STATE OF NEW YORK

9007

IN SENATE

May 3, 2022

Introduced by Sen. MAY -- (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 authority of the department of environmental conservation to manage marine species; and to amend chapter 305 of the laws of 2013 amending the environmental conservation law relating to the management of American lobster, in relation to the effectiveness thereof

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 258 of the laws of 2021, is amended to read as follows:

3. The department may[~~, until December thirty-first, two thousand twenty-four,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 2. Section 11-1303 of the environmental conservation law, as amended by chapter 221 of the laws of 2019, is amended to read as follows:

§ 11-1303. Open seasons, size and catch limits and manner of taking fish fixed by regulation.

Notwithstanding any other provision of this chapter, the department may[~~, until December thirty-first, two thousand twenty-two,~~] fix by regulation open seasons, size and catch limits and manner of taking of

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

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all species of fish in all waters of the state, except marine fish named in subdivisions 2 and 3 of section 13-0339 of this chapter and except to the extent that such open seasons, size and catch limits and manner of taking are otherwise specifically provided for in article 13 of this chapter.

§ 3. Subdivision 3 of section 13-0323 of the environmental conservation law, as amended by chapter 220 of the laws of 2019, is amended to read as follows:

3. The department may[~~, until December thirty-first, two thousand twenty-two,~~] fix by regulation measures for the management of oysters (Family Ostreidae) 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 and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations are no less restrictive than requirements set forth in this chapter.

§ 4. Subdivision 8 of section 13-0325 of the environmental conservation law, as amended by chapter 219 of the laws of 2019, is amended to read as follows:

8. The department may[~~, until December thirty-first, two thousand twenty-two,~~] adopt by regulation measures for the management of hard clams (Mercenaria mercenaria), soft or steamer clams (Mya arenaria), and razor clams (Ensis sp.), 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 and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations are no less restrictive than requirements set forth in this chapter.

§ 5. Section 13-0327 of the environmental conservation law, as amended by chapter 262 of the laws of 2021, is amended to read as follows:

§ 13-0327. Scallops.

The department may[~~, until December thirty-first, two thousand twenty-four,~~] adopt by regulation measures for the management of scallops (Family Pectinidae) 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 and identification requirements, requirements on the amount and type of fishing effort and gear, and requirements relating to transportation, possession and sale, provided that such regulations are no less restrictive than requirements set forth in this chapter.

§ 6. Subdivision 16 of section 13-0329 of the environmental conservation law, as amended by chapter 122 of the laws of 2021, is amended to read as follows:

16. The department may[~~, until December thirty-first, two thousand twenty-four,~~] adopt regulations 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.

§ 7. Section 6 of chapter 305 of the laws of 2013, amending the environmental conservation law relating to the management of American

lobster, as amended by chapter 122 of the laws of 2021, is amended to read as follows:

§ 6. This act shall take effect on the thirtieth day after it shall have become a law; provided that subdivision 17 of section 13-0329 of the environmental conservation law, as added by section two of this act, shall expire and be deemed repealed December 31, [~~2024~~] **2027**.

§ 8. Subdivision 6 of section 13-0330 of the environmental conservation law, as amended by section 1 of item P of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

6. The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by regulation measures for the management of whelk or conch (Busycon and Busycotypus spp.), 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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 7 of section 13-0331 of the environmental conservation law, as amended by section 1 of item J of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

7. The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by regulation measures for the management of crabs of any kind including horseshoe crabs (Limulus sp.), 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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. Subdivision 4 of section 13-0338 of the environmental conservation law, as amended by section 1 of item N of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

4. The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by regulation measures for the management of sharks, 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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. Subdivision 1 of section 13-0339-a of the environmental conservation law, as amended by chapter 293 of the laws 2011, paragraph a as amended by section 1 of item F of subpart A of part XXX of chapter 58 of the laws of 2020, paragraph b as amended by chapter 235 of the laws of 2019, paragraph c as amended by section 1 of item E of subpart A of part XXX of chapter 58 of the laws of 2020, paragraph d as amended by section 1 of item G of subpart A of part XXX of chapter 58 of the laws of 2020, paragraph e as amended by chapter 229 of the laws of 2019, paragraph f as amended by chapter 230 of the laws of 2019, paragraph g as amended by section 1 of item I of subpart A of part XXX of chapter 58 of the laws of 2020, paragraph h as amended by section 1 of item O of subpart A of part XXX of chapter 58 of the laws of 2020, and paragraph i as amended by chapter 237 of the laws of 2019, is amended to read as follows:

1. The department may fix, by regulation, measures for the management of the following species:

a. Atlantic cod (Gadus morhua) [~~until December thirty-first, two thousand twenty-three~~],

b. American eel (Anguilla rostrata) [~~until December thirty-first, two thousand twenty-two~~],

c. Atlantic and shortnose sturgeon (Acipenser oxyrhynchus and brevirostrum) [~~until December thirty-first, two thousand twenty-three~~],

d. Atlantic herring (Clupea harengus) [~~until December thirty-first, two thousand twenty-three~~],

e. American shad (Alosa sapidissima) [~~until December thirty-first, two thousand twenty-two~~],

f. alewife (Alosa pseudoharengus) [~~until December thirty-first, two thousand twenty-two~~],

g. blueback herring (Alosa aestivalis) [~~until December thirty-first, two thousand twenty-three~~],

h. squid (cephalopoda) [~~until December thirty-first, two thousand twenty-three~~], and

i. hickory shad (Alosa mediocris) [~~until December thirty-first, two thousand twenty-two~~].

§ 12. Section 13-0340 of the environmental conservation law, as amended by chapter 218 of the laws of 2019, is amended to read as follows:

§ 13-0340. Bluefish (Pomatomus saltatrix).

The department may[~~, until December thirty-first, two thousand twenty-two,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 13. Section 13-0340-a of the environmental conservation law, as amended by chapter 238 of the laws of 2019, is amended to read as follows:

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

The department may[~~, until December thirty-first, two thousand twenty-two,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 14. Section 13-0340-b of the environmental conservation law, as amended by section 1 of item L of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

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

The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 15. Section 13-0340-c of the environmental conservation law, as amended by section 1 of item Q of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

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

The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by regulation measures for the management of winter flounder (Pleuronectes 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 16. Subdivision 1 of section 13-0340-d of the environmental conservation law, as amended by chapter 236 of the laws of 2019, is amended to read as follows:

1. The department may[~~, until December thirty-first, two thousand twenty-two,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 17. Section 13-0340-e of the environmental conservation law, as amended by section 1 of item M of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

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

The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 18. Section 13-0340-f of the environmental conservation law, as amended by section 1 of item H of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

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

The department may[~~, until December thirty-first, two thousand twenty-three,~~] fix by 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 19. Section 13-0340-g of the environmental conservation law, as amended by chapter 123 of the laws of 2021, is amended to read as follows:

§ 13-0340-g. Monkfish (Lophius americanus, Lophius reticulatus and Lophius gastrophysus).

The department may[~~, until December thirty-first, two thousand twenty-four,~~] fix by regulation measures for the management of monkfish (Lophius americanus, Lophius reticulatus and Lophius gastrophysus), 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 are no less restrictive than requirements set forth in this chapter and provided further that such regulations 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.).

§ 20. Subdivision 3 of section 13-0360 of the environmental conservation law, as amended by section 1 of item K of subpart A of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

3. Notwithstanding any other provision of this chapter, the department may[~~, until December thirty-first, two thousand twenty-three,~~] adopt regulations restricting the taking of fish, shellfish and crustacea in any special management area designated pursuant to subdivision two of this section. Such regulations may restrict the manner of taking of fish, shellfish and crustacea in such areas and the landing of fish, shellfish and crustacea which have been taken therefrom. Such regulations shall be consistent with all relevant federal and interstate fisheries management plans and with the marine fisheries conservation and management policy set forth in section 13-0105 of this article.

§ 21. Article 13 of the environmental conservation law is amended by adding a new title 9 to read as follows:

TITLE 9

MARINE MAMMALS AND SEA TURTLES PROTECTION ACT

Section 13-0901. Short title.
13-0903. Definitions.
13-0905. Department authority.

§ 13-0901. Short title.

This act shall be known and may be cited as the "marine mammals and sea turtles protection act".

§ 13-0903. Definitions.

1. For purposes of this title, the following definitions shall apply:

a. "Marine mammal" means any mammal which: (i) is morphologically adapted to the marine environment (including members of the orders Sirenia, Pinnipedia and Cetacea), or (ii) primarily inhabits the marine environment.

b. "Sea turtle" means the following species of marine reptiles: loggerhead sea turtle (Caretta caretta), kemp's ridley sea turtle (Lepidochelys kempi), green sea turtle (Chelonia mydas), leatherback sea turtle (Dermochelys coriacea) and hawksbill sea turtle (Eretmochelys imbricate).

§ 13-0905. Department authority.

The department hereby is authorized to adopt regulations for the protection of marine mammals and sea turtles, including but not limited to measures to prevent harassment, such as restrictions on viewing, feeding, and interacting with marine mammals and sea turtles.

§ 22. This act shall take effect immediately.