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

4072--A

Cal. No. 435

2011-2012 Regular Sessions

I N S E N A T E

March 16, 2011

Introduced by Sens. ZELDIN, JOHNSON, LAVALLE, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law, in relation to the harvesting of surf clams and ocean quahogs; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. Subdivision 15 of section 13-0309 of the environmental conservation law, as added by chapter 512 of the laws of 1994, paragraph a as amended by chapter 323 of the laws of 1999, is amended and a new subdivision 16 is added to read as follows:

15. [Unless and until regulations are adopted implementing a comprehensive long-term management plan for the protection of surf clams and ocean quahogs in New York waters prepared in conjunction with the surf clam/ocean quahog management advisory board pursuant to section 13-0308, of this title, the following restrictions shall apply in addition to any consistent regulations adopted prior to the date upon which such section shall take effect:

a. a weekly catch limit not to exceed twenty-eight cages;

b. an annual catch limit in certified waters of the Atlantic Ocean for surf clams not to exceed five hundred thousand bushels in the aggregate;

c. an annual catch limit in certified waters other than the Atlantic Ocean for surf clams not to exceed fifty thousand bushels in the aggregate; and

d. requiring permittees to report on a weekly basis the number of bushels harvested in the previous seven day period, and provide that the failure to file such weekly report may result in the revocation of such

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

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person's permit by the department.] COOPERATIVE HARVESTING. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR RULE OR REGULATION, PERSONS HOLDING HARVESTING PERMITS IN NEW YORK'S ATLANTIC OCEAN SURF CLAM/OCEAN QUAHOG FISHERY ARE HEREBY AUTHORIZED TO COOPERATIVELY HARVEST ANY PORTION OF THE PERSON'S INDIVIDUAL FISHING QUOTA (IFQ) BY USE OF ANY VESSEL THAT IS ELIGIBLE TO HARVEST SHELLFISH IN THE FISHERY, SUBJECT TO THE FOLLOWING:

A. SUCH COOPERATIVE HARVESTING SHALL COMPLY WITH DAILY CATCH LIMITS ESTABLISHED FOR THE FISHERY BY THE DEPARTMENT WHICH SHALL BE COUNTED AGAINST BOTH THE IFQ HOLDER VESSEL'S AND THE HARVESTING VESSEL'S DAILY CATCH LIMITS.

B. THE HARVESTING VESSEL USED TO CATCH SUCH IFQ OR PORTION THEREOF SHALL BE IDENTIFIED TO THE DEPARTMENT IN BOTH THE IFQ HOLDER'S AND THE HARVESTING VESSEL'S REPORT TO THE DEPARTMENT.

C. IN COOPERATIVE HARVESTING THERE SHALL BE NO REQUIREMENT THAT THE CAPTAIN OF THE IFQ HOLDER'S VESSEL BE ON BOARD THE HARVESTING VESSEL DURING HARVESTING.

D. IN COOPERATIVE HARVESTING THE IFQ HOLDER WILL PROVIDE THE CAPTAIN OF THE HARVESTING VESSEL WITH SUCH CAGE TAGS AS ARE NECESSARY TO ACCOUNT FOR THE HARVEST ATTRIBUTABLE TO SUCH IFQ HOLDER.

E. NOTHING HEREIN DESCRIBED SHALL ALTER THE DAILY, WEEKLY OR ANNUAL CATCH LIMITS OBTAINABLE BY ANY IFQ HOLDER WITHIN THE FISHERY.

16. CONSOLIDATION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR RULE OR REGULATION, ANY PERSON WHO HOLDS AN ATLANTIC OCEAN SURF CLAM/OCEAN QUAHOG PERMIT IS AUTHORIZED TO REQUEST THE DEPARTMENT TO CONSOLIDATE THE INDIVIDUAL FISHING QUOTA (IFQ) OR PORTIONS THEREOF ESTABLISHED FOR ITS VESSEL ONTO ONE OR MORE SUCH VESSELS AS THE PERMITTEE MAY DIRECT, SUBJECT TO THE FOLLOWING:

A. VESSELS UPON WHICH ANY IFQ OR PORTION OF AN IFQ ARE PLACED UNDER THIS PROVISION MUST HOLD A DEPARTMENT-ISSUED PERMIT TO PARTICIPATE IN THE FISHERY.

B. UPON TRANSFERRING THE ENTIRETY OF AN IFQ FROM ONE VESSEL TO ANOTHER OR OTHERS, THE TRANSFERRING VESSEL SHALL BECOME INELIGIBLE TO PARTICIPATE IN THE FISHERY UNTIL SUCH TIME AS THE VESSEL IS PROPERLY IDENTIFIED FOR USE TO THE DEPARTMENT ON ANOTHER ATLANTIC OCEAN SURF CLAM/OCEAN QUAHOG HARVESTING PERMIT.

S 2. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2013.