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I N   S E N A T E

April 6, 2016

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Introduced by Sen. O'MARA -- (at request of the Department of Environmental Conservation) -- 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 the management of certain marine species by order, crab permits, and whelk sales

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

1     Section 1. Subdivision 3 of section 11-0303 of the environmental  
2     conservation law, as amended by chapter 193 of the laws of 2015, is  
3     amended to read as follows:  
4     3. The department may, until December thirty-first, two thousand eigh-  
5     teen, fix by ORDER OR regulation measures for the management of striped  
6     bass, including size limits, catch and possession limits, open and  
7     closed seasons, closed areas, restrictions on the manner of taking and  
8     landing, requirements for permits and eligibility therefor, recordkeep-  
9     ing requirements, requirements on the amount and type of fishing effort  
10    and gear, and requirements relating to transportation, possession and  
11    sale, provided that such regulations OR ORDERS are no less restrictive  
12    than requirements set forth in this chapter and provided further that  
13    such regulations OR ORDERS are consistent with the compliance require-  
14    ments of applicable fishery management plans adopted by the Atlantic  
15    States Marine Fisheries Commission and with applicable provisions of  
16    fishery management plans adopted pursuant to the Federal Fishery Conser-  
17    vation and Management Act (16 U.S.C. S 1800 et seq.). THE COMMISSIONER  
18    MAY ISSUE ORDERS FOR THE PURPOSE OF ESTABLISHING SIZE, CATCH AND  
19    POSSESSION LIMITS AND OPEN AND CLOSED SEASONS NECESSARY TO IMPLEMENT  
20    INTERSTATE OR STATE-FEDERAL INTERJURISDICTIONAL MANAGEMENT PLANS. NOTICE  
21    OF THE REQUIREMENTS ADOPTED BY SUCH ORDER SHALL BE PROVIDED BY DEPART-  
22    MENT PRESS RELEASE AND ANY OTHER MEANS THAT THE DEPARTMENT DETERMINES TO  
23    BE APPROPRIATE AND EFFECTIVE, INCLUDING POSTING ON THE DEPARTMENT'S  
24    PUBLIC WEBSITE AT LEAST 10 DAYS PRIOR TO THE EFFECTIVE DATE. SUCH ORDER  
25    SHALL BE FILED IN THE COMMISSIONER'S OFFICE AND A CERTIFIED COPY SHALL  
26    BE FILED IN THE OFFICE OF THE SECRETARY OF THE STATE.

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

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1 S 2. Subdivision 2 of section 13-0105 of the environmental conserva-  
2 tion law, as added by chapter 365 of the laws of 1994, is amended to  
3 read as follows:

4 2. Prior to proposing regulations OR ORDERS for the management of  
5 marine fish, mollusks (Phylum mollusca) or crustaceans (Class crustacea)  
6 found in the marine and coastal district, the department shall identify  
7 recreational and commercial fisheries interests which may be affected by  
8 the proposed regulations OR ORDERS and directly consult with such inter-  
9 ests. Such consultation may include, as appropriate, the conduct of  
10 meetings with invited representatives of fisheries interests, public  
11 information meetings, public hearings, direct mailings of information  
12 and public comment solicitations, and publication of proposals and  
13 comment solicitations in trade publications, and other measures. Such  
14 consultation shall include a meeting with the marine resources advisory  
15 council. No consultation shall be required prior to proposing emergency  
16 regulations. THE COMMISSIONER MAY ISSUE ORDERS FOR THE PURPOSE OF ESTAB-  
17 LISHING SIZE, CATCH AND POSSESSION LIMITS AND OPEN AND CLOSED SEASONS  
18 NECESSARY TO IMPLEMENT INTERSTATE OR STATE-FEDERAL INTERJURISDICTIONAL  
19 MANAGEMENT PLANS. NOTICE OF THE REQUIREMENTS ADOPTED BY SUCH ORDER SHALL  
20 BE PROVIDED BY DEPARTMENT PRESS RELEASE AND ANY OTHER MEANS THAT THE  
21 DEPARTMENT DETERMINES TO BE APPROPRIATE AND EFFECTIVE, INCLUDING POSTING  
22 ON THE DEPARTMENT'S PUBLIC WEBSITE AT LEAST TEN DAYS PRIOR TO THE EFFEC-  
23 TIVE DATE. SUCH ORDER SHALL BE FILED IN THE COMMISSIONER'S OFFICE AND A  
24 CERTIFIED COPY SHALL BE FILED IN THE OFFICE OF THE SECRETARY OF THE  
25 STATE.

26 S 3. Subdivision 16 of section 13-0329 of the environmental conserva-  
27 tion law, as amended by chapter 132 of the laws of 2015, is amended to  
28 read as follows:

29 16. The department may, until December thirty-first, two thousand  
30 eighteen, adopt regulations OR ORDERS for Atlantic States Marine Fisher-  
31 ies Commission Areas One, Two, Three, Four, Five, and Outer Cape Cod, to  
32 implement conservation measures that affect landings of lobsters, pursu-  
33 ant to the recommendations of the respective Area's Lobster Conservation  
34 Management Team as required by the Interstate Fishery Management Plan  
35 for American Lobster adopted by the Atlantic States Marine Fisheries  
36 Commission.

37 S 4. Subdivision 1 of section 13-0339 of the environmental conserva-  
38 tion law, as amended by chapter 156 of the laws of 2003, is amended to  
39 read as follows:

40 1. a. The taking of fish with nets in the marine and coastal district  
41 is governed by sections 13-0333, 13-0335, 13-0341, 13-0343, 13-0347 and  
42 11-1521, and regulations OR ORDERS adopted pursuant to sections 11-0303,  
43 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c,  
44 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter. The  
45 taking of fish by other means, in the marine and coastal district, is  
46 governed by title 13 of article 11 of the Fish and Wildlife Law, subject  
47 to restrictions in section 13-0343 as to certain waters, and to  
48 provisions of sections 13-0347 and 11-1521 and regulations OR ORDERS  
49 adopted pursuant to section 11-0303 of this chapter as to striped bass  
50 and sections 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b,  
51 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g as to other  
52 species of marine fish. The taking, and sale or taking for sale, of  
53 certain bait fish are governed by section 11-1315 of this chapter.

54 b. Open seasons, minimum size limits and catch limits for fish other  
55 than the marine species named in subdivisions 2 and 3 of this section  
56 are specified by regulations OR ORDERS adopted pursuant to sections

1 11-0303, 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b,  
2 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chap-  
3 ter. All shortnose sturgeon irrespective of size and all Atlantic stur-  
4 geon under the size limits prescribed by regulations OR ORDERS adopted  
5 pursuant to section 11-1303 of this chapter taken in gill nets shall be  
6 immediately returned to the water without unnecessary injury. Other fish  
7 named by regulations OR ORDERS adopted pursuant to sections 11-0303,  
8 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c,  
9 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter and under  
10 the size limits prescribed in such regulations OR ORDERS, shall not be  
11 bought, sold or trafficked in.

12 c. The sale, possession and transportation of fish, other than the  
13 marine species named in subdivisions 2 and 3 of this section are  
14 governed by sections 11-1319, 11-1521 and 13-0347, and regulations OR  
15 ORDERS adopted pursuant to sections 11-0303, 11-1303, 13-0338,  
16 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d,  
17 13-0340-e, 13-0340-f and 13-0340-g of this chapter.

18 S 5. Section 13-0340 of the environmental conservation law, as amended  
19 by chapter 166 of the laws of 2014, is amended to read as follows:

20 S 13-0340. Bluefish (*Pomatomus saltatrix*).

21 The department may, until December thirty-first, two thousand sixteen,  
22 fix by ORDER OR regulation measures for the management of bluefish  
23 (*Pomatomus saltatrix*), including size limits, catch and possession  
24 limits, open and closed seasons, closed areas, restrictions on the  
25 manner of taking and landing, requirements for permits and eligibility  
26 therefor, recordkeeping requirements, requirements on the amount and  
27 type of fishing effort and gear, and requirements relating to transpor-  
28 tation, possession and sale, provided that such regulations OR ORDERS  
29 are no less restrictive than requirements set forth in this chapter and  
30 provided further that such regulations OR ORDERS are consistent with the  
31 compliance requirements of applicable fishery management plans adopted  
32 by the Atlantic States Marine Fisheries Commission and with applicable  
33 provisions of fishery management plans adopted pursuant to the Federal  
34 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

35 S 6. Section 13-0340-a of the environmental conservation law, as  
36 amended by chapter 161 of the laws of 2014, is amended to read as  
37 follows:

38 S 13-0340-a. Weakfish (*Cynoscion regalis*).

39 The department may, until December thirty-first, two thousand sixteen,  
40 fix by ORDER OR regulation measures for the management of weakfish  
41 (*Cynoscion regalis*), including size limits, catch and possession limits,  
42 open and closed seasons, closed areas, restrictions on the manner of  
43 taking and landing, requirements for permits and eligibility therefor,  
44 recordkeeping requirements, requirements on the amount and type of fish-  
45 ing effort and gear, and requirements relating to transportation,  
46 possession and sale, provided that such regulations OR ORDERS are no  
47 less restrictive than requirements set forth in this chapter and  
48 provided further that such regulations OR ORDERS are consistent with the  
49 compliance requirements of applicable fishery management plans adopted  
50 by the Atlantic States Marine Fisheries Commission and with applicable  
51 provisions of fishery management plans adopted pursuant to the Federal  
52 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

53 S 7. Section 13-0340-b of the environmental conservation law, as  
54 amended by chapter 189 of the laws of 2015, is amended to read as as  
55 follows:

56 S 13-0340-b. Fluke - summer flounder (*Paralichthys dentatus*).

1 The department may, until December thirty-first, two thousand seven-  
2 teen, fix by ORDER OR regulation measures for the management of fluke or  
3 summer flounder (*Paralichthys dentatus*), including size limits, catch  
4 and possession limits, open and closed seasons, closed areas,  
5 restrictions on the manner of taking and landing, requirements for  
6 permits and eligibility therefor, recordkeeping requirements, require-  
7 ments on the amount and type of fishing effort and gear, and require-  
8 ments relating to transportation, possession and sale, provided that  
9 such regulations OR ORDERS are no less restrictive than requirements set  
10 forth in this chapter and provided further that such regulations OR  
11 ORDERS are consistent with the compliance requirements of applicable  
12 fishery management plans adopted by the Atlantic States Marine Fisheries  
13 Commission and with applicable provisions of fishery management plans  
14 adopted pursuant to the Federal Fishery Conservation and Management Act  
15 (16 U.S.C. S 1800 et seq.).

16 S 8. Section 13-0340-c of the environmental conservation law, as  
17 amended by chapter 136 of the laws of 2015, is amended to read as  
18 follows:

19 S 13-0340-c. Winter flounder (*Pleurenectes americanus*).

20 The department may, until December thirty-first, two thousand seven-  
21 teen, fix by ORDER OR regulation measures for the management of winter  
22 flounder (*Pleurenectes americanus*), including size limits, catch and  
23 possession limits, open and closed seasons, closed areas, restrictions  
24 on the manner of taking and landing, requirements for permits and eligi-  
25 bility therefor, recordkeeping requirements, requirements on the amount  
26 and type of fishing effort and gear, and requirements relating to trans-  
27 portation, possession and sale, provided that such regulations OR ORDERS  
28 are no less restrictive than requirements set forth in this chapter and  
29 provided further that such regulations OR ORDERS are consistent with the  
30 compliance requirements of applicable fishery management plans adopted  
31 by the Atlantic States Marine Fisheries Commission and with applicable  
32 provisions of fishery management plans adopted pursuant to the Federal  
33 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

34 S 9. Subdivision 1 of section 13-0340-d of the environmental conserva-  
35 tion law, as amended by chapter 162 of the laws of 2014, is amended to  
36 read as follows:

37 1. The department may, until December thirty-first, two thousand  
38 sixteen, fix by ORDER OR regulation measures for the management of  
39 blackfish (*Tautoga onitis*), including size limits, catch and possession  
40 limits, open and closed seasons, closed areas, restrictions on the  
41 manner of taking and landing, requirements for permits and eligibility  
42 therefor, recordkeeping requirements, requirements on the amount and  
43 type of fishing effort and gear, and requirements relating to transpor-  
44 tation, possession and sale, provided that such regulations OR ORDERS  
45 are no less restrictive than requirements set forth in this chapter and  
46 provided further that such regulations OR ORDERS are consistent with the  
47 compliance requirements of applicable fishery management plans adopted  
48 by the Atlantic States Marine Fisheries Commission and with applicable  
49 provisions of fishery management plans adopted pursuant to the Federal  
50 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

51 S 10. Section 13-0340-e of the environmental conservation law, as  
52 amended by chapter 191 of the laws of 2015, is amended to read as  
53 follows:

54 S 13-0340-e. Scup (*Stenotomus chrysops*).

55 The department may, until December thirty-first, two thousand seven-  
56 teen, fix by ORDER OR regulation measures for the management of scup

1 (Stenotomus chrysops), including size limits, catch and possession  
2 limits, open and closed seasons, closed areas, restrictions on the  
3 manner of taking and landing, requirements for permits and eligibility  
4 therefor, recordkeeping requirements, requirements on the amount and  
5 type of fishing effort and gear, and requirements relating to transpor-  
6 tation, possession and sale, provided that such regulations OR ORDERS  
7 are no less restrictive than requirements set forth in this chapter and  
8 provided further that such regulations OR ORDERS are consistent with the  
9 compliance requirements of applicable fishery management plans adopted  
10 by the Atlantic States Marine Fisheries Commission and with applicable  
11 provisions of fishery management plans adopted pursuant to the Federal  
12 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

13 S 11. Section 13-0340-f of the environmental conservation law, as  
14 amended by chapter 194 of the laws of 2015, is amended to read as  
15 follows:

16 S 13-0340-f. Black sea bass (*Centropristis striata*).

17 The department may, until December thirty-first, two thousand seven-  
18 teen, fix by ORDER OR regulation measures for the management of black  
19 sea bass (*Centropristis striata*), including size limits, catch and  
20 possession limits, open and closed seasons, closed areas, restrictions  
21 on the manner of taking and landing, requirements for permits and eligi-  
22 bility therefor, recordkeeping requirements, requirements on the amount  
23 and type of fishing effort and gear and requirements relating to trans-  
24 portation, possession and sale, provided that such regulations OR ORDERS  
25 are no less restrictive than requirements set forth in this chapter and  
26 provided further that such regulations OR ORDERS are consistent with the  
27 compliance requirements of applicable fishery management plans adopted  
28 by the Atlantic States Marine Fisheries Commission and with applicable  
29 provisions of fishery management plans adopted pursuant to the Federal  
30 Fishery Conservation and Management Act (16 U.S.C. S 1800 et seq.).

31 S 12. Subdivision 1 of section 13-0331 of the environmental conserva-  
32 tion law, as amended by chapter 325 of the laws of 1999, is amended to  
33 read as follows:

34 1. No person shall take crabs, including horseshoe crabs (*Limulus* sp.)  
35 for commercial purposes without first obtaining a permit from the  
36 department. For purposes of this subdivision, a presumption of "commer-  
37 cial purposes" shall be made wherein one takes or lands more than fifty  
38 crabs in any one day or sells or barter or offers for sale or barter  
39 any crabs he or she has taken. Permits shall be issued to individuals  
40 only but may be endorsed for use on a vessel, in which case it shall  
41 cover all persons on board such vessel. THE PERMIT HOLDER MUST BE PRES-  
42 ENT AND ON BOARD SUCH VESSEL AT ALL TIMES WHILE THE PRIVILEGES OF SUCH  
43 PERMIT ARE BEING EXERCISED AND WHILE CRAB FISHING GEAR OWNED BY THE  
44 PERMIT HOLDER IS BEING SET OUT OR RETRIEVED.

45 S 13. Section 13-0334 of the environmental conservation law is amended  
46 by adding a new subdivision 8 to read as follows:

47 8. NO PERSON SHALL PURCHASE WHELK OR CONCH FROM A LICENSED HARVESTER  
48 FOR THE PURPOSES OF RESALE, TRADE OR BARTER, SHIPPING, TRANSPORT, OR  
49 OTHER TRAFFIC WITHOUT FIRST OBTAINING A VALID MARINE FOOD FISH AND CRUS-  
50 TACEAN DEALERS AND SHIPPER'S LICENSE FROM THE DEPARTMENT. SUCH PERSONS  
51 SHALL ALSO REPORT TO THE DEPARTMENT ALL TRANSACTIONS OF WHELK OR CONCH.

52 S 14. This act shall take effect immediately, provided however that  
53 the amendments to section 13-0331 and section 13-0334 of the environ-  
54 mental conservation law made by sections twelve and thirteen of this act  
55 shall take effect January 1, 2017.