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

8724

2009-2010 Regular Sessions

I N A S S E M B L Y

June 4, 2009

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

AN ACT to amend the environmental conservation law, in relation to the trapping of muskrats; to repeal section 3 of chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, relating to the state task force on flame retardant safety; to repeal section 27-0702 of the environmental conservation law relating to the solid waste management board; to repeal section 19-0315 of the environmental conservation law relating to the small business stationary source compliance advisory panel; and to repeal section 11-1109 of the environmental conservation law relating to registered muskrat marshes

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

Section 1. Section 3 of chapter 387 of the laws of 2004 amending the environmental conservation law relating to restricting the use of certain flame retardants, is REPEALED.

S 2. Section 27-0702 of the environmental conservation law is REPEALED.

S 3. Section 19-0315 of the environmental conservation law is REPEALED.

S 4. Section 11-1109 of the environmental conservation law is REPEALED.

S 5. Subdivisions 2 and 3, paragraph a of subdivision 6, and subdivision 7 of section 11-1101 of the environmental conservation law, the opening paragraph of subdivision 3 as amended by chapter 407 of the laws of 1976, paragraph a of subdivision 6 as amended by chapter 605 of the laws of 1991, and subdivision 7 as amended by chapter 911 of the laws of 1990, are amended to read as follows:

2. Traps shall not be set for the taking of any protected wildlife except (a) in an open season as provided in section 11-1103 for taking

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

LBD14164-03-9

the species for which the trap is set; or (b) in accordance with a license or permit issued by the department pursuant to title 5; or (c) as provided in title 5 or title 19 with respect to rabies control and predatory, destructive or menacing wildlife[; or (d) on a registered muskrat marsh as provided in section 11-1109]. Protected wildlife taken or captured in a trap shall not be killed or possessed while captive unless it is a species of wildlife for which the trap was or might lawfully have been set at the time of capture.

3. In waters of the Southern Zone, as so defined, from December 5 through January 31, no person shall set, place or maintain a trap of any kind except (a) spring hole trap sets for the purpose of taking fox, or (b) water sets during any open season established for the taking of muskrat, otter and beaver[, or (c) traps set on a registered muskrat marsh pursuant to permit, issued as provided in section 11-1109].

a. No person shall set or use a trap of the leg-gripping type (a) having a spread of jaws exceeding 7 1/4" measured at right angles to the axis upon which the jaws operate and excluding the gripping surface of each jaw, when used under water during the open season for trapping beaver or otter, or (b) in any other case, except as provided in title 5 [or in section 11-1109], having a spread of jaws exceeding 5-3/4" as so measured.

7. [Except as provided in section 11-1109, (a) no] (A) NO person shall take muskrat by the use of a box, wire or cage trap, except that they may be taken in such a trap of a construction incapable of taking any species of wildlife until wildlife previously taken therein has been released; (b) except as otherwise permitted by department regulation, no person shall set, stake or use a trap within a distance of five feet from a muskrat den or house or any structure constructed by a muskrat in which it can take shelter; (c) smoke, chemicals, gas or poison shall not be used on or near any trap used to take beaver, otter, fisher, bobcat, coyote, fox, mink, raccoon, muskrat or skunk.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.