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

10269--B

Cal. No. 763

I N A S S E M B L Y

March 16, 2010

Introduced by M. of A. SWEENEY, WEISENBERG, ENGLEBRIGHT, THIELE, LAVINE, SCHIMEL, COLTON -- read once and referred to the Committee on Environmental Conservation -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading

AN ACT to amend the environmental conservation law, in relation to establishing the seagrass protection act

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

Section 1. Article 13 of the environmental conservation law is amended by adding a new title 7 to read as follows:

TITLE 7

SEAGRASS PROTECTION ACT

SECTION 13-0701. SHORT TITLE.
13-0703. DEFINITIONS.
13-0705. DEPARTMENTAL RESPONSIBILITIES.
13-0707. FERTILIZER REDUCTION IN COASTAL COMMUNITIES.

S 13-0701. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE SEAGRASS PROTECTION ACT.

S 13-0703. DEFINITIONS.

1. "COASTAL COMMUNITY" SHALL MEAN A MUNICIPAL CORPORATION, AS DEFINED IN SECTION TWO OF THE GENERAL MUNICIPAL LAW, IN NASSAU AND SUFFOLK COUNTIES.

2. "FERTILIZER" SHALL MEAN A COMMERCIAL FERTILIZER DISTRIBUTED PRIMARILY FOR NON-FARM USE, SUCH AS HOME GARDENS, LAWNS, SHRUBBERY, FLOWERS, MUNICIPAL GOLF COURSES AND MUNICIPAL PARKS.

3. "SEAGRASS" SHALL MEAN ROOTED, VASCULAR, FLOWERING MARINE PLANTS THAT ARE SUBMERGED IN NEW YORK'S BAYS AND COASTAL WATERS, INCLUDING ZOSTERA MARINA AND RUPPIA MARITIME.

S 13-0705. DEPARTMENTAL RESPONSIBILITIES.

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

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1. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ADOPT RULES AND REGULATIONS TO REGULATE COASTAL AND MARINE ACTIVITIES THAT THREATEN SEAGRASS BEDS OR SEAGRASS RESTORATION EFFORTS, INCLUDING THE DESIGNATION OF SEAGRASS MANAGEMENT AREAS PURSUANT TO SEAGRASS MANAGEMENT PLANS. DESIGNATION OF SUCH AREAS SHALL INCLUDE CONSIDERATION, ON A GEOGRAPHIC OR ESTUARINE BASIS, OF LIKELY THREATS TO SEAGRASS.

2. FOR EACH DESIGNATED SEAGRASS MANAGEMENT AREA, THE DEPARTMENT SHALL DEVELOP AND ADOPT A SEAGRASS MANAGEMENT PLAN TO GUIDE THE DEVELOPMENT OF RULES AND REGULATIONS PURSUANT TO SUBDIVISION ONE OF THIS SECTION. SUCH PLAN SHALL BE DEVELOPED AFTER CONSULTATION WITH LOCAL GOVERNMENTS, REPRESENTATIVES OF RECREATIONAL BOATING INTERESTS, THE MARINE INDUSTRY, AFFECTED PROPERTY OWNERS AND OTHER STAKEHOLDERS, SO AS TO EFFECTIVELY MANAGE AND PROTECT SEAGRASS BEDS AND SEAGRASS RESTORATION EFFORTS. IN ADDITION, SEAGRASS MANAGEMENT PLANS SHALL SEEK TO PRESERVE TRADITIONAL RECREATIONAL ACTIVITIES, INCLUDING RECREATIONAL BOATING AND MARINA OPERATIONS, AS WELL AS FINFISHING, SHELLFISHING AND TOURISM WHILE ENSURING SUCH ACTIVITIES DO NOT THREATEN SEAGRASS BEDS OR NEGATE SEAGRASS RESTORATION EFFORTS.

3. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO RESTRICT THE USE OF MECHANICAL-POWERED FISHING OR SHELLFISHING GEAR WHICH MAY IMPACT SEAGRASS BEDS, INCLUDING CHURNING, DREDGES, RAKES AND TONGS.

4. THE DEPARTMENT SHALL IDENTIFY PESTICIDES AND HERBICIDES THAT ARE TOXIC TO SEAGRASS AND MAKE RECOMMENDATIONS CONCERNING RESTRICTING THEIR USE IN COASTAL AREAS.

5. THE DEPARTMENT SHALL MAKE INFORMATION CONCERNING THE IMPORTANCE OF SEAGRASS PROTECTION AND THE STATUS OF SEAGRASS RESTORATION EFFORTS AVAILABLE ON THE DEPARTMENT WEBSITE.

S 13-0707. FERTILIZER REDUCTION IN COASTAL COMMUNITIES.

1. A PERSON IN A COASTAL COMMUNITY MAY NOT APPLY A FERTILIZER CONTAINING THE PLANT NUTRIENT PHOSPHORUS AFTER NOVEMBER FIRST AND BEFORE APRIL FIRST.

2. ANY LOCAL LAW OR ORDINANCE OF ANY COUNTY, OR OF ANY CITY WITH A POPULATION OF ONE MILLION OR MORE, WHICH IS INCONSISTENT WITH THE PROVISIONS OF THIS TITLE SHALL NOT BE PREEMPTED IF SUCH LOCAL LAW OR ORDINANCE PROVIDES ENVIRONMENTAL PROTECTION EQUAL TO OR GREATER THAN THE PROVISIONS OF THIS TITLE.

S 2. This act shall take effect on the one hundred fiftieth day after it shall have become a law.