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

5838

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to the management of American lobster; to amend chapter 211 of the laws of 2008 amending the environmental conservation law relating to the management of American lobsters, in relation to the effectiveness thereof; to repeal section 2 of such chapter relating to the management of American lobsters; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Paragraphs a and d of subdivision 5 of section 13-0329 of the environmental conservation law, paragraph a as amended by section 1 of chapter 211 of the laws of 2008 and paragraph d as added by chapter 357 of the laws of 1998, are amended to read as follows:

a. Except as provided in subdivisions 13 [and], 16 AND 18 of this section, only lobsters measuring three and three-eighths inches or more and five and one-quarter inches or less may be taken, possessed, bought, sold, imported and exported. All measurements are from the rear end of the eye socket along a line parallel to the center line of the body shell (carapace) to the rear end of the body shell (carapace).

d. The landing or possession, IN THE MARINE DISTRICT, of lobster, or parts thereof, not in the shell, detached lobster tails or claws, or any other part of a lobster that has been separated from the lobster BY ANY PERSON WHO HAS A LOBSTER PERMIT ISSUED BY THE STATE is prohibited. [This prohibition applies to any lobstermen licensed by the state.]

S 2. Section 13-0329 of the environmental conservation law is amended by adding three new subdivisions 17, 18 and 19 to read as follows:

17. A. NO LOBSTER MAY BE TAKEN FROM ATLANTIC STATES MARINE FISHERIES COMMISSION AREA SIX FROM SEPTEMBER EIGHTH THROUGH NOVEMBER TWENTY-EIGHTH PURSUANT TO THE RECOMMENDATIONS OF THE AREA'S LOBSTER CONSERVATION

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

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MANAGEMENT TEAM AS REQUIRED BY THE INTERSTATE FISHERY PLAN FOR LOBSTERS ADOPTED BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION.

B. DURING THE SEPTEMBER EIGHTH THROUGH NOVEMBER TWENTY-EIGHTH CLOSURE, LOBSTER PERMIT HOLDERS WHO USE LOBSTER TRAPS OR POTS SHALL REMOVE LOBSTER TRAPS AND POTS FROM THE WATER BY SEPTEMBER TWENTY-SECOND.

C. NO LOBSTER TRAP OR POT MAY BE IN THE WATER FROM SEPTEMBER TWENTY-SECOND UNTIL NOVEMBER FOURTEENTH UNLESS THE LOBSTER PERMIT HOLDER ALSO HOLDS A PERMIT OR LICENSE THAT AUTHORIZES THEM TO HARVEST OTHER SPECIES FROM THEIR LOBSTER TRAPS OR POTS.

D. LOBSTER PERMIT HOLDERS MAY SET UNBAITED LOBSTER TRAPS OR POTS BEGINNING NOVEMBER FOURTEENTH.

E. LOBSTER PERMIT HOLDERS MAY SET BAITED LOBSTER TRAPS OR POTS BEGINNING NOVEMBER TWENTY-FIRST.

18. A. LOBSTERS GREATER IN LENGTH THAN PROVIDED IN SUBDIVISION 5 OF THIS SECTION MAY BE IMPORTED INTO THE STATE AND POSSESSED FOR EXPORTATION PROVIDED THAT:

I. THE LOBSTERS WERE LEGALLY TAKEN IN THE STATE OR COUNTRY WHERE THE LOBSTERS WERE LANDED, AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTERS WERE TAKEN;

II. THE LOBSTERS WERE PLACED IN CONTAINERS AND SEALED WITH TAMPER PROOF SEALS ACCEPTABLE TO THE DEPARTMENT IN THE STATE OR COUNTRY WHERE THE LOBSTERS WERE LANDED;

III. THE LOBSTERS REMAIN IN THE SEALED CONTAINERS AT ALL TIMES WHILE THE LOBSTERS ARE POSSESSED IN THE STATE, INCLUDING THE PLACEMENT OF THE SEALED CONTAINERS IN HOLDING TANKS IN THE STATE;

IV. EACH SEALED CONTAINER IS ACCOMPANIED WITH A LABEL, INVOICE, BILL OF LADING, PURCHASE ORDER OR MANIFEST IDENTIFYING THE STATE OR COUNTRY WHERE THE LOBSTERS WERE LANDED, AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTERS WERE TAKEN, THE NUMBER OF LOBSTERS CONTAINED THEREIN, AND THE DATE THE CONTAINER WAS SEALED; AND

V. THE LOBSTERS ARE IMPORTED, POSSESSED AND EXPORTED TO OR BY A PERSON LICENSED PURSUANT TO SECTION 13-0334 OF THIS TITLE.

B. LOBSTERS GREATER IN LENGTH THAN PROVIDED IN SUBDIVISION 5 OF THIS SECTION MAY BE IMPORTED, POSSESSED, SOLD OR OFFERED FOR SALE IN THE STATE PROVIDED THAT:

I. THE LOBSTERS WERE LEGALLY TAKEN IN THE STATE OR COUNTRY WHERE THE LOBSTERS WERE LANDED, AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTERS WERE TAKEN;

II. EACH LOBSTER IS TAGGED IN THE STATE OR COUNTRY WHERE THE LOBSTER WAS LANDED WITH A TAMPER RESISTANT TAG ACCEPTABLE TO THE DEPARTMENT. THE TAG SHALL BE ATTACHED TO THE LOBSTER AND IDENTIFY THE STATE OR COUNTRY WHERE THE LOBSTER WAS LANDED AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTER WAS TAKEN;

III. THE TAG MUST REMAIN ON THE LOBSTER UNTIL IT IS SOLD TO THE END CONSUMER IN THE STATE, INCLUDING WHILE IN A HOLDING TANK IN A RESTAURANT OR RETAIL OUTLET;

IV. EACH SHIPMENT OF TAGGED LOBSTERS IS ACCOMPANIED WITH A LABEL, INVOICE, BILL OF LADING, PURCHASE ORDER OR MANIFEST IDENTIFYING THE STATE OR COUNTRY AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTERS WERE TAKEN, THE NUMBER OF LOBSTERS CONTAINED THEREIN, AND THE DATE OR DATES THE LOBSTERS WERE HARVESTED; AND

V. THE LOBSTERS ARE IMPORTED, POSSESSED AND SOLD OR OFFERED FOR SALE IN THE STATE BY A PERSON LICENSED PURSUANT TO SECTION 13-0334 OF THIS TITLE.

C. THE DEPARTMENT MAY PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THIS SUBDIVISION.

19. LOBSTERS, OR PARTS THEREOF, NOT IN THE SHELL, DETACHED LOBSTER TAILS OR CLAWS, OR ANY OTHER PART OF A LOBSTER THAT HAS BEEN SEPARATED FROM THE LOBSTER MAY ONLY BE POSSESSED, PURCHASED, OFFERED FOR SALE, TRADE OR BARTER, IMPORTED, OR EXPORTED, PROVIDED:

A. THE LOBSTER WAS LEGALLY TAKEN IN THE STATE OR COUNTRY WHERE THE LOBSTER WAS LANDED, AND, IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA WHERE THE LOBSTER WAS TAKEN;

B. THE LOBSTER PARTS ARE PACKAGED WITH LABELS IDENTIFYING THE STATE, OR COUNTRY WHERE THE LOBSTER WAS TAKEN AND IF APPLICABLE, THE ATLANTIC STATES MARINE FISHERIES COMMISSION AREA. LOBSTER PARTS MUST BE PACKAGED AND PROPERLY LABELED PRIOR TO BEING POSSESSED, SOLD, PURCHASED OR IMPORTED IN THE STATE.

S 3. Section 13-0334 of the environmental conservation law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. A LICENSED DEALER OR SHIPPER MAY ONLY IMPORT, EXPORT, POSSESS, OR OFFER FOR SALE, BARTER, OR TRADE, LOBSTERS GREATER IN LENGTH THAN PROVIDED BY SUBDIVISION 5 OF SECTION 13-0329 OF THIS TITLE IF:

A. THE LICENSED DEALER OR SHIPPER HAS NOTIFIED THE DEPARTMENT IN WRITING PRIOR TO TAKING SUCH ACTION ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

B. THE LOBSTERS ARE IN A SECURED CONTAINER IN ACCORDANCE WITH PARAGRAPH A OF SUBDIVISION 18 OF SECTION 13-0329 OF THIS TITLE OR TAGGED IN ACCORDANCE WITH PARAGRAPH B OF SUBDIVISION 18 OF SECTION 13-0329 OF THIS TITLE.

7. NO PERSON LICENSED AS A DEALER OR SHIPPER MAY IMPORT, EXPORT, POSSESS, OR OFFER FOR SALE, BARTER, TRADE, LOBSTERS, OR PARTS THEREOF, NOT IN THE SHELL, DETACHED LOBSTER TAILS OR CLAWS, OR ANY OTHER PART OF A LOBSTER THAT HAS BEEN SEPARATED FROM THE LOBSTER EXCEPT AS AUTHORIZED BY SUBDIVISION 19 OF SECTION 13-0329 OF THIS TITLE.

S 4. Section 2 of chapter 211 of the laws of 2008 amending the environmental conservation law relating to the management of American lobsters is REPEALED.

S 5. Section 3 of chapter 211 of the laws of 2008 amending the environmental conservation law relating to the management of American lobsters is amended to read as follows:

S 3. This act shall take effect July 1, 2008[; provided however that section two of this act shall take effect on the effective date of an alternative conservation-equivalent plan approved by the Atlantic States Marine Fisheries Commission which achieves equivalent conservation value in place of the required three and three-eighths inches minimum gauge length for American lobster in Atlantic States Marine Fisheries Commission Lobster Conservation Management Area 6, provided that the commissioner of environmental conservation shall notify the legislative bill drafting commission of the effective date of such alternative conservation - equivalent plan in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting provisions of section 44 of the legislative law and section 70-b of the public officers law].

S 6. This act shall take effect on the thirtieth day after it shall have become a law; provided that subdivision 17 of section 13-0329 of the environmental conservation law, as added by section two of this act, shall expire and be deemed repealed December 31, 2016.