

768--A

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. YOUNG, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the agriculture and markets law, in relation to the regulation of aquaculture; and to repeal section 11-1909 of the environmental conservation law relating to private trout and black bass hatcheries

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

1     Section 1. Section 11-1909 of the environmental conservation law is  
2 REPEALED.  
3     S 2. Paragraph a of subdivision 1 of section 11-1319 of the environ-  
4 mental conservation law, as amended by chapter 193 of the laws of 1992,  
5 is amended to read as follows:  
6     a. This section governs possession, transportation and sale of all  
7 fish taken in waters of the state, including the marine and coastal  
8 district except (1) trout and black bass raised under permit from the  
9 department and identified as provided in section [11-1909] ONE HUNDRED  
10 ONE OF THE AGRICULTURE AND MARKETS LAW, (2) fish taken from a farm fish  
11 pond licensed as provided in section 11-1911, and (3) fish taken from  
12 licensed fishing preserve waters as provided in section 11-1913.  
13     S 3. Subdivision 1 of section 11-1501 of the environmental conserva-  
14 tion law, as amended by chapter 193 of the laws of 1992, is amended to  
15 read as follows:  
16     1. This title 15 of the Fish and Wildlife Law and regulations adopted  
17 pursuant hereto do not apply to (a) the taking of fish by angling as  
18 permitted in title 13; (b) the taking of fish or the use of nets in the

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

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1 marine and coastal district as defined in section 13-0103, or in a trout  
2 or black bass hatchery operated under permit from the department as  
3 provided in section [11-1909] ONE HUNDRED ONE OF THE AGRICULTURE AND  
4 MARKETS LAW, or in a farm fish pond licensed as provided in section  
5 11-1911 or in a fishing preserve licensed as provided in section  
6 11-1913; (c) the sale or taking for sale of bait fish named in section  
7 11-1315.

8 S 4. The agriculture and markets law is amended by adding a new arti-  
9 cle 6 to read as follows:

#### 10 ARTICLE 6

#### 11 REGULATION OF AQUACULTURE

#### 12 SECTION 100. LEGISLATIVE INTENT.

#### 13 101. PRIVATE TROUT AND BLACK BASS HATCHERIES.

#### 14 102. EXAMINATION OF REGULATORY POLICIES.

#### 15 103. AQUACULTURE TASK FORCE.

16 S 100. LEGISLATIVE INTENT. THE LEGISLATURE FINDS AND DECLARES THAT  
17 AQUACULTURE IS AMONG THE FASTEST GROWING SEGMENTS OF THE GLOBAL AGRICUL-  
18 TURE MARKETS, WITH NEW YORK'S FISH-FARMING INDUSTRY SUPPLYING FISH TO A  
19 VARIETY OF MARKETS, AND THAT THIS BODY SHOULD SEEK WAYS TO DEVELOP THE  
20 FISH-FARMING BUSINESS AS AN ALTERNATIVE CASH CROP FOR FARMS ACROSS THE  
21 STATE.

22 S 101. PRIVATE TROUT AND BLACK BASS HATCHERIES. 1. THE DEPARTMENT IN  
23 ITS DISCRETION MAY ISSUE TO ANY PERSON A HATCHERY PERMIT, VALID DURING  
24 THE CALENDAR YEAR OF ISSUE, TO PROPAGATE, RAISE AND SELL TROUT. THE  
25 DEPARTMENT SHALL ESTABLISH BY ORDER REGULATIONS GOVERNING THE IDENTIFI-  
26 CATION AND TRANSPORTATION OF TROUT RAISED UNDER SUCH A PERMIT, OTHER  
27 THAN BY INDIVIDUAL TAGGING, WHICH ARE OFFERED FOR SALE, SOLD OR TRANS-  
28 PORTED.

29 2. THE DEPARTMENT IN ITS DISCRETION MAY ISSUE TO ANY PERSON A HATCHERY  
30 PERMIT, VALID DURING THE CALENDAR YEAR OF ISSUE, TO PROPAGATE, RAISE AND  
31 SELL BLACK BASS. THE DEPARTMENT SHALL ESTABLISH BY ORDER REGULATIONS  
32 GOVERNING THE IDENTIFICATION AND TRANSPORTATION OF BLACK BASS RAISED  
33 UNDER SUCH A PERMIT, OTHER THAN BY INDIVIDUAL TAGGING, WHICH ARE OFFERED  
34 FOR SALE, SOLD OR TRANSPORTED.

35 S 102. EXAMINATION OF REGULATORY POLICIES. IN ORDER TO ACHIEVE THE  
36 GOALS SET FORTH IN SECTION ONE HUNDRED OF THIS ARTICLE, THE STATE SHALL  
37 EXAMINE AVAILABLE REGULATORY AND POLICY CHANGES THAT WOULD IMPROVE THE  
38 PROFITABILITY OF AQUACULTURE IN NEW YORK AND ADOPT ONLY POLICIES THAT:

39 1. ALLOW FOR THE SALE OF LIVE FISH TO DOMESTIC MARKETS LEGALLY AND  
40 SAFELY;

41 2. ARE NOT OVERLY BURDENSOME TO THE OPERATOR OF AN AQUACULTURE FACILI-  
42 TY; AND

43 3. DO NOT REQUIRE INDIVIDUAL IDENTIFICATION OR TAGGING AS A METHOD OF  
44 TRACKING DOMESTICALLY-RAISED FISH.

45 S 103. AQUACULTURE TASK FORCE. 1. AN AQUACULTURE TASK FORCE IS HEREBY  
46 CREATED TO CONDUCT THE EXAMINATION DESCRIBED IN SECTION ONE HUNDRED TWO  
47 OF THIS ARTICLE AND DETERMINE THE VIABILITY OF ADOPTING A REGULATORY  
48 SYSTEM WITH PROMOTION AND PROTECTION OF THE AQUACULTURE INDUSTRY AS ITS  
49 GOAL FOR THE STATE.

50 2. THE TASK FORCE SHALL CONSIST OF TEN MEMBERS, EACH TO SERVE FOR A  
51 TERM OF TWO YEARS, TO BE APPOINTED AS FOLLOWS: ONE SHALL BE APPOINTED BY  
52 THE TEMPORARY PRESIDENT OF THE SENATE AND ONE BY THE MINORITY LEADER OF  
53 THE SENATE; ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND  
54 ONE BY THE MINORITY LEADER OF THE ASSEMBLY; AND SIX SHALL BE APPOINTED  
55 BY THE GOVERNOR. THE APPOINTEES SHALL BE BROADLY REPRESENTATIVE OF THE  
56 GEOGRAPHIC AREAS OF THE STATE AND INCLUDE REPRESENTATIVES OF THE AQUA-

1 CULTURE INDUSTRY, ETHNIC POPULATION AND LOCAL GOVERNMENT AND THE PUBLIC  
2 AT LARGE. NO MORE THAN FOUR APPOINTEES SHALL BE LEGISLATORS. COMMIS-  
3 SIONERS OF THE DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-  
4 TION SHALL BE EX-OFFICIO MEMBERS. THE GOVERNOR SHALL DESIGNATE THE  
5 CHAIRMAN AND VICE CHAIRMAN FROM AMONG HIS APPOINTEES. VACANCIES IN THE  
6 MEMBERSHIP OF THE COMMISSION AND AMONG ITS OFFICERS SHALL BE FILLED IN  
7 THE MANNER PROVIDED FOR ORIGINAL APPOINTMENTS.

8 3. THE TASK FORCE MAY EMPLOY AND AT PLEASURE REMOVE SUCH PERSONNEL AS  
9 IT MAY DEEM NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS AND FIX THEIR  
10 COMPENSATION WITHIN THE AMOUNTS MADE AVAILABLE THEREFOR.

11 4. THE TASK FORCE MAY MEET WITHIN AND WITHOUT THE STATE AND SHALL HOLD  
12 PUBLIC HEARINGS, AND SHALL HAVE ALL THE POWERS OF A LEGISLATIVE COMMIT-  
13 TEE PURSUANT TO THE LEGISLATIVE LAW.

14 5. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR  
15 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES  
16 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS ARTICLE.

17 6. TO THE MAXIMUM EXTENT FEASIBLE, THE TASK FORCE SHALL BE ENTITLED TO  
18 REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILI-  
19 TIES, RESOURCES, AND DATA OF ANY COURT, DEPARTMENT, DIVISION, BOARD,  
20 BUREAU, COMMISSION, OR AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION  
21 THEREOF AS IT MAY REASONABLY REQUEST TO CARRY OUT PROPERLY ITS POWERS  
22 AND DUTIES PURSUANT TO THIS ARTICLE.

23 7. THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS OF THE  
24 SUSTAINABLE DEVELOPMENT TASK FORCE ON OR BEFORE NINETY DAYS AFTER THE  
25 EFFECTIVE DATE OF THIS SECTION AND THE TASK FORCE SHALL CONVENE ITS  
26 FIRST MEETING ON OR BEFORE SIXTY DAYS THEREAFTER.

27 8. THE TASK FORCE SHALL MAKE A PRELIMINARY REPORT TO THE GOVERNOR AND  
28 THE LEGISLATURE OF ITS FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS BY  
29 APRIL FIRST OF THE CALENDAR YEAR NEXT SUCCEEDING THE CALENDAR YEAR IN  
30 WHICH THIS ARTICLE TOOK EFFECT AND A FINAL REPORT OF ITS FINDINGS,  
31 CONCLUSIONS, AND RECOMMENDATIONS NOT LATER THAN DECEMBER THIRTY-FIRST OF  
32 THE CALENDAR YEAR NEXT SUCCEEDING THE CALENDAR YEAR IN WHICH THIS ARTI-  
33 CLE TOOK EFFECT, AND SHALL SUBMIT WITH ITS REPORTS SUCH LEGISLATIVE  
34 PROPOSALS AS IT DEEMS NECESSARY TO IMPLEMENT ITS RECOMMENDATIONS.

35 S 5. This act shall take effect immediately.