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

11266

I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. SALADINO, MONTESANO -- Multi-Sponsored by -- M. of A. ALFANO, BARRA -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to allowing fishing without a license; and repealing certain provisions of such law relating thereto

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

Section 1. The title heading of title 7 of article 11 of the environmental conservation law is amended to read as follows:

HUNTING[, FISHING] AND TRAPPING LICENSES

S 2. Subdivisions 4 and 15 of section 11-0701 of the environmental conservation law, subdivision 4 as amended by section 1 of part LL of chapter 59 of the laws of 2009 and subdivision 15 as amended by section 16 of part F of chapter 82 of the laws of 2002, are amended to read as follows:

4. [A fishing license entitles the holder] NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, NO LICENSE SHALL BE REQUIRED to take fish by angling, spearing, hooking, longbow and tipups, to take frogs by spearing, catching with the hands or by use of a club or hook, and to take bait fish for personal use, as provided in titles 9 and 13 of this article, except that [such license shall not entitle the holder] NO PERSON SHALL BE ENTITLED to take migratory fish of the sea or to take fish from the waters of the marine district WITHOUT FIRST OBTAINING THE PROPER LICENSE THEREFOR.

15. A non-resident combined hunting, [fishing,] big game, bowhunting and muzzle-loading license, hereinafter in this article referred to as a non-resident super-sportsman license, entitles a person who has not been a resident of the state for more than thirty days to the privileges that the holder would have if the holder held separately a non-resident hunting license, [a non-resident fishing license,] a non-resident big game license, a non-resident bowhunting license, a non-resident muzzle-loading license and a non-resident turkey permit.

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

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S 3. The opening paragraph of subparagraph 1 of paragraph a of subdivision 2 of section 11-0701 of the environmental conservation law, as added by section 5 of part F of chapter 82 of the laws of 2002, is amended to read as follows:

A small and big game license, ALSO HEREINAFTER IN THIS ARTICLE REFERRED TO AS A SPORTSMAN LICENSE, entitles the resident holder to hunt wildlife subject to the following:

S 4. Paragraph a of subdivision 5 of section 11-0701 of the environmental conservation law is REPEALED and paragraphs b and c are relettered paragraphs a and b.

S 5. Subdivisions 6, 8 and 9-a of section 11-0701 of the environmental conservation law are REPEALED.

S 6. The section heading and subdivisions 1 and 2 of section 11-0702 of the environmental conservation law, the section heading as added by chapter 352 of the laws of 1987, subdivision 1 as separately amended by section 2 of part KK and section 2 of part LL of chapter 59 of the laws of 2009 and subdivision 2 as amended by section 18 of part F of chapter 82 of the laws of 2002, are amended to read as follows:

1. There are hereby created the following lifetime hunting, [fishing,] trapping, archery and muzzle-loading licenses and fees therefor subject to the same privileges and obligations of a comparable short term license:

Licenses	Fees
a. Lifetime sportsman license and turkey permit. If purchased, for a child four years of age or younger	$380.00
for a child age five through eleven years of age	$535.00
for a person age twelve through sixty-nine years of age	$765.00
for a person age seventy and over.	$65.00
b. Lifetime small and big game license.	$535.00
c. [Lifetime fishing license for a person age sixty-nine or younger.	$460.00
d. Lifetime fishing license for a person age seventy and over.	$ 65.00
e.] Lifetime trapping license.	$395.00
[f.] D. Lifetime archery stamp.	$235.00

[g.] E. Lifetime muzzle-loading stamp. $235.00

[g.] F. Lifetime recreational marine fishing license. $150.00

[h.] G. Lifetime combination fishing and recreational marine fishing license. $450.00

The holder of a lifetime small and big game license [or fishing license] may, at any time, convert such license to a lifetime [sportsman] SMALL AND BIG GAME license and turkey permit for an additional fee equal to the existing differential.

2. Legal residency within the state of New York shall be a prerequisite for persons to obtain, or have obtained for them, any lifetime licenses included within this section. Lifetime licenses so obtained shall continue to be valid for use within the state by the person to whom the lifetime license was issued, regardless of a change in residency of that lifetime license holder. Holders of lifetime licenses which include lifetime big game privileges who become non-residents of the state may continue to obtain resident bowhunting and muzzle-loading stamps, including lifetime archery and muzzle-loading stamps. Holders of lifetime licenses which include bowhunting and muzzle-loading privileges who become non-residents of the state may continue to obtain resident big game privileges, including lifetime sportsman [or small and big game] licenses. An annual turkey permit will be granted at no additional fee as an additional privilege of all existing lifetime sportsman licenses. Possession of lifetime licenses is nontransferable.

S 7. Paragraph a of subdivision 4 and paragraph a of subdivision 6 of section 11-0703 of the environmental conservation law, paragraph a of subdivision 4 as amended by section 21 of part F of chapter 82 of the laws of 2002 and paragraph a of subdivision 6 as amended by chapter 344 of the laws of 2008, are amended to read as follows:

a. Non-resident [fishing, non-resident] super-sportsman, non-resident bowhunting or muzzle-loading, or non-resident trapping licenses, or non-resident bear tags are issuable only to non-residents and persons who have been residents for less than thirty days immediately preceding the date of application.

a. Except as provided in section 11-0707 and section 11-0709 of this title, no person shall (1) hunt wildlife, other than deer or bear, or take fish with a gun, unless such person holds and is entitled to exercise the privileges of a small game, junior hunting, small and big game, free sportsman, sportsman or resident super-sportsman, or non-resident super-sportsman license; (2) hunt antlerless deer in a special open season therefor pursuant to subdivision 6 of section 11-0903 of this article unless such person holds and is entitled to exercise the privileges of and has on his or her person while so hunting a small and big game, big game, junior archery, free sportsman, junior hunting if the licensee is at least fourteen years old, sportsman, resident super-sportsman, non- resident super-sportsman or non-resident bowhunting or muzzle-loading license, and a special antlerless deer license; (3) [take fish or frogs in the manner described in subdivision 4 of section 11-0701 of this title unless such person is entitled to exercise the privileges of a fishing license; (4)] trap wildlife unless such person holds a trapping license.

S 8. Paragraphs a and b of subdivision 5 of section 11-0703 of the environmental conservation law are REPEALED and paragraphs c and d, paragraph d as relettered by chapter 470 of the laws of 1994, are relettered paragraphs a and b.

S 9. Subdivision 3 of section 11-0705 of the environmental conservation law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

3. Failure of a licensee to have the holder's license, tag or license with stamp affixed, on the holder's person while exercising any privilege of the license, tag or license and stamp, and to wear in plain sight any button issued with the license while so doing, is presumptive evidence that the holder is hunting[, fishing] or trapping, as the case may be, without holding the license, tag or license and stamp required by subdivision 6 of section 11-0703.

S 10. The section heading and subdivision 1 of section 11-0707 of the environmental conservation law, subdivision 1 as amended by chapter 721 of the laws of 1975, the opening paragraph of subdivision 1 as amended by chapter 415 of the laws of 1977 and paragraph b of subdivision 1 as amended by chapter 329 of the laws of 1986, are amended to read as follows:

Exemptions from requirement of hunting, big game[, fishing] and trapping licenses.

1. Resident owners and lessees and members of their immediate families, actually occupying and cultivating farm lands, on such farm lands and the waters thereof, shall have the right,

a. to hunt wildlife except wild deer and bear, AND

b. to trap bobcat, coyote, fox, mink, muskrat, raccoon, opossum, weasel, skunk, and unprotected wildlife that may lawfully be taken by trapping (except that only the owner or lessee thereof may trap without license on a registered muskrat marsh) [and

c. to take fish and frogs, except that they may not take bait fish by net or trap, all as if they held the licenses defined in section 11-0701 and required by section 11-0703, subdivision 6].

S 11. Subdivisions 2, 3 and 4 of section 11-0707 of the environmental conservation law are REPEALED and subdivisions 7, 8 and 9 are renumbered subdivisions 2, 3 and 4.

S 12. Paragraph c of subdivision 1 of section 11-0713 of the environmental conservation law, as amended by section 4 of part LL of chapter 59 of the laws of 2009, is amended to read as follows:

c. One-day [fishing licenses and one-day] recreational marine fishing licenses may be issued by any person who has never been convicted of or pleaded guilty to a misdemeanor under this chapter within the past three years, and has not been convicted of a crime under any other law. Such licenses shall be issued to any such person following payment of the applicable license fee for each license. One-day [fishing licenses and one-day] recreational marine fishing licenses may be sold by the initial purchaser for no more than the applicable license fee, plus one dollar for the person selling such license. In the case of misuse or fraud in handling the fishing licenses, the department shall have the authority to revoke the privilege to buy and sell the licenses.

S 13. Subdivisions 2 and 3 of section 11-0715 of the environmental conservation law, subdivision 2 as amended by section 3 and subdivision 3 as amended by section 4 of part KK of chapter 59 of the laws of 2009, are amended to read as follows:

2. A member of the Shinnecock tribe or the Poospatuck tribe or a member of the six nations, residing on any reservation wholly or partly

within the state, is entitled to receive free of charge [a fishing license,] a small and big game license, [a sportsman license,] a muzzle-loading stamp, a trapping license, and a bow hunting stamp; a resident of the state who is a member of the United States armed forces in active service who is not stationed within the state and has not been herein longer than thirty days on leave or furlough, is entitled to receive free of charge [a fishing license,] a small and big game license, and a trapping license; a resident of the state who is an active member of the organized militia of the state of New York as defined by section one of the military law, or the reserve components of the armed forces of the United States, and excluding members of the inactive national guard and individual ready reserve, is entitled to receive free of charge [a fishing license,] a small and big game license, and a trapping license[; and a resident who is blind is entitled to receive a fishing license free of charge. For the purposes of this subdivision a person is blind only if either: (a) his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or (b) his or her visual acuity is greater than 20/200 but is accompanied by a limitation of the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees].

A resident in the state for a period of thirty days immediately prior to the date of application who has attained the age of seventy is entitled to receive a sportsman license at the cost of ten dollars as a license fee.

A resident in the state for a period of thirty days immediately prior to the date of application who has attained the age of seventy is entitled to receive a [fishing license, and a] trapping license, at a cost of five dollars [for each] AS A license FEE.

A resident in the state for a period of thirty days immediately prior to the date of application who has attained the age of seventy is entitled to receive free of charge a bowhunting stamp and a muzzle-loading stamp.

3. Each applicant for a license, permit or stamp shall pay to the issuing officer a fee, according to the license, permit or stamp issued and the residence or other qualification of the applicant.

a. In the case of persons who have been residents of the state for more than thirty days immediately preceding the date of application or who are enrolled in a full-time course at a college or university within the state and who are in residence in the state for the school year, Indians residing off reservations in the state and members of the United States armed forces in active service stationed in this state regardless of place of residence at the time of entry into service:

License	Fee
(1) Super-sportsman	$88.00
(2) Trapper Super-sportsman	$88.00
(3) [Sportsman	$47.00
(4)] Small and big game	$29.00
[(5) Fishing	$29.00
(6)] (4) Trapping	$21.00
[(7)] (5) Small game	$26.00
[(8)] (6) Junior trapping	$ 6.00
[(9)] (7) Muzzle-loading stamp	$21.00
[(10)] (8) Bowhunting stamp	$21.00
[(11)] (9) Turkey permit	$10.00
[(12) Seven-day fishing	$15.00

(13)] (10) Conservation legacy $96.00
[(14) One-day fishing $ 5.00]

b. In the case of a non-resident and persons resident in the state for less than thirty days, other than persons who are enrolled in a full-time course at a college or university within the state and who are in residence in the state for the school year and those members of the United States armed forces as to whom fees are specified in paragraph a of this subdivision:

License	Fee
(1) Big game	$140.00
(2) Small game	$ 85.00
(3) [Fishing	$ 70.00
(4) Seven-day fishing	$ 35.00
(5)] Trapping	$310.00
[(6)] (4) Super-sportsman	$280.00
[(7)] (5) Bowhunting	$140.00
[(8)] (6) Muzzle-loading	$140.00
[(9)] (7) Bear tag	$ 50.00
[(10)] (8) Turkey permit	$ 50.00
[(11) One-day fishing	$ 15.00]

c. In all cases:

(1) Certificates in lieu of lost license or stamp or tag	$ 5.00
(2) Duplicate for lost or destroyed permit, button or tag	$10.00
(3) Junior hunting license	$ 5.00
(4) Junior archery license	$ 9.00
(5) [One-day fishing license	$15.00
(6)] Conservation patron license	$12.00

S 14. The section heading, paragraphs a and c of subdivision 1 and subdivisions 4 and 5 of section 11-0719 of the environmental conservation law, the section heading as amended by chapter 269 of the laws of 1975, paragraph a of subdivision 1 as amended by chapter 176 of the laws of 1987, paragraph c of subdivision 1 as added by chapter 13 of the laws of 1982 and subdivision 4 as amended by chapter 312 of the laws of 1998, are amended to read as follows:

Revocation and suspension of licenses and of right to hunt[, fish] or trap without license.

a. In the circumstances described in paragraph b the department may revoke any license or stamp, of any person, to hunt[, fish] or trap, defined in section 11-0701 or issued pursuant to any provision of the Fish and Wildlife Law, or it may revoke all of such licenses or stamps. It may also deny such person, for a period not exceeding five years, the privilege of obtaining such license or licenses or stamp or stamps or of hunting[,] OR trapping [or fishing], anywhere in the state with or without license or stamp, except as provided in subdivision 1 of section 11-0707 or in section 11-0523. It may also require that such person successfully complete a department-sponsored course and obtain a certificate of qualification in responsible hunting, responsible bowhunting or responsible trapping practices before being issued another license.

c. Upon receipt of a court notification of the failure of a person to appear within three months of the return date or new subsequent adjourned date pursuant to an appearance ticket, uniform appearance ticket or uniform appearance ticket and simplified information charging such person with a violation of the Fish and Wildlife Law, or any rule or regulation adopted pursuant thereto, the department may suspend any

license of such person to hunt[, fish] or trap pending receipt of notice from the court that such person has appeared in response to such appearance ticket. Such suspension shall take effect no less than thirty days from the day upon which notice thereof is sent by the department to the person whose license is to be suspended.

4. A person whose license to hunt[,] OR trap[, or fish] has been suspended or revoked as provided in this section is ineligible for such license during the period determined by the department as provided in this section. No such person shall, during such period, procure any license for which he or she is ineligible. No person shall without license hunt[,] OR trap[, or fish] during any period in which the privilege to do so has been denied by the department as provided in this section.

5. When the department has revoked a license, or has denied to any person the privilege of obtaining a license, or of hunting[,] OR trapping [or fishing] without a license, it shall cause the fact of such revocation or denial, or both, as the case may be, and the terms and extent thereof, to be entered in the minutes of the department, and shall forthwith send a written notice of its action as so entered in the minutes to the person affected, at his last known address, either by registered or certified mail or by delivery personally by a representative of the department. Within five days after service of such notice, such person shall deliver to the department the license or licenses revoked, together with any buttons or tags issued in connection with them. If the license was one entitling the holder to the privilege of several licenses, and the revocation concerned some but not all of such privileges, any license, button or tag so delivered shall be returned by the department to the person to whom it was issued, appropriately marked or stamped to show the extent to which it is revoked.

S 15. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.