

7851--A

I N   S E N A T E

June 13, 2014

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Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 9-1711 to read as follows:

3     S 9-1711. 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

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

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1 THE WATERCRAFT, INCLUDING BILGE AREAS, LIVEWELLS, BAIT WELLS AND BALLAST  
2 TANKS, UNLESS IT CAN BE DEMONSTRATED THAT REASONABLE PRECAUTIONS HAVE  
3 BEEN TAKEN TO SATISFY THIS SECTION OR ARE OTHERWISE AUTHORIZED BY THE  
4 DEPARTMENT.

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

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

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

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

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

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

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

22 10. ANY PERSON WHO VIOLATES SECTION 9-1711 OF THIS CHAPTER SHALL BE  
23 GUILTY OF A VIOLATION AND SHALL BE PUNISHABLE AND LIABLE TO A CIVIL  
24 PENALTY AS PROVIDED IN SUBDIVISION 1 OF THIS SECTION, PROVIDED, HOWEVER,  
25 THAT FOR ANY FIRST VIOLATION IN LIEU OF A PENALTY THERE SHALL BE ISSUED  
26 A WRITTEN WARNING BY THE DEPARTMENT AND THERE SHALL ALSO BE ISSUED  
27 EDUCATION MATERIALS AT THE DISCRETION OF THE DEPARTMENT REGARDING  
28 REQUIREMENTS RELATED TO INVASIVE SPECIES. SUCH PERSON SHALL BE SUBJECT  
29 TO A FINE OF UP TO ONE HUNDRED FIFTY DOLLARS FOR A SECOND OFFENSE, UP TO  
30 TWO HUNDRED FIFTY DOLLARS FOR A THIRD OFFENSE, AND NO LESS THAN TWO  
31 HUNDRED FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR A FOURTH OR  
32 SUBSEQUENT OFFENSE.

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

36 1. The department shall compile and index each year after the adjourn-  
37 ment of the legislature the laws relating to fish and wildlife, as well  
38 as invasive species (as defined in section 9-1703 AND 9-1711 of this  
39 chapter), as amended to date. Copies of the compilation shall be printed  
40 in pamphlet form of pocket size in the number for which the legislature  
41 may appropriate funds.

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

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