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

7707--C

2011-2012 Regular Sessions

I N A S S E M B L Y

May 16, 2011

Introduced by M. of A. MAISEL, P. RIVERA, ROSENTHAL, LAVINE, ROBERTS, PAULIN, ENGLEBRIGHT, COLTON, MENG, KAVANAGH, LUPARDO, TITONE, WEPRIN, BRINDISI, BROOK-KRASNY, MARKEY, GALEF, SWEENEY -- Multi-Sponsored by -- M. of A. BOYLAND, BRAUNSTEIN, BRENNAN, CERETTO, CONTE, COOK, CRESPO, CURRAN, DINOWITZ, GLICK, GOTTFRIED, GUNTHER, KATZ, MAGEE, MALLIOTAKIS, McENENY, J. MILLER, MONTESANO, O'DONNELL, PEOPLES-STOKES, RAIA, REILLY, SCHIMEL, SKARTADOS, THIELE, WEISENBERG -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to prohibiting the possession, sale, offer for sale, trade or distribution of shark fins

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

Section 1. Section 13-0338 of the environmental conservation law, as added by chapter 231 of the laws of 1992, paragraph a of subdivision 1 as amended by chapter 308 of the laws of 1999 and subdivision 4 as amended by chapter 428 of the laws of 2011, is amended to read as follows:

S 13-0338. Sharks; finning prohibited.

1. For purposes of this section:

a. "Shark" means any species of the [order Squaliformes except species in the suborder Batoidea, and] SUBCLASS ELASMOBRANCHII EXCEPT SPECIES IN THE SUPER ORDER BATOIDEA;

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

LBD11481-08-2

b. "Finning" means the removal of a fin[, other than the caudal fin,] from a shark and not retaining the remainder of the shark's carcass[.]; AND

C. "SHARK FIN" MEANS THE RAW, DRIED OR OTHERWISE PROCESSED DETACHED FIN INCLUDING THE TAIL.

2. No person shall engage in finning on the waters of the marine and coastal district.

3. [No person shall possess shark fins in the marine and coastal district unless the proper proportion of species, number, and size of shark carcasses is also possessed.

4. The department may, until December thirty-first, two thousand thirteen, fix by regulation measures for the management of sharks, including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations are no less restrictive than requirements set forth in this chapter and provided further that such regulations are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. S1800 et seq.).] NO PERSON SHALL POSSESS, SELL, OFFER FOR SALE, TRADE OR DISTRIBUTE A SHARK FIN PROVIDED; HOWEVER, THAT THIS PROHIBITION SHALL NOT APPLY TO ANY LEGALLY TAKEN SHARK FIN THAT MEETS THE FOLLOWING CRITERIA:

A. WAS TAKEN FROM A SPINY DOGFISH (SQUALUS ACANTHIAS) OR A SMOOTH DOGFISH (MUSTELUS CANIS) CAUGHT BY A LICENSED COMMERCIAL FISHERMAN; OR

B. WAS TAKEN FROM A SHARK CAUGHT BY A RECREATIONAL FISHERMAN WHO HAS COMPLIED WITH THE RECREATIONAL MARINE FISHING REGISTRATION REQUIREMENTS.

S 2. The environmental conservation law is amended by adding a new section 13-0338-a to read as follows:

S 13-0338-A. SHARKS; DEPARTMENT AUTHORITY.

1. FOR PURPOSES OF THIS SECTION, "SHARK" MEANS ANY SPECIES OF THE ORDER SQUALIFORMES EXCEPT SPECIES IN THE SUPERORDER BATOIDEA.

2. THE DEPARTMENT MAY, UNTIL DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, FIX BY REGULATION MEASURES FOR THE MANAGEMENT OF SHARKS, INCLUDING SIZE LIMITS, CATCH AND POSSESSION LIMITS, OPEN AND CLOSED SEASONS, CLOSED AREAS, RESTRICTIONS ON THE MANNER OF TAKING AND LANDING, REQUIREMENTS FOR PERMITS AND ELIGIBILITY THEREFOR, RECORDKEEPING REQUIREMENTS, REQUIREMENTS ON THE AMOUNT AND TYPE OF FISHING EFFORT AND GEAR, AND REQUIREMENTS RELATING TO TRANSPORTATION, POSSESSION AND SALE, PROVIDED THAT SUCH REGULATIONS ARE NO LESS RESTRICTIVE THAN REQUIREMENTS SET FORTH IN THIS CHAPTER AND PROVIDED FURTHER THAT SUCH REGULATIONS ARE CONSISTENT WITH THE COMPLIANCE REQUIREMENTS OF APPLICABLE FISHERY MANAGEMENT PLANS ADOPTED BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION AND WITH APPLICABLE PROVISIONS OF FISHERY MANAGEMENT PLANS ADOPTED PURSUANT TO THE FEDERAL FISHERY CONSERVATION AND MANAGEMENT ACT (16 U.S.C. S1800 ET SEQ.).

S 3. Paragraphs a and b of subdivision 1 of section 13-0339 of the environmental conservation law, as amended by chapter 156 of the laws of 2003, are amended to read as follows:

a. The taking of fish with nets in the marine and coastal district is governed by sections 13-0333, 13-0335, 13-0341, 13-0343, 13-0347 and 11-1521, and regulations adopted pursuant to sections 11-0303, 11-1303,

[13-0338] 13-0338-A, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter. The taking of fish by other means, in the marine and coastal district, is governed by title 13 of article 11 of the Fish and Wildlife Law, subject to restrictions in section 13-0343 as to certain waters, and to provisions of sections 13-0347 and 11-1521 and regulations adopted pursuant to section 11-0303 of this chapter as to striped bass and sections 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g as to other species of marine fish. The taking, and sale or taking for sale, of certain bait fish are governed by section 11-1315 of this chapter.

b. Open seasons, minimum size limits and catch limits for fish other than the marine species named in subdivisions 2 and 3 of this section are specified by regulations adopted pursuant to sections 11-0303, 11-1303, [13-0338] 13-0338-A, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter. All shortnose sturgeon irrespective of size and all Atlantic sturgeon under the size limits prescribed by regulations adopted pursuant to section 11-1303 of this chapter taken in gill nets shall be immediately returned to the water without unnecessary injury. Other fish named by regulations adopted pursuant to sections 11-0303, 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter and under the size limits prescribed in such regulations, shall not be bought, sold or trafficked in.

S 4. The opening paragraph of subdivision 8 of section 71-0923 of the environmental conservation law, as amended by chapter 284 of the laws of 2004, is amended to read as follows:

8. Any violation of sections 13-0329, 13-0330, 13-0331, 13-0333, 13-0334, 13-0335, subdivision one of section 13-0337, 13-0338, 13-0338-A, 13-0339, 13-0339-a, 13-0340, 13-0340-a through 13-0340-g, 13-0341, 13-0342, 13-0343, 13-0347, and 13-0349 of this chapter, or of any regulation adopted pursuant to the foregoing sections, shall be punishable by imprisonment of not more than fifteen days or by a fine of the greater of two hundred fifty dollars or:

S 5. The opening paragraph of subdivision 7 of section 71-0925 of the environmental conservation law, as amended by chapter 284 of the laws of 2004, is amended to read as follows:

7. If the violation was a violation of sections 13-0329, 13-0330, 13-0331, 13-0333, 13-0334, 13-0335, subdivision one of section 13-0337, 13-0338, 13-0338-A, 13-0339, 13-0339-a, 13-0340, 13-0340-a through 13-0340-g, 13-0341, 13-0342, 13-0343, 13-0347, and 13-0349 of this chapter, or of any regulation adopted pursuant to the foregoing sections, the greater of two hundred fifty dollars or:

S 6. This act shall take effect July 1, 2013.