

STATE OF NEW YORK

684

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HOYLMAN -- 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 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
20 reductions in *Limulus* have occurred over much of its range, but in
21 particular within the Mid-Atlantic region. The cause is understood to be
22 over-harvest, which has been corrected through active management inter-
23 vention over much of the range. An assessment of population trend indi-

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

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1 cates population stability in the Delaware Bay area of the Mid-Atlantic
2 region and population growth in the Southeast region. Continuing
3 decreases were found in the Great Bay estuary of New Hampshire in the
4 Gulf of Maine region, the New England and New York areas within the
5 Mid-Atlantic region and in the Northeast Gulf of Mexico."

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

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

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

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

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

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

44 b. For purposes of this subdivision:

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

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

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

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

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

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

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

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

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

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

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

38 c. On or before June thirtieth, two thousand twenty-six, the depart-
39 ment shall submit a report of its findings, conclusions and recommenda-
40 tions to the governor and to the legislature with regard to the study
41 conducted pursuant to paragraph a of this subdivision.

42 § 3. This act shall take effect on the thirtieth day after it shall
43 have become a law; provided, however, that subdivision 10 of section
44 13-0331 of the environmental conservation law, as added by section two
45 of this act, shall expire and be deemed repealed on January 1, 2027.