

50:1-5 et al

LEGISLATIVE HISTORY CHECKLIST
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(Oysters, clams--revise definitions)

NJSA: 50:1-5 et al

LAWS OF: 1996 CHAPTER: 112

BILL NO: A2023

SPONSOR(S): Asselta

DATE INTRODUCED: May 13, 1996

ASSEMBLY: Environment; Appropriations

SENATE: July 25, 1996

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
First reprint enacted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: June 27, 1996

SENATE: May 30, 1996

DATE OF APPROVAL: September 11, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes 6-10-96 & 6-20-96

SENATE: No

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1996, CHAPTER 112, *approved August 29, 1996*
Assembly, No. 2023 (*First Reprint*)

1 AN ACT concerning the taking of oysters, amending various sections
2 of statutory law, and supplementing Title 23 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

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

9 50:1-5. The Commissioner of Environmental Protection shall have
10 full control and direction of the shellfish industry and resource and of
11 the protection of shellfish throughout the entire State, subject to the
12 provisions of this **[Title. He] title**. ~~The commissioner~~ shall make such
13 rules and regulations as may be necessary for the preservation and
14 improvement of the shellfish industry and resource of the State, after
15 consultation with the Shell Fisheries Council and subject to the
16 disapproval, as hereinbefore provided, of the Marine Fisheries Council.
17 For purposes of this title **[the term]**, "oysters landed" means oysters
18 ¹[harvested for sale and shall not include oysters]¹ taken for any ¹[
19 other]¹ purpose ¹[, including, but not limited to,] other than¹
20 replanting; "shellfish" **[shall mean] means ¹[all] any¹ species of benthic**
21 mollusks. ¹[including] except for conchs (Busycon carica, Busycon
22 contrarium and Busycotypus canaliculatum), the harvest of which is
23 regulated pursuant to section 6 of P.L.1979, c.199 (C.23:2B-6),
24 section 2 of P.L.1941, c.211 (C.23:5-24.2) and the rules and
25 regulations adopted pursuant thereto, and shall include¹, but not ¹be¹
26 limited to, hard clams ¹[,]¹ (Mercenaria mercenaria) ¹,¹ soft clams
27 (Mya arenaria), **[sea] surf clams ([Mactra] Spisula solidissima) and**
28 oysters ¹[(Cassostrea virginica)] (Crassostrea virginica)¹ ; and **[the**
29 term] "commissioner" **[shall mean] means the** Commissioner of
30 Environmental Protection.
31 (cf: P.L.1979, c.199, s.14)

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AES committee amendments adopted June 10, 1996.

1 2. R.S. 50:1-18 is amended to read as follows:

2 50:1-18. a. The Shell Fisheries Council shall be composed of
3 ~~nine~~10 members; one each residing in the counties of Monmouth,
4 Ocean, Burlington, Atlantic~~], Cape May]~~ and Salem, two residents of
5 Cape May ~~County~~ county¹, and three residents of Cumberland
6 county; each of whom shall be a licensed and practicing shellfisherman
7 and shall be chosen with due regard to his knowledge of and interest
8 in the shellfish industry and in the conservation and management of
9 shellfish. Each member of the council shall be appointed by the
10 Governor, with the advice and consent of the Senate, for a term of
11 ~~four~~ four¹ years and shall serve until ~~his~~ a successor has been
12 appointed and has qualified.

13 Any vacancies in the membership of ~~said~~ the¹ council occurring
14 other than by expiration of term shall be filled by the Governor, with
15 the advice and consent of the Senate, for the unexpired term only.
16 Any member of the council may be removed from office by the
17 Governor, for cause, upon notice and opportunity to be heard.

18 The members of the council shall serve without compensation but
19 shall be reimbursed for necessary expenses incurred in the performance
20 of their duties. Each section of the council shall annually elect a
21 chairman of the council from its own members.

22 b. The council shall, subject to the approval of the commissioner,
23 formulate comprehensive policies for the preservation and
24 improvement of the shellfish industry and resource of the State. The
25 council shall also: (1) consult with and advise the commissioner and
26 the Marine Fisheries Council with respect to the implementation of the
27 shellfisheries program; (2) study the activities of the shellfisheries
28 program and hold hearings with respect thereto as it may deem
29 necessary or desirable; and (3) initiate, by resolution of the council,
30 proposed rules and regulations concerning shellfish to the
31 commissioner.

32 c. No lease of any of the lands of the State under the tidal waters
33 thereof, to be exclusively used and enjoyed by the lessee for the
34 planting and cultivating of shellfish, shall hereafter be allowed except
35 when approved by a majority of the appropriate section of the council;
36 and no such lease shall hereafter in any case be allowed except when
37 approved and signed by the commissioner.

38 d. The council shall be divided into two sections ^{1,1} one to be
39 known as the "Delaware Bay Section," consisting of the members
40 from the counties of Cumberland and Salem, and one of the members
41 from Cape May ~~County~~ county¹, and the other to be known as the
42 "Atlantic Coast Section ^{1,1}" consisting of the members from the
43 counties of Atlantic, Burlington, Ocean and Monmouth , and one of
44 the members from Cape May ~~County~~ county¹. ¹[Neither member
45 from Cape May County shall serve as a member of both sections.] In
46 the event only one member from Cape May county has been appointed

1 and has qualified as a member of the council, the qualified member
 2 may elect to serve in both sections of the council and participate in the
 3 exercise of the powers and performance of the duties of each of the
 4 sections until a second member from Cape May county has been
 5 appointed and has qualified as a member of the council.¹ [The member
 6 of the said council from Cape May shall be entitled to participate in the
 7 exercise of the powers and the performance of the duties of each of
 8 the said two sections.]

9 **[The]** Except as provided in subsection e. of this section, the
 10 Delaware Bay Section shall, subject to the approval of the
 11 commissioner, exercise all the powers and perform all the duties of the
 12 council in matters relating to the shellfish industry in the tidal waters
 13 of Delaware river, Delaware bay and their tributaries.

14 The Atlantic Coast Section shall, subject to the approval of the
 15 commissioner, exercise all the powers and perform all the duties of the
 16 council in matters relating to the shellfish industry in all of the tidal
 17 waters of the State except in the tidal waters of the Delaware river,
 18 Delaware bay and their tributaries.

19 e. The commissioner, in consultation with the Delaware Bay
 20 Section of the Shell Fisheries Council, shall fix fees for all oysters
 21 landed from the Delaware river, Delaware bay and their tributaries.
 22 These fees shall be collected by and allocated to the Division of Fish,
 23 Game and Wildlife and shall be deposited in the "Oyster Resource
 24 Development Account." established pursuant to section 8 of P.L. ____,
 25 c. ____ (C. ____)(now before the Legislature as this bill).
 26 (cf: P.L.1979, c.199, s.15)

27
 28 3. R.S.50:3-2 is amended to read as follows:

29 50:3-2. The ¹Delaware Bay Section of the ¹council may fix the
 30 license fee at any sum [on the gross tonnage measurement of such boat
 31 or vessel], except that the fee shall be not less than \$10, or less than
 32 \$2 per gross ton of the ¹boat or ¹vessel, whichever is greater, for boats
 33 or vessels required to be licensed under R.S.50:3-1.

34 No license shall be issued for a period longer than ¹[1] one ¹ year.

35 All licenses shall be numbered and recorded by the commissioner.

36 All fees for licenses collected pursuant to this section shall be
 37 deposited in the "Oyster Resource Development Account." established
 38 pursuant to section 8 of P.L. ____, c. ____ (C. ____)(now before the
 39 Legislature as this bill), and shall be subject to all the terms and
 40 conditions of that section ¹[.] ¹

41 (cf: P.L.1979, c.199, s.40)

42
 43 4. R.S.50:3-8 is amended to read as follows:

44 50:3-8. Season for taking oysters. Except in that area known as
 45 Section "E" as defined in R.S.50:1-23, no oysters shall be dredged for,
 46 caught or taken from any of the lands lying under the tidal waters of

1 the Delaware river, Delaware bay or Maurice river cove, above the
2 southwest line, except **[from and including April 1 to and including**
3 **June 30 of each year]** at the times and in the manner prescribed by the
4 commissioner after consultation with the Delaware Bay Section of the
5 Shell Fisheries Council.

6 (cf: P.L.1995, c.67, s.1.)

7

8 5. R.S.50:3-11 is amended to read as follows:

9 50:3-11. No oysters shall be dredged for, caught or taken from that
10 area known as Section "E" as defined in R.S.50:1-23 or from any of
11 the lands lying under the tidal waters of the Delaware bay and Maurice
12 river cove below a line running direct from the mouth of Straight creek
13 to Cross Ledge lighthouse, commonly known and hereinafter referred
14 to as the "southwest line," at any time except from September 1 to
15 June 30 then next, both inclusive, of each year; but the commissioner
16 may, upon application, give permission, in writing, to any lessee of
17 oyster grounds to dredge, catch or take oysters or to employ such
18 methods for the protection of **[his] the oysters on ¹[said] the¹ grounds**
19 **[and for the promotion of the growth thereof during the closed season**
20 **as the commissioner may deem advisable].**

21 (cf: P.L.1981, c.62, s.5)

22

23 6. Section 2 of P.L.1945, c.39 (C.50:3-20.11) is amended to read
24 as follows:

25 2. It shall be unlawful for any person to operate within this State
26 an oyster shucking house or to engage in or carry on the business of
27 **[an oyster planter or] ¹an oyster planter or¹ an oyster dealer,** as
28 defined in **[this act] section 1 of P.L.1945, c.39 (C.50:3-20.10),**
29 without first obtaining a license **[so to do] for this purpose** from the
30 commissioner as provided in **[this act] P.L.1945, c.39.**

31 (cf: P.L.1979, c.199, s.52.)

32

33 7. Section 4 of P.L.1945, c.39 (C.50:3-20.13) is amended to read
34 as follows:

35 4. The license to conduct an oyster shucking house or to engage
36 in and conduct the business of **[an oyster planter or] ¹an oyster**
37 **planter or¹ an oyster dealer** shall be issued upon the payment of a
38 license fee of **¹[\$100.00] \$100¹.** All license fees ¹collected¹ shall be
39 deposited in the "Oyster Resource Development Account." established
40 pursuant to section 8 of P.L. _____, c. _____ (C. _____) (now before the
41 Legislature as this bill), and shall be subject to all the terms and
42 conditions of that section.

43 (cf: P.L.1979, c.99, s.53)

44

45 8. (New section) a. There is established within the "hunters' and
46 anglers' license fund," created pursuant to the provisions of

1 R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be
2 known as the "Oyster Resource Development Account." This account
3 shall be credited with all revenues ¹received¹ from oysters landed from
4 the Delaware river, Delaware bay and their tributaries, including, but
5 not limited to, all fees collected pursuant to R.S.50:1-18, R.S.50:3-2,
6 and section 4 of P.L.1945, c.39 (C.50:3-20.13) ¹and as provided in
7 subsection c. of this section¹. The moneys in the account shall be
8 allocated to the Division of Fish, Game and Wildlife within the
9 Department of Environmental Protection and shall be disbursed only
10 for the enhancement and management of the oyster resource in the
11 Delaware bay in the amounts and manner prescribed by the
12 commissioner, after consultation with the Delaware Bay Section of the
13 Shell Fisheries Council.

14 b. The Department of Environmental Protection shall adopt,
15 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
16 (C.52:14B-1 et seq.), rules and regulations necessary to administer the
17 "Oyster Resource Development Account," established pursuant to
18 subsection a. of this section.

19 c. Upon the adoption of the rules and regulations pursuant to
20 subsection b. of this section, the Department of Environmental
21 Protection shall repeal subchapter 4 of chapter 25A of Title 7 of the
22 New Jersey Administrative Code establishing the "oyster cultch
23 program" and the "Oyster Cultch Fund." ¹**[Any]** The balance of the¹
24 moneys remaining in the "Oyster Cultch Fund" upon the date of the
25 repeal of the rules and regulations establishing the fund shall be
26 deposited in the "Oyster Resource Development Account," established
27 pursuant to subsection a. of this section.

28

29 9. This act shall take effect immediately.

30

31

32

33

34 _____
35 Increases membership of Shell Fisheries Council; sets minimum
36 licensing fees for oyster boats; establishes Oyster Resource
37 Development Account; transfers to that account moneys remaining
in Oyster Cultch Fund.

1 subsection a. of this section.

2 c. Upon the adoption of the rules and regulations pursuant to
3 subsection b. of this section, the Department of Environmental
4 Protection shall repeal subchapter 4 of chapter 25A of Title 7 of the
5 New Jersey Administrative Code establishing the "oyster cultch
6 program" and the "Oyster Cultch Fund." Any moneys remaining in the
7 "Oyster Cultch Fund" upon the date of the repeal of the rules and
8 regulations establishing the fund shall be deposited in the "Oyster
9 Resource Development Account," established pursuant to subsection
10 a. of this section.

11

12 9. This act shall take effect immediately.

13

14

15 STATEMENT

16

17 This bill makes several changes to existing laws that affect the
18 oyster industry in the Delaware bay. The oyster industry in the
19 Delaware bay was once a thriving industry, employing thousands of
20 State residents. Since the late 1950s, the industry has been
21 beleaguered by oyster diseases that have decimated the oyster
22 populations in the bay. The traditional practice of transplanting
23 oysters from seed beds to leased grounds in lower areas of the bay
24 is no longer a viable strategy for preserving the resource, and
25 innovative programs are needed to improve conditions within the
26 bay.

27 This bill would enable the Commissioner of Environmental
28 Protection, in conjunction with the Delaware Bay Section of the
29 Shell Fisheries Council, to pursue alternative strategies for the
30 preservation and use of the oyster resource in the Delaware bay.

31 The bill increases the membership of the Shell Fisheries Council
32 from nine to 10 members, and requires that two of the members be
33 residents of Cape May County and that one of each of the Cape
34 May County members shall serve on the Delaware Bay Section and
35 the Atlantic Coast Section of the Shell Fisheries Council. Neither
36 member from Cape May County shall serve on both sections. The
37 bill also requires that the Shell Fisheries Council fix license fees at
38 not less than \$10, or not less than \$2 per gross ton of the vessel,
39 whichever is greater, for boats or vessels required to be licensed
40 under R.S.50:3-1. Furthermore, the bill exempts oyster planters
41 from State licensing requirements and licensing fees.

42 Finally, the bill establishes the "Oyster Resource Development
43 Account" within the hunters' and anglers' license fund established
44 by R.S.23:3-11 and R.S.23:3-12 as a separate and dedicated
45 account for the enhancement and management of the oyster
46 resource in the Delaware bay. The bill directs the Commissioner of

1 Environmental Protection, in consultation with the Delaware Bay
2 Section of the Shell Fisheries Council, to fix fees for all oysters
3 landed from the Delaware bay, Delaware river, and their tributaries.
4 The bill defines "oysters landed" as oysters harvested for sale and
5 does not include oysters taken for other purposes such as
6 replanting. These fees and fees collected for licenses pursuant to
7 R.S.50:3-2 and section 4 of P.L.1945, c.39 (C.50:3-20.13) are to
8 be deposited in the "Oyster Resource Development Account" and
9 disbursed only for the enhancement and management of the oyster
10 resource in the Delaware bay in the amounts and manner prescribed
11 by the Commissioner of Environmental Protection, after
12 consultation with the Delaware Bay Section of the Shell Fisheries
13 Council. The bill directs the Department of Environmental
14 Protection to adopt rules and regulations necessary to administer
15 the fund and repeal existing rules and regulations establishing the
16 "oyster cultch program" and the "Oyster Cultch Fund." The bill
17 directs that any moneys remaining in the "Oyster Cultch Fund" upon
18 the date of the repeal of the rules and regulations establishing the
19 fund be deposited in the "Oyster Resource Development Account."

20

21

22

23

24 Increases membership of Shell Fisheries Council; sets minimum
25 licensing fees for oyster boats; exempts oyster planters from licensing;
26 establishes Oyster Resource Development Account; transfers to that
27 account moneys remaining in Oyster Cultch Fund.

[First Reprint]
ASSEMBLY, No. 2023

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1996

By Assemblyman ASSELTA

1 AN ACT concerning the taking of oysters, amending various sections
2 of statutory law, and supplementing Title 23 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.50:1-5 is amended to read as follows:

9 50:1-5. The Commissioner of Environmental Protection shall have
10 full control and direction of the shellfish industry and resource and of
11 the protection of shellfish throughout the entire State, subject to the
12 provisions of this **[Title. He] title. The commissioner** shall make such
13 rules and regulations as may be necessary for the preservation and
14 improvement of the shellfish industry and resource of the State, after
15 consultation with the Shell Fisheries Council and subject to the
16 disapproval, as hereinbefore provided, of the Marine Fisheries Council.
17 For purposes of this title **[the term], "oysters landed" means oysters**
18 **¹[harvested for sale and shall not include oysters]¹ taken for any**
19 **¹[other]¹ purpose ¹[, including, but not limited to,] other than¹**
20 **replanting; "shellfish" [shall mean] means ¹[all] any¹ species of**
21 **benthic mollusks. ¹[including] except for conchs (Busycon carica,**
22 **Busycon contrarium and Busycotypus canaliculatum), the harvest of**
23 **which is regulated pursuant to section 6 of P.L.1979, c.199**
24 **(C.23:2B-6), section 2 of P.L.1941, c.211 (C.23:5-24.2) and the rules**
25 **and regulations adopted pursuant thereto, and shall include¹, but not**
26 **be¹ limited to, hard clams ¹[,]¹ (Mercenaria mercenaria) ¹,¹ soft**
27 **clams (Mya arenaria), **[sea] surf clams ([Mactra] Spisula solidissima)****
28 **and oysters ¹[(Cassostrea virginica)] (Crassostrea virginica)¹ ; and**
29 ****[the term] "commissioner" [shall mean] means the** Commissioner of**
30 Environmental Protection.
31 (cf: P.L.1979, c.199, s.14)

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AES committee amendments adopted June 10, 1996.

1 2. R.S. 50:1-18 is amended to read as follows:

2 50:1-18. a. The Shell Fisheries Council shall be composed of
3 ~~【nine】~~10 members; one each residing in the counties of Monmouth,
4 Ocean, Burlington, Atlantic~~【, Cape May】~~ and Salem, two residents of
5 Cape May ~~【County】~~ county¹ , and three residents of Cumberland
6 county; each of whom shall be a licensed and practicing shellfisherman
7 and shall be chosen with due regard to his knowledge of and interest
8 in the shellfish industry and in the conservation and management of
9 shellfish. Each member of the council shall be appointed by the
10 Governor, with the advice and consent of the Senate, for a term of
11 ~~【4】~~ four¹ years and shall serve until ~~【his】~~ a successor has been
12 appointed and has qualified.

13 Any vacancies in the membership of ~~【said】~~ the¹ council occurring
14 other than by expiration of term shall be filled by the Governor, with
15 the advice and consent of the Senate, for the unexpired term only.
16 Any member of the council may be removed from office by the
17 Governor, for cause, upon notice and opportunity to be heard.

18 The members of the council shall serve without compensation but
19 shall be reimbursed for necessary expenses incurred in the performance
20 of their duties. Each section of the council shall annually elect a
21 chairman of the council from its own members.

22 b. The council shall, subject to the approval of the commissioner,
23 formulate comprehensive policies for the preservation and
24 improvement of the shellfish industry and resource of the State. The
25 council shall also: (1) consult with and advise the commissioner and
26 the Marine Fisheries Council with respect to the implementation of the
27 shellfisheries program; (2) study the activities of the shellfisheries
28 program and hold hearings with respect thereto as it may deem
29 necessary or desirable; and (3) initiate, by resolution of the council,
30 proposed rules and regulations concerning shellfish to the
31 commissioner.

32 c. No lease of any of the lands of the State under the tidal waters
33 thereof, to be exclusively used and enjoyed by the lessee for the
34 planting and cultivating of shellfish, shall hereafter be allowed except
35 when approved by a majority of the appropriate section of the council;
36 and no such lease shall hereafter in any case be allowed except when
37 approved and signed by the commissioner.

38 d. The council shall be divided into two sections ¹ ¹ one to be
39 known as the "Delaware Bay Section," consisting of the members
40 from the counties of Cumberland and Salem, and one of the members
41 from Cape May ~~【County】~~ county¹ , and the other to be known as the
42 "Atlantic Coast Section ¹ ¹" consisting of the members from the
43 counties of Atlantic, Burlington, Ocean and Monmouth , and one of
44 the members from Cape May ~~【County】~~ county¹ . ~~【Neither member~~
45 ~~from Cape May County shall serve as a member of both sections.】~~ In
46 the event only one member from Cape May county has been appointed

1 and has qualified as a member of the council, the qualified member
 2 may elect to serve in both sections of the council and participate in the
 3 exercise of the powers and performance of the duties of each of the
 4 sections until a second member from Cape May county has been
 5 appointed and has qualified as a member of the council.¹ [The
 6 member of the said council from Cape May shall be entitled to
 7 participate in the exercise of the powers and the performance of the
 8 duties of each of the said two sections.]

9 [The] Except as provided in subsection e. of this section, the
 10 Delaware Bay Section shall, subject to the approval of the
 11 commissioner, exercise all the powers and perform all the duties of the
 12 council in matters relating to the shellfish industry in the tidal waters
 13 of Delaware river, Delaware bay and their tributaries.

14 The Atlantic Coast Section shall, subject to the approval of the
 15 commissioner, exercise all the powers and perform all the duties of the
 16 council in matters relating to the shellfish industry in all of the tidal
 17 waters of the State except in the tidal waters of the Delaware river,
 18 Delaware bay and their tributaries.

19 e. The commissioner, in consultation with the Delaware Bay
 20 Section of the Shell Fisheries Council, shall fix fees for all oysters
 21 landed from the Delaware river, Delaware bay and their tributaries.
 22 These fees shall be collected by and allocated to the Division of Fish,
 23 Game and Wildlife and shall be deposited in the "Oyster Resource
 24 Development Account." established pursuant to section 8 of P.L. _____,
 25 c. _____ (C. _____)(now before the Legislature as this bill).

26 (cf: P.L.1979, c.199, s.15)

27

28 3. R.S.50:3-2 is amended to read as follows:

29 50:3-2. The ¹Delaware Bay Section of the¹ council may fix the
 30 license fee at any sum [on the gross tonnage measurement of such
 31 boat or vessel], except that the fee shall be not less than \$10, or less
 32 than \$2 per gross ton of the ¹boat or¹ vessel, whichever is greater, for
 33 boats or vessels required to be licensed under R.S.50:3-1.

34 No license shall be issued for a period longer than ¹[1] one¹ year.

35 All licenses shall be numbered and recorded by the commissioner.

36 All fees for licenses collected pursuant to this section shall be
 37 deposited in the "Oyster Resource Development Account." established
 38 pursuant to section 8 of P.L. _____, c. _____ (C. _____)(now before the
 39 Legislature as this bill), and shall be subject to all the terms and
 40 conditions of that section¹[.]¹

41 (cf: P.L.1979, c.199, s.40)

42

43 4. R.S.50:3-8 is amended to read as follows:

44 50:3-8. Season for taking oysters. Except in that area known as
 45 Section "E" as defined in R.S.50:1-23, no oysters shall be dredged for,
 46 caught or taken from any of the lands lying under the tidal waters of

1 the Delaware river, Delaware bay or Maurice river cove, above the
2 southwest line, except **from and including April 1 to and including**
3 **June 30 of each year** at the times and in the manner prescribed by the
4 commissioner after consultation with the Delaware Bay Section of the
5 Shell Fisheries Council.

6 (cf: P.L.1995, c.67, s.1.)

7

8 5. R.S.50:3-11 is amended to read as follows:

9 50:3-11. No oysters shall be dredged for, caught or taken from that
10 area known as Section "E" as defined in R.S.50:1-23 or from any of
11 the lands lying under the tidal waters of the Delaware bay and Maurice
12 river cove below a line running direct from the mouth of Straight creek
13 to Cross Ledge lighthouse, commonly known and hereinafter referred
14 to as the "southwest line," at any time except from September 1 to
15 June 30 then next, both inclusive, of each year; but the commissioner
16 may, upon application, give permission, in writing, to any lessee of
17 oyster grounds to dredge, catch or take oysters or to employ such
18 methods for the protection of **his** the oysters on **his** the
19 grounds **and for the promotion of the growth thereof during the**
20 **closed season as the commissioner may deem advisable**.

21 (cf: P.L.1981, c.62, s.5)

22

23 6. Section 2 of P.L.1945, c.39 (C.50:3-20.11) is amended to read
24 as follows:

25 2. It shall be unlawful for any person to operate within this State
26 an oyster shucking house or to engage in or carry on the business of
27 **an oyster planter or** an oyster planter or **an oyster dealer, as**
28 **defined in this act** section 1 of P.L.1945, c.39 (C.50:3-20.10),
29 **without first obtaining a license so to do** for this purpose from the
30 commissioner as provided in **this act** P.L.1945, c.39.

31 (cf: P.L.1979, c.199, s.52.)

32

33 7. Section 4 of P.L.1945, c.39 (C.50:3-20.13) is amended to read
34 as follows:

35 4. The license to conduct an oyster shucking house or to engage
36 in and conduct the business of **an oyster planter or** an oyster
37 planter or **an oyster dealer** shall be issued upon the payment of a
38 license fee of **[\$100.00]** \$100. All license fees collected shall be
39 deposited in the "Oyster Resource Development Account," established
40 pursuant to section 8 of P.L. , c. (C.) (now before the
41 Legislature as this bill), and shall be subject to all the terms and
42 conditions of that section.

43 (cf: P.L.1979, c.99, s.53)

44

45 8. (New section) a. There is established within the "hunters' and

1 anglers' license fund," created pursuant to the provisions of
2 R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be
3 known as the "Oyster Resource Development Account." This account
4 shall be credited with all revenues ¹received¹ from oysters landed from
5 the Delaware river, Delaware bay and their tributaries, including, but
6 not limited to, all fees collected pursuant to R.S.50:1-18, R.S.50:3-2,
7 and section 4 of P.L.1945, c.39 (C.50:3-20.13) ¹, and as provided in
8 subsection c. of this section¹. The moneys in the account shall be
9 allocated to the Division of Fish, Game and Wildlife within the
10 Department of Environmental Protection and shall be disbursed only
11 for the enhancement and management of the oyster resource in the
12 Delaware bay in the amounts and manner prescribed by the
13 commissioner, after consultation with the Delaware Bay Section of the
14 Shell Fisheries Council.

15 b. The Department of Environmental Protection shall adopt,
16 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
17 (C.52:14B-1 et seq.), rules and regulations necessary to administer the
18 "Oyster Resource Development Account," established pursuant to
19 subsection a. of this section.

20 c. Upon the adoption of the rules and regulations pursuant to
21 subsection b. of this section, the Department of Environmental
22 Protection shall repeal subchapter 4 of chapter 25A of Title 7 of the
23 New Jersey Administrative Code establishing the "oyster cultch
24 program" and the "Oyster Cultch Fund." ¹**【Any】** The balance of the¹
25 moneys remaining in the "Oyster Cultch Fund" upon the date of the
26 repeal of the rules and regulations establishing the fund shall be
27 deposited in the "Oyster Resource Development Account," established
28 pursuant to subsection a. of this section.

29

30 9. This act shall take effect immediately.

31

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35 _____
36 Increases membership of Shell Fisheries Council; sets minimum
37 licensing fees for oyster boats; establishes Oyster Resource
38 Development Account; transfers to that account moneys remaining
in Oyster Cultch Fund.

ASSEMBLY ENVIRONMENT, SCIENCE AND TECHNOLOGY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2023

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 10, 1996

The Assembly Environment, Science and Technology Committee reports favorably Assembly Bill No. 2023 with committee amendments.

As amended, the bill would make several changes to existing laws that affect the oyster industry in the Delaware bay, and enable the Commissioner of Environmental Protection, in conjunction with the Delaware Bay Section of the Shell Fisheries Council, to pursue a variety of strategies for the preservation and use of the oyster resource in the Delaware bay.

The bill would increase the membership of the Shell Fisheries Council from nine to 10 members, and require that two of the members be residents of Cape May county. The bill also would require that the Shell Fisheries Council fix license fees at not less than \$10, or not less than \$2 per gross ton of the vessel, whichever is greater, for boats or vessels required to be licensed under R.S.50:3-1.

In addition, the bill would establish the "Oyster Resource Development Account" within the hunters' and anglers' license fund established by R.S.23:3-11 and R.S.23:3-12 as a separate and dedicated account for the enhancement and management of the oyster resource in the Delaware bay. The bill would direct the Commissioner of Environmental Protection, in consultation with the Delaware Bay Section of the Shell Fisheries Council, to fix fees for all oysters landed from the Delaware bay, Delaware river, and their tributaries. These fees and fees collected for licenses pursuant to R.S.50:3-2 and section 4 of P.L.1945, c.39 (C.50:3-20.13) are to be deposited in the "Oyster Resource Development Account" and disbursed only for the enhancement and management of the oyster resource in the Delaware bay in the amounts and manner prescribed by the Commissioner of Environmental Protection, after consultation with the Delaware Bay Section of the Shell Fisheries Council. The bill would direct the Department of Environmental Protection to adopt rules and regulations necessary to administer the fund and repeal existing rules and regulations establishing the "oyster cultch program" and the

"Oyster Cultch Fund." The bill would direct that any moneys remaining in the "Oyster Cultch Fund" upon the date of the repeal of the rules and regulations establishing the fund be deposited in the "Oyster Resource Development Account."

The committee amendments revise the definition of "oysters landed" and make several clarifying and technical amendments. The committee amendments define "oysters landed" as oysters taken for any purpose other than replanting, instead of oysters harvested for sale. The committee amendments also exempt conchs from the definition of shellfish because, as specified in the amendments, conchs are currently regulated under State laws affecting other types of fish. The committee amendments also clarify that of the two Cape May county members of the Shell Fisheries Council, one shall serve on the Delaware Bay Section and one on the Atlantic Coast Section of the Shell Fisheries Council. In the event only one member from Cape May county has been appointed and has qualified as a member of the council, the qualified member may elect to serve in both sections of the council and participate in the exercise of the powers and performance of the duties of each of the sections until a second member from Cape May county has been appointed and has qualified as a member of the council. Finally, the committee amendments delete the exemption of oyster planters from State licensing requirements and licensing fees.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2023

STATE OF NEW JERSEY

DATED: JUNE 20, 1996

The Assembly Appropriations Committee reports favorably Assembly Bill No.2023 (1R).

Assembly Bill No.2023 (1R) makes several changes to existing laws that affect the oyster industry in the Delaware bay. The bill increases the membership of the Shell Fisheries Council from nine to 10 members, and requires that two of the members be residents of Cape May county and that one of each of the Cape May county members shall serve on the Delaware Bay Section and the Atlantic Coast Section of the Shell Fisheries Council. The bill requires that the Council fix license fees at not less than \$10, or not less than \$2 per gross ton of the boat or vessel, whichever is greater, for boats or vessels required to be licensed under R.S.50:3-1.

The bill establishes the "Oyster Resource Development Account" within the hunters' and anglers' license fund as a separate and dedicated account for the enhancement and management of the oyster resource in the Delaware bay. The bill directs the Commissioner of Environmental Protection (DEP), in consultation with the Delaware Bay Section of the Shell Fisheries Council, to fix fees for all oysters landed from the Delaware bay, Delaware river, and their tributaries. These fees and fees collected for licenses are to be deposited in the "Oyster Resource Development Account" and disbursed only for the enhancement and management of the oyster resource in the Delaware bay in the amounts and manner prescribed by the Commissioner of DEP, after consultation with the Delaware Bay Section of the Shell Fisheries Council. The bill defines "oysters landed" as oysters taken for any purpose other than replanting.

Finally, the bill directs the DEP to adopt rules and regulations necessary to administer the "Oyster Resource Development Account" and repeals existing rules and regulations establishing the "oyster cultch program" and the "Oyster Cultch Fund." The bill directs that the balance of the moneys remaining in the "Oyster Cultch Fund" upon the date of the repeal of the rules and regulations establishing the fund be deposited in the "Oyster Resource Development Account."

FISCAL IMPACT:

The Office of Legislative Services anticipates that the bill will have no significant impact on the State budget or the operations of the division of Fish, Game and Wildlife in carrying out its responsibilities. The bill does not impose new fees, change the rates of existing fees or implement new programs. It essentially codifies, redirects and consolidates the three existing fees currently charged for the harvesting, processing and regeneration of oysters into one account that will be dedicated to support various research and management activities for this industry.