

50:2-61

LEGISLATIVE HISTORY CHECKLIST
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(Shellfish--DEP to
revise
regulations)

LAWS OF: 1991

CHAPTER: 79

Bill No: A3774

Sponsor(s): Salmon

Date Introduced: June 28, 1990

Committee: Assembly: Economic Growth

Senate: Natural Resources

Amended during passage: Yes Assembly Committee Substitute
(1st reprint)

Date of Passage: Assembly: December 17, 1990

Senate: February 14, 1991

Date of Approval: April 1, 1991

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/SLJ

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3774

STATE OF NEW JERSEY

ADOPTED OCTOBER 29, 1990

Sponsored by Assemblyman SALMON

1 AN ACT concerning shellfish and the taking thereof in the waters
2 of this State, amending P.L.1950, c.310, and supplementing
3 chapter 2 of Title 50 of the Revised Statutes.

4

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

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

9 1. No person [or vessel] shall take, harvest or dredge for [sea]
10 surf clams (*Mactra solidissima*) also known as *Spisula solidissima*
11 from any waters of this State without first obtaining a surf clam
12 license from the commissioner. The commissioner may [license
13 every vessel engaged in] issue licenses for the harvesting of [sea]
14 surf clams within the waters of this State. Such license shall be
15 issued on [an annual] a seasonal basis pursuant to regulations
16 adopted by the commissioner.

17 Such licenses shall grant the privilege of gathering [sea] surf
18 clams by dredging, but only in the Atlantic ocean, but not in the
19 Delaware bay northerly of a line from Cape May Point lighthouse
20 tower to Brandywine lighthouse or in the Sandy Hook bay west of
21 a line from the west point of Sandy Hook to Roamer Shoal
22 lighthouse. No boat or vessel shall be licensed under this act
23 unless its bona fide owner is a resident of this State.

24 The commissioner may adopt regulations regarding the issuance
25 procedures of such licenses.

26 The commissioner may issue permits for [sea] surf clam
27 research, inventory and educational projects. Nothing in this
28 section shall be construed to limit the activities of such projects.
29 (cf: P.L.1979, c.199, s.32)

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

32 2. Any such licensed dredging operation shall be limited to the
33 use of [a single dredge at a time in any one boat, and such dredge]
34 dredges that shall conform to [the dimensions] any limits
35 established by the commissioner by regulation. Notwithstanding
36 any other provision of law, the commissioner may adopt
37 regulations fixing the hours during which dredging will be
38 permitted. No such dredging operation shall be permitted at any

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 Senate SNR committee amendments adopted January 29, 1991.

1 time between June 1 and September 30 in each year, [within 1
2 mile of the ocean front mean low watermark,] unless changed by
3 emergency order or regulation. Unless otherwise provided by
4 regulation, all surf clams harvested within the waters of New
5 Jersey (3 nautical miles) shall not be taken into another state or
6 the waters thereof until said clams have been first landed in New
7 Jersey. It shall be prima facie evidence of a violation of this
8 section if a harvest vessel is observed by radar or other means
9 leaving the waters of New Jersey and entering the waters of
10 another state any time prior to landing.

11 (cf: P.L.1980, c.132, s.1)

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

14 3. The Commissioner of the Department of Environmental
15 Protection with the advice of the Shell Fisheries Councils shall
16 adopt regulations and amend or repeal such regulations from time
17 to time as required for the conservation, protection,
18 management, and improvement of the [sea] surf clam resource
19 and industry. These regulations may include the imposition and
20 collection of a per bushel fee for all surf clams harvested within
21 the waters of this State, provided that the fee shall be in an
22 amount not less than \$0.125 nor more than \$ 0.25 per bushel.
23 Emergency regulations may be adopted where immediate danger
24 exists to the resource or industry.

25 The surf clam license fee shall be [\$5.00 per gross ton of a
26 harvesting vessel documented or registered by] fixed pursuant to
27 regulation in an amount not less than \$600 nor more than \$1,000
28 per license issued to a bona fide New Jersey resident[; minimum
29 fee shall be \$35.00 per boat]. The surf clam bait license fee shall
30 be fixed pursuant to regulation in an amount not less than \$100
31 nor more than \$200.

32 (cf: P.L.1975, c.398, s.3)

33 4. (New section) There is established within the "hunters' and
34 anglers' license fund" created pursuant to the provisions of
35 R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to
36 be known as the "Shellfisheries Management Account." This
37 account shall be credited with all revenues from permit and
38 landing fees collected pursuant to section 3 of P.L.1950, c.310
39 (C.50:2-6.3), and shall be allocated to the Division of Fish, Game
40 and Wildlife in the Department of Environmental Protection, to
41 support shellfish management and enforcement programs and to
42 enhance the productivity of the shellfish resource of this State.

43 ¹[5. The Commissioner of Environmental Protection shall,
44 pursuant to the provisions of the Administrative Procedure Act,"
45 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations
46 to effectuate the purposes of this act.]¹

47 ¹[6.] 5.¹ This act shall take effect immediately.

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49

NATURAL RESOURCES

50

51 Directs DEP to adopt certain regulations regarding the taking of
52 certain shellfish.

ASSEMBLY, No. 3774

STATE OF NEW JERSEY

INTRODUCED JUNE 28, 1990

By Assemblyman SALMON

1 AN ACT concerning the regulation of persons taking shellfish
2 from the waters of this State and supplementing chapter 2 of
3 Title 50 of the Revised Statutes.

4

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

7 1. Notwithstanding the provisions of any law, rule, regulation
8 to the contrary, the Commissioner of Environmental Protection
9 shall, pursuant to the "Administrative Procedure Act," P.L.1968,
10 c.410 (C.52:14B-1 et seq.), adopt rules and regulations regarding
11 the taking of sea clams (*spisula solidissima*) from the waters of
12 this State. The regulations shall provide for:

13 a. The issuance of a single license to each person licensed to
14 take sea clams pursuant to chapter 2 of Title 50 of the Revised
15 Statutes, notwithstanding the number of vessels that person may
16 own for these purposes; and

17 b. The institution of seasonal limitations and seasonal quotas
18 on the taking of sea clams during the November 1 to May 31
19 harvest period; and

20 c. The use of a tag system for licensed persons or persons
21 notifying the Division of Fish Game and Wildlife, Bureau of Law
22 Enforcement of their intention to fish the waters of this State as
23 provided for by law, engaged in the taking of sea clams. The tag
24 system shall provide general control methods for the taking of
25 sea clams.

26 The commissioner shall ensure, to the maximum extent
27 feasible, that any regulation adopted pursuant to the provisions of
28 this act shall be in accordance with any laws of the United States
29 regarding the taking of sea clams or any regulation adopted
30 pursuant thereto which are in effect on or after October 1, 1990.

31 2. This act shall take effect immediately, but shall remain
32 inoperative until October 1, 1990.

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STATEMENT

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37 This bill directs the Commissioner of Environmental Protection
38 to adopt regulations to modify the manner in which sea clams are
39 harvested within the waters of this State. Specifically, the bill
40 would provide for the issuance of a single license to take sea
41 clams, rather than the issuance of a license for each vessel
42 engaged in that activity. The bill would also provide for

1 seasonal, rather than weekly limitations on the harvesting of sea
2 clams during the November 1 to May 31 harvest period. Finally,
3 the bill directs the commissioner to institute a tag system for the
4 harvesting of sea clams similar to the system used by the federal
5 government. The regulations adopted by the commissioner are,
6 to the maximum extent feasible, to be consistent with the
7 provisions of any federal law or regulation regarding the taking of
8 sea clams that may be in effect on or after October 1, 1990.

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NATURAL RESOURCES

12

13 Directs DEP to adopt regulations regarding the taking of certain
14 shellfish.

ASSEMBLY ECONOMIC GROWTH, AGRICULTURE, TOURISM
AND COASTAL PROTECTION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3774

STATE OF NEW JERSEY

DATED: OCTOBER 29, 1990

The Assembly Economic Growth, Agriculture, Tourism and Coastal Protection Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3774.

As reported, the committee substitute would amend sections of the statutory law regarding the taking of surf clams in the waters of this State. The bill authorizes the Commissioner of Environmental Protection to issue licenses, pursuant to regulations, for the harvesting of surf clams in New Jersey waters on a seasonal, rather than annual basis.

The committee substitute also authorizes the commissioner to impose and collect a per bushel fee for all surf clams harvested within the waters of this State in an amount not less than \$0.125 nor more than \$ 0.25 per bushel.

The surf clam license fee would be fixed pursuant to regulation in an amount not less than \$600 nor more than \$1,000 per license issued, and the surf clam bait license fee would be fixed pursuant to regulation in an amount not less than \$100 nor more than \$200.

Finally, the committee substitute establishes in the "hunters' and anglers' license fund," a separate "Shellfisheries Management Account" which would be credited with all revenues from permit and landing fees collected pursuant to chapter 2 of Title 50 of the Revised Statutes. The monies credited to the account would be used by the Division of Fish, Game and Wildlife in the Department of Environmental Protection, to support shellfish management and enforcement programs and to enhance the productivity of the shellfish resource of this State.

SENATE NATURAL RESOURCES
AND AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3774

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 29, 1991

The Senate Natural Resources and Agriculture Committee favorably reports the Assembly committee substitute to Assembly Bill No. 3774 with Senate committee amendments.

This bill would amend sections of the statutory law regarding the taking of surf clams in the waters of the State. The bill would change the licensing structure to authorize the Commissioner of Environmental Protection to issue licenses, pursuant to regulations, for the harvesting of surf clams in New Jersey waters on a seasonal, rather than annual basis.

The bill would also specifically authorize the commissioner to include in the regulation of the surf clam resource, the imposition of a per bushel fee for all surf clams harvested within the waters of the State in an amount not less than \$0.125 nor more than \$ 0.25 per bushel.

The surf clam license fee would be required to be fixed pursuant to regulation in an amount not less than \$600 nor more than \$1,000 per license issued, and the surf clam bait license fee would be required to be fixed pursuant to regulation in an amount not less than \$100 nor more than \$200.

Finally, the bill establishes in the "hunters' and anglers' license fund," a separate "Shellfisheries Management Account," which would be credited with all revenues from permit and landing fees collected pursuant to section 3 of P.L.1950, c.310 (C.50:2-6.3). The monies credited to the account would be used by the Division of Fish, Game and Wildlife in the Department of Environmental Protection, to support shellfish management and enforcement programs and to enhance the productivity of the shellfish resource of this State.

As amended and released by the committee, this bill is identical to Senate Bill No. 3197, as amended and released by the committee.

The committee amended the bill to delete the section authorizing the Commissioner of Environmental Protection to adopt rules and regulations to effectuate the purposes of the act because the necessary regulatory authority was provided in other sections of the bill.