§ 13-0335. Food fish; license; prohibited acts.

1. A person who is domiciled in the state may take and land food fish for commercial purposes, upon obtaining a marine commercial food fishing license, except as prohibited by this chapter, from the waters of the marine and coastal district and may land food fish taken from waters outside New York state boundaries for commercial purposes. For purposes of this section "commercial purposes" shall mean the taking of food fish by any method for subsequent sale, trade or barter or to offer for sale, trade or barter and the taking of food fish when setting, maintaining, operating or using nets, except cast nets, not in excess of twenty feet in diameter, when operated by hand for the purposes of taking only Atlantic menhaden (Brevoortia tyrannus) and mullets (Mugil spp), for recreational purposes only, seines not larger than thirty feet long or four feet deep or lift nets not larger than sixteen square feet; traps, except bait traps not more than thirty inches in length; combs; pots; or hook and line, except by angling. The fee for such license shall be two hundred fifty dollars, and shall cover all persons employed by the licensee while engaged in such employment of commercial fishing.

2. A person not domiciled in the state may take food fish, except as prohibited by this chapter, from the waters of the marine and coastal district and may land food fish taken from outside New York state boundaries for commercial purposes upon first obtaining a commercial fishing license. The fee for such license shall be one thousand two hundred fifty dollars, and shall cover all persons employed by the licensee while engaged in such employment of commercial fishing. Such licenses shall be issued only to persons domiciled in states offering reciprocal fishing privileges to persons domiciled in New York state and which implemented the size limits and other management strategies recommended in fisheries management plans or amendments thereto adopted by the Atlantic States Marine Fisheries Commission or the regional management councils as provided in the Fisheries Conservation and Management Act (16 USC 1800 et seq.) which have been implemented in New York State. Such license shall only be issued during the month of January of each year.

3. A person may land food fish, except as prohibited by this chapter and except blackfish or tautog (tautoga onitis), taken from waters outside the marine and coastal district for commercial purposes upon first obtaining a marine and coastal district food fish landing license. The fee for such marine and coastal district food fish landing license shall be five hundred dollars and shall cover all persons employed by the licensee while engaged in such employment of landing food fish.

4. Licenses issued under this section shall be non-transferable and shall expire on the last day of December of each year. Such licenses shall be issued annually and the department shall not limit the number of licenses issued. The department may, in its discretion and after an opportunity for a hearing, revoke any such license of any person who has been convicted of a violation of title three of this article or who signs an acknowledgment of such violation for the purpose of effecting a settlement by civil compromise or by stipulation. The application for any such license by a person under the age of sixteen shall be signed by his parent or guardian who shall thereby consent to its issuance.

5. It shall be unlawful for any person to render food fish into fertilizer.

6. No person shall intentionally disturb or without the consent of the licensee take or remove fish or crustacea from any legally set or operated nets or other commercial gear, or damage, take, remove or possess any such net or gear. Possession of any such net or gear without the consent of the licensee shall be considered prima facie evidence of a violation of this subdivision.

7. The holder of any license issued pursuant to this section shall display the license and/or have the license available for inspection according to such rules and regulations as the department may promulgate.

8. The provisions of sections 13-0311, 13-0329, 13-0331 and 13-0333 of this title shall be applicable to lobsters, crabs, shellfish and menhaden and no license therefor shall be required pursuant to this

section.

9. Notwithstanding the provisions of subdivision one of this section, a person may, upon obtaining a marine bait permit, take marine bait fish and sell such fish as bait at retail only, subject to the following restrictions:

a. Only Atlantic menhaden, silversides (Minidia spp.) and killifish (Fundulus spp.) may be taken and sold pursuant to this subdivision.

b. Bait fish to be sold pursuant to this subdivision may be taken only using cast nets not larger than twenty feet in diameter, seines not larger than thirty feet in length or four feet in depth, or lift nets not larger than sixteen square feet or bait traps not more than thirty inches in length.

c. Marine bait permits shall be available to any person at a fee of fifty dollars, shall be non-transferable, and shall expire on December thirty-first of the year of issue and shall identify the business name and address of the single retail business at which the bait taken pursuant to the permit may be sold.

d. The holder of a marine bait fish permit must be present and have the permit in possession and available for inspection at all times when the bait harvesting privileges of the permit are being exercised.