

# STATE OF NEW YORK

10506--A

## IN ASSEMBLY

May 2, 2018

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to the taking of menhaden; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 13-0333 of the environmental conservation law,  
2 subdivisions 1 and 2 as amended by chapter 427 of the laws of 1979,  
3 subdivisions 3, 4 and 5 as amended and subdivisions 6, 7, 9, 10 and 11  
4 as added by chapter 60 of the laws of 1997, and paragraph b of subdivi-  
5 sion 4 and subdivision 8 as amended by chapter 156 of the laws of 1997,  
6 is amended to read as follows:  
7 § 13-0333. Menhaden; [~~license,~~] prohibited acts.  
8 [~~1-~~] Menhaden (*Brevoortia tyrannus*) from which oil or meal is made,  
9 subject to the provisions of section 13-0343, may **not** be taken from the  
10 waters of the marine district with a purse seine [~~provided a license is~~  
11 ~~first obtained from the department.~~  
12 ~~2. Each license shall be issued to cover one vessel and pertinent~~  
13 ~~equipment by which such fish are taken and shall be issued in the name~~  
14 ~~of the owner, lessee or operator of each vessel so used. License fees~~  
15 ~~shall be computed on the basis of gross tonnage of the vessel to be~~  
16 ~~licensed as indicated in the document, certificate of award, register,~~  
17 ~~registration, enrollment or license of such vessel issued by the United~~  
18 ~~States or any state.~~  
19 ~~3. The license fee shall be: For each vessel:~~  
20 ~~30 gross tons or less 25 dollars~~  
21 ~~more than 30 gross tons and less than~~  
22 ~~200 gross tons 500 dollars~~  
23 ~~more than 200 gross tons 2,000 dollars~~

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

LBD15436-02-8

1 ~~All licenses issued under this section shall expire on December 31~~  
2 ~~following date of issue.~~

3 ~~4. For the purpose of this chapter, commercial menhaden purse seines~~  
4 ~~may not be used or set.~~

5 ~~a. in the area of Long Island Sound extending west of an imaginary~~  
6 ~~line from the New York state-Connecticut boundary line (Byram River)~~  
7 ~~extending easterly and southerly to buoy 13 (off Eaton's Neck).~~

8 ~~b. in Long Island Sound south of a straight line one half mile seaward~~  
9 ~~of a straight line between buoy 13 (off Eaton's Neck) and buoy 9 (off~~  
10 ~~Sound Beach).~~

11 ~~Distances shall be determined from straight lines drawn between the~~  
12 ~~designated buoys and navigational aids.~~

13 ~~5. No person shall take menhaden by purse seining except during the~~  
14 ~~period commencing on the Monday following the fourth day of July and~~  
15 ~~ending on the third Friday in October. Nothing in this subdivision~~  
16 ~~shall be construed as legalizing the taking of menhaden by purse seining~~  
17 ~~on weekends or legal holidays during the period provided for in this~~  
18 ~~subdivision.~~

19 ~~6. The department shall, in consultation with the menhaden industry,~~  
20 ~~have the authority to require menhaden purse seine vessels to carry a~~  
21 ~~department approved observer during their operation in New York state~~  
22 ~~waters. Beginning July sixth, nineteen hundred ninety eight, the depart-~~  
23 ~~ment shall require menhaden purse seine vessels equal to or greater than~~  
24 ~~two hundred gross tons to carry a department approved observer during~~  
25 ~~their operation in New York state waters. Such observers shall independ-~~  
26 ~~ently note and record information, as directed by the department, on~~  
27 ~~such items as fishing location, menhaden catch, by catch, and any user~~  
28 ~~conflicts. The license holder for the vessel for which an observer is~~  
29 ~~required will be responsible for the costs of such observer. The~~  
30 ~~department shall promulgate rules and regulations to establish appropri-~~  
31 ~~ate procedures for the assessment and collection of costs for the~~  
32 ~~observers.~~

33 ~~7. The operator of a menhaden purse seine vessel shall report to the~~  
34 ~~department twenty four hours prior to entering the waters of the state~~  
35 ~~and shall submit to the department a regular and timely report of their~~  
36 ~~total harvest. The department shall develop regulations six months from~~  
37 ~~the effective date of this subdivision related to this reporting~~  
38 ~~requirement.~~

39 ~~8. The department shall, in cooperation with the Connecticut Depart-~~  
40 ~~ment of Environmental Protection and consistent with the Long Island~~  
41 ~~Sound Bi-state committee resolution regarding commercial menhaden fish-~~  
42 ~~ing, undertake a water quality assessment of the effect of menhaden~~  
43 ~~vessel fish hold waste on Long Island Sound water quality. The depart-~~  
44 ~~ment shall report back within one year of the effective date of this~~  
45 ~~subdivision thereon to the governor, the temporary president of the~~  
46 ~~senate, the speaker of the assembly, and the chairmen of the senate and~~  
47 ~~assembly environmental conservation committees with its findings and~~  
48 ~~recommendations for reducing or eliminating the adverse aesthetic,~~  
49 ~~ecological, and water quality impacts of said discharge.~~

50 ~~9. Licensees shall be legally and financially responsible for the~~  
51 ~~clean up of fish lost during any fishing or fish handling operations.~~  
52 ~~The department shall establish regulations to enforce this subdivision.~~

53 ~~10. The department shall adopt regulations to prohibit or further~~  
54 ~~limit menhaden fishing when required by, and consistent with, the Inter-~~  
55 ~~state Fishery Management plan for Atlantic menhaden adopted pursuant to~~

1 ~~the Fishery Conservation and Management Act (16 USC 1800 et seq.) and~~  
2 ~~adopted by the Atlantic States Marine Fisheries Commission.~~

3 ~~11. The department, in cooperation with the Connecticut Department of~~  
4 ~~Environmental Protection and consistent with the Long Island Sound~~  
5 ~~Bi-state committee resolution regarding commercial menhaden fishing,~~  
6 ~~shall evaluate the appropriateness and effectiveness of establishing a~~  
7 ~~limit on the number of purse seine vessels that may be allowed to fish~~  
8 ~~on Long Island Sound. The department shall, in cooperation with the~~  
9 ~~Connecticut Department of Environmental Protection and consistent with~~  
10 ~~the Long Island Sound Bi-state committee resolution regarding commercial~~  
11 ~~menhaden fishing, evaluate the benefits and effectiveness of establish-~~  
12 ~~ing a cap on the quantity of menhaden that can be harvested from Long~~  
13 ~~Island Sound in one year. The department shall, in consultation with the~~  
14 ~~menhaden fishing industry, investigate means of regulating the depth at~~  
15 ~~which menhaden purse seines are set with respect to the depth of the~~  
16 ~~water in their respective locations. The department shall, in cooper-~~  
17 ~~ation with the Connecticut Department of Environmental Protection and~~  
18 ~~consistent with the Long Island Sound Bi-state committee resolution~~  
19 ~~regarding commercial menhaden fishing, provide a report of its findings~~  
20 ~~and recommendations thereon to the governor, the temporary president of~~  
21 ~~the senate, the speaker of the assembly, and the chairmen of the senate~~  
22 ~~and assembly environmental conservation committees within one year of~~  
23 ~~the effective date of this subdivision].~~

24 § 2. Subdivision 2 of section 13-0343 of the environmental conserva-  
25 tion law, as amended by chapter 546 of the laws of 1981, is amended to  
26 read as follows:

27 2. In the waters of the marine district in the county of Richmond  
28 purse seines may not be used to take menhaden [~~when operated from~~  
29 ~~boats~~]; and nets of not more than ten feet in length, operated by hand,  
30 may be used to take minnows and shrimp for bait.

31 § 3. This act shall take effect January 1, 2020 and shall expire and  
32 be deemed repealed December 31, 2023.