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

S. 3060 A. 3889

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

January 29, 2013

IN SENATE -- Introduced by Sens. LAVALLE, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

IN ASSEMBLY -- Introduced by M. of A. THIELE, LOSQUADRO -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the powers and duties of enforcement officers

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

Section 1. Paragraphs e and f of subdivision 4 of section 71-0907 of the environmental conservation law, subparagraph 5 of paragraph f as added by chapter 366 of the laws of 1981, are amended to read as follows:

e. To seize as evidence [without warrant] any fish, shellfish, crustacea, wildlife, game, or parts thereof, protected insects or plumage [as defined in section 11-1729,] whenever they have cause to believe it is possessed or transported in violation of law, or it bears evidence of illegal taking, or it is possessed or transported under circumstances making the possession or transportation presumptive evidence of illegal taking;

f. To seize as evidence [without warrant]

(1) Any net, trap or other device constituting a nuisance as defined in section 71-0915 OF THIS TITLE;

(2) Any net, trap or device other than a boat, a vehicle, or aircraft or a firearm when they have cause to believe that its possession or use is in violation of any provision of the Fish and Wildlife Law or regulation pursuant thereto;

(3) Any firearm, when they have cause to believe that it has been used in a violation of the Fish and Wildlife Law constituting a misdemeanor involving the illegal taking or attempting to take wild deer;

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

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(4) Any rakes, tongs, dredges, or device other than a boat or vehicle used, or in possession for purpose of use, for the taking of shellfish in violation of [subdivisions] SUBDIVISION 1 or 2 of section 13-0309 OF THIS CHAPTER. For the purposes of this paragraph "device" includes a bird, dog, or other animal used in or as an aid in taking fish or wildlife, any jack light, spot light or other artificial light other than a headlight attached in proper position to a motor vehicle, any hunting appliance or apparatus and any fishing or netting gear or tackle. This paragraph does not limit any power of seizure pursuant to warrant.

(5) Any boat or vehicle, when they have probable cause to believe it has been used for the taking of shellfish in violation of subdivision 2 or 3 of section 13-0309 of this chapter by a person possessing, at the time of such use, commercial shellfish harvesting gear or shellfish in excess of two pecks. For the purposes of this subparagraph "commercial shellfish harvesting gear" shall mean rakes, tongs, dredges and other devices commonly used to harvest shellfish for commercial purposes.

S 2. This act shall take effect immediately.