN MORE THAN TWO-THIRDS OF THE INTRODUCTIONS OF NEW AQUATIC NUISANCE SPECIES IN THE GREAT LAKES.

THE LEGISLATURE FURTHER FINDS THAT THE AQUATIC NUISANCE SPECIES INTRODUCED INTO THE GREAT LAKES, SUCH AS THE SEA LAMPREY, THE ZEBRA MUSSEL, THE RUFFE, THE GOBY, AND THE SPINY WATER FLEA, HAVE COMPETED WITH AND

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

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PREYED UPON NATIVE PLANTS, FISH AND WILDLIFE, RESULTING IN DRAMATIC DECREASES IN POPULATION, COMPROMISED SPECIES VIABILITY, AND SERIOUS ALTERATIONS TO THE ECOSYSTEM. THESE IMPACTS MAY BE IRREVERSIBLE.

THE LEGISLATURE FURTHER FINDS THAT AQUATIC NUISANCE SPECIES HAVE HARMED THE GREAT LAKES' COMMERCIAL AND RECREATIONAL FISHING INDUSTRIES AND DAMAGED WATER SUPPLY AND ENERGY PRODUCTION INFRASTRUCTURE. THESE DAMAGES HAVE RESULTED IN BILLIONS OF DOLLARS OF ECONOMIC DISRUPTION, INCLUDING MORE THAN 1.5 BILLION DOLLARS EXPENDED TO ADDRESS THE IMPACTS OF THE ZEBRA MUSSEL IN THE GREAT LAKES BASIN.

THE LEGISLATURE FURTHER FINDS THAT THE THREAT OF NEW INTRODUCTIONS OF AQUATIC NUISANCE INVASIVE SPECIES IN THE GREAT LAKES IS REAL AND GROWING. INTRODUCTION OF A NEW AQUATIC NUISANCE SPECIES ANYWHERE IN THE GREAT LAKES POSES A THREAT TO THE ENTIRE GREAT LAKES ECOSYSTEM, INCLUDING THE WATERS OF THE STATE.

THE LEGISLATURE FURTHER FINDS THAT IN TWO THOUSAND FIVE THE STATE OF MICHIGAN CREATED THE GREAT LAKES AQUATIC NUISANCE SPECIES COALITION TO BRING STATES TOGETHER TO COLLABORATIVELY DEVISE CONSISTENT STATE REGULATIONS TO MANAGE AQUATIC NUISANCE SPECIES DISCHARGED FROM OCEAN-GOING VESSELS' BALLAST WATER TO PROTECT THE GREAT LAKES BASIN.

THE LEGISLATURE FURTHER FINDS THAT BECAUSE ALL OCEAN-GOING VESSELS MUST PASS THROUGH NEW YORK STATE'S GREAT LAKES WATERS, REGARDLESS OF WHETHER THEY STOP AT NEW YORK STATE PORTS, NEW YORK STATE CARRIES A SINGULAR OBLIGATION TO ACTIVELY PARTICIPATE IN THE GREAT LAKES AQUATIC NUISANCE SPECIES COALITION.

S 17-2105. DEFINITIONS.

AS USED IN THIS TITLE:

1. "AQUATIC NUISANCE SPECIES" MEANS A NON-INDIGENOUS SPECIES, EITHER ALREADY ESTABLISHED OR NOT YET ESTABLISHED IN THE REGION, THAT THREATENS OR COULD THREATEN THE DIVERSITY OR ABUNDANCE OF NATIVE SPECIES, THE ECOLOGICAL STABILITY OF INFESTED WATERS, CONSUMPTIVE USE OF THE INFESTED WATERS, OR COMMERCIAL, AGRICULTURAL, AQUACULTURAL OR RECREATIONAL ACTIVITIES DEPENDENT ON SUCH WATERS.

2. "BALLAST WATER" MEANS ANY WATER AND SUSPENDED MATTER TAKEN ON BOARD A VESSEL TO CONTROL OR MAINTAIN TRIM, DRAUGHT, STABILITY, OR STRESSES OF THE VESSEL, REGARDLESS OF HOW IT IS CARRIED, INCLUDING RESIDUAL WATER AND SUSPENDED MATTER IN VESSELS DECLARING NO BALLAST ON BOARD.

3. "GREAT LAKES" MEANS LAKE ONTARIO, LAKE ERIE, LAKE HURON (INCLUDING LAKE ST. CLAIR), LAKE MICHIGAN, LAKE SUPERIOR, AND THE CONNECTING CHANNELS (SAINT MARY'S RIVER, SAINT CLAIR RIVER, DETROIT RIVER, NIAGARA RIVER, AND SAINT LAWRENCE RIVER TO THE CANADIAN BORDER), AND INCLUDES ALL OTHER BODIES OF WATER WITHIN THE DRAINAGE BASIN OF SUCH LAKES AND CONNECTING CHANNELS.

4. "NON-INDIGENOUS SPECIES" MEANS ANY SPECIES OR OTHER VIABLE BIOLOGICAL MATERIAL THAT ENTERS AN ECOSYSTEM BEYOND ITS HISTORIC RANGE, INCLUDING ANY SUCH ORGANISM TRANSFERRED FROM ONE COUNTRY INTO ANOTHER.

S 17-2107. PARTICIPATION IN GREAT LAKES AQUATIC NUISANCE SPECIES COALITION; OTHER COOPERATIVE AND COORDINATED EFFORTS.

1. THE DEPARTMENT IS AUTHORIZED AND DIRECTED TO PARTICIPATE IN THE GREAT LAKES AQUATIC NUISANCE SPECIES COALITION AS ORGANIZED BY THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE PURPOSE OF DEVISING BASIN-WIDE REGULATIONS TO ADDRESS THE DISCHARGE OF AQUATIC NUISANCE SPECIES IN THE BALLAST WATER OF OCEAN-GOING VESSELS.

2. TO THE EXTENT CONSISTENT WITH NEW YORK'S SOVEREIGN RIGHTS AND RESPONSIBILITIES, THE DEPARTMENT SHALL ALSO CONTINUE TO ACTIVELY PARTICIPATE WITH ENTITIES CONCERNED WITH AQUATIC NUISANCE SPECIES INCLUDING, BUT NOT EXCLUSIVE TO, THE INTERNATIONAL JOINT COMMISSION, THE GREAT

LAKES COMMISSION, THE GREAT LAKES PANEL ON AQUATIC NUISANCE SPECIES, THE GREAT LAKES FISHERY COMMISSION, THE UNITED STATES COAST GUARD, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND THE NEW YORK STATE INVASIVE SPECIES TASK FORCE.

3. THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND TO THE LEGISLATURE AT LEAST ANNUALLY ON GREAT LAKES AQUATIC NUISANCE SPECIES COALITION ACTIVITIES.

S 2. This act shall take effect immediately.