

7801

2011-2012 Regular Sessions

I N A S S E M B L Y

May 17, 2011

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 commercial fishing licenses

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

1 Section 1. Section 13-0328 of the environmental conservation law, as
2 amended by chapter 366 of the laws of 2007, is amended to read as
3 follows:
4 S 13-0328. Commercial licenses; limited entry.
5 1. Commercial food fish licenses. Commercial food fish licenses
6 provided for by section 13-0335 of this title shall be issued as
7 follows:
8 a. [for the period beginning July first, nineteen hundred ninety-nine
9 and ending December thirty-first, nineteen hundred ninety-nine, the
10 following persons shall be eligible to be issued a commercial food fish
11 license:
12 (i) persons who held a valid commercial food fish license in nineteen
13 hundred ninety-eight;
14 (ii) persons who held a valid commercial food fish license in nineteen
15 hundred ninety-six but not in nineteen hundred ninety-seven; and
16 (iii) persons who submitted applications to the department during the
17 period commencing January first, nineteen hundred ninety-nine and ending
18 on the effective date of this section and who were eligible to receive
19 such license but had not been issued such license during such period.
20 b.] for the period beginning January first, two thousand [four] TWELVE
21 through December thirty-first, two thousand [eleven] FIFTEEN, the number
22 of [residential] RESIDENT commercial food fish licenses and the number
23 of [non-residential] NON-RESIDENT commercial food fish licenses shall
24 not exceed the following annual limits:

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

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1 (i) [for two thousand four, the number of licenses shall be limited to
2 the greater of the number of licenses issued in two thousand two or the
3 number of licenses issued in two thousand three;

4 (ii) for two thousand five, the number of licenses shall be limited to
5 the number of licenses issued in two thousand four, plus fifty percent
6 of any difference between the number of licenses issued in two thousand
7 four and the limit established in subparagraph (i) of this paragraph;

8 (iii) for two thousand six, the number of licenses shall be limited to
9 the number of licenses issued in two thousand five, plus fifty percent
10 of any difference between the number of licenses issued in two thousand
11 five and the limit established in subparagraph (ii) of this paragraph;

12 (iv) for two thousand seven, the number of licenses shall be limited
13 to the number of licenses issued in two thousand six, plus fifty percent
14 of any difference between the number of licenses issued in two thousand
15 six and the limit established in subparagraph (iii) of this paragraph;

16 (v)] for two thousand [eight] TWELVE, the number of licenses shall be
17 limited to the number of licenses issued in two thousand [seven] ELEVEN,
18 plus fifty percent of any difference between the number of licenses
19 issued in two thousand [seven] ELEVEN and [the limit established in
20 subparagraph (iv) of this paragraph] ONE THOUSAND FIFTY-THREE;

21 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses
22 shall be limited to the number of licenses issued in two thousand
23 [eight] TWELVE, plus fifty percent of any difference between the number
24 of licenses issued in two thousand [eight] TWELVE and the limit estab-
25 lished in subparagraph [(v)] (I) of this paragraph;

26 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses
27 shall be limited to the number of licenses issued in two thousand [nine]
28 THIRTEEN, plus fifty percent of any difference between the number of
29 licenses issued in two thousand [nine] THIRTEEN and the limit estab-
30 lished in subparagraph [(vi)] (II) of this paragraph;

31 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of
32 licenses shall be limited to the number of licenses issued in two thou-
33 sand [ten] FOURTEEN, plus fifty percent of any difference between the
34 number of licenses issued in two thousand [ten] FOURTEEN and the limit
35 established in subparagraph [(vii)] (III) of this paragraph.

36 [c.] B. for the period beginning January first, two thousand TWELVE
37 through December thirty-first, two thousand [eleven] FIFTEEN, persons
38 who were issued a commercial food fish license in the previous year
39 shall be eligible to be issued such license.

40 [d.] C. for the period beginning January first, two thousand [four]
41 TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the
42 department shall issue commercial food fish licenses to persons who were
43 not issued such license in the previous year provided that the total
44 number of such licenses issued to such persons does not exceed the
45 difference between the number of licenses established in paragraph [b] A
46 of this subdivision and the number of such licenses issued pursuant to
47 paragraph [c] B of this subdivision, subject to the following:

48 (i) licenses shall be issued in the order in which the applications
49 were received, except that where multiple applications are received by
50 the department on the same day, applicants for whom the department has
51 received notice of successful completion of an apprenticeship pursuant
52 to subdivision seven of this section shall be considered by the depart-
53 ment prior to other applicants;

54 (ii) licenses may be issued to individuals only;

55 (iii) licenses shall be issued to applicants who are sixteen years of
56 age or older at the time of the application; and

1 (iv) licenses shall be issued only to persons who demonstrate in a
2 manner acceptable to the department that they received an average of at
3 least fifteen thousand dollars of income over three consecutive years
4 from commercial fishing or fishing, or who successfully complete a
5 commercial food fish apprenticeship pursuant to subdivision seven of
6 this section. As used in this subparagraph, "commercial fishing" means
7 the taking and sale of marine resources including fish, shellfish, crus-
8 tacea or other marine biota and "fishing" means commercial fishing and
9 carrying fishing passengers for hire. Individuals who wish to qualify
10 based on income from "fishing" must hold a valid marine and coastal
11 district party and charter boat license. No more than ten percent of the
12 licenses issued each year based on income eligibility pursuant to this
13 paragraph shall be issued to applicants who qualify based solely upon
14 income derived from operation of or employment by a party or charter
15 boat.

16 2. Commercial lobster permits. Commercial lobster permits provided for
17 by section 13-0329 of this title shall be issued as follows:

18 [a. for the period beginning July first, nineteen hundred ninety-nine
19 and ending December thirty-first, nineteen hundred ninety-nine, the
20 following persons shall be eligible to be issued a commercial lobster
21 permit:

22 (i) persons who held a valid commercial lobster permit in nineteen
23 hundred ninety-eight;

24 (ii) persons who held a valid commercial lobster permit in nineteen
25 hundred ninety-six but not in nineteen hundred ninety-seven; and

26 (iii) persons who submitted applications to the department during the
27 period commencing January first, nineteen hundred ninety-nine and ending
28 on the effective date of this section and who were eligible to receive
29 such permit but had not been issued such permit during such period.

30 b.] for the period beginning January first, two thousand TWELVE,
31 through December thirty-first, two thousand [eleven] FIFTEEN, only
32 persons who were issued a commercial lobster permit in the previous year
33 shall be eligible to be issued such permit.

34 3. Commercial crab permits. Commercial crab permits provided for by
35 section 13-0331 of this title shall be issued as follows:

36 a. [for the period beginning July first, nineteen hundred ninety-nine
37 and ending December thirty-first, nineteen hundred ninety-nine, the
38 following persons shall be eligible to be issued a commercial crab
39 permit:

40 (i) persons who held a valid commercial crab permit in nineteen
41 hundred ninety-eight;

42 (ii) persons who held a valid commercial crab permit in nineteen
43 hundred ninety-six but not in nineteen hundred ninety-seven; and

44 (iii) persons who submitted applications to the department during the
45 period commencing January first, nineteen hundred ninety-nine and ending
46 on the effective date of this section and who were eligible to receive
47 such permit but had not been issued such permit during such period.

48 b.] for the period beginning January first, two thousand [four] TWELVE
49 through December thirty-first, two thousand [eleven] FIFTEEN, the number
50 of [residential] RESIDENT commercial crab permits and the number of
51 [non-residential] NON-RESIDENT commercial crab permits shall not exceed
52 the following annual limits:

53 (i) [for two thousand four, the number of permits shall be limited to
54 the greater of the number of permits issued in two thousand two or the
55 number of permits issued in two thousand three;

(ii) for two thousand five, the number of permits shall be limited to the number of permits issued in two thousand four, plus fifty percent of any difference between the number of permits issued in two thousand four and the limit established in subparagraph (i) of this paragraph;

(iii) for two thousand six, the number of permits shall be limited to the number of permits issued in two thousand five, plus fifty percent of any difference between the number of permits issued in two thousand five and the limit established in subparagraph (ii) of this paragraph;

(iv) for two thousand seven, the number of licenses shall be limited to the number of permits issued in two thousand six, plus fifty percent of any difference between the number of permits issued in two thousand six and the limit established in subparagraph (iii) of this paragraph;

(v)] for two thousand [eight] TWELVE, the number of permits shall be limited to the number of permits issued in two thousand [seven] ELEVEN, plus fifty percent of any difference between the number of permits issued in two thousand [seven] ELEVEN and [the limit established in subparagraph (iv) of this paragraph] SIX HUNDRED SIXTEEN;

[(vi)] (II) for two thousand [nine] THIRTEEN, the number of permits shall be limited to the number of permits issued in two thousand [eight] TWELVE, plus fifty percent of any difference between the number of permits issued in two thousand [eight] TWELVE and the limit established in subparagraph [(v)] (I) of this paragraph;

[(vii)] (III) for two thousand [ten] FOURTEEN, the number of permits shall be limited to the number of permits issued in two thousand [nine] THIRTEEN, plus fifty percent of any difference between the number of permits issued in two thousand [nine] THIRTEEN and the limit established in subparagraph [(vi)] (II) of this paragraph;

[(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of permits shall be limited to the number of permits issued in two thousand [ten] FOURTEEN, plus fifty percent of any difference between the number of permits issued in two thousand [ten] FOURTEEN and the limit established in subparagraph [(vii)] (III) of this paragraph.

[c.] B. for the period beginning January first, two thousand TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, persons who were issued a commercial crab permit in the previous year shall be eligible to be issued such permit.

[d.] C. for the period beginning January first, two thousand [four] TWELVE through December thirty-first, two thousand [eleven] FIFTEEN, the department shall issue commercial crab permits to persons who were not issued such permit in the previous year provided that the total number of such permits issued to such persons does not exceed the difference between the number of permits established in paragraph [b] A of this subdivision and the number of such permits issued pursuant to paragraph [c] B of this subdivision, subject to the following:

(i) permits shall be issued in the order in which the applications were received, except that where multiple applications are received by the department on the same day, applicants for whom the department has received notice of successful completion of an apprenticeship pursuant to subdivision seven of this section shall be considered by the department prior to other applicants;

(ii) permits may be issued to individuals only;

(iii) permits shall be issued to applicants who are sixteen years of age or older at the time of the application; and

(iv) permits shall be issued only to persons who demonstrate in a manner acceptable to the department that they received an average of at least fifteen thousand dollars of income over three consecutive years

1 from commercial fishing or fishing, or who successfully complete an
2 apprenticeship pursuant to subdivision seven of this section. As used in
3 this subparagraph, "commercial fishing" means the taking and sale of
4 marine resources including fish, shellfish, crustacea or other marine
5 biota and "fishing" means commercial fishing and carrying fishing
6 passengers for hire. Individuals who wish to qualify based on income
7 from "fishing" must hold a valid marine and coastal district party and
8 charter boat license. No more than ten percent of the permits issued
9 each year based on income eligibility pursuant to this paragraph shall
10 be issued to applicants who qualify based upon income derived from oper-
11 ation of or employment by a party or charter boat.

12 4. Commercial whelk or conch licenses. Commercial whelk or conch
13 licenses provided for by section 13-0330 of this title shall be issued
14 as follows:

15 a. for the period beginning January first, two thousand [four] TWELVE
16 through December thirty-first, two thousand [eleven] FIFTEEN, the number
17 of [residential] RESIDENT commercial whelk or conch licenses and the
18 number of [non-residential] NON-RESIDENT commercial whelk or conch
19 licenses shall not exceed the following annual limits:

20 (i) [for two thousand four, the number of licenses shall be limited to
21 three hundred or the number of licenses issued in two thousand three,
22 whichever is greater;

23 (ii) for two thousand five, the number of licenses shall be limited to
24 the number of licenses issued in two thousand four, plus fifty percent
25 of any difference between the number of licenses issued in two thousand
26 four and the limit established in subparagraph (i) of this paragraph;

27 (iii) for two thousand six, the number of licenses shall be limited to
28 the number of licenses issued in two thousand five, plus fifty percent
29 of any difference between the number of licenses issued in two thousand
30 five and the limit established in subparagraph (ii) of this paragraph;

31 (iv) for two thousand seven, the number of licenses shall be limited
32 to the number of licenses issued in two thousand six, plus fifty percent
33 of any difference between the number of licenses issued in two thousand
34 six and the limit established in subparagraph (iii) of this paragraph;

35 (v) for two thousand [eight] TWELVE, the number of licenses shall be
36 limited to the number of licenses issued in two thousand [seven] ELEVEN,
37 plus fifty percent of any difference between the number of licenses
38 issued in two thousand [seven] ELEVEN and [the limit established in
39 subparagraph (iv) of this paragraph] TWO HUNDRED SEVENTY-ONE;

40 [(vi)] (II) for two thousand [nine] THIRTEEN, the number of licenses
41 shall be limited to the number of licenses issued in two thousand
42 [eight] TWELVE, plus fifty percent of any difference between the number
43 of licenses issued in two thousand [eight] TWELVE and the limit estab-
44 lished in subparagraph [(v)] (I) of this paragraph;

45 [(vii)] (III) for two thousand [ten] FOURTEEN, the number of licenses
46 shall be limited to the number of licenses issued in two thousand [nine]
47 THIRTEEN, plus fifty percent of any difference between the number of
48 licenses issued in two thousand [nine] THIRTEEN and the limit estab-
49 lished in subparagraph [(vi)] (II) of this paragraph;

50 [(viii)] (IV) for two thousand [eleven] FIFTEEN, the number of
51 licenses shall be limited to the number of licenses issued in two thou-
52 sand [ten] FOURTEEN, plus fifty percent of any difference between the
53 number of licenses issued in two thousand [ten] FOURTEEN and the limit
54 established in subparagraph [(vii)] (III) of this paragraph.

55 b. for the period beginning January first, two thousand [four] TWELVE
56 through December thirty-first, two thousand [eleven] FIFTEEN, persons

1 who were issued a commercial whelk or conch license in the previous year
2 shall be eligible to be issued such license.

3 c. for the period beginning January first, two thousand [four] TWELVE
4 through December thirty-first, two thousand [eleven] FIFTEEN, persons
5 who were not issued a commercial whelk or conch license in the previous
6 year shall be eligible to be issued such license provided that the total
7 number of such licenses issued to such persons shall not exceed the
8 difference between the number of licenses established in paragraph a of
9 this subdivision and the number of such licenses issued pursuant to
10 paragraph b of this subdivision, subject to the following:

11 (i) licenses shall be issued in the order in which the applications
12 were received, except that where multiple applications are received by
13 the department on the same day, applicants for whom the department has
14 received notice of successful completion of an apprenticeship pursuant
15 to subdivision seven of this section shall be considered by the depart-
16 ment prior to other applicants;

17 (ii) licenses may be issued to individuals only;

18 (iii) licenses shall be issued to applicants who are sixteen years of
19 age or older at the time of the application; and

20 (iv) licenses shall be issued only to persons who demonstrate in a
21 manner acceptable to the department that they received an average of at
22 least fifteen thousand dollars of income over three consecutive years
23 from commercial fishing or fishing, or who successfully complete an
24 apprenticeship pursuant to subdivision seven of this section. As used in
25 this subparagraph, "commercial fishing" means the taking and sale of
26 marine resources including fish, shellfish, crustacea or other marine
27 biota and "fishing" means commercial fishing and carrying fishing
28 passengers for hire. Individuals who wish to qualify based on income
29 from "fishing" must hold a valid marine and coastal district party and
30 charter boat license. No more than ten percent of the licenses issued
31 each year pursuant to this paragraph shall be issued to applicants who
32 qualify based upon income derived from operation of or employment by a
33 party or charter boat.

34 5. Marine and coastal district party and charter boat licenses. Marine
35 and coastal district party and charter boat licenses provided for by
36 section 13-0336 of this title shall be issued as follows, except that
37 this subdivision shall not apply to the owner or operator of a party
38 boat or charter boat whose vessel is classified by the United States
39 Coast Guard as an Inspected Passenger Vessel and which is licensed to
40 carry more than six passengers:

41 a. for the years two thousand eight through two thousand [eleven]
42 FIFTEEN, the annual number of marine and coastal district party and
43 charter boat licenses issued shall not exceed [the number issued in two
44 thousand seven by more than one hundred licenses] FIVE HUNDRED
45 SEVENTEEN.

46 b. for the years two thousand eight through two thousand [eleven]
47 FIFTEEN, persons who were issued a marine and coastal district party and
48 charter boat license in the previous year shall be eligible to be issued
49 such license.

50 c. for the years two thousand eight through two thousand [eleven]
51 FIFTEEN, the department shall issue marine and coastal district party
52 and charter boat licenses to persons who were not issued such license in
53 the previous year, provided that the total number of [such] licenses
54 issued [to such persons] does not exceed [the difference between the
55 annual limit established in paragraph a of this subdivision and the
56 number of such licenses issued in the previous year pursuant to para-

1 graph b of this subdivision] FIVE HUNDRED SEVENTEEN, subject to the
2 following:

3 (i) licenses shall be issued in the order in which the applications
4 were received;

5 (ii) licenses shall be issued only to persons who hold an Uninspected
6 Passenger Vessel license issued by the United States Coast Guard.

7 6. License or permit reissuance.

8 a. Notwithstanding the provisions of subdivisions one, two, three and
9 four of this section, the department may permit reissuance of a license
10 or permit to a member of the immediate family of the prior holder of
11 such license or permit; provided that the individual to whom the license
12 or permit is being reissued is at least sixteen years of age. The
13 department may permit a license or permit holder to designate in writing
14 a member of his or her immediate family to whom the license or permit
15 shall be reissued in the event that the license or permit holder dies
16 prior to surrendering his or her license or permit to the department.

17 b. In the event that a designated immediate family member does not
18 wish to engage in the commercial fishing activities authorized by such
19 license or permit, the department may permit such person to identify an
20 alternate person to whom the license or permit shall be reissued. The
21 department is authorized to adopt regulations concerning the reissuance
22 of licenses or permits pursuant to this subdivision.

23 [b.] C. The holder of a reissued license or permit shall engage in the
24 activity authorized by the license or permit within three years of the
25 reissuance date. If the license or permit holder fails to engage in such
26 activity during the three years following reissuance, the license or
27 permit shall lapse at the end of the three year period and shall not be
28 renewed unless the department, in its discretion, determines that the
29 license or permit holder's inactivity was justified by significant hard-
30 ship or unavoidable circumstances.

31 7. Commercial license apprenticeship program. The department is
32 authorized to adopt regulations establishing an apprenticeship program
33 for persons who wish to obtain a commercial crab permit pursuant to
34 section 13-0331 of this title, a commercial food fish license pursuant
35 to section 13-0335 of this title or a commercial whelk (conch) license
36 pursuant to section 13-0330 of this title. Upon successful completion of
37 the apprenticeship program, a person shall become eligible to receive a
38 commercial crab permit, commercial food fish license or a commercial
39 whelk (conch) license, as applicable, subject to the provisions of para-
40 graph [d] C of subdivision one, paragraph [d] C of subdivision three,
41 and paragraph c of subdivision four of this section, respectively.

42 S 2. This act shall take effect December 31, 2011.