STATE OF NEW YORK

2317

2019-2020 Regular Sessions

IN SENATE

January 24, 2019

Introduced by Sen. KAMINSKY -- 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 taking of menhaden

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

Section 1. Section 13-0333 of the environmental conservation law, subdivisions 1 and 2 as amended by chapter 427 of the laws of 1979, subdivisions 3, 4 and 5 as amended and subdivisions 6, 7, 9, 10 and 11 as added by chapter 60 of the laws of 1997, and paragraph b of subdivision 4 and subdivision 8 as amended by chapter 156 of the laws of 1997, is amended to read as follows:

§ 13-0333. Menhaden; [~~license;~~] prohibited acts.

[~~1.~~] Menhaden (Brevoortia tyrannus) from which oil or meal is made, subject to the provisions of section 13-0343, may **not** be taken from the waters of the marine district with a purse seine [~~provided a license is first obtained from the department.~~

~~2. Each license shall be issued to cover one vessel and pertinent equipment by which such fish are taken and shall be issued in the name of the owner, lessee or operator of each vessel so used. License fees shall be computed on the basis of gross tonnage of the vessel to be licensed as indicated in the document, certificate of award, register, registration, enrollment or license of such vessel issued by the United States or any state.~~

~~3. The license fee shall be: For each vessel:~~

~~30 gross tons or less~~	~~25 dollars~~
~~more than 30 gross tons and less than 200 gross tons~~	~~500 dollars~~
~~more than 200 gross tons~~	~~2,000 dollars~~

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

LBD05555-04-9

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

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

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

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

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

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

6. The department shall, in consultation with the menhaden industry, have the authority to require menhaden purse seine vessels to carry a department-approved observer during their operation in New York state waters. Beginning July sixth, nineteen hundred ninety-eight, the department shall require menhaden purse seine vessels equal to or greater than two hundred gross tons to carry a department-approved observer during their operation in New York state waters. Such observers shall independently note and record information, as directed by the department, on such items as fishing location, menhaden catch, by-catch, and any user conflicts. The license holder for the vessel for which an observer is required will be responsible for the costs of such observer. The department shall promulgate rules and regulations to establish appropriate procedures for the assessment and collection of costs for the observers.

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

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

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

10. The department shall adopt regulations to prohibit or further limit menhaden fishing when required by, and consistent with, the Interstate Fishery Management plan for Atlantic menhaden adopted pursuant to

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

~~11. The department, in cooperation with the Connecticut Department of Environmental Protection and consistent with the Long Island Sound Bi-state committee resolution regarding commercial menhaden fishing, shall evaluate the appropriateness and effectiveness of establishing a limit on the number of purse seine vessels that may be allowed to fish on Long Island Sound. The department shall, in cooperation with the Connecticut Department of Environmental Protection and consistent with the Long Island Sound Bi-state committee resolution regarding commercial menhaden fishing, evaluate the benefits and effectiveness of establishing a cap on the quantity of menhaden that can be harvested from Long Island Sound in one year. The department shall, in consultation with the menhaden fishing industry, investigate means of regulating the depth at which menhaden purse seines are set with respect to the depth of the water in their respective locations. The department shall, in cooperation with the Connecticut Department of Environmental Protection and consistent with the Long Island Sound Bi-state committee resolution regarding commercial menhaden fishing, provide a report of its findings and recommendations thereon to the governor, the temporary president of the senate, the speaker of the assembly, and the chairmen of the senate and assembly environmental conservation committees within one year of the effective date of this subdivision~~]; provided however, that the department shall have the authority to issue a temporary order allowing the use of purse seines for taking menhaden, pursuant to temporary permits, if the department determines that there is an imminent risk of a fish kill resulting from the presence of unusually large amounts of menhaden in waters of the marine and coastal district in or adjacent to waterbody segments that are characteristic of locations likely to experience fish kills or that have a history of hypoxia. Prior to issuing such temporary order, the department shall first consider other fishing methods authorized under this chapter, including but not limited to beach seines, and shall only issue a temporary order if the department determines that such other fishing methods will not sufficiently mitigate the conditions precipitating the potential fish kill. Such order shall include the department's justification for the use of purse seines, time, geography, and poundage specifications, and any other conditions that the department deems appropriate and shall be posted on the department's website. Following the adoption of such an order, the department may issue temporary permits, not to exceed fourteen days and subject to the conditions of the department's temporary order, allowing for the harvest of menhaden.

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

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

§ 3. This act shall take effect immediately.