§ 13-0325. Clams; prohibited acts.

1. Except for transplanting as provided in section 13-0321, no person shall take, harvest, possess, sell, offer for sale or otherwise trafficked in hard clams (Mercenaria mercenaria) measuring less than one inch in thickness.

2. Hard clams less than one inch in thickness may be taken by shellfish growers from leased or privately owned lands other than town lands currently under cultivation by the grower for transplanting to other such lands being cultivated by the same grower, and imported from another state by a shellfish grower for transplanting to public or private or leased lands under cultivation, provided a permit for each separate transplanting operation is issued by the department subject to provisions of sections 13-0319 and 13-0321. The permit, providing for transplanting hard clams less than one inch in thickness, shall be issued without fee. Such clams shall not be transported to a point without the state.

3. Soft or steamer clams (Mya arenaria) less than one and one-half inches in the longest diameter shall not be taken, possessed, bought, sold or otherwise trafficked in.

4. a. Surf, sea, hen or skimmer clams (Spisula solidissima; Spisula polynyma) less than three inches in the longest diameter shall not be taken, possessed, bought, sold, or otherwise trafficked in except that such clams less than four inches in the longest diameter shall not be taken from the waters of the Atlantic Ocean for use as food.

b. All surf, sea, hen or skimmer clams and ocean quahogs taken from the waters of the marine and coastal district shall be landed in the state of New York.

c. Boats of nonresidents may be licensed to take surf, sea, hen or skimmer clams and ocean quahogs from the waters of the Atlantic Ocean within the marine and coastal district in accordance with paragraph c of subdivision three of section 13-0309 hereof, provided that the boat is

registered in a state which accords reciprocal clamming privileges to residents of this state and provided that the owner is a citizen of the United States and a resident of a state according reciprocal privileges to residents of this state. The license shall be issued in the name of the boat and shall be on board during all licensed operations. The fee for said license shall be five hundred dollars per boat. Each license shall expire on the thirty-first day of December next succeeding its issue, and if it appears in the public interest the department may suspend or cancel such license on ten days notice in writing to the holder thereof, except that in case of a taking from an uncertified area, such suspension or cancellation may be without prior notice.

d. Any individual, while participating in the operation of a licensed boat, shall be exempt from the requirements of section 13-0311 but shall not ship or sell shellfish taken by such boat without first obtaining a shellfish shipper's permit as provided for in section 13-0315.

5. Clams shall be culled when taken in accordance with rules and regulations promulgated by the commissioner. Clams which may not be taken, possessed, offered for sale, sold or otherwise trafficked in pursuant to the provisions of subdivision 1, 3 or 4 of this section may compose not to exceed three per centum of any bushel, package or container, when unavoidably taken. Such three per centum shall be determined by the measurement of any bushel, or other package or container of different measurement of clams taken from the catch or in the possession of the person offering the same for sale.

6. Each bushel, or other package or container of different measurement containing an excess of three per centum of clams which may not be taken, possessed, offered for sale, sold or otherwise trafficked in pursuant to the provisions of subdivision 1, 3 or 4 of this section determined by count shall constitute a separate violation.

7. It shall be unlawful to knowingly:

a. Transport, conceal or convey hard shell clams obtained or possessed in contravention of the provisions of this chapter in, upon or by means

of any vehicle, vessel or aircraft; or

b. Conceal or possess hard shell clams obtained or possessed in contravention of the provisions of this chapter in or upon any vehicle, vessel or aircraft.

8. The department may, until December thirty-first, two thousand twenty-eight, 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.