

23:5-24.1 and 23:5-24.2

LEGISLATIVE HISTORY CHECKLIST

23:5-24.1 & 23:5-24.2; 50:2-9;
NJSA 50:3-16.13 et al; 23:5-35.2; 50:4-2 (Net fishing--certain - regulate)

LAWS 1980 CHAPTER 120

Bill No. S1449

Sponsor(s) Zane

Date Introduced July 31, 1980

Committee: Assembly -----

Senate Natural Resources and Agriculture

Amended during passage Yes No: Substituted for A2057
(not attached since identical
Date of Passage: Assembly Sept. 22, 1980 to S1449). Amendments
Senate Sept. 22, 1980 during passage denoted by
asterisks.

Date of approval Sept. 26, 1980

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes	No
Following were printed:		
Reports	Yes	No
Hearings	Yes	No

LIBRARY

9-26-80

[OFFICIAL COPY REPRINT]

SENATE, No. 1449

STATE OF NEW JERSEY

INTRODUCED JULY 31, 1980

By Senator ZANE

Referred to Committee on Natural Resources and Agriculture

AN ACT concerning the netting of fish and **taking of shellfish,** amending **[section 2 of]** P. L. 1941, c. 211*, *P. L. 1966, c. 52, R. S. 50:2-9 and R. S. 50:4-2; supplementing P. L. 1941, c. 211; and repealing section 11 of P. L. 1966, c. 52 and sections 23:5-34, 23:5-35 and 50:3-17 through 50:3-20 of the Revised Statutes*.*

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

1 *1. Section 1 of P. L. 1941, c. 211 (C. 23:5-24.1) is amended to
2 read as follows:

3 1. No person shall fish with, set, fix, fasten, draw, or drift any
4 net of any description whatsoever, from or in the inland **[tidal]**
5 *marine* waters, bays, coves, rivers, or creeks, or in the Atlantic
6 ocean within 3 nautical miles of the coast line, unless he shall first
7 have procured a license as hereinafter provided or as otherwise
8 provided by this Title, and shall have received the required license
9 and have it in possession at the time of fishing.*

1 ***[1.]*** *2.* Section 2 of P. L. 1941, c. 211 (C. 23:5-24.2) is
2 amended to read as follows:

3 2. A person intending to take fish with a net in the waters afore-
4 said shall, except as hereinafter provided, apply to the commis-
5 sioner for a license therefor, and the commissioner upon receipt
6 of the application and the fee hereinafter prescribed may in his
7 discretion issue licenses for the taking of fish with nets as follows:

8 (a) Haul seines, the mesh of which shall not be ***[larger than 3]***
9 **smaller than 2-3/4** inches stretched ***[mesh while being fished]***,
10 and not to exceed 70 fathoms in length, whether singly or attached,
11 for all species, **[excepting striped bass]** *except those specifically*
12 *protected.* November 1 to April 30. Fee, \$25.00.

13 (b) Fykes, ***[with]*** **the length of which including** leaders,
14 shall not exceed 30 fathoms ***[in length]*** and no part of net or

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

15 leaders to be larger than 3 inches stretched mesh ***[while being**
 16 **fished]***, for all species **[excepting striped bass]**, *except those*
 17 *specifically protected*. November 1 to April 30. Fee, \$30.00.

18 (c) Special fyke for flounder only, the length of the net not to
 19 exceed 30 fathoms and the mesh of which shall not be less than
 20 4 inches stretched ***[mesh]***. October 1 to April 30. Fee, \$4.00.

21 (d) Miniature fykes or pots for the taking of catfish, suckers
 22 and eels, the same not to exceed 16 inches in diameter *in the*
 23 **marine* waters of this State except the Delaware bay*. March 15
 24 to December 15. Fee, \$1.00 *per pot or fyke*.

25 (e) Run around net the smallest mesh of which shall be $2\frac{3}{4}$
 26 inches ***[wide]*** stretched ***[mesh]*** and the length of which net
 27 shall not exceed 200 fathoms, for all species **[excepting striped**
 28 **bass]**, *except those specifically protected*. March 15 to December 15.
 29 Fee, \$20.00. This net shall be used in the Atlantic ocean *and the*
 30 *Delaware bay *and its tributaries** only. The limit shall be one
 30A run around net per boat.

31 (f) Shad nets, either **drifting,** staked or anchored, the smallest
 32 mesh of which shall be 5 inches ***[while being fished, and shall not**
 33 **exceed 50 fathoms in length]*** **stretched**, for all species **[except-**
 34 **ing striped bass]**, *except those specifically protected*. ***[March 1 to**
 35 **June 15]*** **February 1 to May 15**. Fee, ***[\$3.00]*** **\$20.00**. These
 36 nets shall be used in the Atlantic ocean *and the Delaware bay*
 36A ***[only]*** **and its tributaries. Staked or anchored nets may be*
 36B *used in Raritan bay and Sandy Hook bay.**

37 (g) Bait seines, over 50 feet long and not exceeding 150 feet.
 38 Fee, \$3.00.

39 (h) Bait seines, not more than 50 feet long **and cast nets, not*
 40 *more than 20 feet in diameter**, may be used without application for
 40A or granting of license.

41 (i) Dip nets, not to exceed 24 inches in diameter, may be used
 42 for the taking of herring for live bait without application for or
 43 granting of license.

44 (j) Drifting gill net, the smallest mesh of which shall be $2\frac{3}{4}$
 45 inches stretched ***[mesh]*** and the length of which net shall not
 46 exceed ***[150]*** **200** fathoms **and staked and anchored gill nets,*
 46A *the smallest mesh of which shall be 2-3/4 inches stretched and the*
 46B *length of which shall not exceed 30 fathoms**, for all species
 46C **[excepting striped bass]**, *except *shad and* those specifically pro-*
 47 *tected.* ***[The limit shall be two drifting gill nets per boat. March 15**
 48 **to December 15.]*** Fee, \$20.00 **for the drifting gill net and \$3.00*
 49 *for the staked or anchored gill net**. These nets shall be used in the

49A Atlantic ocean *and the Delaware bay *and its tributaries** only.
 49B **March 1 to December 15 for the Atlantic ocean and Delaware bay.*
 49C *March 1 to May 15 and July 15 to December 15 for the tributaries*
 49D *of the Delaware bay.**

50 (k) *Pound net, the smallest mesh of which shall be 2 inches*
 51 *stretched ***[mesh]*** for all species except those specifically pro-*
 52 *tected. February 15 to May 15. Fee, \$100.00. These nets shall be*
 53 *used in the Delaware bay only, except as otherwise provided by*
 54 *law. ***[The location of each net shall be approved by the United***
 55 *States Department of the Army.]**

56 (l) *Wire pound net which does not extend into the Delaware*
 57 *bay more than 300 feet from the mean low water mark or 300 feet*
 58 *from the outside of the flats which fall bare at low water, which*
 59 *may be set and used in the Delaware bay only. March 1 to Decem-*
 60 *ber 31. Fee, \$25.00.*

61 (m) *Parallel nets, the mesh of which shall not be smaller than*
 62 *3-1/2 inches stretched ***[measure while being fished, and cast nets,***
 63 *which may be used for the capture of carp, suckers and catfish*
 64 *only]*. September 1 to May 31.*

65 *The commissioner may adopt any rules and regulations which*
 66 *he deems necessary to carry out the purposes of this section.*

1 *3. R. S. 50:2-9 is amended to read as follows:

2 50:2-9. When the person in charge of any boat or vessel licensed
 3 under the provisions of this Title, or any person holding a tonger's
 4 license, is hailed or signaled by any officer of the department and
 5 refuses to stop and permit such officer or officers to board his boat,
 6 vessel or other craft and examine the oysters, oyster shells and
 7 other material thereon *or if having permitted the officer or officers*
 8 *to board, and a violation of R. S. 50:2-7 or R. S. 50:2-8 having*
 9 *been found, refuses to comply with an order that he recull such*
 10 *oysters and oyster shells or immediately throw them upon the beds*
 11 *or grounds from which they were taken, the commissioner, in*
 12 *addition to the penalties provided in section 73 of P. L. 1979, c. 199*
 13 *(C. 23:2B-14), may revoke the license of such boat or vessel and*
 14 *the license of the tonger and the department may seize and secure*
 15 *any such boat, vessel and equipment and shall immediately there-*
 16 *after give notice thereof to a county district court or Superior*
 17 *Court which shall summarily hear and determine whether there*
 18 *was a violation of this section, and if it does so determine, it may*
 19 *direct the confiscation and forfeiture of the vessel, boat and equip-*
 20 *ment for the use of the department. The commissioner may dispose*
 21 *of such confiscated and forfeited property at his discretion.*

1 4. Section 13 of P. L. 1966, c. 52 (C. 50:3-16.13) is amended to
2 read as follows:

3 13. It shall be lawful to catch and take oysters, clams and crabs in
4 that portion of the Delaware bay, hereinbefore described as **[Area**
5 **No.]** *Areas Nos. 2 and 3*, upon compliance with the provisions of
6 **[chapters 1, 2, 3 and 5, of Title 50 of the Revised Statutes and the**
7 **amendments thereof and supplements thereto, as modified by the**
8 **provisions of this act, and upon compliance with the provisions of**
9 **this act]** *this Title and any rules and regulations issued pursuant*
10 *thereto.*

1 5. Section 14 of P. L. 1966, c. 52 (C. 50:3-16.14) is amended to
2 read as follows:

3 14. No person shall catch or take any shellfish from the natural
4 shellfish beds, contained within said **[Area]** *Areas Nos. 2 and 3*,
5 unless there shall have been first issued by the council for each
6 boat or vessel, so to be used or employed therein, a special license
7 authorizing the catching or taking of shellfish within said **[area]**
8 *areas*, which shall be issued for a term not longer than 1 year and
9 shall contain an agreement on the part of the holder thereof.

10 (a) That any person or officer authorized by regulation of said
11 council to make inspections of such **[area]** *areas* may board said
12 boat or vessel to inspect shellfish therein contained, and

13 (b) That such holder will deliver or cause to be delivered to said
14 council the shells taken in said **[area]** *areas* in the process of
15 opening or shucking, from 40% of all of the oysters taken from
16 under the tidal waters of said **[area]** *areas* and delivered by such
17 holder or for his account to any shucking houses, pursuant to
18 chapter 39 of the laws of 1945, at the times and in the manner
19 prescribed therein.

20 (c) That such holder will, in the case of oysters packed and
21 shipped or otherwise sold in the shells by him to persons not re-
22 quired to be licensed under this act, pay to the State of New
23 Jersey the true, fair, cash market value of the oyster shells so
24 packed and shipped and otherwise sold, as fixed by the Council of
25 Shell Fisheries, under the provisions of this act, on the basis of one
26 bushel of shells for each bushel of oysters so sold or shipped which
27 payments shall be made as statements are submitted.

28 All licenses issued under this act shall be numbered.

1 6. Section 18 of P. L. 1966, c. 52 (C. 50:3-16.18) is amended to
2 read as follows:

3 18. No oyster, which shall measure less than 3 inches from hinge
4 to bill, shall at any time be taken from the waters of **[Area No.]**
5 *Areas Nos. 2 and 3* or be possessed by any person after being so

6 taken, except spats or blisters, adhering so closely as to be impos-
7 sible to remove without destruction, not amounting in any case to
8 more than 10% of any catch or cargo.

1 7. Section 19 of P. L. 1966, c. 52 (C. 50:3-16.19) is amended to
2 read as follows:

3 19. No shellfish shall be dredged for or harvested in **[Area No.]**
4 *Areas Nos. 2 and 3* except between the hours of 6 o'clock ante
5 meridian and 2:30 o'clock post meridian, Standard Time, on the
6 days of the week, except Saturdays and Sundays, during the
7 months beginning with the month of October in 1 year and ending
8 with the month of April in the next year.

1 8. Section 20 of P. L. 1966, c. 52 (C. 50:3-16.20) is amended to
2 read as follows:

3 20. No person shall use any dredge for the purpose of catching
4 or taking shellfish from said **[Area]** *Areas Nos. 2 and 3*, the tooth
5 bar of which dredge measures more than 54 inches across from
6 center of bolt hole to center of bolt hole where the frame thereof is
7 fastened to the tooth bar, or any dredge which measures more
8 than 5 feet 2 inches in width from the extreme outside to outside of
9 frame, or any dredge which measures more than 21 inches from
10 center of tooth bar to center of cross bar, or any dredge the bag of
11 which contains more than 17 rows of 2-inch rings, or any dredge
12 the rings of which are less than 2 inches in diameter, inside
13 measurement, or any dredge the bag of which measures more than
14 5 feet around the bag from center of tooth bar to center of cross bar,
15 or any dredge which weighs more than 190 pounds.

1 9. R. S. 50:4-2 is amended to read as follows:

2 50:4-2. No person shall use or cause to be used any dredge with
3 bag or pocket, drag or scrape upon any of the natural oyster or
4 clam beds under the tidal waters of the Atlantic seaboard of this
5 State and tributaries thereof, except Delaware bay, and no license
6 shall be issued by the commissioner contrary to this section; but
7 this section shall not prohibit the use of any fork, hoe or drag
8 used by hand in the taking of soft clams; nor shall it prohibit
9 the catching of oysters with hand power dredges from the natural
10 oyster grounds of this State north of Shrewsbury river; *nor shall*
11 *it prohibit the taking of crabs with dredges*; nor shall it prohibit
12 the taking of clams with power dredges from specified leased lands
13 under said waters, except Delaware bay, with the approval of the
14 Commissioner of Environmental Protection and under such condi-
15 tions and supervision as he may prescribe, and under rules and
16 regulation of the Shell Fisheries Council.

1 10. (New section) No person shall take or attempt to take edible
2 crabs from any of the tidal waters of this State in any manner
3 except by rod, hand line, scoop net operated by hand, or a
4 collapsible trap continuously tended by hands, without a license
5 obtained from the commissioner. The commissioner may grant and
6 set fees for these licenses under such rules and regulations as he
7 may establish and he shall also have the power to propose, adopt,
8 amend and repeal rules and regulations for any taking or any
9 attempt to take and for the protection and propagation of edible
10 crabs in the tidal waters of this State.

1 11. Section 11 of P. L. 1966, c. 52 (50:3-16.11), R. S. 23:5-34,
2 R. S. 23:5-35 and sections 50:3-17 through 50:3-20 of the Revised
3 Statutes are repealed.*

1 ***[2.]*** *12.* This act shall take effect immediately.

STATEMENT

This legislation would correct certain problems in the existing netting statute. Since the enactment of P. L. 1979, c. 199 (C. 23:2B-1 et seq.), the existing netting statute (C. 23:5-24.2) applies to Delaware bay as well as the other salt waters of the State. This particular statute had never applied to Delaware bay before, and its language ignores the fisheries there. If not amended, this statute would effectively prohibit the netting of shad and other species in the bay.

51449 (1980)

SENATE NATURAL RESOURCES AND AGRICULTURE
COMMITTEE

STATEMENT TO
SENATE, No. 1449

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1980

As amended by the committee this legislation would correct certain problems in the existing netting statute. Since the enactment of P. L. 1979, c. 199 (C. 23:2B-1 et seq.), the existing netting statute (C. 23:5-24.2) applies to Delaware bay as well as the other salt waters of the State. This particular statute had never applied to Delaware bay before, and its language ignores the fisheries there. If not amended, this statute would effectively prohibit the netting of shad and other species in the bay.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

SEPTEMBER 29, 1980

PAT SWEENEY

Governor Brendan Byrne has signed S-1449, sponsored by Senator Raymond J. Zane (D-Gloucester), which corrects certain problems in the present fish netting statutes.

P.L. 1979, c. 199, the marine fisheries management legislation, repealed numerous archaic statutes relating to fishing. Inadvertently, in the process of doing so, a section of law permitting netting in Delaware Bay was repealed, thus prohibiting netting in Delaware Bay.

S-1449 reinstates the netting provisions, so that commercial fishing can take place as usual.

Another amendment makes it clear that the prohibition on the use of a dredge does not apply to the taking of crabs. Commercial crabbers use a dredge which runs along the bottom and picks up crabs. The dredge must be licensed by the Department of Environmental Protection. The amendments make it clear that this is a licensed, rather than a prohibited, activity.

#