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

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

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

AN ACT to amend the environmental conservation law, in relation to limiting the issuance of permits for the taking of horseshoe crabs

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

Section 1. Subdivisions 1, 2, 3 and 7 of section 13-0331 of the environmental conservation law, subdivision 1 as amended by chapter 325 of the laws of 1999, subdivision 2 as amended by chapter 263 of the laws of 1997, subdivision 3 as amended by chapter 327 of the laws of 1999 and subdivision 7 as amended by chapter 152 of the laws of 2007, are amended to read as follows:

1. No person shall take crabs[, including horseshoe crabs (Limulus sp.)] for commercial purposes without first obtaining a permit from the department. For purposes of this subdivision, a presumption of "commercial purposes" shall be made wherein one takes or lands more than fifty crabs in any one day or sells or barters or offers for sale or barter any crabs he or she has taken. Permits shall be issued to individuals only but may be endorsed for use on a vessel, in which case it shall cover all persons on board such vessel.

2. [A] EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-0332 OF THIS TITLE, A person domiciled within the state may take crabs, for commercial purposes, from the waters of the state upon first obtaining a crabbing permit from the department.

a. The department shall prescribe and furnish forms for application for such permit.

b. The fee for such crabbing permit shall be thirty dollars.

3. [A] EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-0332 OF THIS TITLE, A person not domiciled in the state who is domiciled in a state that provides reciprocal permits or licenses to persons domiciled in New York

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

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state may take crabs, for commercial purposes, upon first obtaining a crabbing permit from the department.

a. The department shall prescribe and furnish forms for application for such permit.

b. The fee for such crabbing permit shall be fifty dollars.

7. The department may, until December thirty-first, two thousand eleven, fix by regulation measures for the management of crabs of any kind, NOT including horseshoe crabs (Limulus sp.), 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. S 1800 et seq.).

S 2. The environmental conservation law is amended by adding a new section 13-0332 to read as follows:

S 13-0332. HORSESHOE CRABS; PERMIT TO TAKE; PROHIBITED ACTS.

1. NO PERSON SHALL TAKE ANY HORSESHOE CRAB (LIMULUS SP.) FOR ANY PURPOSE WITHOUT FIRST OBTAINING A PERMIT FROM THE DEPARTMENT.

2. PERMITS SHALL ONLY BE ISSUED:

A. TO PERSONS PROVIDING PROOF SATISFACTORY TO THE COMMISSIONER THAT ALL HORSESHOE CRABS TAKEN PURSUANT TO SUCH PERMIT WILL BE USED FOR THE PURPOSES OF ACADEMIC OR MEDICAL RESEARCH; AND

B. TO SUCH PERSONS, WHO HOLD PERMITS ISSUED PURSUANT TO SECTION 13-0329 OF THIS TITLE, AS THE DEPARTMENT SHALL DETERMINE. EACH PERMIT ISSUED PURSUANT TO THIS PARAGRAPH SHALL LIMIT THE HOLDER THEREOF TO THE TAKING OF SUCH MAXIMUM NUMBER OF HORSESHOE CRABS DURING ANY CALENDAR YEAR AS SHALL BE DETERMINED BY THE DEPARTMENT; PROVIDED, HOWEVER THAT THE DEPARTMENT SHALL NOT IN THE ISSUANCE OF ALL SUCH PERMITS AUTHORIZE THE TAKING OF AN AGGREGATE OF MORE THAN ONE HUNDRED THOUSAND HORSESHOE CRABS DURING ANY CALENDAR YEAR.

3. A PERSON DOMICILED WITHIN THE STATE MAY TAKE HORSESHOE CRABS FROM THE WATERS OF THE STATE UPON FIRST OBTAINING A HORSESHOE CRABBING PERMIT FROM THE DEPARTMENT.

A. THE DEPARTMENT SHALL PRESCRIBE AND FURNISH FORMS FOR APPLICATION FOR SUCH PERMIT.

B. THE FEE FOR SUCH HORSESHOE CRABBING PERMIT SHALL BE THIRTY DOLLARS.

4. A PERSON NOT DOMICILED IN THE STATE WHO IS DOMICILED IN A STATE MAY TAKE HORSESHOE CRABS UPON FIRST OBTAINING A CRABBING PERMIT FROM THE DEPARTMENT.

A. THE DEPARTMENT SHALL PRESCRIBE AND FURNISH FORMS FOR APPLICATION FOR SUCH PERMIT.

B. THE FEE FOR SUCH HORSESHOE CRABBING PERMIT SHALL BE FIFTY DOLLARS.

5. PERMITS ARE NOT TRANSFERABLE AND SHALL EXPIRE ON DECEMBER THIRTY-FIRST FOLLOWING THE DATE OF ISSUE. IF IT APPEARS IN THE PUBLIC INTEREST, THE DEPARTMENT MAY SUSPEND OR CANCEL SUCH PERMITS WITHOUT PRIOR NOTICE.

6. FEMALE HORSESHOE CRABS WITH EGGS VISIBLE THEREON, COMMONLY CALLED SPONGE CRABS, OR ANY FEMALE CRABS FROM WHICH THE EGG POUCH OR BUNION HAS BEEN REMOVED, SHALL NOT BE TAKEN, POSSESSED, TRANSPORTED OR OFFERED FOR

SALE AT ANY TIME BY ANY PERSON ISSUED A PERMIT PURSUANT TO PARAGRAPH B OF SUBDIVISION TWO OF THIS SECTION.

7. HORSESHOE CRABS SHALL NOT BE TAKEN BY DREDGING IN THE WATERS OF RICHMOND COUNTY; HEMPSTEAD BAY AND SOUTH OYSTER BAY IN THE COUNTY OF NASSAU; OR IN THE WATERS OF GREAT SOUTH BAY WEST OF CAPTREE BRIDGE IN THE COUNTY OF SUFFOLK.

8. THE DEPARTMENT MAY, BY REGULATION, ADOPT MEASURES FOR THE MANAGEMENT OF HORSESHOE CRABS (LIMULUS SP.). SUCH MEASURES MAY INCLUDE SIZE LIMITS, CATCH AND POSSESSION LIMITS, OPEN AND CLOSED SEASONS, RESTRICTIONS ON THE AMOUNT AND TYPE OF FISHING EFFORT AND GEAR, AND REQUIREMENTS RELATING TO TRANSPORTATION, POSSESSION, SALE, LICENSING, RECORDKEEPING AND REPORTING, PROVIDED SUCH REGULATIONS ARE NO LESS RESTRICTIVE THAN REQUIREMENTS SET FORTH IN THIS CHAPTER AND PROVIDED FURTHER THAT SUCH REGULATIONS FOR HORSESHOE CRAB ARE CONSISTENT WITH THE INTERSTATE FISHERY MANAGEMENT PLAN FOR HORSESHOE CRAB ADOPTED BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION.

S 3. Subdivision 8 of section 13-0335 of the environmental conservation law, as added by chapter 582 of the laws of 1987, is amended to read as follows:

8. The provisions of sections 13-0311, 13-0329, 13-0331, 13-0332 and 13-0333 of this title shall be applicable to lobsters, crabs, shellfish and menhaden and no license therefor shall be required pursuant to this section.

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:

Any violation of sections 13-0329, 13-0330, 13-0331, 13-0332, 13-0333, 13-0334, 13-0335, subdivision one of section 13-0337, 13-0338, 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 commissioner of environmental conservation and the department of environmental conservation are immediately directed to promulgate all rules and regulations and take any actions necessary to implement all provisions of this act on or before January 1, 2012.

S 6. This act shall take effect immediately, except that sections one, two, three and four of this act shall take effect January 1, 2012.