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:

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

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

(b) The International Union for the Conservation of Nature (IUCN) has also determined that the horseshoe crab meets the Red List criteria and 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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reductions in Limulus have occurred over much of its range, but in particular within the Mid-Atlantic region. The cause is understood to be over-harvest, which has been corrected through active management intervention over much of the range. An assessment of population trend indicates population stability in the Delaware Bay area of the Mid-Atlantic region and population growth in the Southeast region. Continuing decreases were found in the Great Bay estuary of New Hampshire in the Gulf of Maine region, the New England and New York areas within the Mid-Atlantic region and in the Northeast Gulf of Mexico."

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

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

(e) Horseshoe crabs are keystone species, providing an essential food source not only for red knots, but also for many other types of bird and fish species important to New York's commercial and recreational fisheries, as well as birding and fishing tourism. Eels, whelk, catfish, juvenile striped bass, white perch, killifish, weakfish, Atlantic silversides, bluefish, sand shrimp, blue crabs, spider crabs, and hermit crabs all eat horseshoe crab eggs and larvae as part of their diets.

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

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

1. **a.** No person shall take crabs, including horseshoe crabs (Limulus sp.) for commercial purposes**, or sell or possess with intent to sell horseshoe crabs 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.

b. For purposes of this subdivision:

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

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

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

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

c. When taking horseshoe crabs, a holder of a horseshoe crab bio-medical harvester permit shall use a manner of catch and release that minimizes injury to crabs, and shall release any taken crabs to the same waters from which they were taken.

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

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

(i) the population of red knots has reached recovery targets as determined by the department; and

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

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

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

c. On or before June thirtieth, two thousand twenty-five, the department shall submit a report of its findings, conclusions and recommendations to the governor and to the legislature with regard to the study conducted pursuant to paragraph a of this subdivision.

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