STATE OF NEW YORK

6534

2017-2018 Regular Sessions

IN SENATE

June 1, 2017

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:

Section 1. Subdivision 3 of section 11-0303 of the environmental conservation law, as amended by chapter 193 of the laws of 2015, is amended to read as follows:

3. The department may, until December thirty-first, two thousand eighteen, fix by **order or** regulation measures for the management of striped bass, including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.). **The commissioner may issue orders for the purpose of establishing size, catch and possession limits and open and closed seasons necessary to implement interstate or state-federal interjurisdictional management plans. Notice of the requirements adopted by such order shall be provided by department press release and any other means that the department determines to be appropriate and effective, including posting on the department's**

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

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public website at least ten days prior to the effective date. Such order shall be filed in the commissioner's office and a certified copy shall be filed in the office of the secretary of the state.

§ 2. Subdivision 2 of section 13-0105 of the environmental conservation law, as added by chapter 365 of the laws of 1994, is amended to read as follows:

2. Prior to proposing regulations or orders for the management of marine fish, mollusks (Phylum mollusca) or crustaceans (Class crustacea) found in the marine and coastal district, the department shall identify recreational and commercial fisheries interests which may be affected by the proposed regulations or orders and directly consult with such interests. Such consultation may include, as appropriate, the conduct of meetings with invited representatives of fisheries interests, public information meetings, public hearings, direct mailings of information and public comment solicitations, and publication of proposals and comment solicitations in trade publications, and other measures. Such consultation shall include a meeting with the marine resources advisory council. No consultation shall be required prior to proposing emergency regulations. The commissioner may issue orders for the purpose of establishing size, catch and possession limits and open and closed seasons necessary to implement interstate or state-federal interjurisdictional management plans. Notice of the requirements adopted by such order shall be provided by department press release and any other means that the department determines to be appropriate and effective, including posting on the department's public website at least ten days prior to the effective date. Such order shall be filed in the commissioner's office and a certified copy shall be filed in the office of the secretary of the state.

§ 3. Subdivision 16 of section 13-0329 of the environmental conservation law, as amended by chapter 132 of the laws of 2015, is amended to read as follows:

16. The department may, until December thirty-first, two thousand eighteen, adopt regulations or orders for Atlantic States Marine Fisheries Commission Areas One, Two, Three, Four, Five, and Outer Cape Cod, to implement conservation measures that affect landings of lobsters, pursuant to the recommendations of the respective Area's Lobster Conservation Management Team as required by the Interstate Fishery Management Plan for American Lobster adopted by the Atlantic States Marine Fisheries Commission.

§ 4. Subdivision 1 of section 13-0339 of the environmental conservation law, as amended by chapter 156 of the laws of 2003, is amended to read as follows:

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

b. Open seasons, minimum size limits and catch limits for fish other than the marine species named in subdivisions 2 and 3 of this section are specified by regulations **or orders** adopted pursuant to sections 11-0303, 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter. All shortnose sturgeon irrespective of size and all Atlantic sturgeon under the size limits prescribed by regulations **or orders** adopted pursuant to section 11-1303 of this chapter taken in gill nets shall be immediately returned to the water without unnecessary injury. Other fish named by regulations **or orders** adopted pursuant to sections 11-0303, 11-1303, 13-0338, 13-0339-a, 13-0340, 13-0340-a, 13-0340-b, 13-0340-c, 13-0340-d, 13-0340-e, 13-0340-f and 13-0340-g of this chapter and under the size limits prescribed in such regulations **or orders**, shall not be bought, sold or trafficked in.

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

§ 5. Section 13-0340 of the environmental conservation law, as amended by chapter 147 of the laws of 2016, is amended to read as follows:

§ 13-0340. Bluefish (Pomatomus saltatrix).

The department may, until December thirty-first, two thousand nineteen, fix by **order or** regulation measures for the management of bluefish (Pomatomus saltatrix), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

§ 6. Section 13-0340-a of the environmental conservation law, as amended by chapter 148 of the laws of 2016, is amended to read as follows:

§ 13-0340-a. Weakfish (Cynoscion regalis).

The department may, until December thirty-first, two thousand nineteen, fix by **order or** regulation measures for the management of weakfish (Cynoscion regalis), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

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

§ 13-0340-b. Fluke - summer flounder (Paralichthys dentatus).

The department may, until December thirty-first, two thousand seventeen, fix by **order or** regulation measures for the management of fluke or summer flounder (Paralichthys dentatus), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

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

§ 13-0340-c. Winter flounder (Pleuorenectes americanus).

The department may, until December thirty-first, two thousand seventeen, fix by **order or** regulation measures for the management of winter flounder (Pleuorenectes americanus), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

§ 9. Subdivision 1 of section 13-0340-d of the environmental conservation law, as amended by chapter 140 of the laws of 2016, is amended to read as follows:

1. The department may, until December thirty-first, two thousand nineteen, fix by **order or** regulation measures for the management of blackfish (Tautoga onitis), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

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

§ 13-0340-e. Scup (Stenotomus chrysops).

The department may, until December thirty-first, two thousand seventeen, fix by **order or** regulation measures for the management of scup (Stenotomus chrysops), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

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

§ 13-0340-f. Black sea bass (Centropristis striata).

The department may, until December thirty-first, two thousand seventeen, fix by **order or** regulation measures for the management of black sea bass (Centropristis striata), including size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, requirements for permits and eligibility therefor, recordkeeping requirements, requirements on the amount and type of fishing effort and gear and requirements relating to transportation, possession and sale, provided that such regulations **or orders** are no less restrictive than requirements set forth in this chapter and provided further that such regulations **or orders** are consistent with the compliance requirements of applicable fishery management plans adopted by the Atlantic States Marine Fisheries Commission and with applicable provisions of fishery management plans adopted pursuant to the Federal Fishery Conservation and Management Act (16 U.S.C. § 1800 et seq.).

§ 12. Subdivision 1 of section 13-0331 of the environmental conservation law, as amended by chapter 325 of the laws of 1999, is amended to read as follows:

1. No person shall take crabs, including horseshoe crabs (Limulus sp.) for commercial purposes without first obtaining a permit from the department. For purposes of this subdivision, a presumption of "commercial purposes" shall be made wherein one takes or lands more than fifty crabs in any one day or sells or barters or offers for sale or barter any crabs he or she has taken. Permits shall be issued to individuals only but may be endorsed for use on a vessel, in which case it shall cover all persons on board such vessel. **The permit holder must be present and on board such vessel at all times while the privileges of such permit are being exercised and while crab fishing gear owned by the permit holder is being set out or retrieved.**

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

8. No person shall purchase whelk or conch from a licensed harvester for the purposes of resale, trade or barter, shipping, transport, or other traffic without first obtaining a valid marine food fish and crus-

tacean dealers and shipper's license from the department. Such persons shall also report to the department all transactions of whelk or conch.

§ 14. This act shall take effect immediately, provided however that the amendments to section 13-0331 and section 13-0334 of the environmental conservation law made by sections twelve and thirteen of this act shall take effect January 1, 2018.