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

8475

2009-2010 Regular Sessions

I N A S S E M B L Y

May 21, 2009

Introduced by M. of A. SAYWARD -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the preservation of aquatic native species populations, biodiversity and aquatic recreational activities

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

Section 1. Article 15 of the environmental conservation law is amended by adding a new title 35 to read as follows:

TITLE 35

AQUATIC INVASIVE SPECIES

SECTION 15-3501. LEGISLATIVE INTENT.
15-3503. DEFINITIONS.
15-3505. ILLEGAL ACTIONS.
15-3507. PENALTY FOR NONCOMPLIANCE.
15-3509. ENFORCEMENT.

S 15-3501. LEGISLATIVE INTENT.

THIS ARTICLE IS INTENDED TO PREVENT THE INTRODUCTION AND SPREAD OF AQUATIC INVASIVE SPECIES INTO AND WITHIN THE WATERS OF THE STATE OF NEW YORK, IN ORDER TO PRESERVE AQUATIC NATIVE SPECIES POPULATIONS, BIODIVERSITY AND AQUATIC RECREATIONAL ACTIVITIES IN THE STATE OF NEW YORK.

S 15-3503. DEFINITIONS.

FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AQUATIC ANIMALS" SHALL MEAN AN ANIMAL THAT SPENDS PART OF ITS LIFE IN WATER; INCLUDING, BUT NOT LIMITED TO, FRESHWATER, ESTUARINE AND WETLAND SPECIES.

2. "AQUATIC PLANTS" SHALL MEAN PLANTS LIVING IN THE WATER OR AT THE SHORELINE, AND INCLUDES ROOTS, RHIZOMES, STEMS, LEAVES OR SEEDS; INCLUDING FRESHWATER, ESTUARINE AND WETLAND SPECIES.

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

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3. "AQUATIC RECREATION" SHALL MEAN ACTIVITIES ON, IN OR AROUND WATER BODIES INCLUDING, BUT NOT LIMITED TO BOATING, FISHING, HUNTING AND SWIMMING.

4. "BIODIVERSITY" SHALL MEAN A MEASURE OF THE VARIETY OF PLANTS AND ANIMALS, THEIR GENETIC VARIABILITY, AND THEIR INTERRELATIONSHIPS AND ECOLOGICAL PROCESSES WITHIN A GIVEN REGION, LANDSCAPE, OR WATERSHED.

5. "INTRODUCE" SHALL MEAN TO RELEASE, INCLUDING INADVERTENTLY, INTO THE NATURAL WORLD BY HUMAN SOURCES.

6. "INTRODUCTION" SHALL MEAN THE SPREAD OF AN INVASIVE SPECIES BY HUMAN SOURCES.

7. (A) "INVASIVE SPECIES" SHALL MEAN AN AQUATIC SPECIES THAT IS:

(I) NONNATIVE TO THE ECOSYSTEM UNDER CONSIDERATION; AND

(II) WHOSE INTRODUCTION CAUSES OR IS LIKELY TO CAUSE ECONOMIC OR ENVIRONMENTAL HARM OR HARM TO HUMAN HEALTH. IN THE LATTER CASE, THE HARM MUST SIGNIFICANTLY OUTWEIGH ANY BENEFITS.

(B) ACCORDING TO THE DEPARTMENT, THE FOLLOWING IS AN ONGOING LIST OF EXAMPLES OF AQUATIC INVASIVE PLANTS AND ALGAE:

(I) BRAZILIAN WATERWEED - EGERIA DENSA;

(II) CURLY-LEAF PONDWEED - POTAMOGETON CRISPUS;

(III) DIDYMO - DIDYMOSPHENIA GEMINATE;

(IV) EURASIAN WATER MILFOIL - MYRIOPHYLLUM SPICATUM;

(V) EUROPEAN FROG'S BIT - HYDROCHARIS MORSUS-RANAE;

(VI) FANWORT - CABOMBA CAROLINIANA;

(VII) STARRY STONEWORT - NITELLOPSIS OBTUSA;

(VIII) WATER CHESTNUT - TRAPA NATANS;

(IX) WATER PRIMROSE - LUDWIGIA PEPLOIDES; AND

(X) PURPLE LOOSESTRIFE - LYTHRUM SALICARIA.

(C) THE FOLLOWING ARE EXAMPLES OF AQUATIC INVASIVE ANIMALS:

(I) ASIATIC CLAM - CORBICULA FLUMINEA;

(II) FISHHOOK WATER FLEA - CERCOPAGIS PENGOI;

(III) NORTHERN SNAKEHEAD - CHANNA ARGUS;

(IV) QUAGGA MUSSEL - DREISSENA BUGENSIS;

(V) ROUND GOBY - NEOGOBIS MELANOSTOMUS;

(VI) RUSTY CRAYFISH - ORCONECTES RUSTICUS;

(VII) SPINY WATERFLEA - BYTHOTREPHES CEDERSTOEMI;

(VIII) TENCH - TINCA TINCA; AND

(IX) ZEBRA MUSSELS - DREISSENA POLYMORPHA.

8. "NATIVE/INDIGENOUS SPECIES" SHALL MEAN THOSE SPECIES THAT ARRIVED, ESTABLISHED, AND SURVIVED IN A LOCATION WITHOUT DIRECT OR INDIRECT HUMAN ASSISTANCE.

9. "NONINDIGENOUS" SHALL MEAN ORGANISMS THAT HAVE BEEN MOVED FROM THEIR NATIVE ENVIRONMENTS OR ECOSYSTEMS TO A NEW LOCATION.

10. "PERSON" SHALL MEAN A HUMAN INDIVIDUAL.

11. "REMOVE" SHALL MEAN TAKING SOMETHING AWAY; MAKING SOMETHING GO AWAY.

12. "STANDING WATER" SHALL MEAN BILGE WATER AND OTHER WATER INSIDE BOAT COMPARTMENTS THAT COULD EASILY BE REMOVED BY PUMP OR HAND.

13. "WATER BODY" SHALL MEAN ANY FRESHWATER OR ESTUARINE LAKE, RIVER, POND, STREAM OR WETLAND EXISTING IN THE STATE, WHETHER PUBLICLY OR PRIVATELY OWNED, INCLUDING THE BANKS AND SHORES THEREOF.

S 15-3505. ILLEGAL ACTIONS.

TO PREVENT THE INTRODUCTION AND SPREAD OF AQUATIC INVASIVE SPECIES INTO AND WITHIN THE WATERS OF THE STATE:

1. NO PERSON SHALL ENTER OR EXIT A WATER BODY OF THE STATE UNLESS HE OR SHE REMOVES ALL AQUATIC PLANTS, ANIMALS AND STANDING WATER WHICH ARE VISIBLE TO THE UNAIDED EYE FROM INSIDE AND OUTSIDE HIS OR HER VEHICLE,

BOAT, PERSONAL WATERCRAFT, BOAT TRAILER OR OTHER EQUIPMENT THAT HAD PREVIOUSLY COME IN CONTACT WITH ANY WATER BODY.

2. NO PERSON SHALL TRAVEL OVERLAND WITHIN THE STATE WITH VEHICLES, BOATS, PERSONAL WATERCRAFT, BOAT TRAILERS OR OTHER EQUIPMENT THAT CONTAIN STANDING WATER, AQUATIC PLANTS AND/OR ANIMALS WHICH ARE VISIBLE TO THE UNAIDED EYE.

S 15-3507. PENALTY FOR NONCOMPLIANCE.

1. ANY VIOLATION OF SECTION 15-3505 OF THIS TITLE JEOPARDIZES THE PURPOSE OF THIS TITLE, AND, THEREBY, THE WATER BODIES AND NATIVE SPECIES POPULATIONS OF THE STATE.

2. ANY PERSON WHO VIOLATES SECTION 15-3505 OF THIS TITLE IS GUILTY OF A CRIMINAL VIOLATION AND IS PUNISHABLE WITH A MAXIMUM TWO HUNDRED FIFTY DOLLAR SURCHARGE AND UP TO FIFTEEN DAYS IN JAIL.

S 15-3509. ENFORCEMENT.

ALL VEHICLES AND BOATS ARE SUBJECT TO INSPECTION BY ANY NEW YORK PEACE OR POLICE OFFICERS OR AUTHORIZED ENFORCEMENT AGENTS AS PER THE CRIMINAL PROCEDURE LAW.

S 2. This act shall take effect on the one hundred eightieth day after 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.