

50:2-6.1 ET AL.

LEGISLATIVE HISTORY CHECKLIST

NJSA 50:2-6.1 et al.

Laws of 1975 Chapter 398

Bill No. A3731

Sponsor(s) Stewart & others

Date Introduced November 24, 1975

Committee: Assembly -

Senate -

Amended during passage Yes ~~Yes~~ Amendments during passage denoted by asterisks.

Date of passage: Assembly November 24, 1975; Re'enacted Jan. 8, 1976

Senate November 24, 1975; Re'enacted Jan. 8, 1976

Date of approval March 5, 1976

Following statements are attached if available:

Sponsor statement	<u>Yes</u>	Yes
Committee Statement: Assembly	Yes	Yes
Senate	Yes	Yes
Fiscal Note	Yes	Yes
Veto message	<u>Yes</u>	Yes
Message on signing	Yes	Yes

Following were printed:

Reports	Yes	Yes
Hearings	Yes	Yes

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[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 3731

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1975

By Assemblymen STEWART, HURLEY, CHINNICI,
WORTHINGTON and PERSKIE

(Without Reference)

AN ACT to amend and supplement "An act concerning shellfish, regulating the taking of sea clams (*macra solidissima*), providing for licenses, imposing penalties, and supplementing Title 50 of the Revised Statutes," approved July 6, 1950 (P. L. 1950, c. 310), and amending R. S. 52:2-11.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1950, c. 310 (C. 50:2-6.1) is amended to
2 read as follows:

3 1. No person *or vessel* shall *take, harvest or dredge* for sea clams
4 (*macra solidissima*) *also known as spisula solidissima* from any
5 waters of this State without first obtaining a license from the
6 **[Division of Shell Fisheries in the Department of Conservation**
7 **and Economic Development]** *Division of Fish, Game and Shell*
8 *Fisheries in the Department of Environmental Protection. The*
9 *Division of Fish, Game and Shell Fisheries may license every ves-*
10 *sel engaged in the harvesting of sea clams within the waters of this*
11 *State. Such license shall be issued on an annual basis.*

12 Such licenses shall grant the privilege of gathering sea clams
13 by dredging, but only in the Atlantic ocean, but not in the Delaware
14 bay northerly of a line from Cape May Point lighthouse tower to
15 Brandywine lighthouse or in the Sandy Hook bay west of a line
16 from the west point of Sandy Hook to Roamer Shoal lighthouse.
17 No boat or vessel shall be licensed under this act unless its bona
18 fide owner is a citizen and actual resident of this State and shall
19 have been such for 12 months next preceding the issuance of such
20 license.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

21 *The division may adopt regulations regarding the issuance pro-*
 22 *cedures of such licenses.*

23 *The Division of Fish, Game and Shell Fisheries may issue per-*
 24 *mits for sea clam research, inventory and educational projects.*
 25 *Nothing in this section shall be construed to limit the activities of*
 26 *such projects.*

1 2. Section 2 of P. L. 1950, c. 310 (C. 50:2-6.2) is amended to
 2 read as follows:

3 2. Any such licensed dredging operation shall be limited to the
 4 use of a single dredge at a time in any one boat, and such dredge
 5 shall not exceed 60 inches in length of cutting bar as measured from
 6 the inside of the upright frames. ***[Dredging shall be permitted only**
 7 *between the hours of 7 a.m. through 5 p.m., prevailing time, unless*
 8 *changed by emergency order.]** **Notwithstanding any other pro-*
 9 *vision of law, the commissioner may adopt regulations fixing the*
 10 *hours during which dredging will be permitted.** No such dredging
 11 operation shall be permitted at any time between June 1 and Sep-
 12 tember 30 in each year, within 1 mile of the **[mean low watermark**
 13 *at all protected public beaches]* *ocean front mean low watermark,*
 14 *unless changed by emergency order or regulation. Unless otherwise*
 15 *provided by regulation, all surf clams harvested within the waters*
 16 *of New Jersey (3 nautical miles) shall not be taken into another*
 17 *state or the waters thereof until said clams have been first landed*
 18 *in New Jersey. It shall be prima facie evidence of a violation of*
 19 *this section if a harvest vessel is observed by radar or other means*
 20 *leaving the waters of New Jersey and entering the waters of an-*
 21 *other state any time prior to landing.*

1 3. Section 3 of P. L. 1950, c. 310 (C. 50:2-6.3) is amended to
 2 read as follows:

3 3. **[The shell fisheries council in the Division of Shell Fisheries**
 4 *in the Department of Conservation and Economic Development*
 5 *shall make and promulgate rules and regulations to effectuate the*
 6 *purposes of this act. The license fee shall be \$10.00 for any vessel*
 7 *dredging sea clams for any purpose other than sale and \$50.00 for*
 8 *each other vessel.]*

9 *The Commissioner of the Department of Environmental Pro-*
 10 *tection with the advice of the Shell Fisheries Councils shall adopt*
 11 *regulations and amend or repeal such regulations from time to*
 12 *time as required for the conservation, protection, management, and*
 13 *improvement of the sea clam resource and industry. Emergency*
 14 *regulations may be adopted where immediate danger exists to the*
 15 *resource.*

16 *The license fee shall be \$5.00 per gross ton of a harvesting vessel*
 17 *documented or registered by a bona fide New Jersey resident; mini-*
 18 *mum fee shall be \$35.00 per boat.*

1 4. Section 4 of P. L. 1950, c. 310 (C. 50:2-6.4) is amended to
 2 read as follows:

3 4. Any person violating any of the provisions of this act, or of
 4 said rules and regulations to be made and promulgated hereunder,
 5 shall be liable to a *mandatory* penalty of not less than ~~[\$50.00 nor~~
 6 ~~more than \$300.00]~~ *\$500.00* for the first offense, and of not less
 7 than ~~[\$100.00 nor more than \$500.00]~~ *\$1,000.00* for any subsequent
 8 offense, *and the license shall be revoked for a period of 1 year, for*
 9 *any such subsequent offense.* Any penalty imposed by this act shall
 10 be collected or enforced in a summary manner, without a jury, in
 11 any court of competent jurisdiction, according to the procedure
 12 provided by "The Penalty Enforcement Law," being chapter ~~[253~~
 13 ~~of the laws of 1948]~~ *58 of Title 2A of the New Jersey Statutes.*

14 *The captain or owner of the harvesting vessel and the owner or*
 15 *manager of the processing plant shall be individually and jointly*
 16 *liable under this act.*

1 5. R. S. 50:2-11 is amended to read as follows:

2 50:2-11. No person shall dredge upon, or throw, cast or drag an
 3 oyster dredge or any other instrument or appliance used for catch-
 4 ing clams or oysters, or assist in so doing, or tread for clams, upon
 5 any of the lands lying under the tidal waters of this State before
 6 sunrise or after sunset, or at any time on Sunday~~],~~ but nothing
 7 herein shall restrict or apply to the dredging for sea clams (*mactra*
 8 *solidissima*) authorized pursuant to P. L. 1950, c. 310 (C. 50:2-6.1
 9 et seq.)~~].~~

1 6. This act and the regulations adopted or continued hereunder
 2 shall be construed liberally to permit the Division of Fish, Game
 3 and Shell Fisheries and the Department of Environmental Protec-
 4 tion to adequately protect and enhance the sea clam resource.

1 7. All acts or parts of the acts inconsistent with this act are
 2 hereby repealed. Any and all regulations of the Department of
 3 Environmental Protection relating to sea clams adopted under prior
 4 acts shall remain with full force and effect until revised or repealed
 5 by the department pursuant to this act.

1 8. This act shall take effect immediately.

1 4. Section 4 of P. L. 1950, c. 310 (C. 50:2-6.4) is amended to
2 read as follows:

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STATEMENT

The sea clam resource off the coast of Delaware and Maryland within 3 nautical miles has been seriously depleted by unregulated overfishing. During the past several months the sea clam resource

off the coast of Virginia has been so depleted that the major concentration of clamming has moved into Jersey's waters within 3 miles of the shore. The present laws regulating this fishery are completely inadequate and it is the opinion of State and Federal scientists, shared by most of the sea clam industry, that unless emergency action is taken immediately, this valuable resource and industry will be destroyed in a matter of months if not weeks.

This legislation is supported by the Shell Fisheries Councils of the Division of Fish, Game and Shell Fisheries in the Department of Environmental Protection; The Federal State Cooperative Sea Clam Management Program; Doctor Harold H. Haskins, Chief of Shell Fisheries Research, Rutgers University; The New Jersey Sea Clam Packers Association; and a major portion of New Jersey's sea clam boat owners and operators.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

December 15, 1975

ASSEMBLY BILL NO. 3731

TO THE GENERAL ASSEMBLY:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 3731 with my objections for reconsideration.

The bill is intended to expand the State's authority to regulate the taking of sea clams within New Jersey's coastal waters. In recent weeks, there have been reports that several boats formerly dredging clams off the Virginia coast have shifted their operations to New Jersey's waters. This shift has been caused by the depletion of the sea clam beds off Virginia through excessive dredging; decisive action must be taken by New Jersey to prevent similar destruction of our coastal sea clam industry. New Jersey's efforts to protect this vital coastal resource will benefit our coastal industry and all those who consume and enjoy sea clams.

While the Legislature's prompt action in introducing and passing this measure in a single day is commendable, the understandable haste of the legislative review has led to a potential problem which I do not believe was foreseen by the Legislature. Since the bill's passage, my office has been advised of an objection to the bill by one of the smaller companies in the sea clam industry. The company claims that the bill's blanket prohibition against dredging between the hours from 5 p.m. through 7 a.m. will jeopardize the survival of its business because of the limited number of boats available to it for dredging during the daytime hours. I do not know whether the company's claims are justified; there may be alternative sources of supply which could be utilized.

Nevertheless, I believe that it is a mistake to fix the hours of dredging through legislation. This matter requires flexibility to respond to changing data concerning the population of the clam beds. If our various regulatory efforts succeed, it may be possible to expand the hours available for dredging; conversely, if the population of the beds continues to decline despite this legislation, more restricted hours and other stringent regulatory efforts may be necessary. In any case, the problem requires continuing review and response which is more susceptible to administrative than legis-

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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lative action. I accordingly recommend that the Commissioner of Environmental Protection be authorized to fix the hours of dredging through the following changes to this bill:

Page 2, section 2, lines 6-8: Delete "Dredging shall be permitted only between the hours of 7 a.m. through 5 p.m., prevailing time, unless changed by emergency order." Insert "Notwithstanding any other provision of law, the Commissioner may adopt regulations fixing the hours during which dredging will be permitted."

Respectfully,

/s/ Frank J. Dodd

President of the Senate
ACTING GOVERNOR

[seal]

Attest:

/s/ Charles C. Carella

EXECUTIVE SECRETARY TO THE GOVERNOR