

STATE OF NEW YORK

48--A

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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 management of horseshoe crabs; and providing for the repeal of certain provisions of such law upon expiration thereof

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

1 Section 1. Legislative findings. The legislature hereby finds that:

2 (a) The horseshoe crab stock assessments issued by the Atlantic States
3 Marine Fisheries Commission (ASMFC) for the New York region have
4 declined since 2009, when the population was graded as "good". The 2013
5 stock assessment graded the population as neutral, and in the 2019 stock
6 assessment, the Commission downgraded the status of the horseshoe crab
7 population in New York State to "poor". Stock status was based on the
8 proportion of surveys above or below the 1998 reference points estab-
9 lished when ASMFC management of horseshoe crabs began. In the 2019 stock
10 assessment, the ASMFC states that, "Continued declines in abundance were
11 evident in the New York and New England regions. Decreased harvest
12 quotas in Delaware Bay have potentially redirected harvest to nearby
13 regions. Current harvest within the New England and New York regions may
14 not be sustainable. Continued precautionary management is therefore
15 recommended coast-wide to anticipate effects of redirecting harvest from
16 Delaware Bay to outlying populations."

17 (b) The International Union for the Conservation of Nature (IUCN) has
18 also determined that the horseshoe crab meets the Red List criteria and
19 is vulnerable to local extinction. The IUCN stated, "Population

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

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1 reductions in *Limulus* have occurred over much of its range, but in
2 particular within the Mid-Atlantic region. The cause is understood to be
3 over-harvest, which has been corrected through active management inter-
4 vention over much of the range. An assessment of population trend indi-
5 cates population stability in the Delaware Bay area of the Mid-Atlantic
6 region and population growth in the Southeast region. Continuing
7 decreases were found in the Great Bay estuary of New Hampshire in the
8 Gulf of Maine region, the New England and New York areas within the
9 Mid-Atlantic region and in the Northeast Gulf of Mexico."

10 (c) Each spring, shorebirds stop at Long Island beaches and feed upon
11 horseshoe crab eggs. These include the red knot, dunlin, semipalmated
12 sandpiper, sanderling, ruddy turnstone, greater yellowlegs, American
13 golden-plover, black-bellied plover, buff-breasted sandpiper, short-
14 billed dowitcher, purple sandpiper, marbled godwit, Hudsonian godwit,
15 and whimbrel.

16 (d) The red knot was once considered one of the state's most abundant
17 shorebirds. Horseshoe crab eggs are a critical source of food for red
18 knots which they consume during their stopover in New York. Such food
19 source is necessary for the red knots to gain sufficient weight to
20 continue their migration north to breeding grounds in the Canadian
21 Arctic. Surveys have shown that red knots have declined by 75 percent
22 since the 1980s. Thus, both state and international biologists fear that
23 the red knot will become extinct if horseshoe crab populations continue
24 to decline.

25 (e) Horseshoe crabs are keystone species, providing an essential food
26 source not only for red knots, but also for many other types of bird and
27 fish species important to New York's commercial and recreational fisher-
28 ies, as well as birding and fishing tourism. Eels, whelk, catfish, juve-
29 nile striped bass, white perch, killifish, weakfish, Atlantic silver-
30 sides, bluefish, sand shrimp, blue crabs, spider crabs, and hermit crabs
31 all eat horseshoe crab eggs and larvae as part of their diets.

32 (f) The legislature therefore declares that stricter management of
33 horseshoe crabs is necessary to ensure that more horseshoe crab eggs
34 will be available as a food source, thus helping to ensure the survival
35 of these shorebirds.

36 § 2. Subdivision 1 of section 13-0331 of the environmental conserva-
37 tion law, as amended by chapter 447 of the laws of 2017, is amended and
38 two new subdivisions 9 and 10 are added to read as follows:

39 1. a. No person shall take crabs, including horseshoe crabs (*Limulus*
40 sp.) for commercial purposes, or sell or possess with intent to sell
41 horseshoe crabs for commercial purposes, without first obtaining a
42 permit from the department. [~~For purposes of this subdivision, a~~
43 ~~presumption of "commercial purposes" shall be made wherein one takes or~~
44 ~~lands more than fifty crabs in any one day or sells or barter or offers~~
45 ~~for sale or barter any crabs he or she has taken.~~] Permits shall be
46 issued to individuals only but may be endorsed for use on a vessel, in
47 which case it shall cover all persons on board such vessel.

48 b. For purposes of this subdivision:

49 (i) a presumption of "commercial purposes" shall be made wherein one
50 takes or lands more than fifty crabs or more than five horseshoe crabs
51 in any one day or sells or barter or offers for sale or barter any
52 crabs, including horseshoe crabs, he or she has taken; and

53 (ii) a presumption of possession with intent to sell shall be made
54 wherein any horseshoe crabs are possessed without a permit from the
55 department.

1 9. a. Notwithstanding any provision of this section to the contrary,
2 until December thirty-first, two thousand twenty-five, no person shall
3 take, sell, or possess with intent to sell any horseshoe crab (Limulus
4 sp.) or the eggs of any horseshoe crab, except pursuant to a horseshoe
5 crab bio-medical harvester permit.

6 b. Any person may apply for a horseshoe crab bio-medical harvester or
7 user permit and the department may issue such permit upon a determi-
8 nation that the permit is for a valid and necessary bio-medical purpose
9 and that the taking of horseshoe crabs for such purposes will have no
10 more than nominal impact to the red knot, other shorebirds, or the
11 horseshoe crab population.

12 c. When taking horseshoe crabs, a holder of a horseshoe crab bio-medi-
13 cal harvester permit shall use a manner of catch and release that mini-
14 mizes injury to crabs, and shall release any taken crabs to the same
15 waters from which they were taken.

16 d. The taking of horseshoe crabs incidentally during legal fishing
17 operations does not violate this section if such crabs are handled in
18 such a manner to minimize harm to such crabs and are immediately
19 returned to the same waters from which they were taken.

20 10. a. The department shall conduct a study to examine and determine
21 whether:

22 (i) the population of red knots has reached recovery targets as deter-
23 mined by the department; and

24 (ii) the population of other shorebirds that rely on the horseshoe
25 crab (Limulus sp.) or the eggs of the horseshoe crab have remained
26 stable or increased, including, but not limited to the dunlin, semipal-
27 dated sandpiper, sanderling, ruddy turnstone, greater yellowlegs, Ameri-
28 can golden-plover, black-bellied plover, buff-breasted sandpiper, short-
29 billed dowitcher, purple sandpiper, marbled godwit, Hudsonian godwit,
30 and whimbrel; and

31 (iii) a fisheries management plan demonstrates that an adequate supply
32 of horseshoe crab eggs exists to ensure population viability for both
33 shorebirds and horseshoe crabs, as well as a sustainable commercial
34 fishery, pursuant to subdivision one of this section. Evidence that such
35 a supply of eggs exists may include two consecutive stock assessments
36 from the Atlantic States Marine Fisheries Commission that grade the New
37 York state horseshoe crabs (Limulus sp.) population as "good."

38 b. To satisfy the requirements of paragraph a of this subdivision, the
39 department may rely on reports and population studies compiled by any
40 state or federal unit of government responsible for wildlife management,
41 a land-grant university, or nonprofit organizations with expertise in
42 ornithology.

43 c. On or before June thirtieth, two thousand twenty-five, the depart-
44 ment shall submit a report of its findings, conclusions and recommenda-
45 tions to the governor and to the legislature with regard to the study
46 conducted pursuant to paragraph a of this subdivision.

47 § 3. This act shall take effect on the thirtieth day after it shall
48 have become a law; provided, however, that subdivision 10 of section
49 13-0331 of the environmental conservation law, as added by section two
50 of this act, shall expire and be deemed repealed on January 1, 2026.