§ 13-0329. Lobsters; permit to take; prohibited acts.

1. Any person domiciled within the state may take and land lobsters (Homarus americanus) from the waters of the state or land lobsters in the state taken elsewhere upon first obtaining a permit from the department. There shall be two classes of permits: a non-commercial permit, the fee for which shall be ten dollars, and a commercial permit, the fee for which shall be one hundred fifty dollars. A non-commercial permit shall allow the holder to set no more than five lobster pots and to take or land in any one day no more than six legal lobsters by this or any other legal method for the holder's own or family use. Holders of non-commercial permits shall not sell, offer for sale, trade or barter, or otherwise traffic in lobsters so taken. A commercial permit shall allow the holder to set any number of pots and use any other legal method for taking lobsters with no restriction on the number of legal lobsters that may be taken, landed or possessed except that on the waters of Long Island Sound and its adjoining bays, harbors and estuaries (herein defined as all waters of the state north of the northern shore lines of Long Island, Plum Island, Little Gull Island, Great Gull Island and Fishers Island and all the waters of the state north of the waters that separate those islands from each other) a person holding a commercial permit who is a person operating or owning or on board a dragger or any vessel used to operate any net defined as a trawl in section 13-0341 shall not take, land nor possess any lobsters or parts thereof unless there are no such nets on board, attached to in any way, or being used by such vessel. This prohibition on the taking of lobsters by the use of a trawl shall not allow the use of a trawl in any waters where it is prohibited by sections 13-0341 and 13-0343. The department shall furnish forms for application for both classes of permits. A non-commercial permit shall be issued to an individual. A commercial permit shall be issued to an individual and it may be endorsed for use on a fishing vessel, in which case it shall cover all persons on board such vessel. The holder of a commercial permit shall be liable for all violations that occur on the vessel for which the holder's permit is endorsed. The holder of a permit shall carry on his or her person or post on his or her vessel such permit at all times when fishing for lobsters. Except as provided in subdivision six of this

section, the permit holder must be present at all times while the privileges of such permit are being exercised and while lobster fishing gear owned by the permit holder is being set out or retrieved. The holder of a commercial permit may endorse such permit to only one vessel at any one time and shall be on board such vessel at all times when it is used for fishing for lobsters.

2. a. A person not domiciled within the state but who is domiciled in a state that provides reciprocal permits or licenses to persons domiciled in New York state may, upon first obtaining a permit from the department, take and land lobsters only from the waters of the state westerly and southerly of a straight line drawn from the Flashing Green Light Number 9 Whistle Buoy at Cerebus Shoals (located approximately seven miles northwesterly to Montauk Point) northwesterly to Race Rock and thence due north to the New York-Connecticut interstate boundary line; and may land lobsters taken outside New York state waters.

b. The fee for such lobster permit shall be two hundred twenty-five dollars. The permit shall be issued to an individual and may be endorsed for use on a fishing vessel in which case it shall cover all persons on board such vessel. Except as provided in subdivision six of this section, the permit holder must be present at all times while the privileges of such permit are being exercised and while lobster fishing gear owned by the permit holder is being set out or retrieved. The holder of such permit shall be liable for all violations that occur on any vessel for which the permit may be endorsed. The holder of such permit shall carry on his or her person or post on his or her vessel such permit at all times when fishing for lobsters. The holder of a commercial permit may endorse such permit to only one vessel at any one time and shall be on board such vessel at all times when it is used for fishing for lobsters.

c. On the waters of Long Island Sound and its adjoining bays, harbors and estuaries (as defined in subdivision 1 of this section) a person holding such permit who is a person operating or owning or on board a dragger or any vessel used to operate a trawl as defined in section 13-0341 shall not take, land nor possess any lobsters or parts thereof

unless there are no such nets on board, attached to in any way, or being used by such vessel. This prohibition on the taking of lobsters by the use of a trawl shall not allow the use of a trawl in any waters where it is prohibited by sections 13-0341 and 13-0343.

d. A person not domiciled in the state who is not qualified to hold a lobster permit under paragraph a of this subdivision, or person domiciled within the state who is not eligible to obtain a commercial lobster permit under subdivision one of this section, may obtain a permit to land lobsters in the state which have been legally taken outside the state. The fee for a lobster landing permit shall be three hundred dollars.

e. The department shall prescribe and furnish forms for such permits.

3. a. Lobster permits shall be non transferable and shall expire on December 31 of the year of issue. If it appears in the public interest, the department may suspend or cancel any such permit on ten days' written notice to the holder thereof.

b. No person who has had any such permit suspended or revoked shall take or land lobsters or aid in the taking or landing of lobsters until such permit has been reinstated or a new permit is issued.

c. A person who holds a permit to take or land lobsters shall notify the department of any change of address within thirty days of such change.

4. Buoys or markers of prescribed design may be used in designating the location of licensed lobster pots or traps in such manner as shall be required by the department.

5. a. Except as provided in subdivisions 13, 16 and 18 of this section, only lobsters measuring three and three-eighths inches or more and five and one-quarter inches or less may be taken, possessed, bought, sold, imported and exported. All measurements are from the rear end of the eye socket along a line parallel to the center line of the body

shell (carapace) to the rear end of the body shell (carapace).

b. A lobster that has been damaged or mutilated to the extent that its length from the rear end of the eye socket along a line parallel to the center line of the body shell (carapace) to the rear end of the body shell (carapace) cannot be determined shall not be possessed, sold or offered for sale, trade or barter.

c. Lobsters in spawn shall not be taken or possessed at any time. Eggs shall not be removed from such lobsters.

d. The landing or possession, in the marine district, of lobster, or parts thereof, not in the shell, detached lobster tails or claws, or any other part of a lobster that has been separated from the lobster by any person who has a lobster permit issued by the state is prohibited.

e. The landing or possession of any V-notched female lobster is prohibited. This prohibition applies to all persons other than a final purchaser or consumer. V-notched female lobster shall mean any female lobster bearing a V-shaped notch (i.e. a straight-sided triangular cut without setal hairs, at least one-quarter inch in depth and tapering to a sharp point) in the flipper next to the right of the center flipper as viewed from the rear of the female lobster. V-notched female lobster also means any female which is mutilated in a manner which could hide, obscure or obliterate such a mark. The right flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination; however, the department shall have the authority to adopt by rule or regulation a modified definition of "V-notched female lobster" to reflect any changes to the definition the Atlantic States Marine Fisheries Commission may adopt.

6. No person other than the licensee shall set out, tend, haul or unduly disturb, or take or remove lobsters from, a lobster pot or trap or other commercial gear, or damage, take, remove or possess such gear. Possession of such gear without the consent of the licensee shall be considered prima facie evidence of violation of this subdivision. Provided, however, that in the event of a temporary emergency, a

licensee may provide written authorization for a different licensee to haul and remove lobster from the licensee's pots or traps. A copy of such written authorization shall be filed with the department and the department shall determine what constitutes a temporary emergency and the appropriate maximum duration of a temporary emergency for the purposes of this subdivision.

7. a. Lobsters may be taken only by lobster pots, traps, otter trawls or similar devices, or by skin diving, including the use of self-contained underwater breathing apparatus (SCUBA), or by hand. The use of spears, gigs, gaffs, or other penetrating devices to take lobsters is prohibited.

b. The landing of more than one hundred lobsters per twenty-four hour period by gear or methods other than lobster traps or pots is prohibited. The landing of more than five hundred lobsters by gear or methods other than lobster traps or pots during a trip lasting five days or longer is prohibited.

8. A person shall not be issued a permit to take or land lobsters in New York state if said person had a license or permit to take or land lobsters in another state which has been suspended or revoked for an illegal act which is also an illegal act in New York state until such suspension or revocation has been terminated. Upon receipt of information from another state that a license or permit of a person to take or land lobsters has been suspended or revoked for an illegal act which is also an illegal act in New York state, said person, if he holds such a permit in New York state, shall have his New York permit suspended or revoked until such suspension or revocation by another state has been terminated.

9. On the waters of Long Island Sound and its adjoining bays, harbors and estuaries (as defined in subdivision one of this section) lobsters shall not be taken by any method from one hour after sunset to one hour before sunrise. The provisions of this subdivision shall not apply to the taking of lobsters by skin diving, including the use of self-contained underwater breathing apparatus (SCUBA), by holders of a

valid resident non-commercial lobster permit.

10. A holder of a commercial lobster license may apply for a permit to fish a gill net as permitted in paragraph (b) of subdivision fifteen of section 13-0343 of this chapter. This permit is to be used for the purposes of obtaining bait fish to be used solely by the permittee to pursue his lobster fishery. Bait so taken shall not be sold.

11. In order to reduce mortality of lobster due to lost traps and pots, the department may adopt regulations requiring escape panels and vents in such traps and pots and describing their design, configuration, composition, size and any other necessary characteristics. Any such regulations shall be consistent with the Interstate Management Plan for American Lobster prepared by the Atlantic States Marine Fisheries Commission.

12. Lobsters shall not be transferred from one vessel to another vessel on the waters of Long Island Sound or its adjacent bays, harbors and estuaries, except that nothing in this section shall prohibit the unloading of lobsters, lawfully taken and possessed, in harbor at a vessel's permanent mooring to a transfer vessel for the purpose of transporting such lawfully taken and possessed lobsters to land.

13. The department may issue a permit, revocable at pleasure, to any person to import, possess, buy or sell lobsters of less than the size permitted to be taken and possessed pursuant to this section for scientific and educational purposes only.

14. Possession of a lobster trap or pot with a volume larger than twenty-two thousand nine hundred fifty cubic inches is prohibited.

15. (a) The department shall adopt regulations to implement and administer a lobster trap tag program. Such regulations shall be consistent with the specific requirements of the lobster fishery management plan adopted by the Atlantic States Marine Fisheries Commission and any other applicable federal lobster trap tag regulations. Lobster trap tags shall be issued by the department or an

agent authorized by the department. The cost to affected permittees for each tag shall not be more than the cost of production and distribution of each tag and shall not exceed the sum of twenty cents.

(b) If the department administers a lobster trap tag program, any funds derived from such program and received by the department shall be deposited into the marine resource account established pursuant to subparagraph (i) of paragraph three of subdivision (a) of section eighty-three of the state finance law.

16. The department may, until December thirty-first, two thousand twenty-seven, 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.

* 17. a. No lobster may be taken from Atlantic States Marine Fisheries Commission Area Six from September eighth through November twenty-eighth pursuant to the recommendations of the Area's Lobster Conservation Management Team as required by the Interstate Fishery Plan for Lobsters adopted by the Atlantic States Marine Fisheries Commission.

b. During the September eighth through November twenty-eighth closure, lobster permit holders who use lobster traps or pots shall remove lobster traps and pots from the water by September twenty-second.

c. No lobster trap or pot may be in the water from September twenty-second until November fourteenth unless the lobster permit holder also holds a permit or license that authorizes them to harvest other species from their lobster traps or pots.

d. Lobster permit holders may set unbaited lobster traps or pots beginning November fourteenth.

e. Lobster permit holders may set baited lobster traps or pots beginning November twenty-first.

* NB Repealed December 31, 2027

18. a. Lobsters greater in length than provided in subdivision 5 of this section may be imported into the state and possessed for exportation provided that:

i. The lobsters were legally taken in the state or country where the lobsters were landed, and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobsters were taken;

ii. The lobsters were placed in containers and sealed with tamper proof seals acceptable to the department in the state or country where the lobsters were landed;

iii. The lobsters remain in the sealed containers at all times while the lobsters are possessed in the state, including the placement of the sealed containers in holding tanks in the state;

iv. Each sealed container is accompanied with a label, invoice, bill of lading, purchase order or manifest identifying the state or country where the lobsters were landed, and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobsters were taken, the number of lobsters contained therein, and the date the container was sealed; and

v. The lobsters are imported, possessed and exported to or by a person licensed pursuant to section 13-0334 of this title.

b. Lobsters greater in length than provided in subdivision 5 of this section may be imported, possessed, sold or offered for sale in the state provided that:

i. The lobsters were legally taken in the state or country where the lobsters were landed, and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobsters were taken;

ii. Each lobster is tagged in the state or country where the lobster

was landed with a tamper resistant tag acceptable to the department. The tag shall be attached to the lobster and identify the state or country where the lobster was landed and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobster was taken;

iii. The tag must remain on the lobster until it is sold to the end consumer in the state, including while in a holding tank in a restaurant or retail outlet;

iv. Each shipment of tagged lobsters is accompanied with a label, invoice, bill of lading, purchase order or manifest identifying the state or country and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobsters were taken, the number of lobsters contained therein, and the date or dates the lobsters were harvested; and

v. The lobsters are imported, possessed and sold or offered for sale in the state by a person licensed pursuant to section 13-0334 of this title.

c. The department may promulgate regulations necessary to implement this subdivision.

19. Lobsters, or parts thereof, not in the shell, detached lobster tails or claws, or any other part of a lobster that has been separated from the lobster may only be possessed, purchased, offered for sale, trade or barter, imported, or exported, provided:

a. The lobster was legally taken in the state or country where the lobster was landed, and, if applicable, the Atlantic States Marine Fisheries Commission Area where the lobster was taken;

b. The lobster parts are packaged with labels identifying the state, or country where the lobster was taken and if applicable, the Atlantic States Marine Fisheries Commission Area. Lobster parts must be packaged and properly labeled prior to being possessed, sold, purchased or imported in the state.