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

4414

2009-2010 Regular Sessions

I N  S E N A T E

April 23, 2009

Introduced by Sen. O. JOHNSON -- 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 prohibiting the establishment of areas closed to fishing absent specific criteria for such closure

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

Section 1. The environmental conservation law is amended by adding a new section 11-0304 to read as follows:

S 11-0304. FREEDOM TO FISH.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT SHALL NOT, AS PART OF ANY STATEWIDE PLAN FOR FISHERIES MANAGEMENT, DEVELOP PLANS OR CARRY OUT PROGRAMS AND PROCEDURES WHICH ESTABLISH AREAS CLOSED TO FISHING UNLESS:

(A) THERE IS A CLEAR INDICATION THAT FISHERMEN ARE THE CAUSE OF A SPECIFIC CONSERVATION PROBLEM AND THAT LESS SEVERE CONSERVATION MEASURES, SUCH AS GEAR RESTRICTIONS, QUOTAS, MINIMUM SIZE LIMITS, POSSESSION LIMITS OR CLOSED SEASONS, WILL NOT ADEQUATELY PROVIDE FOR CONSERVATION AND MANAGEMENT OF THE AFFECTED STOCKS OF FISH;

(B) REGULATIONS ESTABLISHING ANY SUCH CLOSED AREA, INCLUDE SPECIFIC MEASURABLE CRITERIA TO DETERMINE THE CONSERVATION BENEFIT OF THE CLOSED AREA ON THE AFFECTED STOCKS OF FISH AND PROVIDES FOR REVIEW AT LEAST ONCE EVERY THREE YEARS OF THE CONTINUED NEED FOR THE CLOSED AREA;

(C) THE CLOSED AREA IS NO LARGER THAN THAT WHICH IS SUPPORTED BY THE BEST AVAILABLE SCIENTIFIC INFORMATION; OR

(D) PROVISION IS MADE TO REOPEN THE CLOSED AREA TO FISHING WHENEVER THE CONDITIONS, DESIGNATED IN PARAGRAPHS (A), (B) AND (C) OF THIS SUBDIVISION WHICH FORMED THE BASIS FOR THE CLOSURE, NO LONGER EXIST.

2. NO PROVISION OF THIS SECTION SHALL BE DEEMED TO PREEMPT, OVERTURN, AFFECT OR CHANGE ANY OTHER LAW, RULE OR REGULATION PERTAINING TO FISHING

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

LBD10956-01-9

IN MARINE WATERS, WHICH IS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the commissioner of environmental conservation is authorized and directed to promulgate, on or before such effective date, any and all rules and regulations and take any other measures necessary to implement the provisions of this act on its effective date.