

23:5-44

LEGISLATIVE HISTORY CHECKLIST
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(Striped bass--restrictions)

NJSA: 23:5-44

LAWS OF: 1994 **CHAPTER:** 26

BILL NO: S598

SPONSOR(S): Bassano

DATE INTRODUCED: February 10, 1994

COMMITTEE: **ASSEMBLY:** Economic & Community Development
SENATE: Natural Resources

AMENDED DURING PASSAGE: Yes Amendments during passage
Senate Committee Substitute denoted by superscript
(1R) enacted numbers

DATE OF PASSAGE: **ASSEMBLY:** March 28, 1994
SENATE: March 3, 1994

DATE OF APPROVAL: April 22, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 598

STATE OF NEW JERSEY

ADOPTED FEBRUARY 24, 1994

Sponsored by Senators BASSANO and CIESLA

1 AN ACT concerning the taking of striped bass, ¹and¹ amending
2 ¹[and supplementing]¹ P.L.1983, c.506 ¹[, amending] and¹
3 P.L.1987, c.83 ¹[, and repealing section 1 of P.L.1987, c.83 and
4 section 3 of P.L.1990, c.5]¹.

5

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

8 1. Section 2 of P.L.1983, c.506 (C.23:5-44) is amended to read
9 as follows:

10 2. As used in this act:

11 a. (Deleted by amendment, P.L.1985, c.211).

12 b. "Marine waters" means all the salt waters of this State,
13 including the waters of the Atlantic Ocean, and all bays, inlets
14 and estuarine waters located below the freshwater portion of any
15 river, stream or creek, but shall not include any of the
16 freshwaters of this State as defined in R.S.23:1-2;

17 c. (Deleted by amendment, P.L.1985, c.211).

18 d. "Spearfishing" means the taking of striped bass by means of
19 a spear, harpoon, or other missile, while the swimmer is
20 completely submerged in marine waters, but shall not include the
21 use of blinding lights for the purpose of spearing striped bass, or
22 spears, harpoons or other missiles with exploding heads;

23 e. "Striped bass" means a game fish of the species "*Morone*
24 *saxatilis*" commonly referred to as rockfish, rock or striper;

25 f. "Delaware bay" means all the waters of the State
26 [delineated by a line drawn from Cape May Point, New Jersey to
27 Cape Henlopen, Delaware and the boundary line between New
28 Jersey and Delaware extending to the northern terminus of
29 Artificial Island, Lower Alloways Creek township, Salem county]
30 north and west of the COLREGS Demarcation Line up to the
31 Commodore Barry Bridge, on which U.S. Route 322 transverses
32 the Delaware River;

33 g. "COLREGS" means the abbreviation used by the United
34 States Coast Guard to refer to the "International Regulations for
35 Preventing Collisions at Sea," and the "COLREGS Demarcation
36 Line" means the demarcation line designated by the United
37 States Coast Guard in accordance with the COLREGS, which runs
38 from the Cape May Point Lighthouse in Cape May, New Jersey to
39 the flashing white marker 5 sec Harbor of Refuge Light
40 maintained by the United States Coast Guard at Cape Henlopen,
41 Delaware;

42 h. "Hudson river estuary" means all marine waters of the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is 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 AEC committee amendments adopted March 21, 1994.

1 State east of the State Route 35 bridge on the Navesink river and
2 all marine waters of the State contiguous north and west of a
3 line drawn from the six-second isophase light and 15-mile bell,
4 known as the "Sandy Hook Point Light" iso 6 sec 15M bell and
5 maintained by the United States Coast Guard near the tip of
6 Sandy Hook, to the 4s 6M "4" flashing red marker, known as the
7 "Rockaway Point Breakwater Light 4" and maintained by the
8 United States Coast Guard near Breezy Point on the western end
9 of Long Island, New York.

10 (cf: P.L.1990, c.5, s.1.)

11 2. Section 1 of P.L.1987, c.83 (C.23:5-45.1) is amended to read
12 as follows:

13 1. a. [No person shall take from the waters of the State in any
14 one day, or have in his possession at any time, more than one
15 striped bass not less than 28 inches in length on or after January
16 1, 1990, except not less than 36 inches in length from the waters
17 of the Delaware Bay or the Delaware River, or their tributaries.
18 No person shall have in his possession any striped bass not less
19 than 36 inches in length while on or angling in the Delaware Bay
20 or the Delaware River, or their tributaries] Except as provided in
21 subsection c. of this section, a person shall not take from the
22 ¹marine¹ waters of the State in any one day, or have in his
23 possession at any time, more than one striped bass. The minimum
24 size limit for any striped bass taken in accordance with this
25 subsection shall be 34 inches in length, except that the minimum
26 size limit shall be 28 inches in length for any striped bass taken
27 from the Delaware bay or the Hudson river estuary.

28 A person shall not have in his possession any striped bass less
29 than 34 inches in length while on or angling in the ¹marine¹
30 waters of the State, except that a person who is on or angling in
31 the Delaware bay or the Hudson river estuary shall not have in his
32 possession any striped bass less than 28 inches in length.

33 b. The possession of any striped bass or parts of a striped bass
34 from which the head or tail has been removed other than
35 immediately prior to preparation or being served as food, which is
36 less than [28 inches in length on or after January 1, 1990, except
37 not less than 36 inches in length while on or angling in the waters
38 of the Delaware Bay or the Delaware River, or their tributaries,]
39 the minimum size limits specified in subsections a. and c. of this
40 section shall be presumed to be [possessed in] a violation of this
41 section.

42 c. Notwithstanding the provisions of subsections a. and b. of
43 this section to the contrary, upon approval by the Atlantic States
44 Marine Fisheries Commission, the Department of Environmental
45 Protection shall, by regulation adopted pursuant to the
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
47 seq.), provide that [no] a person [may] shall not take from the
48 ¹marine¹ waters of the State [, other than the Delaware Bay and
49 the Delaware River, and their tributaries,] in any one day, or
50 have in his possession at any time, more than two striped bass [,
51 of which one] . The minimum size limits for any striped bass
52 taken in accordance with this subsection shall be ¹[not less than]¹
53 [28] 34 inches in length for one striped bass and ¹[not less than]¹
54 38 inches in length for the other striped bass [shall be not less
55 than 38 inches in length.

1 The possession of any striped bass or parts of a striped bass
2 from which the head or tail has been removed other than
3 immediately prior to preparation or being served as food, which is
4 less than 28 inches in length, shall be presumed to be possessed in
5 violation of this section, except the minimum limit shall be 38
6 inches in length for a second fish possessed] , except that in the
7 case of any striped bass taken from the Delaware bay or the
8 Hudson river estuary the minimum size limits shall be 28 inches
9 in length for one striped bass and 38 inches in length for the other
10 striped bass.

11 The department shall monitor the catch provided for in this
12 subsection and provide for its discontinuance as necessary to keep
13 the State in compliance with the allowances of the commission.

14 (cf: P.L.1991, c.43, s.1.)

15 ¹[3. (New section) a. The Department of Environmental
16 Protection shall adopt, pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
18 regulations providing for the management of striped bass in and
19 upon the fresh and marine waters of the State. The rules and
20 regulations providing for the management of striped bass in and
21 upon the marine waters of the State shall be consistent with the
22 Striped Bass Fishery Management Plan of the Atlantic States
23 Marine Fisheries Commission.

24 b. A person shall not take or possess striped bass in violation
25 of the rules and regulations adopted by the department pursuant
26 to subsection a. of this section.]¹

27 ¹[4. Section 1 of P.L.1987, c.83 (C.23:5-45.1) and section 3 of
28 P.L.1990, c.5 (C.23:5-45.2) are repealed.]¹

29 ¹[5.] 3.¹ This act shall take effect immediately ¹[, except that
30 section 4 shall take effect upon adoption of the rules and
31 regulations required pursuant to subsection a. of section 3 of this
32 act]¹.

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37 Changes Striped Bass size and bag limits.

1 the State in compliance with the allowances of the commission.
2 (cf: P.L.1991, c.43, s.1.)

3 3. (New section) a. The Department of Environmental
4 Protection shall adopt, pursuant to the "Administrative
5 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
6 regulations providing for the management of striped bass in and
7 upon the fresh and salt waters of the State. The provisions of the
8 rules and regulations dealing with the management of striped bass
9 in and upon the salt waters of the State shall be consistent with
10 the Striped Bass Fishery Management Plan of the Atlantic States
11 Marine Fisheries Commission.

12 b. It shall be unlawful for any person, while on or angling in
13 any of the fresh waters of the State, to possess any striped bass,
14 except as provided in section 1 of P.L.1987, c.83 (C.23:5-45.1),
15 the fish code regulations adopted and in effect as of the effective
16 date of P.L. , c. (now before the Legislature as this bill), or
17 as provided in the rules and regulations adopted pursuant to
18 subsection a. of this section. It shall be unlawful for any person
19 to possess more than one striped bass measuring less than 34
20 inches, unless otherwise provided under the rules and regulations
21 adopted pursuant to subsection a. of this section.

22 4. Section 1 of P.L.1987, c. 83 (C.23:5-45.1) and section 3 of
23 P.L.1990, c.5 (C.23:5-45.2) are repealed.

24 5. This act shall take effect immediately, except for section 4
25 which shall take effect upon the adoption of the regulations
26 adopted pursuant to subsection a. of section 3 of this act.

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STATEMENT

30 This bill establishes 34 inches as the minimum size allowed for
31 striped bass taken from the fresh waters of the State, except for
32 striped bass taken from the Hudson River Estuary and, on
33 September 1 through October 31, from the Delaware Bay. In the
34 Hudson River Estuary and during that time in the Delaware Bay,
35 the minimum size allowed is 28 inches.

36 The bill also directs the Department of Environmental
37 Protection and Energy to adopt rules and regulations for the
38 management of striped bass in and upon the fresh and salt waters
39 of the State. The bill specifies that these regulations provide for
40 the size and bag limits for striped bass to be taken from fresh
41 waters, and that the provisions dealing with the management of
42 striped bass in and upon salt waters be consistent with the Striped
43 Bass Fishery Management Plan of the Atlantic States Marine
44 Fisheries Commission.

45 Finally, the bill also clarifies the boundaries of the Delaware
46 Bay and defines the Hudson River Estuary for the purposes of
47 regulating the taking of striped bass in the fresh waters of the
48 State.

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52 Changes striped bass size and bag limits and requires DEP to
53 adopt striped bass management regulations; repeals current law
54 upon adoption of regulations.

ASSEMBLY ECONOMIC AND COMMUNITY DEVELOPMENT,
AGRICULTURE AND TOURISM COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 598

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 1994

The Assembly Economic and Community Development, Agriculture and Tourism Committee reports favorably the Senate Committee Substitute for Senate Bill No. 598 with committee amendments.

As amended, this bill establishes 34 inches as the minimum size allowed for striped bass taken from the marine waters of the State, except for striped bass taken from the Hudson river estuary and the Delaware Bay, where the minimum size allowed is 28 inches.

The bill also clarifies the boundaries of the Delaware bay and defines the Hudson river estuary for the purposes of regulating the taking of striped bass in the waters of the State.

The committee amended the bill to allow section 1 of P.L.1987, c.83 (C.23:5-45.1) and section 3 of P.L.1990, c.5 (C.23:5-45.2) to remain in effect. As a result, these sections of law will continue to govern the size and number restrictions for taking striped bass and the dates of the closed season for striped bass.

The committee also amended the bill to clarify that the number and size restrictions set forth in section 1 of P.L.1987, c.83 (C.23:5-45.1) and section 3 of P.L.1990, c.5 (C.23:5-45.2) shall apply to the taking of striped bass from the marine waters of the State.

This bill is identical to A-1580, amended and released by the committee on the same date.

SENATE NATURAL RESOURCES, TRADE
AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 598

STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1994

The Senate Natural Resources, Trade and Economic Development Committee favorably reports a Senate committee substitute for Senate Bill No. 598.

The committee substitute establishes 34 inches as the minimum size allowed for striped bass taken from the waters of the State, except for striped bass taken from the Hudson river estuary and the Delaware Bay, where the minimum size allowed is 28 inches.

The substitute also directs the Department of Environmental Protection and Energy to adopt rules and regulations for the management of striped bass in and upon the fresh and marine waters of the State. The substitute specifies that the regulations dealing with the management of striped bass in and upon marine waters be consistent with the Striped Bass Fishery Management Plan of the Atlantic States Marine Fisheries Commission. Upon adoption of these rules and regulations, the sections of law setting the size and number restrictions for taking striped bass and setting the closed season for striped bass would be repealed.

Finally, the substitute also clarifies the boundaries of the Delaware bay and defines the Hudson river estuary for the purposes of regulating the taking of striped bass in the waters of the State.

SENATE, No. 598
STATE OF NEW JERSEY

INTRODUCED FEBRUARY 10, 1994

By Senator BASSANO

1 AN ACT concerning the taking of striped bass, amending
2 P.L.1983, c.506 and P.L.1987, c.83, and repealing section 1 of
3 P.L.1987, c.83 and section 3 of P.L.1990, c.5.

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

7 1. Section 2 of P.L.1983, c.506 (C.23:5-44) is amended to read
8 as follows:

9 2. As used in this act:

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12 including the waters of the Atlantic Ocean, and all bays, inlets
13 and estuarine waters located below the freshwater portion of any
14 river, stream or creek, but shall not include any of the
15 freshwaters of this State as defined in R.S.23:1-2;

16 c. (Deleted by amendment, P.L.1985, c.211).

17 d. "Spearfishing" means the taking of striped bass by means of
18 a spear, harpoon, or other missile, while the swimmer is
19 completely submerged in marine waters, but shall not include the
20 use of blinding lights for the purpose of spearing striped bass, or
21 spears, harpoons or other missiles with exploding heads;

22 e. "Striped bass" means a game fish of the species "*Morone*
23 *saxatilis*" commonly referred to as rockfish, rock or striper;

24 f. "Delaware bay" means all the waters of the State
25 [delineated by a line drawn from Cape May Point, New Jersey to
26 Cape Henlopen, Delaware and the boundary line between New
27 Jersey and Delaware extending to the northern terminus of
28 Artificial Island, Lower Alloways Creek township, Salem county]
29 north and west of the COLREGS Demarcation Line up to the
30 Commodore Barry Bridge, on which U.S. Route 322 transverses
31 the Delaware River;

32 g. "COLREGS" means the abbreviation used by the United
33 States Coast Guard to refer to the "International Regulations for
34 Preventing Collisions at Sea," and the "COLREGS Demarcation
35 Line" means the demarcation line designated by the United
36 States Coast Guard in accordance with the COLREGS, which runs
37 from the Cape May Point Lighthouse in Cape May, New Jersey to
38 the flashing white marker 5 sec Harbor of Refuge Light
39 maintained by the U.S. Coast Guard at Cape Henlopen, Delaware;

40 h. "Hudson River Estuary" means all marine waters of the
41 State east of the State Route 35 bridge on the Navesink River
42 and all the marine waters of the State contiguous north and west

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

Matter underlined thus is new matter.

1 of a line drawn from the six-second isophase light and 15-mile
2 bell, known as the "Sandy Hook Point Light" iso 6 sec 15M bell
3 and maintained by the United States Coast Guard near the tip of
4 Sandy Hook, to the 4s 6M "4" flashing red marker, known as the
5 "Rockaway Point Breakwater Light 4" and maintained by the
6 United States Coast Guard near Breezy Point on the western end
7 of Long Island, New York.

8 (cf: P.L.1990, c.5, s.1.)

9 2. Section 1 of P.L.1987, c.83 (C.23:5-45.1) is amended to read
10 as follows:

11 1. a. No person shall take from the waters of the State in any
12 one day, or have in his possession at any time, more than one
13 striped bass not less than 28 inches in length on or after January
14 1, [1990, except not less than 36 inches in length from the waters
15 of the Delaware Bay or the Delaware River, or their tributaries]
16 1994. No person shall have in his possession any striped bass [not]
17 less than [36] 34 inches in length while on or angling in the
18 [Delaware Bay or the Delaware River, or their tributaries] waters
19 of the State, except while on or angling in the Hudson River
20 Estuary, or while on or angling in the Delaware Bay from
21 September 1 through October 31, inclusive.

22 b. The possession of any striped bass or parts of a striped bass
23 from which the head or tail has been removed other than
24 immediately prior to preparation or being served as food, which is
25 less than [28 inches in length on or after January 1, 1990, except
26 not less than 36 inches in length while on or angling in the waters
27 of the Delaware Bay or the Delaware River, or their tributaries,]
28 the minimum size limits as specified in subsection a. of this
29 section shall be presumed to be possessed in violation of this
30 section.

31 c. Notwithstanding the provisions of subsections a. and b. of
32 this section to the contrary, upon approval by the Atlantic States
33 Marine Fisheries Commission, the Department of Environmental
34 Protection shall, by regulation adopted pursuant to the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.), provide that no person may take from the waters of the
37 State, [other than the Delaware Bay and the Delaware River, and
38 their tributaries,] in any one day, or have in his possession at any
39 time, more than two striped bass, of which one shall be not less
40 than 28 inches in length and the other shall be not less than 38
41 inches in length. No person shall have in his possession any
42 striped bass less than 34 inches in length while on or angling in
43 the waters of the State, except while on or angling in the Hudson
44 River Estuary, or while on or angling in the Delaware Bay from
45 September 1 through October 31, inclusive.

46 The possession of any striped bass or parts of a striped bass
47 from which the head or tail has been removed other than
48 immediately prior to preparation or being served as food, which is
49 less than [28 inches in length] the minimum size limits as
50 specified in subsection a. of this section, shall be presumed to be
51 possessed in violation of this section, except the minimum limit
52 shall be 38 inches in length for a second fish possessed.

53 The department shall monitor the catch provided for in this
54 subsection and provide for its discontinuance as necessary to keep

Asbury Park Press
 Courier-Post

Philadelphia Inquirer
 The Press

DATE: APR 23 1994

Star-Ledger
 Trenton Times
 The Trentonian

Activists mark Earth Day with state warning list

By IVETTE MENDEZ

Representatives from six environmental and public-interest groups yesterday unveiled the "Top 14" list of what they described as attacks on the state's environment.

"Shinn's List," which the activists named after state Environmental Protection Commissioner Robert Shinn, was released to coincide with Earth Day. It includes proposed legislation and other actions they said translate into a retreat from environmental protection in the areas of toxics, solid waste, open space preservation and water pollution.

"Today in New Jersey, we have some important legislation that is being threatened," said Marie Toohy, executive director of Earth Day NJ, at a Statehouse press conference.

Speakers said lawmakers and businesses are using economic arguments in their push to roll back environmental reforms. It was the second consecutive day environmentalists held a press conference to discuss their concerns.

On Thursday, they called on lawmakers to drop proposed legislation that would strip residents of rights to recover damages against toxic pollutants.

Topping yesterday's list was a measure (A-903) that speakers said would "gut" the state's Pollution Prevention Act. Supporters of the reforms contained in the proposal countered that the changes would eliminate unnecessary costs and paperwork for industries and would not affect the basic premise of the law—that it is better to

prevent pollution than address it after it has been produced.

According to yesterday's speakers, the Clean Water Enforcement Act may be the next law to be revamped.

They also criticized Gov. Christie Whitman's decision to discontinue the

post of environmental prosecutor. Attorney General Deborah Poritz has announced two veteran Department of Law and Public Safety attorneys will coordinate environmental and economic issues within the agency.

"I'm calling on the citizens of New Jersey to defend these protections we have for our state," said Andy Igrijas, field coordinator for the New Jersey Public Interest Research Group (NJPIRG).

Dolores Phillips, a lobbyist for the New Jersey Environmental Federation, said Whitman has not proposed any new funding for environmental research. She said studies are needed on the effect of mercury on state residents, particularly women of child-bearing age.

A special interdepartmental task force is exploring potential actions to deal with problems posed by mercury in fish.

Madelyn Hoffman, director of the Grass Roots Environmental Organization, announced a letter-writing campaign to urge Whitman and Shinn to support the Solid Waste Master Plan and to take heed of other environmental concerns.

Shinn has questioned several aspects of the plan, which is a blueprint for describing how New Jersey is to

achieve its elusive goal of becoming self-sufficient in terms of waste management. It emphasizes recycling and source reduction instead of relying on incinerators and landfills.

Hoffman criticized a move to put incineration at the bottom of technologies to be selected by counties seeking to develop disposal capacity, behind source reduction, recycling and composting.

Also on hand to voice their concerns were Timothy Dillingham, director of the state's chapter of the Sierra Club, and Sally Price, director of the Pinelands Preservation Alliance.

Price said the Governor's commitment to open space will be demonstrated by her appointments to the Pinelands Commission.

Assembly Deputy Minority Leader Bob Smith (D-Middlesex) issued a statement in which he charged

that Whitman's fiscal policies threaten the state's environment.

"The Whitman administration is threatening to cast New Jersey back to the environmental future of swimming bans, garbage dump fires, and toxic-waste mishaps," he said.

Hospitalized patients gain choice of nurse

By DAN WEISSMAN

Gov. Christie Whitman signed five bills yesterday, including one that gives a hospitalized patient the right to contract with a registered nurse of his or her own choosing.

The measure, a combination of S-459 and A-270, was sponsored by Sen. C. Louis Bassano (R-Union) and Assemblyman David Russo (R-Bergen) and expands the Patient's Bill of Rights.

Other bills signed:

■ Increase the minimum size for striped bass caught in Delaware Bay and the Hudson River from 28 to 34 inches. The measure is a combination of S-598, sponsored by Bassano, and A-1580, sponsored by Assemblyman Frank LoBiondo (R-Cape May). The legislation brings New Jersey in line with federal regulations.

■ Change the name of the Sen. Garrett W. Hagedorn Center for Geriatrics in Glen-Gardner to the Sen. Garrett W. Hagedorn Gero-Psychiatric Hospital. The measure is a combination of S-488, sponsored by Senate Appropriations Committee Chairman Robert Littell (R-Sussex) and A-879, sponsored by Assemblyman Leonard Lance (R-Warren).

■ Add the War Memorial, the Old Barracks, the Kelsey Building and townhouses adjacent to the downtown Trenton building to the list of state buildings where special skills are required for the award of renovation contracts.

■ Dissolve a Mercer County pension fund for probation officers that only has one remaining member. The legislation (S-489), sponsored by LaRossa, makes the remaining member eligible for the Public Employee Retirement System.