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I N S E N A T E

June 13, 2014

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to aquatic invasive species, spread prevention, and penalties

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

1 Section 1. The environmental conservation law is amended by adding a  
2 new section 9-1710 to read as follows:

3 S 9-1710. AQUATIC INVASIVE SPECIES; SPREAD PREVENTION.

4 1. FOR PURPOSES OF THIS SECTION:

5 (A) "ANIMAL" SHALL MEAN EVERY LIVING AND NON-LIVING CREATURE EXCEPT A  
6 HUMAN BEING, DOG OR OTHER COMPANION ANIMAL AS DEFINED IN SECTION THREE  
7 HUNDRED FIFTY OF THE AGRICULTURE AND MARKETS LAW.

8 (B) "WATERCRAFT" SHALL MEAN EVERY MOTORIZED OR NON-MOTORIZED BOAT OR  
9 VEHICLE CAPABLE OF BEING USED OR OPERATED AS A MEANS OF TRANSPORTATION  
10 OR RECREATION IN OR ON WATER.

11 (C) "LAUNCH" SHALL MEAN TO PLACE A WATERCRAFT INTO A WATERBODY FOR ANY  
12 PURPOSE, INCLUDING BY TRAILER OR OTHER DEVICE OR CARRYING BY HAND A  
13 WATERCRAFT INTO THE WATERBODY.

14 2. NO PERSON SHALL LAUNCH, OR ATTEMPT TO LAUNCH A WATERCRAFT FROM A  
15 BOAT LAUNCHING SITE, A FISHING ACCESS SITE, OR ANY OTHER SITE FROM WHICH  
16 A WATERCRAFT MAY BE LAUNCHED, OR LEAVE FROM THESE SITES WITH ANY PLANT  
17 OR ANIMAL, OR PARTS THEREOF, VISIBLE TO THE HUMAN EYE, IN, ON, OR  
18 ATTACHED TO ANY PART OF THE WATERCRAFT, INCLUDING LIVEWELLS, THE MOTOR,  
19 RUDDER, ANCHOR OR OTHER APPURTENANCE; ANY EQUIPMENT; OR THE TRAILING OR  
20 ANY OTHER DEVICE USED TO TRANSPORT OR LAUNCH A WATERCRAFT THAT MAY COME  
21 INTO CONTACT WITH THE WATER, UNLESS IT CAN BE DEMONSTRATED THAT REASON-  
22 ABLE PRECAUTIONS HAVE BEEN TAKEN TO SATISFY THIS SECTION OR ARE OTHER-  
23 WISE AUTHORIZED BY THE DEPARTMENT.

24 3. NO PERSON SHALL LAUNCH, OR ATTEMPT TO LAUNCH A WATERCRAFT FROM A  
25 BOAT LAUNCHING SITE, A FISHING ACCESS SITE, OR ANY OTHER SITE FROM WHICH  
26 A WATERCRAFT MAY BE LAUNCHED, OR LEAVE FROM THESE SITES WITHOUT DRAINING  
27 THE WATERCRAFT, INCLUDING BILGE AREAS, LIVEWELLS, BAIT WELLS AND BALLAST  
28 TANKS, UNLESS IT CAN BE DEMONSTRATED THAT REASONABLE PRECAUTIONS HAVE

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

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1 BEEN TAKEN TO SATISFY THIS SECTION OR ARE OTHERWISE AUTHORIZED BY THE  
2 DEPARTMENT.

3 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO:

4 (A) NATIVE PLANTS AFFIXED TO OR TRANSPORTED IN WATERCRAFT FOR USE AS  
5 CAMOUFLAGE FOR HUNTING OR WILDLIFE VIEWING PURPOSES.

6 (B) BAIT, INCLUDING BAITFISH, THAT CAN LEGALLY BE USED ON A WATERBODY  
7 AND IS POSSESSED CONSISTENT WITH ALL APPLICABLE LAW AND REGULATIONS.

8 (C) LEGALLY TAKEN GAME AS DEFINED IN SUBDIVISION 2 OF SECTION 11-0103  
9 OF THIS CHAPTER OR FISH AS DEFINED IN PARAGRAPH A OF SUBDIVISION 1 OF  
10 SUCH SECTION.

11 (D) THE USE OF PLANTS OR ANIMALS FOR HABITAT RESTORATION, WEED  
12 CONTROL, SCIENTIFIC RESEARCH, AQUACULTURE, OR OTHER ACTIVITY, CONSISTENT  
13 WITH ALL APPLICABLE LAWS AND REGULATIONS RELATED TO THEIR USE,  
14 POSSESSION OR HARVEST.

15 (E) INTENTIONAL TRANSPORT OF PLANTS OR ANIMALS NOT DEFINED IN LAW  
16 RULES OR REGULATIONS AS INVASIVE SPECIES CONTAINED WITHIN A WATERCRAFT,  
17 INCLUDING FOOD FOR HUMAN CONSUMPTION.

18 S 2. Section 71-0703 of the environmental conservation law is amended  
19 by adding a new subdivision 10 to read as follows:

20 10. ANY PERSON WHO VIOLATES SECTION 9-1710 OF THIS CHAPTER SHALL BE  
21 GUILTY OF A VIOLATION AND SHALL BE PUNISHABLE AND LIABLE TO A CIVIL  
22 PENALTY AS PROVIDED IN SUBDIVISION 1 OF THIS SECTION, PROVIDED, HOWEVER,  
23 THAT FOR ANY FIRST VIOLATION IN LIEU OF A PENALTY THERE MAY BE ISSUED A  
24 WRITTEN WARNING BY THE DEPARTMENT AND THERE MAY ALSO BE ISSUED EDUCATION  
25 MATERIALS AT THE DISCRETION OF THE DEPARTMENT REGARDING REQUIREMENTS  
26 RELATED TO INVASIVE SPECIES. SUCH PERSON SHALL BE SUBJECT TO A FINE OF  
27 UP TO ONE HUNDRED FIFTY DOLLARS FOR A SECOND OFFENSE, UP TO TWO HUNDRED  
28 FIFTY DOLLARS FOR A THIRD OFFENSE, AND NO LESS THAN TWO HUNDRED FIFTY  
29 DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR A THIRD OR SUBSEQUENT  
30 OFFENSE.

31 S 3. Subdivision 1 of section 11-0323 of the environmental conserva-  
32 tion law, as separately amended by section 19 of part H of chapter 58  
33 and chapter 342 of the laws of 2012, is amended to read as follows:

34 1. The department shall compile and index each year after the adjourn-  
35 ment of the legislature the laws relating to fish and wildlife, as well  
36 as invasive species (as defined in section 9-1703 AND 9-1710 of this  
37 chapter), as amended to date. Copies of the compilation shall be printed  
38 in pamphlet form of pocket size in the number for which the legislature  
39 may appropriate funds.

40 S 4. Within one year from enactment of this act the department of  
41 environmental conservation shall issue regulations establishing what  
42 constitutes reasonable precautions that need to be taken to satisfy this  
43 section and otherwise needed for the implementation of this section.

44 S 5. This act shall take effect on the ninetieth day after it shall  
45 have become a law.