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LAW/RWH

P.L.2014, CHAPTER 57, *approved September 10, 2014*  
Assembly Committee Substitute (*Third Reprint*) for  
Assembly, No. 2684

1 AN ACT concerning the taking of menhaden, amending P.L.1979,  
2 c.199, and amending and supplementing P.L.2013, c.74.

3

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

6

7 1. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to  
8 read as follows:

9 73. For purposes of this section, the "act" means and includes all  
10 the new sections and amended sections contained herein, all the  
11 remaining sections of Title 50 of the Revised Statutes, sections  
12 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-  
13 16, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised  
14 Statutes, sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to  
15 23:5-24.3), **[and]** sections 4 through 17 of P.L.2013, c.74 (C.23:3-  
16 51.2 through C.23:3-51.15), and section 12 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18 The commissioner may utilize any or all of the following  
19 remedies for any violation of this act:

20 a. (1) A person who violates the provisions of this act or of any  
21 rule, regulation, license or permit adopted or issued pursuant to this  
22 act shall be liable to a penalty of not less than \$300 or more than  
23 \$3,000 for the first offense and not less than \$500 or more than  
24 \$5,000 for any subsequent offense, unless the commissioner has  
25 established an alternate penalty for a specific offense pursuant to  
26 paragraph (2) of this subsection.

27 (2) The Commissioner of Environmental Protection, with the  
28 approval of the Marine Fisheries Council, may, by regulation,  
29 establish a penalty schedule for any specific violation of this act or  
30 of any rule or regulation adopted pursuant to this act. No such  
31 penalty may be less than \$30 or more than \$100 for the first offense  
32 or less than \$50 or more than \$200 for any subsequent offense. Any  
33 penalty provided for by this act or by the fee schedule adopted by  
34 the commissioner shall be collected in a civil action by a summary  
35 proceeding pursuant to the "Penalty Enforcement Law of 1999,"

**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:**

<sup>1</sup>Assembly floor amendments adopted March 20, 2014.

<sup>2</sup>Assembly floor amendments adopted March 27, 2014.

<sup>3</sup>Assembly floor amendments adopted May 22, 2014.

1 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any  
2 municipal court shall have jurisdiction to enforce the "Penalty  
3 Enforcement Law of 1999." If the violation is of a continuing  
4 nature, each day during which it continues shall constitute an  
5 additional, separate and distinct offense.

6 b. (1) A person who violates the provisions of this act or any  
7 rule or regulation or any license or permit adopted or issued  
8 pursuant to this act shall be liable to the revocation or suspension of  
9 any license or permit held by the violator pursuant to this act for  
10 such period of time as the court may choose, except when the rule  
11 or regulation violated includes a mandatory revocation or  
12 suspension schedule in which case that schedule shall determine the  
13 period of time of the revocation or suspension.

14 (2) In the case of a person who knowingly violates the  
15 provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or  
16 any rule or regulation or any license or permit adopted or issued  
17 pursuant thereto, the violator shall be subject to a mandatory  
18 revocation or suspension of the license or permit or privilege for the  
19 taking of oysters, clams or other shellfish held by the violator, or in  
20 the case of a violator without the necessary license or permit the  
21 loss of the privilege to take oysters, clams or other shellfish, for a  
22 period of three years for a first offense, five years for a second  
23 offense, and 10 years for the third and any subsequent offense. For  
24 purposes of this paragraph, a knowing violator shall include, but  
25 need not be limited to: (a) a person who is the holder of a  
26 commercial shellfish license or permit; (b) a person who is the  
27 holder of a recreational shellfish license or permit who is in  
28 possession of more than the daily recreational shellfish limit; (c) a  
29 person without any shellfish license or permit who is in possession  
30 of more than the daily recreational shellfish limit; (d) a person who  
31 is the holder of a recreational shellfish license or permit who is  
32 engaging in shellfish activities with the holder of a commercial  
33 shellfish license or permit; or (e) a person without the necessary  
34 shellfish license or permit who is engaging in shellfish activities  
35 with the holder of a commercial shellfish license or permit.

36 c. If a person violates any of the provisions of this act, or any  
37 rule or regulation or any license or permit adopted or issued  
38 pursuant to this act, the department may institute a civil action in a  
39 court of competent jurisdiction for injunctive relief to prohibit and  
40 prevent the violation or violations and the court may proceed in the  
41 action in a summary manner.

42 The department is hereby authorized and empowered to  
43 compromise and settle any claim for a penalty under this section in  
44 such amount in the discretion of the department as may appear  
45 appropriate and equitable under all of the circumstances.

46 d. In addition to the penalties prescribed by this section, a  
47 person who violates the provisions of R.S.50:2-11, R.S.50:3-13,

1 R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or  
2 permit adopted or issued pursuant thereto, shall be subject to the  
3 forfeiture of any vessel, vehicle, or equipment used in the  
4 commission of the violation. A designated conservation officer of  
5 the Department of Environmental Protection, a member of the State  
6 Police, or any other law enforcement officer may seize and secure  
7 any vessel, vehicle, or equipment used in the commission of such a  
8 violation. Upon the seizure of the vessel, vehicle, or equipment, the  
9 conservation officer, member of the State Police, or other law  
10 enforcement officer shall immediately thereafter institute a civil  
11 action to determine if the forfeiture is warranted in the court in  
12 which the penalty action was filed pursuant to this section, which  
13 court shall have jurisdiction to adjudicate the forfeiture action. The  
14 owner or any person having a security interest in the vessel, vehicle,  
15 or equipment may secure its release by depositing with the clerk of  
16 the court in which the action is pending a bond with good and  
17 sufficient sureties in an amount to be fixed by the court, conditioned  
18 upon the return of the vessel, vehicle, or equipment to the  
19 Department of Environmental Protection upon demand after  
20 completion of the court proceeding. The court may proceed in a  
21 summary manner and may direct the confiscation of the vessel,  
22 vehicle, or equipment by the department for its use or for disposal  
23 by sale or public auction. Moneys collected by the department  
24 through the sale or public auction of the vessel, vehicle, or  
25 equipment shall be used by the Division of Fish and Wildlife for the  
26 enforcement of the provisions of this act.

27 (cf: P.L.2013, c.74, s.1)

28

29 2. Section 4 of P.L.2013, c.74 (C.23:3-51.2) is amended read as  
30 follows:

31 4. As used in R.S.23:3-51, section 3 of P.L.2010, c.72 (C.23:3-  
32 51.1) **and** , sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2  
33 through C.23:3-51.15) , and sections 12 through 14 of P.L. ,  
34 c. (C. ) (pending before the Legislature as this bill):

35 "Bait net" means a net, including but not limited to a bait seine,  
36 cast net, dip net, lift or umbrella net, or **kill pot** killi-pot,  
37 deployed for the purpose of taking menhaden to be landed or sold in  
38 the State.

39 "Commissioner" means the Commissioner of Environmental  
40 Protection.

41 "Dealer" means a person who is authorized, by a license issued  
42 pursuant to section 9 of P.L.2013, c.74 (C.23:3-51.7), to purchase  
43 or barter for menhaden landed in the State, and who is considered a  
44 primary buyer of menhaden.

45 "Fishing" means the taking of menhaden from State or federal  
46 waters.

1 "Gill net vessel" means a vessel that is used in the deployment of  
2 a gill net for the purpose of taking menhaden to be landed or sold in  
3 the State.

4 "Menhaden" means a marine fish of the herring family  
5 (*Brevoortia tyrannus*).

6 "Menhaden set vessel" means the smaller of two vessels, often  
7 employed in conjunction with a purse seine catch vessel, and used  
8 as a replacement for the weight of a purse seine to assist in setting  
9 the net.

10 "Other authorized gear" means gear listed in subsection a. of  
11 section 2 of P.L.1941, c.211 (C.23:5-24.2), including haul seines,  
12 fyke nets, and wire pound nets, licensed and permitted for the  
13 taking of menhaden pursuant to P.L.2013, c. 74 (C.23:3-51.2 et al.).

14 "Pound net vessel" means a vessel that is used in the deployment  
15 of a pound net for the purpose of taking menhaden to be landed or  
16 sold in the State.

17 "Purse seine catch vessel" means a vessel that is used in the  
18 deployment of a purse seine or shirred net for the purpose of taking  
19 menhaden to be landed or sold in the State, and which may work in  
20 conjunction with a purse seine carry vessel or menhaden set vessel  
21 in the taking of menhaden by purse seine or shirred net.

22 "Purse seine carry vessel" means a vessel that is used to carry  
23 and land or sell menhaden that has been taken from State or federal  
24 waters, and which works in conjunction with a purse seine catch  
25 vessel or menhaden set vessel in the taking of menhaden by purse  
26 seine.

27 "Trawl vessel" means a vessel that is used in the deployment of a  
28 trawl for the purpose of taking menhaden to be landed or sold in the  
29 State.

30 (cf: P.L.2013, c.74, s.4)

31

32 3. Section 5 of P.L.2013, c.74 (C.23:3-51.3) is amended to read  
33 as follows:

34 5. a. **【No】** Except as provided pursuant to section 12 of P.L. ,  
35 c. (C. ) (pending before the Legislature as this bill, no person  
36 shall land for the purposes of sale or barter, or otherwise sell or  
37 barter, more than 100 pounds **【or more】** of menhaden at any time in  
38 the State, unless the person is in possession of a Menhaden Landing  
39 License which authorizes the person to participate in the directed  
40 bait and whole frozen human food fishery for menhaden.

41 b. (1) Any person who intends to land for the purposes of sale  
42 or barter, or otherwise sell or barter, more than 100 pounds **【or**  
43 **more】** of menhaden at any time shall submit to the commissioner an  
44 application for a Menhaden Landing License. Any license  
45 application for a Menhaden Landing License shall be filed with the  
46 commissioner prior to the annual deadline established thereby for

- 1 application submission, and any application received by the  
2 commissioner after this deadline shall be denied.
- 3 (2) A Menhaden Landing License issued pursuant to this  
4 subsection shall be valid only for the calendar year for which it is  
5 issued, and shall be renewed on an annual basis. The failure of a  
6 licensee to annually renew a Menhaden Landing License in  
7 accordance with established deadlines shall result in forfeiture of  
8 the right to obtain a Menhaden Landing License in future years,  
9 except as provided by section 6 of P.L.2013, c.74 (C.23:3-51.4).
- 10 c. (1) The following types of vessels, and their owners or  
11 operators, are subject to licensure pursuant to this section:
- 12 (a) a gill net vessel that is used or is intended to be used to land  
13 more than 100 pounds **[or more]** of menhaden on an individual trip  
14 basis, for the purposes of sale or barter;
- 15 (b) a pound net vessel that is used or is intended to be used to  
16 land more than 100 pounds **[or more]** of menhaden on an  
17 individual trip basis, for the purposes of sale or barter;
- 18 (c) a trawl vessel that is used or is intended to be used to land  
19 more than 100 pounds **[or more]** of menhaden on an individual trip  
20 basis, for the purposes of sale or barter;
- 21 (d) a vessel that is used or is intended to be used to land, on an  
22 individual trip basis, and for the purposes of sale or barter, more  
23 than 100 pounds **[or more]** of menhaden taken by bait net or other  
24 authorized gear;
- 25 (e) a purse seine carry vessel that is used or is intended to be  
26 used to land, on an individual trip basis, and for the purposes of sale  
27 or barter, more than 100 pounds **[or more]** of menhaden taken from  
28 State or federal waters; and
- 29 (f) a purse seine catch vessel that functions as a purse seine  
30 carry vessel and satisfies the requirements of subparagraph (e) of  
31 this paragraph.
- 32 (2) A purse seine catch vessel that does not function as a purse  
33 seine carry vessel is exempt from licensure pursuant to this section.  
34 However, the owner or operator of a purse seine carry vessel that  
35 works in conjunction with a purse seine catch vessel shall identify  
36 the purse seine catch vessel on the landing report prepared thereby.
- 37 (3) (a) No purse seine carry vessel or purse seine catch vessel  
38 functioning as a purse seine carry vessel shall be licensed pursuant  
39 to this subsection to land menhaden taken from State waters, unless  
40 the vessel is 90 feet or less in overall length.
- 41 (b) Nothing in subparagraph (a) of this paragraph shall prohibit  
42 the licensure of a purse seine carry vessel or purse seine catch  
43 vessel that is greater than 90 feet in overall length, so long as the  
44 vessel lands menhaden taken only from federal waters.
- 45 (4) A Menhaden Landing License shall be issued by the  
46 commissioner in the name of: (a) the vessel and the vessel's owner  
47 or operator; or (b) if no vessel will be used in the landing or sale of

1 menhaden, the person applying for the license. If a purse seine  
2 carry vessel or a purse seine catch vessel functioning as a purse  
3 seine carry vessel is operated by a person who is not the owner of  
4 the vessel, the vessel operator shall be licensed separately and apart  
5 from the vessel owner.

6 (5) Any license issued pursuant to this section shall specify the  
7 types of gear that may be used by the licensee in the taking of  
8 menhaden to be landed thereby.

9 d. The holder of a Menhaden Landing License shall not use,  
10 have on board the licensed vessel, or work in conjunction with any  
11 other vessel that uses any type of fishing gear other than the type of  
12 gear specifically identified in the license.

13 e. A Menhaden Landing License issued pursuant to this section  
14 shall remain on board the licensed vessel, or, if no vessel is used, in  
15 the possession of the licensee, at all times.

16 f. A person applying for a Menhaden Landing License shall  
17 meet the following criteria:

18 (1) In order to obtain a license to land menhaden taken by purse  
19 seine, the vessel shall have landed in the State at least 500,000  
20 pounds of menhaden during one year between 2009 and 2012,  
21 inclusive, or have been issued a Menhaden Purse Seine Fishing  
22 Vessel License with a catch designation in 2014 and shall have  
23 landed in the State at least 200,000 pounds of menhaden in any one  
24 year between 2009 and 2012, inclusive. The gear type assigned to a  
25 Menhaden Landing License issued to a vessel with a Menhaden  
26 Purse Seine Fishing Vessel License with a catch designation shall  
27 be identified as a purse seine-catch;

28 (2) In order to obtain a license to land menhaden taken by pound  
29 net or wire pound net, the vessel shall have landed in the State at  
30 least 100,000 pounds of menhaden during one year between 2009  
31 and 2012, inclusive;

32 (3) In order to obtain a license to land menhaden taken by gill  
33 net, haul seine, or fyke net, the <sup>3</sup>licensee or<sup>3</sup> vessel shall have  
34 landed in the State at least 10,000 pounds of menhaden during one  
35 year between 2009 and 2012, inclusive;

36 (4) In order to obtain a license to land menhaden taken by trawl,  
37 the vessel shall have landed in the State at least 200 pounds of  
38 menhaden during one year between 2009 and 2012, inclusive; and

39 (5) In order to obtain a license to land menhaden taken by bait  
40 net, the person shall have possessed a New Jersey Bait Net License  
41 during one year between 2009 and 2012, inclusive. If a person's  
42 application for a license to land menhaden taken by bait net is  
43 submitted in the year 2014 or thereafter, the commissioner may  
44 require the applicant to prove landings and sale of menhaden during  
45 the respective years commencing in 2013.

46 g. (1) A resident of the State who is licensed under this section  
47 to land menhaden taken by purse seine shall be required to pay an



1 annual fee of \$150. A resident of the State who is licensed under  
2 this section to land menhaden taken using any other type of gear  
3 shall be required to pay an annual fee of \$50.

4 (2) A non-resident of the State who is licensed under this  
5 section to land menhaden taken by purse seine shall be required to  
6 pay an annual fee of \$750, or an amount equal to the non-resident  
7 fee charged for the landing of menhaden in the non-resident's state,  
8 whichever is greater. A non-resident of the State who is licensed  
9 under this section to land menhaden taken with any other type of  
10 gear shall be required to pay an annual fee of \$250, or an amount  
11 equal to the non-resident fee charged for the landing of menhaden  
12 in the non-resident's state, whichever is greater.

13 (3) Any license fees collected pursuant to this subsection shall  
14 be deposited in the Menhaden Marine Fisheries Management  
15 Account, established pursuant to section 14 of P.L.2013, c.74  
16 (C.23:3-51.12) <sup>1</sup> **],** and shall be dedicated for the purposes of  
17 menhaden quota management, menhaden biological monitoring, and  
18 menhaden fisheries law enforcement<sup>1</sup>.

19 h. Nothing in this section, in R.S.23:3-51, or in any other law,  
20 or rule or regulation adopted pursuant thereto, shall prohibit a  
21 person who does not possess a Menhaden Landing License from  
22 landing 100 pounds or less of menhaden for sale or barter, at any  
23 time, and on any trip or day **],** provided that the amount of landed  
24 menhaden does not exceed 10 percent, by weight, of the total  
25 weight of all species landed, sold, or bartered<sup>1</sup>.

26 (cf: P.L.2013, c.74, s.5)

27

28 4. Section 6 of P.L.2013, c.74 (C.23:3-51.4) is amended to read  
29 as follows:

30 6. a. A licensee who is eligible for renewal of their Menhaden  
31 Landing License or Menhaden Personal Use and Limited Sale  
32 License may request an extension of time to renew their license in  
33 accordance with this section.

34 b. A licensee seeking a license renewal extension shall submit  
35 a written application therefor to the commissioner, on a form  
36 developed by the commissioner. The application shall include, at a  
37 minimum:

38 (1) the name of the licensee and licensed vessel, if any;

39 (2) the licensee's Menhaden Landing License or Menhaden  
40 Personal Use and Limited Sale License number, as applicable ;

41 (3) a detailed explanation as to why the extension is needed,  
42 including a statement specifying the type and degree of hardship  
43 that prevented the timely renewal of the license, and the hardship  
44 that will result to the licensee if the license is not renewed; and

45 (4) any other appropriate documentation as may be necessary to  
46 support the application.

1 c. An application for license renewal extension shall be  
2 approved if the commissioner determines that:

3 (1) by reason of extraordinary hardship or exceptional situation  
4 or condition, the licensee was precluded from complying with the  
5 renewal requirements;

6 (2) strict compliance with the renewal requirements provided by  
7 law would result in exceptional and undue hardship to the licensee;

8 (3) the circumstances supporting the conclusions made in  
9 paragraphs (1) and (2) of this subsection were not created by the  
10 licensee or persons under the licensee's control; and

11 (4) approval of the extension will not unreasonably interfere  
12 with the orderly administration of the directed bait or whole frozen  
13 human food fishery for menhaden.

14 d. Within 30 days after receipt of an application for license  
15 renewal extension, the commissioner shall approve or deny the  
16 application, and shall provide written notice of this determination to  
17 the licensee. A licensee whose application for extension is denied  
18 may appeal the decision in accordance with the procedure for  
19 contested cases under the "Administrative Procedure Act,"  
20 P.L.1968, c.410 (C.52:14B-1 et seq.).  
21 (cf: P.L.2013, c.74, s.6)  
22

23 5. Section 7 of P.L.2013, c.74 (C.23:3-51.5) is amended to  
24 read:

25 7. a. Upon application to, and approval by, the department, the  
26 holder of a Menhaden Purse Seine Fishing Vessel License, issued  
27 pursuant to R.S.23:3-51, **[or]** the holder of a Menhaden Landing  
28 License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-  
29 51.3), or the holder of a Menhaden Personal Use and Limited Sale  
30 License, issued pursuant to section 12 of P.L. , c. (C. )  
31 (pending before the Legislature as this bill), may transfer their  
32 license as follows:

33 (1) To a replacement vessel when the vessel named in the  
34 license is replaced by the licensee; or

35 (2) To a new owner of the vessel named in the license when the  
36 vessel is sold or otherwise transferred to another person.

37 b. The following limitations shall apply to any license transfer  
38 undertaken pursuant to paragraph (1) of subsection a. of this  
39 section:

40 (1) a license shall only be transferrable to a replacement vessel  
41 that employs the same type of fishing gear identified in the original  
42 license;

43 (2) a license that is applicable to a purse seine catch vessel,  
44 including the Menhaden Landing License designated as a purse  
45 seine-catch pursuant to paragraph (1) of subsection f. of section 5 of  
46 P.L.2013, c.74 (C.23:3-51.3), shall only be transferrable to a  
47 replacement purse seine catch vessel, and a license that is

1 applicable to a purse seine carry vessel shall only be transferrable to  
2 a replacement purse seine carry vessel;

3 (3) a license that is applicable to a purse seine catch vessel or a  
4 purse seine carry vessel shall be transferrable to a replacement  
5 vessel only if the replacement vessel is not more than 10 percent  
6 larger in overall length ~~than the originally licensed purse seine~~  
7 ~~catch vessel or~~, 10 percent larger in the hold capacity ~~of the~~  
8 ~~originally licensed purse seine carry vessel,~~ as measured in cubic  
9 feet, and not more than 20 percent more powerful in terms of  
10 horsepower, than ~~either~~ the originally licensed vessel.

11 c. A person who transfers a license pursuant to paragraph (2)  
12 of subsection a. of this section shall no longer be eligible to obtain a  
13 Menhaden Landing License or a Menhaden Personal Use and  
14 Limited Sale License based upon the landing history of the vessel  
15 being sold.

16 d. An applicant for a license transfer shall submit an  
17 application to the commissioner, on a form developed by the  
18 commissioner, and no license shall be transferred pursuant to this  
19 section without the prior approval of the commissioner.

20 e. A person shall not be eligible for transfer of their license  
21 pursuant to this section if: (1) their license is pending suspension or  
22 has been suspended pursuant to section 15 of P.L.2013, c.74  
23 (C.23:3-51.13); or (2) the licensee is subject to court action for a  
24 violation of R.S.23:3-51 or P.L.2013, c.74 (C.23:3-51.2 et al.).  
25 (cf: P.L.2013, c.74, s.7).

26  
27 6. Section 8 of P.L.2013, c.74 (C.23:3-51.6) is amended to read  
28 as follows:

29 8. a. The holder of a Menhaden Landing License or the holder  
30 of a Menhaden Personal Use and Limited Sale License shall submit  
31 a monthly report to the commissioner, on a form developed by the  
32 commissioner. The licensee shall attest to the validity of the  
33 information contained in the monthly report, and shall  
34 electronically, or in hard copy paper form, as provided pursuant to  
35 section 14 of P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), submit the report to the department using a  
37 method approved by the commissioner. If no landing, sale, or  
38 barter of menhaden occurred during the month, the licensee shall  
39 submit a report to that effect.

40 b. The monthly report shall include, at a minimum, the  
41 following information, which shall be reported on an individual trip  
42 basis:

- 43 (1) the name of the licensee and licensed vessel, if any;  
44 (2) the licensee's Menhaden Landing License or Menhaden  
45 Personal Use and Limited Sale License number, as applicable;  
46 (3) the name of the purse seine catch vessel, if any, which was  
47 used in conjunction with the licensed vessel;

- 1 (4) the total amount, in pounds, of menhaden landed by the
- 2 licensee or licensed vessel;
- 3 (5) the total amount, in pounds, of menhaden discarded by the
- 4 licensee or licensed vessel;
- 5 (6) the location of harvest;
- 6 (7) the type of gear used for harvest;
- 7 (8) the ports used for the landing of menhaden;
- 8 (9) the date on which, and the dealer to whom, any landed
- 9 menhaden was sold or bartered by the licensee; and
- 10 (10) any other information required by the department.

11 c. (1) In addition to any other penalties provided by section 73  
12 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et  
13 al.), or by any other law, any licensee who fails to submit a monthly  
14 report on or before the 10th day of the month following the month  
15 of record shall be subject to a fine of \$50 for a first offense, \$100  
16 for a second offense, and \$200 for any subsequent offense.

17 (2) Any fines collected pursuant to this subsection shall be  
18 deposited in the Menhaden Marine Fisheries Management Account,  
19 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).  
20 (cf: P.L.2013, c.74, s.8)

21  
22 7. Section 10 of P.L.2013, c.74 (C.23:3-51.8) is amended to  
23 read as follows:

24 10. a. The holder of a Menhaden Dealer License shall submit a  
25 weekly report to the commissioner, on forms developed by the  
26 commissioner. The licensee shall attest to the validity of the  
27 information contained in the weekly report, and shall  
28 electronically, or in hard copy paper form, as provided pursuant to  
29 section 14 of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill), submit the report to the department. If no  
31 purchase or trade of menhaden occurred during the week, the  
32 licensee shall submit a report to that effect. For the purposes of this  
33 section, a week shall begin on Sunday and end on Saturday.

34 b. The weekly report shall include, at a minimum, the  
35 following information:

- 36 (1) the name of the licensee;
- 37 (2) the licensee's Menhaden Dealer License number;
- 38 (3) the Menhaden Landing License number of each person  
39 selling or trading menhaden to the dealer during the preceding  
40 week;
- 41 (4) the total amount, in pounds, of menhaden purchased or  
42 traded during the preceding week;
- 43 (5) the location of harvest for menhaden purchased or traded  
44 during the preceding week;
- 45 (6) the type of gear used for the harvest of menhaden purchased  
46 or traded during the preceding week;
- 47 (7) the date of purchase or trade; and

1 (8) any other information required by the department.

2 c. (1) In addition to any other penalties provided by section 73  
3 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et  
4 al.), or by any other law, if a licensed menhaden dealer fails to  
5 submit a weekly report, as required by this section, either on or  
6 before 12:00 p.m. on the Tuesday following the week of record, the  
7 licensee shall be subject to a fine of \$50 for a first offense, \$100 for  
8 a second offense, and \$200 for any subsequent offense.

9 (2) Any fines collected pursuant to this subsection shall be  
10 deposited in the Menhaden Marine Fisheries Management Account,  
11 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).  
12 (cf: P.L.2013, c.74, s.10)

13

14 8. Section 12 of P.L.2013, c.74 (C.23:3-51.10) is amended to  
15 read as follows:

16 12. a. The holder of a Menhaden Purse Seine Fishing Vessel  
17 License or a Menhaden Purse Seine Fishing Vessel Operator's  
18 License, issued pursuant to R.S.23:3-51, and the holder of a  
19 Menhaden Landing License, issued pursuant to section 5 of  
20 P.L.2013, c.74 (C.23:3-51.3), shall not throw overboard, or  
21 otherwise release from a vessel or its nets into the waters of the  
22 State: (1) any quantity of dead fish, except during the course of  
23 **【normal】** fishing operations; or (2) any refuse, litter, or garbage of  
24 any kind.

25 b. Whenever any fish, fish parts, refuse, litter, or garbage of  
26 any kind is released during, or as a result of, a menhaden fishing or  
27 landing operation, in violation of the provisions of subsection a. of  
28 this section, the holder of a Menhaden Purse Seine Fishing Vessel  
29 License, a Menhaden Purse Seine Fishing Vessel Operator's  
30 License, or a Menhaden Landing License, as the case may be, shall  
31 report the release to the department as soon as possible and initiate  
32 a cleanup of the release within 24 hours thereof, at the licensee's  
33 expense, if the release is likely to impact the shoreline.

34 c. In the event that a licensee fails to initiate a cleanup, in  
35 accordance with the provisions of subsection b. of this section,  
36 within 24 hours after a release begins, the department may conduct  
37 or arrange for the cleanup of the release. However, the licensee  
38 shall be liable to pay all costs associated with the cleanup, including  
39 any administrative costs incurred by the department. Costs imposed  
40 pursuant to this subsection may include the costs associated with  
41 damages to, or the cleanup of, marine and estuarine waters of the  
42 State, or the State's beaches, shorelines, and marshes.

43 (cf: P.L.2013, c.74, s.12)

44

45 9. Section 13 of P.L.2013, c.74 (C.23:3-51.11) is amended to  
46 read as follows:

1 13. a. (1) The annual State menhaden catch quota shall be  
2 established by the Atlantic States Marine Fisheries Commission.  
3 The commissioner may request a quota transfer from other states or  
4 regions, in accordance with the administrative procedure outlined  
5 by the Atlantic States Marine Fisheries Commission.

6 (2) The commissioner shall divide and allocate the annual State  
7 menhaden catch quota as provided in this paragraph. The annual  
8 New Jersey menhaden bait quota shall be divided among the  
9 various gear types, with the purse seine fishery being allocated 95  
10 percent of the quota, and pound nets, wire pound nets, gill nets,  
11 trawls, **[and]** bait nets, and other authorized gear being allocated  
12 the remaining five percent, combined. If the quota for any gear  
13 type is exceeded, the overharvested amount shall be deducted from  
14 the following year's quota.

15 b. The season for fishing and landing menhaden in the State  
16 shall be:

17 (1) January 1 to December 31 for licensees taking menhaden, or  
18 landing menhaden taken, by purse seine;

19 (2) January 1 to December 31 for licensees taking menhaden, or  
20 landing menhaden taken, by gill net;

21 (3) January 1 to December 31 for licensees taking menhaden, or  
22 landing menhaden taken, by pound net or wire pound net;

23 (4) January 1 to December 31 for licensees taking menhaden, or  
24 landing menhaden taken, by trawl; **[and]**

25 (5) January 1 to December 31 for licensees taking menhaden, or  
26 landing menhaden taken, by bait net; and

27 (6) January 1 to December 31 for licensees taking menhaden, or  
28 landing menhaden taken, by other authorized gear not otherwise  
29 specified in this subsection.

30 c. No person who intends to take menhaden with a purse seine  
31 or shirred net shall fish for menhaden in the State:

32 (1) on a Saturday or Sunday;

33 (2) on the days on which a public holiday is officially observed  
34 by the State, as declared pursuant to R.S.36:1-1; or

35 (3) at any time, except during the hours from sunrise to sunset.

36 d. (1) The commissioner shall close the menhaden season in  
37 the State, for each respective gear type, by giving not less than two  
38 days' notice of the projected date that the year's quota for that gear  
39 type will be landed.

40 (2) If the menhaden season is closed prematurely, the  
41 commissioner may reopen the season for a specified period of time,  
42 upon no less than two days' notice.

43 (3) Any notice required pursuant to this subsection shall be  
44 made available for public viewing on the department's Internet  
45 website, and shall be issued electronically, via e-mail, to all the  
46 holders of a Menhaden Purse Seine Fishing Vessel License, a  
47 Menhaden Purse Seine Fishing Vessel Operator's License, a

1 Menhaden Landing License, a Menhaden Personal Use and Limited  
2 Sale License, and a Menhaden Dealer License. Each such licensee  
3 shall be required, at the time of licensure, to provide the  
4 commissioner with their e-mail address, in order to facilitate the  
5 provision of notice pursuant to this section.

6 e. If the season for a particular gear type is closed because the  
7 quota amount allocated to that gear type has been harvested and  
8 landed: (1) the holder of a Menhaden Landing License for that gear  
9 type or the holder of a Menhaden Personal Use and Limited Sale  
10 License may continue to land an incidental catch **[of up to 6,000**  
11 **pounds of menhaden per day]** as provided by the Atlantic States  
12 Marine Fisheries Commission Fishery Management Plan for  
13 Atlantic Menhaden; and (2) the holder of a Menhaden Dealer  
14 License may continue to accept an incidental catch from the holder  
15 of a Menhaden Landing License **[holder an incidental catch of not**  
16 **more than 6,000 pounds of menhaden per day]** or the holder of a  
17 Menhaden Personal Use and Limited Sale License, as provided by  
18 the Atlantic States Marine Fisheries Commission Fishery  
19 Management Plan for Atlantic Menhaden. The incidental catch  
20 allowance authorized by this subsection shall **[not]** be applied to  
21 the annual menhaden catch quota **[established]** as provided by the  
22 Atlantic States Marine Fisheries Commission Fishery Management  
23 Plan for Atlantic Menhaden.

24 (cf: P.L.2013, c.74, s.13)

25

26 10. Section 14 of P.L.2013, c.74 (C.23:3-51.12) is amended to  
27 read as follows:

28 14. a. There is established within the General Fund, a separate,  
29 dedicated, and non-lapsing account to be known as the "Menhaden  
30 Marine Fisheries Management Account." This account shall be  
31 credited with:

32 (1) all revenues received from the issuance of Menhaden Purse  
33 Seine Fishing Vessel Licenses and Menhaden Purse Seine Fishing  
34 Vessel Operator's Licenses pursuant to R.S.23:3-51 and R.S.23:3-52  
35 **[, and]** ;

36 (2) all revenues received from the issuance of Menhaden  
37 Landing Licenses and Menhaden Dealer Licenses pursuant to  
38 sections 5 and 9 of P.L.2013, c.74 (C.23:3-51.3 and C.23:3-51.7);  
39 and

40 (3) all revenues received from the issuance of Menhaden  
41 Personal Use and Limited Sale Licenses pursuant to section 12 of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill).

43 b. The moneys in the Menhaden Marine Fisheries Management  
44 Account shall be allocated to the Division of Fish and Wildlife,  
45 Marine Fisheries Administration within the Department of  
46 Environmental Protection, and shall be dedicated for the purposes  
47 of menhaden quota management, menhaden biological monitoring,

1 and menhaden fisheries law enforcement in connection with the  
2 menhaden marine **【fisheries】** fishery.

3 (cf: P.L.2013, c.74, s.14)

4

5 11. Section 17 of P.L.2013, c.74 (C.23:3-51.15) is amended to  
6 ready as follows:

7 17. The commissioner may, with the approval of the New Jersey  
8 Marine Fisheries Council, modify the requirements of R.S.23:3-51,  
9 R.S.23:3-52, and P.L.2013, c.74 (C.23:3-51.2 et al.) if such  
10 modifications are determined to be necessary either to provide for  
11 the optimal utilization of any quotas established for menhaden  
12 fishing, or to maintain consistency or State compliance with any  
13 menhaden fisheries management plan that has been approved by the  
14 Atlantic States Marine Fisheries Commission or any federal fishery  
15 management council and adopted by the National Marine Fisheries  
16 Service. In particular, upon authorization of the New Jersey Marine  
17 Fisheries Council, and in accordance with the provisions of this  
18 section, the commissioner may modify the following provisions of  
19 law:

20 a. the qualifications for licensure under R.S.23:3-51, **【or】**  
21 under section 5 or 9 of P.L.2013, c.74 (C.23:3-51.3 or C.23:3-51.7),  
22 or under section 12 of P.L. , c. (C. ) (pending before the  
23 Legislature as this bill), including any fee amounts required for  
24 licensure under those sections;

25 b. the qualifications for the transfer of a license under section 7  
26 of P.L.2013, c.74 (C.23:3-51.5);

27 c. the license suspension schedule established by section 15 of  
28 P.L.2013, c.74 (C.23:3-51.13);

29 d. the specifications applicable to vessel upgrades and  
30 replacements, as provided by R.S.23:3-51 or section 7 of P.L.2013,  
31 c.74 (C.23:3-51.5);

32 e. the reporting requirements established by section 8 or  
33 section 10 of P.L.2013, c.74 (C.23:3-51.6 or C.23:3-51.8) provided  
34 these requirements are consistent with the procedures and methods  
35 established pursuant to section 14 of P.L. , c. (C. ) (pending  
36 before the Legislature as this bill);

37 f. the quota allocation formula established by subsection a. of  
38 section 13 of P.L.2013, c.74 (C.23:3-51.11);

39 g. the season for menhaden fishing established by subsection b.  
40 of section 13 of P.L.2013, c.74 (C.23:3-51.11); or

41 h. the incidental catch allowance provided by subsection e. of  
42 section 13 of P.L.2013, c.74 (C.23:3-51.11), or the allocation of that  
43 incidental catch allowance to the State's annual quota.

44 (cf: P.L.2013, c.74, s.17)

45

46 12. (New section) a. Any person who intends to take menhaden  
47 from any State waters, including the waters of the Atlantic ocean



1 within three nautical miles of the State coast line, for personal use  
2 as bait, with the option to sell or barter 500 pounds or less in excess  
3 of the amount needed for bait per day by the person, shall apply to  
4 the commissioner for a Menhaden Personal Use and Limited Sale  
5 License, in accordance with the provisions of this section. Upon  
6 receipt of the application and payment of the applicable fee, the  
7 commissioner may, in the commissioner's discretion and as  
8 authorized pursuant to R.S.23:3-51 and section 3 of P.L.2010, c.72  
9 (C.23:3-51.1), issue to the applicant a Menhaden Personal Use and  
10 Limited Sale License, except as prohibited by subsection b. of this  
11 section. A license issued pursuant to this section shall be valid only  
12 for the calendar year for which it is issued, and shall be renewed on  
13 an annual basis. Any license application for a Menhaden Personal  
14 Use and Limited Sale License shall be filed with the commissioner  
15 prior to the annual deadline established thereby for application  
16 submission and any application received by the commissioner after  
17 this deadline shall be denied.

18 b. The provisions of subsection b. of R.S.23:3-51 shall apply to  
19 the license established in subsection a. of this section and the taking  
20 of menhaden pursuant to this section.

21 c. A person who is issued a Menhaden Personal Use and  
22 Limited Sale License pursuant to subsection a. of this section may  
23 take menhaden with a gill net <sup>3</sup>], provided that the gill net does not  
24 exceed 150 feet in length, and the person tends the net at all times,  
25 remaining within 500 feet of the set net <sup>2</sup>[<sup>1</sup>, except that in ], when  
26 taking menhaden in the Atlantic ocean. When taking menhaden in<sup>2</sup>  
27 the Delaware bay within the Convention on the International  
28 Regulations for Preventing Collisions at Sea (COLREGS) line, the  
29 gill net may be of any length as stipulated in the person's valid gill  
30 net license<sup>1</sup>]<sup>3</sup> <sup>2</sup>and the person shall not be required to tend the net  
31 <sup>3</sup>[at all times<sup>2</sup>]<sup>3</sup> .

32 d. The holder of a license issued pursuant to this section shall  
33 have the license on board the vessel being used in the taking of  
34 menhaden at all times during that use of the vessel for that purpose.

35 e. A person applying for a Menhaden Personal Use and  
36 Limited Sale License shall meet the following criteria:

- 37 (1) hold a valid gill net license and a pot fishery license; and  
38 (2) provide proof of harvesting 5,000 pounds or more of any  
39 combination of species harvested in baited pots in any one year  
40 between 2009 and 2012, inclusive.

41 f. (1) A resident of the State who is licensed under this section  
42 to land menhaden taken by gill net shall be required to pay an  
43 annual fee of \$50.

44 (2) A non-resident of the State who is licensed under this  
45 section to land menhaden taken by gill net shall be required to pay  
46 an annual fee of \$250, or an amount equal to the non-resident fee

1 charged for the landing of menhaden in the non-resident's state,  
2 whichever is greater.

3 (3) Any license fees collected pursuant to this subsection shall  
4 be deposited in the Menhaden Marine Fisheries Management  
5 Account, established pursuant to section 14 of P.L.2013, c.74  
6 (C.23:3-51.12).

7 g. Nothing in this section, R.S.23:3-51, or any other law, or  
8 any rule or regulation adopted pursuant thereto, shall prohibit a  
9 person who does not possess a Menhaden Personal Use and Limited  
10 Sale License from landing 100 pounds or less of menhaden, at any  
11 time, and on any trip or day.

12 h. Except for the excess 500 pounds or less allowed to be sold  
13 or bartered pursuant to subsection a. of this section, a holder of a  
14 Menhaden Personal Use and Limited Sale License shall only make  
15 personal use of menhaden as bait for the person's commercial  
16 fishing pots and shall not use menhaden for any other purpose.

17  
18 13. (New section) Each year, the committee of the Marine  
19 Fisheries Council concerned with the menhaden fishery shall meet  
20 to review the current State laws and rules and regulations  
21 concerning menhaden, the implementation of those laws and rules  
22 and regulations, and the status of the menhaden fishery in the State.  
23 The committee may make recommendations to the Marine Fisheries  
24 Council concerning any changes in laws, rules or regulations, or  
25 policies or procedures implemented pursuant to those laws, rules, or  
26 regulations that the committee determines to be prudent for the  
27 protection and vitality of the menhaden fishery in the State.

28  
29 14. (New section) a. The Department of Environmental  
30 Protection shall, in cooperation with the Marine Fisheries Council,  
31 establish reporting procedures and methods which allow a person to  
32 comply with all reporting requirements pursuant to P.L.2013, c.74  
33 (C.23:3-51.2 et al.) in a hard copy paper form to be submitted by  
34 fax or mailed via the United States Postal Service or other hard  
35 copy delivery service. The department shall also make available by  
36 fax and mail via the United States Postal Service or other hard copy  
37 delivery service any forms or other documents necessary for  
38 meeting reporting requirements pursuant to P.L.2013, c.74.

39 b. The reporting procedures and methods required to be  
40 established pursuant to subsection a. of this section shall be in  
41 addition to any electronic reporting procedures and methods  
42 established and provided by the department. A person may comply  
43 with reporting requirements pursuant to P.L.2013, c.74 by electing  
44 at the person's discretion to use the hard copy paper form or  
45 electronic form of reporting.

1       15. (New section) For calendar year 2014 only, the Department  
2 of Environmental Protection shall transfer 700,000 pounds of the  
3 State's menhaden quota from the purse seine allocation to  
4 commercial fixed gear, <sup>3</sup>【until July 1, 2014, upon which date the  
5 unused pounds transferred pursuant to this section shall be credited  
6 back to the purse seine allocation of the State's menhaden quota】 ,  
7 as needed<sup>3</sup> .

8  
9       16. This act shall take effect immediately.

10  
11  
12  
13

14       Establishes Menhaden Personal Use and Limited Sale License,  
15 and permits use of certain gear for taking of menhaden.

# ASSEMBLY, No. 2684

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 20, 2014

**Sponsored by:**

**Assemblyman BOB ANDRZEJCZAK**

**District 1 (Atlantic, Cape May and Cumberland)**

**SYNOPSIS**

Establishes Menhaden Personal Use and Limited Sale License and permits use of certain gear for taking of menhaden.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the taking of menhaden, amending P.L.1979,  
2 c.199, and amending and supplementing P.L.2013, c.74.

3

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

6

7 1. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to  
8 read as follows:

9 73. For purposes of this section, the "act" means and includes all  
10 the new sections and amended sections contained herein, all the  
11 remaining sections of Title 50 of the Revised Statutes, sections  
12 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-  
13 16, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised  
14 Statutes, sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to  
15 23:5-24.3), **[and]** sections 4 through 17 of P.L.2013, c.74 (C.23:3-  
16 51.2 through C.23:3-51.15), and section 6 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18 The commissioner may utilize any or all of the following  
19 remedies for any violation of this act:

20 a. (1) A person who violates the provisions of this act or of any  
21 rule, regulation, license or permit adopted or issued pursuant to this  
22 act shall be liable to a penalty of not less than \$300 or more than  
23 \$3,000 for the first offense and not less than \$500 or more than  
24 \$5,000 for any subsequent offense, unless the commissioner has  
25 established an alternate penalty for a specific offense pursuant to  
26 paragraph (2) of this subsection.

27 (2) The Commissioner of Environmental Protection, with the  
28 approval of the Marine Fisheries Council, may, by regulation,  
29 establish a penalty schedule for any specific violation of this act or  
30 of any rule or regulation adopted pursuant to this act. No such  
31 penalty may be less than \$30 or more than \$100 for the first offense  
32 or less than \$50 or more than \$200 for any subsequent offense. Any  
33 penalty provided for by this act or by the fee schedule adopted by  
34 the commissioner shall be collected in a civil action by a summary  
35 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
36 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any  
37 municipal court shall have jurisdiction to enforce the "Penalty  
38 Enforcement Law of 1999." If the violation is of a continuing  
39 nature, each day during which it continues shall constitute an  
40 additional, separate and distinct offense.

41 b. (1) A person who violates the provisions of this act or any rule  
42 or regulation or any license or permit adopted or issued pursuant to  
43 this act shall be liable to the revocation or suspension of any license  
44 or permit held by the violator pursuant to this act for such period of

**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 time as the court may choose, except when the rule or regulation  
2 violated includes a mandatory revocation or suspension schedule in  
3 which case that schedule shall determine the period of time of the  
4 revocation or suspension.

5 (2) In the case of a person who knowingly violates the  
6 provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or  
7 any rule or regulation or any license or permit adopted or issued  
8 pursuant thereto, the violator shall be subject to a mandatory  
9 revocation or suspension of the license or permit or privilege for the  
10 taking of oysters, clams or other shellfish held by the violator, or in  
11 the case of a violator without the necessary license or permit the  
12 loss of the privilege to take oysters, clams or other shellfish, for a  
13 period of three years for a first offense, five years for a second  
14 offense, and 10 years for the third and any subsequent offense. For  
15 purposes of this paragraph, a knowing violator shall include, but  
16 need not be limited to: (a) a person who is the holder of a  
17 commercial shellfish license or permit; (b) a person who is the  
18 holder of a recreational shellfish license or permit who is in  
19 possession of more than the daily recreational shellfish limit; (c) a  
20 person without any shellfish license or permit who is in possession  
21 of more than the daily recreational shellfish limit; (d) a person who  
22 is the holder of a recreational shellfish license or permit who is  
23 engaging in shellfish activities with the holder of a commercial  
24 shellfish license or permit; or (e) a person without the necessary  
25 shellfish license or permit who is engaging in shellfish activities  
26 with the holder of a commercial shellfish license or permit.

27 c. If a person violates any of the provisions of this act, or any  
28 rule or regulation or any license or permit adopted or issued  
29 pursuant to this act, the department may institute a civil action in a  
30 court of competent jurisdiction for injunctive relief to prohibit and  
31 prevent the violation or violations and the court may proceed in the  
32 action in a summary manner.

33 The department is hereby authorized and empowered to  
34 compromise and settle any claim for a penalty under this section in  
35 such amount in the discretion of the department as may appear  
36 appropriate and equitable under all of the circumstances.

37 d. In addition to the penalties prescribed by this section, a  
38 person who violates the provisions of R.S.50:2-11, R.S.50:3-13,  
39 R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or  
40 permit adopted or issued pursuant thereto, shall be subject to the  
41 forfeiture of any vessel, vehicle, or equipment used in the  
42 commission of the violation. A designated conservation officer of  
43 the Department of Environmental Protection, a member of the State  
44 Police, or any other law enforcement officer may seize and secure  
45 any vessel, vehicle, or equipment used in the commission of such a  
46 violation. Upon the seizure of the vessel, vehicle, or equipment, the  
47 conservation officer, member of the State Police, or other law  
48 enforcement officer shall immediately thereafter institute a civil

1 action to determine if the forfeiture is warranted in the court in  
2 which the penalty action was filed pursuant to this section, which  
3 court shall have jurisdiction to adjudicate the forfeiture action. The  
4 owner or any person having a security interest in the vessel, vehicle,  
5 or equipment may secure its release by depositing with the clerk of  
6 the court in which the action is pending a bond with good and  
7 sufficient sureties in an amount to be fixed by the court, conditioned  
8 upon the return of the vessel, vehicle, or equipment to the  
9 Department of Environmental Protection upon demand after  
10 completion of the court proceeding. The court may proceed in a  
11 summary manner and may direct the confiscation of the vessel,  
12 vehicle, or equipment by the department for its use or for disposal  
13 by sale or public auction. Moneys collected by the department  
14 through the sale or public auction of the vessel, vehicle, or  
15 equipment shall be used by the Division of Fish and Wildlife for the  
16 enforcement of the provisions of this act.

17 (cf: P.L.2013, c.74, s.1)

18

19 2. Section 4 of P.L.2013, c.74 (C.23:3-51.2) is amended read as  
20 follows:

21 4. As used in R.S.23:3-51, section 3 of P.L.2010, c.72 (C.23:3-  
22 51.1) **[and]** , sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2  
23 through C.23:3-51.15) , and section 6 of P.L. , c. (C. )  
24 (pending before the Legislature as this bill):

25 "Bait net" means a net, including but not limited to a bait seine,  
26 cast net, dip net, lift or umbrella net, or kill pot, deployed for the  
27 purpose of taking menhaden to be landed or sold in the State.

28 "Commissioner" means the Commissioner of Environmental  
29 Protection.

30 "Dealer" means a person who is authorized, by a license issued  
31 pursuant to section 9 of P.L.2013, c.74 (C.23:3-51.7), to purchase  
32 or barter for menhaden landed in the State, and who is considered a  
33 primary buyer of menhaden.

34 "Fishing" means the taking of menhaden from State or federal  
35 waters.

36 "Gill net vessel" means a vessel that is used in the deployment of  
37 a gill net for the purpose of taking menhaden to be landed or sold in  
38 the State.

39 "Menhaden" means a marine fish of the herring family  
40 (*Brevoortia tyrannus*).

41 "Menhaden set vessel" means the smaller of two vessels, often  
42 employed in conjunction with a purse seine catch vessel, and used  
43 as a replacement for the weight of a purse seine to assist in setting  
44 the net.

45 "Other authorized gear" means gear listed in subsection a. of  
46 section 2 of P.L.1941, c.211 (C.23:5-24.2), including haul seines,  
47 fyke nets, and wire pound nets, licensed and permitted for the  
48 taking of menhaden pursuant to P.L.2013, c. 74 (C.23:3-51.2 et al.).

1 "Pound net vessel" means a vessel that is used in the deployment  
2 of a pound net for the purpose of taking menhaden to be landed or  
3 sold in the State.

4 "Purse seine catch vessel" means a vessel that is used in the  
5 deployment of a purse seine or shirred net for the purpose of taking  
6 menhaden to be landed or sold in the State, and which may work in  
7 conjunction with a purse seine carry vessel or menhaden set vessel  
8 in the taking of menhaden by purse seine or shirred net.

9 "Purse seine carry vessel" means a vessel that is used to carry  
10 and land or sell menhaden that has been taken from State or federal  
11 waters, and which works in conjunction with a purse seine catch  
12 vessel or menhaden set vessel in the taking of menhaden by purse  
13 seine.

14 "Trawl vessel" means a vessel that is used in the deployment of a  
15 trawl for the purpose of taking menhaden to be landed or sold in the  
16 State.

17 (cf: P.L.2013, c.74, s.4)

18

19 3. Section 5 of P.L.2013, c.74 (C.23:3-51.3) is amended to read  
20 as follows:

21 5. a. **[No]** Except as provided pursuant to section 6 of P.L. ,  
22 c. (C. ) (pending before the Legislature as this bill, no person  
23 shall land for the purposes of sale or barter, or otherwise sell or  
24 barter, 100 pounds or more of menhaden at any time in the State,  
25 unless the person is in possession of a Menhaden Landing License  
26 which authorizes the person to participate in the directed bait and  
27 whole frozen human food fishery for menhaden.

28 b. (1) Any person who intends to land for the purposes of sale or  
29 barter, or otherwise sell or barter, 100 pounds or more of menhaden  
30 at any time shall submit to the commissioner an application for a  
31 Menhaden Landing License. Any license application for a  
32 Menhaden Landing License shall be filed with the commissioner  
33 prior to the annual deadline established thereby for application  
34 submission, and any application received by the commissioner after  
35 this deadline shall be denied.

36 (2) A Menhaden Landing License issued pursuant to this  
37 subsection shall be valid only for the calendar year for which it is  
38 issued, and shall be renewed on an annual basis. The failure of a  
39 licensee to annually renew a Menhaden Landing License in  
40 accordance with established deadlines shall result in forfeiture of  
41 the right to obtain a Menhaden Landing License in future years,  
42 except as provided by section 6 of P.L.2013, c.74 (C.23:3-51.4).

43 c. (1) The following types of vessels, and their owners or  
44 operators, are subject to licensure pursuant to this section:

45 (a) a gill net vessel that is used or is intended to be used to land  
46 100 pounds or more of menhaden on an individual trip basis, for the  
47 purposes of sale or barter;



1 (b) a pound net vessel that is used or is intended to be used to  
2 land 100 pounds or more of menhaden on an individual trip basis,  
3 for the purposes of sale or barter;

4 (c) a trawl vessel that is used or is intended to be used to land  
5 100 pounds or more of menhaden on an individual trip basis, for the  
6 purposes of sale or barter;

7 (d) a vessel that is used or is intended to be used to land, on an  
8 individual trip basis, and for the purposes of sale or barter, 100  
9 pounds or more of menhaden taken by bait net or other authorized  
10 gear;

11 (e) a purse seine carry vessel that is used or is intended to be  
12 used to land, on an individual trip basis, and for the purposes of sale  
13 or barter, 100 pounds or more of menhaden taken from State or  
14 federal waters; and

15 (f) a purse seine catch vessel that functions as a purse seine  
16 carry vessel and satisfies the requirements of subparagraph (e) of  
17 this paragraph.

18 (2) A purse seine catch vessel that does not function as a purse  
19 seine carry vessel is exempt from licensure pursuant to this section.  
20 However, the owner or operator of a purse seine carry vessel that  
21 works in conjunction with a purse seine catch vessel shall identify  
22 the purse seine catch vessel on the landing report prepared thereby.

23 (3) (a) No purse seine carry vessel or purse seine catch vessel  
24 functioning as a purse seine carry vessel shall be licensed pursuant  
25 to this subsection to land menhaden taken from State waters, unless  
26 the vessel is 90 feet or less in overall length.

27 (b) Nothing in subparagraph (a) of this paragraph shall prohibit  
28 the licensure of a purse seine carry vessel or purse seine catch  
29 vessel that is greater than 90 feet in overall length, so long as the  
30 vessel lands menhaden taken only from federal waters.

31 (c) In order to obtain a license to land menhaden taken by purse  
32 seine, the vessel shall have landed in the State at least 500,000  
33 pounds of menhaden in one year between 2009 and 2012, inclusive,  
34 or have been issued a New Jersey Menhaden Fishing Vessel  
35 License with a catch designation in 2014. The gear type assigned to  
36 a Menhaden Landing License issued to a vessel with a New Jersey  
37 Menhaden Fishing Vessel License with a catch designation shall be  
38 identified as a purse seine-catch.

39 (4) A Menhaden Landing License shall be issued by the  
40 commissioner in the name of: (a) the vessel and the vessel's owner  
41 or operator; or (b) if no vessel will be used in the landing or sale of  
42 menhaden, the person applying for the license. If a purse seine  
43 carry vessel or a purse seine catch vessel functioning as a purse  
44 seine carry vessel is operated by a person who is not the owner of  
45 the vessel, the vessel operator shall be licensed separately and apart  
46 from the vessel owner.

1 (5) Any license issued pursuant to this section shall specify the  
2 types of gear that may be used by the licensee in the taking of  
3 menhaden to be landed thereby.

4 d. The holder of a Menhaden Landing License shall not use,  
5 have on board the licensed vessel, or work in conjunction with any  
6 other vessel that uses any type of fishing gear other than the type of  
7 gear specifically identified in the license.

8 e. A Menhaden Landing License issued pursuant to this section  
9 shall remain on board the licensed vessel, or, if no vessel is used, in  
10 the possession of the licensee, at all times.

11 f. A person applying for a Menhaden Landing License shall  
12 meet the following criteria:

13 (1) In order to obtain a license to land menhaden taken by purse  
14 seine, the vessel shall have landed in the State at least 500,000  
15 pounds of menhaden during one year between 2009 and 2012,  
16 inclusive;

17 (2) In order to obtain a license to land menhaden taken by pound  
18 net or wire pound net, the vessel shall have landed in the State at  
19 least 100,000 pounds of menhaden during one year between 2009  
20 and 2012, inclusive;

21 (3) In order to obtain a license to land menhaden taken by gill  
22 net, haul seine, or fyke net, the vessel shall have landed in the State  
23 at least 10,000 pounds of menhaden during one year between 2009  
24 and 2012, inclusive;

25 (4) In order to obtain a license to land menhaden taken by trawl,  
26 the vessel shall have landed in the State at least 200 pounds of  
27 menhaden during one year between 2009 and 2012, inclusive; and

28 (5) In order to obtain a license to land menhaden taken by bait  
29 net, the person shall have possessed a New Jersey Bait Net License  
30 during one year between 2009 and 2012, inclusive. If a person's  
31 application for a license to land menhaden taken by bait net is  
32 submitted in the year 2014 or thereafter, the commissioner may  
33 require the applicant to prove landings and sale of menhaden during  
34 the respective years commencing in 2013.

35 g. (1) A resident of the State who is licensed under this section to  
36 land menhaden taken by purse seine shall be required to pay an  
37 annual fee of \$150. A resident of the State who is licensed under  
38 this section to land menhaden taken using any other type of gear  
39 shall be required to pay an annual fee of \$50.

40 (2) A non-resident of the State who is licensed under this  
41 section to land menhaden taken by purse seine shall be required to  
42 pay an annual fee of \$750, or an amount equal to the non-resident  
43 fee charged for the landing of menhaden in the non-resident's state,  
44 whichever is greater. A non-resident of the State who is licensed  
45 under this section to land menhaden taken with any other type of  
46 gear shall be required to pay an annual fee of \$250, or an amount  
47 equal to the non-resident fee charged for the landing of menhaden  
48 in the non-resident's state, whichever is greater.

1 (3) Any license fees collected pursuant to this subsection shall  
2 be deposited in the Marine Fisheries Management Account,  
3 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12),  
4 and shall be dedicated for the purposes of menhaden quota  
5 management, menhaden biological monitoring, and menhaden  
6 fisheries law enforcement.

7 h. Nothing in this section, in R.S.23:3-51, or in any other law,  
8 or rule or regulation adopted pursuant thereto, shall prohibit a  
9 person who does not possess a Menhaden Landing License from  
10 landing 100 pounds or less of menhaden, at any time, and on any  
11 trip or day **】, provided that the amount of landed menhaden does**  
12 **not exceed 10 percent, by weight, of the total weight of all species**  
13 **landed, sold, or bartered】.**  
14 (cf: P.L.2013, c.74, s.5)  
15

16 4. Section 7 of P.L.2013, c.74 (C.23:3-51.5) is amended to  
17 read:

18 7. a. Upon application to, and approval by, the department, the  
19 holder of a Menhaden Purse Seine Fishing Vessel License, issued  
20 pursuant to R.S.23:3-51, or the holder of a Menhaden Landing  
21 License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-  
22 51.3), may transfer their license as follows:

23 (1) To a replacement vessel when the vessel named in the  
24 license is replaced by the licensee; or

25 (2) To a new owner of the vessel named in the license when the  
26 vessel is sold or otherwise transferred to another person.

27 b. The following limitations shall apply to any license transfer  
28 undertaken pursuant to paragraph (1) of subsection a. of this  
29 section:

30 (1) a license shall only be transferrable to a replacement vessel  
31 that employs the same type of fishing gear identified in the original  
32 license;

33 (2) a license that is applicable to a purse seine catch vessel,  
34 including the Menhaden Landing License designated as a purse  
35 seine-catch pursuant to subparagraph (c) of paragraph (3) of  
36 subsection c. of section 5 of P.L.2013, c.74 (C.23:3-51.3), shall  
37 only be transferrable to a replacement purse seine catch vessel, and  
38 a license that is applicable to a purse seine carry vessel shall only be  
39 transferrable to a replacement purse seine carry vessel;

40 (3) a license that is applicable to a purse seine catch vessel or a  
41 purse seine carry vessel shall be transferrable to a replacement  
42 vessel only if the replacement vessel is not more than 10 percent  
43 larger in overall length than the originally licensed purse seine  
44 catch vessel or 10 percent larger in the hold capacity of the  
45 originally licensed purse seine carry vessel, as measured in cubic  
46 feet, and not more than 20 percent more powerful in terms of  
47 horsepower, than either originally licensed vessel.

1 c. A person who transfers a license pursuant to paragraph (2)  
2 of subsection a. of this section shall no longer be eligible to obtain a  
3 Menhaden Landing License based upon the landing history of the  
4 vessel being sold.

5 d. An applicant for a license transfer shall submit an  
6 application to the commissioner, on a form developed by the  
7 commissioner, and no license shall be transferred pursuant to this  
8 section without the prior approval of the commissioner.

9 e. A person shall not be eligible for transfer of their license  
10 pursuant to this section if: (1) their license is pending suspension or  
11 has been suspended pursuant to section 15 of P.L.2013, c.74  
12 (C.23:3-51.13); or (2) the licensee is subject to court action for a  
13 violation of R.S.23:3-51 or P.L.2013, c.74 (C.23:3-51.2 et al.).  
14 (cf: P.L.2013, c.74, s.7).

15  
16 5. Section 14 of P.L.2013, c.74 (C.23:3-51.12) is amended to  
17 read as follows:

18 14. a. There is established within the General Fund, a separate,  
19 dedicated, and non-lapsing account to be known as the "Marine  
20 Fisheries Management Account." This account shall be credited  
21 with:

22 (1) all revenues received from the issuance of Menhaden Purse  
23 Seine Fishing Vessel Licenses and Menhaden Purse Seine Fishing  
24 Vessel Operator's Licenses pursuant to R.S.23:3-51 and R.S.23:3-52  
25 **【, and】** ;

26 (2) all revenues received from the issuance of Menhaden  
27 Landing Licenses and Menhaden Dealer Licenses pursuant to  
28 sections 5 and 9 of P.L.2013, c.74 (C.23:3-51.3 and C.23:3-51.7) ;  
29 and

30 (3) all revenues received from the issuance of Menhaden  
31 Personal Use and Limited Sale Licenses pursuant to section 6 of  
32 P.L. , c. (C. ) (pending before the Legislature as this bill).

33 b. The moneys in the Marine Fisheries Management Account  
34 shall be allocated to the Division of Fish and Wildlife, Marine  
35 Fisheries Administration within the Department of Environmental  
36 Protection, and shall be dedicated for quota management, biological  
37 monitoring, and fisheries law enforcement in connection with  
38 marine fisheries.

39 (cf: P.L.2013, c.74, s.14)

40  
41 6. (New section) a. Any person who intends to take menhaden  
42 for personal use, with the option to sell or barter 500 pounds or less  
43 in excess of the person's needs per day, from any State waters,  
44 including the waters of the Atlantic ocean within three nautical  
45 miles of the State coast line, shall apply to the commissioner for a  
46 Menhaden Personal Use and Limited Sale License, in accordance  
47 with the provisions of this section. Upon receipt of the application  
48 and payment of the applicable fee, the commissioner may, in the

1 commissioner's discretion and as authorized pursuant to R.S.23:3-  
2 51 and section 3 of P.L.2010, c.72 (C.23:3-51.1), issue to the  
3 applicant a Menhaden Personal Use and Limited Sale License,  
4 except as prohibited by subsection b. of this section. A license  
5 issued pursuant to this section shall be valid only for the calendar  
6 year for which it is issued, and shall be renewed on an annual basis.

7 b. Notwithstanding the provisions of subsection a. of this  
8 section, the provisions of P.L.2013, c.74 (C.23:3-51.2 et al.), or the  
9 provisions of any other law, or any rule or regulation adopted  
10 pursuant thereto, to the contrary, the commissioner shall not issue a  
11 license for the taking of menhaden, and no person shall take  
12 menhaden, from State coastal waters, including the Delaware,  
13 Great, Raritan, and Sandy Hook bays, for the purpose of reduction,  
14 including the conversion of menhaden to fish meal, oil, or other  
15 components.

16 This subsection shall not prohibit the taking of menhaden in  
17 State coastal waters for use as bait for commercial or recreational  
18 fishing purposes or in whole frozen form for use as human food.

19 c. A person who is issued a Menhaden Personal Use and  
20 Limited Sale License pursuant to subsection a. of this section may  
21 take menhaden with a vessel or gear allowed for the taking of  
22 menhaden under other licenses established by P.L.2013, c.74  
23 (C.23:3-51.2 et al.), or with other authorized gear, as applicable.

24 d. The holder of a license issued pursuant to this section shall  
25 have the license on board the vessel being used in the taking of  
26 menhaden at all times during that use of the vessel for that purpose.

27 e. A person applying for a Menhaden Personal Use and  
28 Limited Sale License shall meet the following criteria:

29 (1) hold a valid gill net license and a pot fishery license; and

30 (2) provide proof of harvesting 5,000 pounds or more of any  
31 combination of species harvested in baited pots in any one year  
32 between 2009 and 2012, inclusive.

33 f. (1) A resident of the State who is licensed under this section to  
34 land menhaden taken by purse seine shall be required to pay an  
35 annual fee of \$150. A resident of the State who is licensed under  
36 this section to land menhaden taken using any other type of gear  
37 shall be required to pay an annual fee of \$50.

38 (2) A non-resident of the State who is licensed under this  
39 section to land menhaden taken by purse seine shall be required to  
40 pay an annual fee of \$750, or an amount equal to the non-resident  
41 fee charged for the landing of menhaden in the non-resident's state,  
42 whichever is greater. A non-resident of the State who is licensed  
43 under this section to land menhaden taken with any other type of  
44 gear shall be required to pay an annual fee of \$250, or an amount  
45 equal to the non-resident fee charged for the landing of menhaden  
46 in the non-resident's state, whichever is greater.

47 (3) Any license fees collected pursuant to this subsection shall  
48 be deposited in the Marine Fisheries Management Account,

1 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12),  
2 and shall be dedicated for the purposes of menhaden quota  
3 management, menhaden biological monitoring, and menhaden  
4 fisheries law enforcement.

5 g. Notwithstanding the provisions of section 5 of P.L.2013, c.74  
6 (C.23:3-51.3), or any rule or regulation adopted pursuant thereto, to  
7 the contrary, other authorized gear traditionally used in the taking  
8 of menhaden may be licensed for use in conjunction with the  
9 license issued pursuant to this section, provided that:

10 (1) the qualifying harvest level for haul seines or fyke nets is  
11 10,000 pounds or more in any year between 2009 and 2012,  
12 inclusive; and

13 (2) the qualifying harvest level for wire pound nets is 100,000  
14 pounds or more in any year between 2009 and 2012, inclusive.

15 h. Nothing in this section, R.S.23:3-51, or any other law, or  
16 any rule or regulation adopted pursuant thereto, shall prohibit a  
17 person who does not possess a Menhaden Personal Use and Limited  
18 Sale License from landing 100 pounds or less of menhaden, at any  
19 time, and on any trip or day.

20

21 7. (New section) Each year, the committee of the Marine  
22 Fisheries Council concerned with the menhaden fishery shall meet  
23 to review the current State laws concerning menhaden, the  
24 implementation of those laws, and the status of the menhaden  
25 fishery in the State. The committee may make recommendations to  
26 the Marine Fisheries Council concerning any changes in laws, rules  
27 or regulations, or policies or procedures pursuant to those laws,  
28 rules, or regulations that the committee determines to be prudent for  
29 the protection and vitality of the menhaden fishery in the State.

30

31 8. (New section) a. The Department of Environmental  
32 Protection shall, in cooperation with the Marine Fisheries Council,  
33 establish reporting procedures and methods which allow a person to  
34 comply with all reporting requirements pursuant to P.L.2013, c.74  
35 (C.23:3-51.2 et al.) in a hard copy paper form to be submitted by  
36 fax or mailed via the United States Postal Service or other hard  
37 copy delivery service. The department shall also make available by  
38 fax and mail via the United States Postal Service or other hard copy  
39 delivery service any forms or other documents necessary for  
40 meeting reporting requirements pursuant to P.L.2013, c.74 (C.23:3-  
41 51.2 et al.).

42 b. The reporting procedures and methods required to be  
43 established pursuant to subsection a. of this section shall be in  
44 addition to any on-line reporting procedures and methods  
45 established and provided by the department. A person may comply  
46 with reporting requirements pursuant to P.L.2013, c.74 (C.23:3-  
47 51.2 et al.) by electing at the person's discretion to use the hard  
48 copy paper form or the on-line form of reporting.

1       9. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill establishes a Menhaden Personal Use and Limited Sale

7 License and expands the types of gear approved for the taking of

8 menhaden with certain qualifying harvest levels for specific gear.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**

**STATE OF NEW JERSEY**

DATED: MARCH 10, 2014

The Assembly Agriculture and Natural Resources Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2684.

This committee substitute establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear.

The committee substitute requires that a person apply to the Commissioner of Environmental Protection for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied.

The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected pursuant this bill would be deposited in the Menhaden Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12), and dedicated for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

The committee substitute requires the license holder also:

- 1) have a valid gill net license and a pot fishery license; and
- 2) provide proof of harvesting 5,000 pounds or more of any combination of species harvested in baited pots in any one year between 2009 and 2012, inclusive.



The license holder is required to have the license on board the vessel being used in the taking of menhaden at all times during that use of the vessel for that purpose. The committee substitute authorizes menhaden to be taken with a gill net, provided that the gill net does not exceed 150 feet in length, and the person tends the net at all times, remaining within 500 feet of the set net. The committee substitute allows a person who does not possess a Menhaden Personal Use and Limited Sale License to land 100 pounds or less of menhaden, at any time, and on any trip or day. However, except for the excess 500 pounds or less per day that may be sold or bartered, a holder of a Menhaden Personal Use and Limited Sale License may only make personal use of menhaden as bait for the person's commercial fishing pots and may not use menhaden for any other purpose. The committee substitute also clarifies that taking more than 100 pounds of menhaden is the amount requiring a Menhaden Landing License.

The committee substitute requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The committee substitute directs the Department of Environmental Protection (DEP), in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allow the person to choose how they would comply. The committee substitute also further clarifies some provisions dealing with the taking of menhaden by purse seine.

The committee substitute provides that, in order to obtain a license to land menhaden taken by purse seine, the vessel is required to have landed in the State at least 500,000 pounds of menhaden in one year between 2009 and 2012, inclusive, or to have been issued a Menhaden Purse Seine Fishing Vessel License with a catch designation in 2014 and to have landed in the State at least 200,000 pounds of menhaden in any one year between 2009 and 2012, inclusive. The committee substitute establishes January 1 to December 31 would be the season for fishing and landing menhaden with any gear authorized for such taking by law, and that incidental catches for holders of a Menhaden Landing License or a Menhaden Personal Use and Limited Sale License would be as provided by the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden. Furthermore, holders of Menhaden Dealer Licenses would be allowed to continue to accept menhaden from these license holders from incidental catches consistent with that plan.

The committee substitute directs the DEP, for calendar year 2014 only, to transfer 700,000 pounds of the State's menhaden quota from the purse seine allocation to commercial fixed gear, until July 1, 2014. On that date, the unused transferred pounds would be credited back to the purse seine allocation of the State's menhaden quota.

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**

with Assembly Floor Amendments  
(Proposed by Assemblyman ANDRZEJCZAK)

ADOPTED: MARCH 20, 2014

The amendments provide that the gill net used to take menhaden in the Delaware bay with a Menhaden Personal Use and Limited Sale License may be any length as stipulated in the required valid gill net license. The amendments also make a technical correction to the bill.

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**

with Assembly Floor Amendments  
(Proposed by Assemblyman ANDRZEJCZAK)

ADOPTED: MARCH 27, 2014

This amendment clarifies that gill nets must be tended at all times in the Atlantic ocean but gill nets in the Delaware bay need not be tended at all times.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 2684**

**STATE OF NEW JERSEY**

**216th LEGISLATURE**

DATED: APRIL 2, 2014

## SUMMARY

- Synopsis:** Establishes Menhaden Personal Use and Limited Sale License, and permits use of certain gear for taking of menhaden.
- Type of Impact:** Minimal expenditure increase offset by license fees.
- Agencies Affected:** Department of Environmental Protection

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Minimal – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the Department of Environmental Protection (DEP). Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.
- According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.
- The OLS notes that revenues received from the issuance of the licenses are to be deposited in the “Menhaden Marine Fisheries Management Account” and allocated to the Division of Fish and Wildlife’s Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

**BILL DESCRIPTION**

The First Reprint to the Assembly Committee Substitute for Assembly Bill No. 2684 of 2014 establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill requires that a person apply to the Commissioner of the DEP for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the nonresident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allows the person to choose the manner of compliance. The bill also further clarifies some provisions of law dealing with the taking of menhaden by purse seine and gill net.

**FISCAL ANALYSIS*****EXECUTIVE BRANCH***

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill would have a minimal fiscal impact on the DEP. Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department. The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries

Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Joseph A. Hroncich  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**LEGISLATIVE FISCAL ESTIMATE**  
 [Second Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**  
**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

DATED: MAY 13, 2014

**SUMMARY**

**Synopsis:** Establishes Menhaden Personal Use and Limited Sale License, and permits use of certain gear for taking of menhaden.

**Type of Impact:** Minimal expenditure increase offset by license fees.

**Agencies Affected:** Department of Environmental Protection

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Minimal – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the Department of Environmental Protection (DEP). Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.
- According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.
- The OLS notes that revenues received from the issuance of the licenses are to be deposited in the “Menhaden Marine Fisheries Management Account” and allocated to the Division of Fish and Wildlife’s Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.



## **BILL DESCRIPTION**

The Second Reprint to the Assembly Committee Substitute for Assembly Bill No. 2684 of 2014 establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill requires that a person apply to the Commissioner of the DEP for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allows the person to choose the manner of compliance. The bill also further clarifies some provisions of law dealing with the taking of menhaden by purse seine and gill net.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill would have a minimal fiscal impact on the DEP. Any additional costs incurred by the DEP likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department. The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Joseph A. Hroncich  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO

[Second Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**

with Assembly Floor Amendments  
(Proposed by Assemblyman ANDRZEJCZAK)

ADOPTED: MAY 22, 2014

This amendment:

- 1) clarifies that certain requirements apply to the licensee as well as the vessel;
- 2) removes requirements concerning the size of the gill net and tending of the net when taking menhaden; and
- 3) allows the Department of Environmental Protection to transfer 700,000 pounds of the State menhaden quota in calendar year 2014 from the purse seine allocation to commercial fixed gear, as needed.

**LEGISLATIVE FISCAL ESTIMATE**  
 [Third Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 2684**  
**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

DATED: JUNE 19, 2014

**SUMMARY**

**Synopsis:** Establishes Menhaden Personal Use and Limited Sale License, and permits use of certain gear for taking of menhaden.

**Type of Impact:** Minimal expenditure increase offset by license fees.

**Agencies Affected:** Department of Environmental Protection

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost</b>	Minimal – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the Department of Environmental Protection (DEP). Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.
- According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.
- The OLS notes that revenues received from the issuance of the licenses are to be deposited in the “Menhaden Marine Fisheries Management Account” and allocated to the Division of Fish and Wildlife’s Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

## **BILL DESCRIPTION**

The Third Reprint to the Assembly Committee Substitute for Assembly Bill No. 2684 of 2014 establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill requires that a person apply to the Commissioner of the DEP for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allows the person to choose the manner of compliance. The bill also further clarifies some provisions of law dealing with the taking of menhaden by purse seine and gill net.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill would have a minimal fiscal impact on the DEP. Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department. The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Joseph A. Hroncich  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Third Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2684

# STATE OF NEW JERSEY

DATED: JUNE 23, 2014

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2684 (ACS) (3R).

This bill establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill requires that a person apply to the Commissioner of the Department of Environmental Protection (DEP) for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allows the person to choose how they would comply. The bill also further clarifies some provisions dealing with the taking of menhaden by purse seine and gill net.

As reported, this bill is identical to Senate Bill No. 1844, as amended and reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the DEP. Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.



**SENATE, No. 1844**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED MARCH 24, 2014

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

**SYNOPSIS**

Establishes Menhaden Personal Use and Limited Sale License, and permits use of certain gear for taking of menhaden.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the taking of menhaden, amending P.L.1979,  
2 c.199, and amending and supplementing P.L.2013, c.74.

3

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

6

7 1. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to  
8 read as follows:

9 73. For purposes of this section, the "act" means and includes all  
10 the new sections and amended sections contained herein, all the  
11 remaining sections of Title 50 of the Revised Statutes, sections  
12 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-  
13 16, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised  
14 Statutes, sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to  
15 23:5-24.3), **[and]** sections 4 through 17 of P.L.2013, c.74 (C.23:3-  
16 51.2 through C.23:3-51.15), and section 12 of P.L. , c. (C. )  
17 (pending before the Legislature as this bill).

18 The commissioner may utilize any or all of the following  
19 remedies for any violation of this act:

20 a. (1) A person who violates the provisions of this act or of  
21 any rule, regulation, license or permit adopted or issued pursuant to  
22 this act shall be liable to a penalty of not less than \$300 or more  
23 than \$3,000 for the first offense and not less than \$500 or more than  
24 \$5,000 for any subsequent offense, unless the commissioner has  
25 established an alternate penalty for a specific offense pursuant to  
26 paragraph (2) of this subsection.

27 (2) The Commissioner of Environmental Protection, with the  
28 approval of the Marine Fisheries Council, may, by regulation,  
29 establish a penalty schedule for any specific violation of this act or  
30 of any rule or regulation adopted pursuant to this act. No such  
31 penalty may be less than \$30 or more than \$100 for the first offense  
32 or less than \$50 or more than \$200 for any subsequent offense. Any  
33 penalty provided for by this act or by the fee schedule adopted by  
34 the commissioner shall be collected in a civil action by a summary  
35 proceeding pursuant to the "Penalty Enforcement Law of 1999,"  
36 P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any  
37 municipal court shall have jurisdiction to enforce the "Penalty  
38 Enforcement Law of 1999." If the violation is of a continuing  
39 nature, each day during which it continues shall constitute an  
40 additional, separate and distinct offense.

41 b. (1) A person who violates the provisions of this act or any  
42 rule or regulation or any license or permit adopted or issued  
43 pursuant to this act shall be liable to the revocation or suspension of  
44 any license or permit held by the violator pursuant to this act for  
45 such period of time as the court may choose, except when the rule

**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 or regulation violated includes a mandatory revocation or  
2 suspension schedule in which case that schedule shall determine the  
3 period of time of the revocation or suspension.

4 (2) In the case of a person who knowingly violates the  
5 provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or  
6 any rule or regulation or any license or permit adopted or issued  
7 pursuant thereto, the violator shall be subject to a mandatory  
8 revocation or suspension of the license or permit or privilege for the  
9 taking of oysters, clams or other shellfish held by the violator, or in  
10 the case of a violator without the necessary license or permit the  
11 loss of the privilege to take oysters, clams or other shellfish, for a  
12 period of three years for a first offense, five years for a second  
13 offense, and 10 years for the third and any subsequent offense. For  
14 purposes of this paragraph, a knowing violator shall include, but  
15 need not be limited to: (a) a person who is the holder of a  
16 commercial shellfish license or permit; (b) a person who is the  
17 holder of a recreational shellfish license or permit who is in  
18 possession of more than the daily recreational shellfish limit; (c)  
19 a person without any shellfish license or permit who is in possession  
20 of more than the daily recreational shellfish limit; (d) a person who  
21 is the holder of a recreational shellfish license or permit who is  
22 engaging in shellfish activities with the holder of a commercial  
23 shellfish license or permit; or (e) a person without the necessary  
24 shellfish license or permit who is engaging in shellfish activities  
25 with the holder of a commercial shellfish license or permit.

26 c. If a person violates any of the provisions of this act, or any  
27 rule or regulation or any license or permit adopted or issued  
28 pursuant to this act, the department may institute a civil action in a  
29 court of competent jurisdiction for injunctive relief to prohibit and  
30 prevent the violation or violations and the court may proceed in the  
31 action in a summary manner.

32 The department is hereby authorized and empowered to  
33 compromise and settle any claim for a penalty under this section in  
34 such amount in the discretion of the department as may appear  
35 appropriate and equitable under all of the circumstances.

36 d. In addition to the penalties prescribed by this section, a  
37 person who violates the provisions of R.S.50:2-11, R.S.50:3-13,  
38 R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or  
39 permit adopted or issued pursuant thereto, shall be subject to the  
40 forfeiture of any vessel, vehicle, or equipment used in the  
41 commission of the violation. A designated conservation officer of  
42 the Department of Environmental Protection, a member of the State  
43 Police, or any other law enforcement officer may seize and secure  
44 any vessel, vehicle, or equipment used in the commission of such a  
45 violation. Upon the seizure of the vessel, vehicle, or equipment, the  
46 conservation officer, member of the State Police, or other law  
47 enforcement officer shall immediately thereafter institute a civil  
48 action to determine if the forfeiture is warranted in the court in

1 which the penalty action was filed pursuant to this section, which  
2 court shall have jurisdiction to adjudicate the forfeiture action. The  
3 owner or any person having a security interest in the vessel, vehicle,  
4 or equipment may secure its release by depositing with the clerk of  
5 the court in which the action is pending a bond with good and  
6 sufficient sureties in an amount to be fixed by the court, conditioned  
7 upon the return of the vessel, vehicle, or equipment to the  
8 Department of Environmental Protection upon demand after  
9 completion of the court proceeding. The court may proceed in a  
10 summary manner and may direct the confiscation of the vessel,  
11 vehicle, or equipment by the department for its use or for disposal  
12 by sale or public auction. Moneys collected by the department  
13 through the sale or public auction of the vessel, vehicle, or  
14 equipment shall be used by the Division of Fish and Wildlife for the  
15 enforcement of the provisions of this act.

16 (cf: P.L.2013, c.74, s.1)

17

18 2. Section 4 of P.L.2013, c.74 (C.23:3-51.2) is amended read as  
19 follows:

20 4. As used in R.S.23:3-51, section 3 of P.L.2010, c.72 (C.23:3-  
21 51.1) **【and】** , sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2  
22 through C.23:3-51.15) , and sections 12 through 14 of P.L.        ,  
23 c. (C.       ) (pending before the Legislature as this bill):

24 "Bait net" means a net, including but not limited to a bait seine,  
25 cast net, dip net, lift or umbrella net, or **【kill pot】** killi-pot,  
26 deployed for the purpose of taking menhaden to be landed or sold in  
27 the State.

28 "Commissioner" means the Commissioner of Environmental  
29 Protection.

30 "Dealer" means a person who is authorized, by a license issued  
31 pursuant to section 9 of P.L.2013, c.74 (C.23:3-51.7), to purchase  
32 or barter for menhaden landed in the State, and who is considered a  
33 primary buyer of menhaden.

34 "Fishing" means the taking of menhaden from State or federal  
35 waters.

36 "Gill net vessel" means a vessel that is used in the deployment of  
37 a gill net for the purpose of taking menhaden to be landed or sold in  
38 the State.

39 "Menhaden" means a marine fish of the herring family  
40 (*Brevoortia tyrannus*).

41 "Menhaden set vessel" means the smaller of two vessels, often  
42 employed in conjunction with a purse seine catch vessel, and used  
43 as a replacement for the weight of a purse seine to assist in setting  
44 the net.

45 "Other authorized gear" means gear listed in subsection a. of  
46 section 2 of P.L.1941, c.211 (C.23:5-24.2), including haul seines,  
47 fyke nets, and wire pound nets, licensed and permitted for the  
48 taking of menhaden pursuant to P.L.2013, c. 74 (C.23:3-51.2 et al.).

1 "Pound net vessel" means a vessel that is used in the deployment  
2 of a pound net for the purpose of taking menhaden to be landed or  
3 sold in the State.

4 "Purse seine catch vessel" means a vessel that is used in the  
5 deployment of a purse seine or shirred net for the purpose of taking  
6 menhaden to be landed or sold in the State, and which may work in  
7 conjunction with a purse seine carry vessel or menhaden set vessel  
8 in the taking of menhaden by purse seine or shirred net.

9 "Purse seine carry vessel" means a vessel that is used to carry  
10 and land or sell menhaden that has been taken from State or federal  
11 waters, and which works in conjunction with a purse seine catch  
12 vessel or menhaden set vessel in the taking of menhaden by purse  
13 seine.

14 "Trawl vessel" means a vessel that is used in the deployment of a  
15 trawl for the purpose of taking menhaden to be landed or sold in the  
16 State.

17 (cf: P.L.2013, c.74, s.4)

18

19 3. Section 5 of P.L.2013, c.74 (C.23:3-51.3) is amended to read  
20 as follows:

21 5. a. **【No】** Except as provided pursuant to section 12 of P.L. ,  
22 c. (C. ) (pending before the Legislature as this bill, no person  
23 shall land for the purposes of sale or barter, or otherwise sell or  
24 barter, more than 100 pounds **【or more】** of menhaden at any time in  
25 the State, unless the person is in possession of a Menhaden Landing  
26 License which authorizes the person to participate in the directed  
27 bait and whole frozen human food fishery for menhaden.

28 b. (1) Any person who intends to land for the purposes of sale  
29 or barter, or otherwise sell or barter, more than 100 pounds **【or**  
30 **more】** of menhaden at any time shall submit to the commissioner an  
31 application for a Menhaden Landing License. Any license  
32 application for a Menhaden Landing License shall be filed with the  
33 commissioner prior to the annual deadline established thereby for  
34 application submission, and any application received by the  
35 commissioner after this deadline shall be denied.

36 (2) A Menhaden Landing License issued pursuant to this  
37 subsection shall be valid only for the calendar year for which it is  
38 issued, and shall be renewed on an annual basis. The failure of a  
39 licensee to annually renew a Menhaden Landing License in  
40 accordance with established deadlines shall result in forfeiture of  
41 the right to obtain a Menhaden Landing License in future years,  
42 except as provided by section 6 of P.L.2013, c.74 (C.23:3-51.4).

43 c. (1) The following types of vessels, and their owners or  
44 operators, are subject to licensure pursuant to this section:

45 (a) a gill net vessel that is used or is intended to be used to land  
46 more than 100 pounds **【or more】** of menhaden on an individual trip  
47 basis, for the purposes of sale or barter;

- 1 (b) a pound net vessel that is used or is intended to be used to  
2 land more than 100 pounds **【or more】** of menhaden on an  
3 individual trip basis, for the purposes of sale or barter;
- 4 (c) a trawl vessel that is used or is intended to be used to land  
5 more than 100 pounds **【or more】** of menhaden on an individual trip  
6 basis, for the purposes of sale or barter;
- 7 (d) a vessel that is used or is intended to be used to land, on an  
8 individual trip basis, and for the purposes of sale or barter, more  
9 than 100 pounds **【or more】** of menhaden taken by bait net or other  
10 authorized gear;
- 11 (e) a purse seine carry vessel that is used or is intended to be  
12 used to land, on an individual trip basis, and for the purposes of sale  
13 or barter, more than 100 pounds **【or more】** of menhaden taken from  
14 State or federal waters; and
- 15 (f) a purse seine catch vessel that functions as a purse seine  
16 carry vessel and satisfies the requirements of subparagraph (e) of  
17 this paragraph.
- 18 (2) A purse seine catch vessel that does not function as a purse  
19 seine carry vessel is exempt from licensure pursuant to this section.  
20 However, the owner or operator of a purse seine carry vessel that  
21 works in conjunction with a purse seine catch vessel shall identify  
22 the purse seine catch vessel on the landing report prepared thereby.
- 23 (3) (a) No purse seine carry vessel or purse seine catch vessel  
24 functioning as a purse seine carry vessel shall be licensed pursuant  
25 to this subsection to land menhaden taken from State waters, unless  
26 the vessel is 90 feet or less in overall length.
- 27 (b) Nothing in subparagraph (a) of this paragraph shall prohibit  
28 the licensure of a purse seine carry vessel or purse seine catch  
29 vessel that is greater than 90 feet in overall length, so long as the  
30 vessel lands menhaden taken only from federal waters.
- 31 (4) A Menhaden Landing License shall be issued by the  
32 commissioner in the name of: (a) the vessel and the vessel's owner  
33 or operator; or (b) if no vessel will be used in the landing or sale of  
34 menhaden, the person applying for the license. If a purse seine  
35 carry vessel or a purse seine catch vessel functioning as a purse  
36 seine carry vessel is operated by a person who is not the owner of  
37 the vessel, the vessel operator shall be licensed separately and apart  
38 from the vessel owner.
- 39 (5) Any license issued pursuant to this section shall specify the  
40 types of gear that may be used by the licensee in the taking of  
41 menhaden to be landed thereby.
- 42 d. The holder of a Menhaden Landing License shall not use,  
43 have on board the licensed vessel, or work in conjunction with any  
44 other vessel that uses any type of fishing gear other than the type of  
45 gear specifically identified in the license.
- 46 e. A Menhaden Landing License issued pursuant to this section  
47 shall remain on board the licensed vessel, or, if no vessel is used, in  
48 the possession of the licensee, at all times.

1 f. A person applying for a Menhaden Landing License shall  
2 meet the following criteria:

3 (1) In order to obtain a license to land menhaden taken by purse  
4 seine, the vessel shall have landed in the State at least 500,000  
5 pounds of menhaden during one year between 2009 and 2012,  
6 inclusive, or have been issued a Menhaden Purse Seine Fishing  
7 Vessel License with a catch designation in 2014 and shall have  
8 landed in the State at least 200,000 pounds of menhaden in any one  
9 year between 2009 and 2012, inclusive. The gear type assigned to a  
10 Menhaden Landing License issued to a vessel with a Menhaden  
11 Purse Seine Fishing Vessel License with a catch designation shall  
12 be identified as a purse seine-catch;

13 (2) In order to obtain a license to land menhaden taken by pound  
14 net or wire pound net, the vessel shall have landed in the State at  
15 least 100,000 pounds of menhaden during one year between 2009  
16 and 2012, inclusive;

17 (3) In order to obtain a license to land menhaden taken by gill  
18 net, haul seine, or fyke net, the vessel shall have landed in the State  
19 at least 10,000 pounds of menhaden during one year between 2009  
20 and 2012, inclusive;

21 (4) In order to obtain a license to land menhaden taken by trawl,  
22 the vessel shall have landed in the State at least 200 pounds of  
23 menhaden during one year between 2009 and 2012, inclusive; and

24 (5) In order to obtain a license to land menhaden taken by bait  
25 net, the person shall have possessed a New Jersey Bait Net License  
26 during one year between 2009 and 2012, inclusive. If a person's  
27 application for a license to land menhaden taken by bait net is  
28 submitted in the year 2014 or thereafter, the commissioner may  
29 require the applicant to prove landings and sale of menhaden during  
30 the respective years commencing in 2013.

31 g. (1) A resident of the State who is licensed under this section  
32 to land menhaden taken by purse seine shall be required to pay an  
33 annual fee of \$150. A resident of the State who is licensed under  
34 this section to land menhaden taken using any other type of gear  
35 shall be required to pay an annual fee of \$50.

36 (2) A non-resident of the State who is licensed under this  
37 section to land menhaden taken by purse seine shall be required to  
38 pay an annual fee of \$750, or an amount equal to the non-resident  
39 fee charged for the landing of menhaden in the non-resident's state,  
40 whichever is greater. A non-resident of the State who is licensed  
41 under this section to land menhaden taken with any other type of  
42 gear shall be required to pay an annual fee of \$250, or an amount  
43 equal to the non-resident fee charged for the landing of menhaden  
44 in the non-resident's state, whichever is greater.

45 (3) Any license fees collected pursuant to this subsection shall  
46 be deposited in the Menhaden Marine Fisheries Management  
47 Account, established pursuant to section 14 of P.L.2013, c.74  
48 (C.23:3-51.12), and shall be dedicated for the purposes of

1 menhaden quota management, menhaden biological monitoring, and  
2 menhaden fisheries law enforcement.

3 h. Nothing in this section, in R.S.23:3-51, or in any other law,  
4 or rule or regulation adopted pursuant thereto, shall prohibit a  
5 person who does not possess a Menhaden Landing License from  
6 landing 100 pounds or less of menhaden for sale or barter, at any  
7 time, and on any trip or day **】, provided that the amount of landed**  
8 menhaden does not exceed 10 percent, by weight, of the total  
9 weight of all species landed, sold, or bartered**】**.

10 (cf: P.L.2013, c.74, s.5)

11

12 4. Section 6 of P.L.2013, c.74 (C.23:3-51.4) is amended to read  
13 as follows:

14 6. a. A licensee who is eligible for renewal of their Menhaden  
15 Landing License or Menhaden Personal Use and Limited Sale  
16 License may request an extension of time to renew their license in  
17 accordance with this section.

18 b. A licensee seeking a license renewal extension shall submit  
19 a written application therefor to the commissioner, on a form  
20 developed by the commissioner. The application shall include, at a  
21 minimum:

22 (1) the name of the licensee and licensed vessel, if any;

23 (2) the licensee's Menhaden Landing License or Menhaden  
24 Personal Use and Limited Sale License number, as applicable ;

25 (3) a detailed explanation as to why the extension is needed,  
26 including a statement specifying the type and degree of hardship  
27 that prevented the timely renewal of the license, and the hardship  
28 that will result to the licensee if the license is not renewed; and

29 (4) any other appropriate documentation as may be necessary to  
30 support the application.

31 c. An application for license renewal extension shall be  
32 approved if the commissioner determines that:

33 (1) by reason of extraordinary hardship or exceptional situation  
34 or condition, the licensee was precluded from complying with the  
35 renewal requirements;

36 (2) strict compliance with the renewal requirements provided by  
37 law would result in exceptional and undue hardship to the licensee;

38 (3) the circumstances supporting the conclusions made in  
39 paragraphs (1) and (2) of this subsection were not created by the  
40 licensee or persons under the licensee's control; and

41 (4) approval of the extension will not unreasonably interfere  
42 with the orderly administration of the directed bait or whole frozen  
43 human food fishery for menhaden.

44 d. Within 30 days after receipt of an application for license  
45 renewal extension, the commissioner shall approve or deny the  
46 application, and shall provide written notice of this determination to  
47 the licensee. A licensee whose application for extension is denied  
48 may appeal the decision in accordance with the procedure for



1 contested cases under the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

3 (cf: P.L.2013, c.74, s.6)

4

5 5. Section 7 of P.L.2013, c.74 (C.23:3-51.5) is amended to  
6 read:

7 7. a. Upon application to, and approval by, the department, the  
8 holder of a Menhaden Purse Seine Fishing Vessel License, issued  
9 pursuant to R.S.23:3-51, **[or]** the holder of a Menhaden Landing  
10 License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-  
11 51.3), or the holder of a Menhaden Personal Use and Limited Sale  
12 License, issued pursuant to section 12 of P.L. , c. (C. )  
13 (pending before the Legislature as this bill), may transfer their  
14 license as follows:

15 (1) To a replacement vessel when the vessel named in the  
16 license is replaced by the licensee; or

17 (2) To a new owner of the vessel named in the license when the  
18 vessel is sold or otherwise transferred to another person.

19 b. The following limitations shall apply to any license transfer  
20 undertaken pursuant to paragraph (1) of subsection a. of this  
21 section:

22 (1) a license shall only be transferrable to a replacement vessel  
23 that employs the same type of fishing gear identified in the original  
24 license;

25 (2) a license that is applicable to a purse seine catch vessel,  
26 including the Menhaden Landing License designated as a purse  
27 seine-catch pursuant to paragraph (1) of subsection f. of section 5 of  
28 P.L.2013, c.74 (C.23:3-51.3), shall only be transferrable to a  
29 replacement purse seine catch vessel, and a license that is  
30 applicable to a purse seine carry vessel shall only be transferrable to  
31 a replacement purse seine carry vessel;

32 (3) a license that is applicable to a purse seine catch vessel or a  
33 purse seine carry vessel shall be transferrable to a replacement  
34 vessel only if the replacement vessel is not more than 10 percent  
35 larger in overall length **[than the originally licensed purse seine**  
36 **catch vessel or]** , 10 percent larger in the hold capacity **[of the**  
37 **originally licensed purse seine carry vessel,]** as measured in cubic  
38 feet, and not more than 20 percent more powerful in terms of  
39 horsepower, than **[either]** the originally licensed vessel.

40 c. A person who transfers a license pursuant to paragraph (2)  
41 of subsection a. of this section shall no longer be eligible to obtain a  
42 Menhaden Landing License or a Menhaden Personal Use and  
43 Limited Sale License based upon the landing history of the vessel  
44 being sold.

45 d. An applicant for a license transfer shall submit an  
46 application to the commissioner, on a form developed by the  
47 commissioner, and no license shall be transferred pursuant to this  
48 section without the prior approval of the commissioner.

1 e. A person shall not be eligible for transfer of their license  
2 pursuant to this section if: (1) their license is pending suspension or  
3 has been suspended pursuant to section 15 of P.L.2013, c.74  
4 (C.23:3-51.13); or (2) the licensee is subject to court action for a  
5 violation of R.S.23:3-51 or P.L.2013, c.74 (C.23:3-51.2 et al.).  
6 (cf: P.L.2013, c.74, s.7).

7  
8 6. Section 8 of P.L.2013, c.74 (C.23:3-51.6) is amended to read  
9 as follows:

10 8. a. The holder of a Menhaden Landing License or the holder  
11 of a Menhaden Personal Use and Limited Sale License shall submit  
12 a monthly report to the commissioner, on a form developed by the  
13 commissioner. The licensee shall attest to the validity of the  
14 information contained in the monthly report, and shall  
15 electronically, or in hard copy paper form, as provided pursuant to  
16 section 14 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill), submit the report to the department using a  
18 method approved by the commissioner. If no landing, sale, or  
19 barter of menhaden occurred during the month, the licensee shall  
20 submit a report to that effect.

21 b. The monthly report shall include, at a minimum, the  
22 following information, which shall be reported on an individual trip  
23 basis:

24 (1) the name of the licensee and licensed vessel, if any;

25 (2) the licensee's Menhaden Landing License or Menhaden  
26 Personal Use and Limited Sale License number, as applicable;

27 (3) the name of the purse seine catch vessel, if any, which was  
28 used in conjunction with the licensed vessel;

29 (4) the total amount, in pounds, of menhaden landed by the  
30 licensee or licensed vessel;

31 (5) the total amount, in pounds, of menhaden discarded by the  
32 licensee or licensed vessel;

33 (6) the location of harvest;

34 (7) the type of gear used for harvest;

35 (8) the ports used for the landing of menhaden;

36 (9) the date on which, and the dealer to whom, any landed  
37 menhaden was sold or bartered by the licensee; and

38 (10) any other information required by the department.

39 c. (1) In addition to any other penalties provided by section 73  
40 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et  
41 al.), or by any other law, any licensee who fails to submit a monthly  
42 report on or before the 10th day of the month following the month  
43 of record shall be subject to a fine of \$50 for a first offense, \$100  
44 for a second offense, and \$200 for any subsequent offense.

45 (2) Any fines collected pursuant to this subsection shall be  
46 deposited in the Menhaden Marine Fisheries Management Account,  
47 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

48 (cf: P.L.2013, c.74, s.8)

1       7. Section 10 of P.L.2013, c.74 (C.23:3-51.8) is amended to  
2 read as follows:

3       10. a. The holder of a Menhaden Dealer License shall submit a  
4 weekly report to the commissioner, on forms developed by the  
5 commissioner. The licensee shall attest to the validity of the  
6 information contained in the weekly report, and shall  
7 electronically, or in hard copy paper form, as provided pursuant to  
8 section 14 of P.L. , c. (C. ) (pending before the  
9 Legislature as this bill), submit the report to the department. If no  
10 purchase or trade of menhaden occurred during the week, the  
11 licensee shall submit a report to that effect. For the purposes of this  
12 section, a week shall begin on Sunday and end on Saturday.

13       b. The weekly report shall include, at a minimum, the  
14 following information:

- 15       (1) the name of the licensee;
- 16       (2) the licensee's Menhaden Dealer License number;
- 17       (3) the Menhaden Landing License number of each person  
18 selling or trading menhaden to the dealer during the preceding  
19 week;
- 20       (4) the total amount, in pounds, of menhaden purchased or  
21 traded during the preceding week;
- 22       (5) the location of harvest for menhaden purchased or traded  
23 during the preceding week;
- 24       (6) the type of gear used for the harvest of menhaden purchased  
25 or traded during the preceding week;
- 26       (7) the date of purchase or trade; and
- 27       (8) any other information required by the department.

28       c. (1) In addition to any other penalties provided by section 73  
29 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et  
30 al.), or by any other law, if a licensed menhaden dealer fails to  
31 submit a weekly report, as required by this section, either on or  
32 before 12:00 p.m. on the Tuesday following the week of record, the  
33 licensee shall be subject to a fine of \$50 for a first offense, \$100 for  
34 a second offense, and \$200 for any subsequent offense.

35       (2) Any fines collected pursuant to this subsection shall be  
36 deposited in the Menhaden Marine Fisheries Management Account,  
37 established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).  
38 (cf: P.L.2013, c.74, s.10)

39

40       8. Section 12 of P.L.2013, c.74 (C.23:3-51.10) is amended to  
41 read as follows:

42       12. a. The holder of a Menhaden Purse Seine Fishing Vessel  
43 License or a Menhaden Purse Seine Fishing Vessel Operator's  
44 License, issued pursuant to R.S.23:3-51, and the holder of a  
45 Menhaden Landing License, issued pursuant to section 5 of  
46 P.L.2013, c.74 (C.23:3-51.3), shall not throw overboard, or  
47 otherwise release from a vessel or its nets into the waters of the  
48 State: (1) any quantity of dead fish, except during the course of

1 **【normal】** fishing operations; or (2) any refuse, litter, or garbage of  
2 any kind.

3 b. Whenever any fish, fish parts, refuse, litter, or garbage of  
4 any kind is released during, or as a result of, a menhaden fishing or  
5 landing operation, in violation of the provisions of subsection a. of  
6 this section, the holder of a Menhaden Purse Seine Fishing Vessel  
7 License, a Menhaden Purse Seine Fishing Vessel Operator's  
8 License, or a Menhaden Landing License, as the case may be, shall  
9 report the release to the department as soon as possible and initiate  
10 a cleanup of the release within 24 hours thereof, at the licensee's  
11 expense, if the release is likely to impact the shoreline.

12 c. In the event that a licensee fails to initiate a cleanup, in  
13 accordance with the provisions of subsection b. of this section,  
14 within 24 hours after a release begins, the department may conduct  
15 or arrange for the cleanup of the release. However, the licensee  
16 shall be liable to pay all costs associated with the cleanup, including  
17 any administrative costs incurred by the department. Costs imposed  
18 pursuant to this subsection may include the costs associated with  
19 damages to, or the cleanup of, marine and estuarine waters of the  
20 State, or the State's beaches, shorelines, and marshes.

21 (cf: P.L.2013, c.74, s.12)

22

23 9. Section 13 of P.L.2013, c.74 (C.23:3-51.11) is amended to  
24 read as follows:

25 13. a. (1) The annual State menhaden catch quota shall be  
26 established by the Atlantic States Marine Fisheries Commission.  
27 The commissioner may request a quota transfer from other states or  
28 regions, in accordance with the administrative procedure outlined  
29 by the Atlantic States Marine Fisheries Commission.

30 (2) The commissioner shall divide and allocate the annual State  
31 menhaden catch quota as provided in this paragraph. The annual  
32 New Jersey menhaden bait quota shall be divided among the  
33 various gear types, with the purse seine fishery being allocated 95  
34 percent of the quota, and pound nets, wire pound nets, gill nets,  
35 trawls, **【and】** bait nets, and other authorized gear being allocated  
36 the remaining five percent, combined. If the quota for any gear  
37 type is exceeded, the overharvested amount shall be deducted from  
38 the following year's quota.

39 b. The season for fishing and landing menhaden in the State  
40 shall be:

41 (1) January 1 to December 31 for licensees taking menhaden, or  
42 landing menhaden taken, by purse seine;

43 (2) January 1 to December 31 for licensees taking menhaden, or  
44 landing menhaden taken, by gill net;

45 (3) January 1 to December 31 for licensees taking menhaden, or  
46 landing menhaden taken, by pound net or wire pound net;

47 (4) January 1 to December 31 for licensees taking menhaden, or  
48 landing menhaden taken, by trawl; **【and】**

- 1 (5) January 1 to December 31 for licensees taking menhaden, or  
2 landing menhaden taken, by bait net; and  
3 (6) January 1 to December 31 for licensees taking menhaden, or  
4 landing menhaden taken, by other authorized gear not otherwise  
5 specified in this subsection.
- 6 c. No person who intends to take menhaden with a purse seine  
7 or shirred net shall fish for menhaden in the State:
- 8 (1) on a Saturday or Sunday;  
9 (2) on the days on which a public holiday is officially observed  
10 by the State, as declared pursuant to R.S.36:1-1; or  
11 (3) at any time, except during the hours from sunrise to sunset.
- 12 d. (1) The commissioner shall close the menhaden season in  
13 the State, for each respective gear type, by giving not less than two  
14 days' notice of the projected date that the year's quota for that gear  
15 type will be landed.
- 16 (2) If the menhaden season is closed prematurely, the  
17 commissioner may reopen the season for a specified period of time,  
18 upon no less than two days' notice
- 19 (3) Any notice required pursuant to this subsection shall be  
20 made available for public viewing on the department's Internet  
21 website, and shall be issued electronically, via e-mail, to all the  
22 holders of a Menhaden Purse Seine Fishing Vessel License, a  
23 Menhaden Purse Seine Fishing Vessel Operator's License, a  
24 Menhaden Landing License, a Menhaden Personal Use and Limited  
25 Sale License, and a Menhaden Dealer License. Each such licensee  
26 shall be required, at the time of licensure, to provide the  
27 commissioner with their e-mail address, in order to facilitate the  
28 provision of notice pursuant to this section.
- 29 e. If the season for a particular gear type is closed because the  
30 quota amount allocated to that gear type has been harvested and  
31 landed: (1) the holder of a Menhaden Landing License for that gear  
32 type or the holder of a Menhaden Personal Use and Limited Sale  
33 License may continue to land an incidental catch **[of up to 6,000**  
34 **pounds of menhaden per day]** as provided by the Atlantic States  
35 Marine Fisheries Commission Fishery Management Plan for  
36 Atlantic Menhaden; and (2) the holder of a Menhaden Dealer  
37 License may continue to accept an incidental catch from the holder  
38 of a Menhaden Landing License **[holder an incidental catch of not**  
39 **more than 6,000 pounds of menhaden per day]** or the holder of a  
40 Menhaden Personal Use and Limited Sale License, as provided by  
41 the Atlantic States Marine Fisheries Commission Fishery  
42 Management Plan for Atlantic Menhaden. The incidental catch  
43 allowance authorized by this subsection shall **[not]** be applied to  
44 the annual menhaden catch quota **[established]** as provided by the  
45 Atlantic States Marine Fisheries Commission Fishery Management  
46 Plan for Atlantic Menhaden.
- 47 (cf: P.L.2013, c.74, s.13)

1       10. Section 14 of P.L.2013, c.74 (C.23:3-51.12) is amended to  
2 read as follows:

3       14. a. There is established within the General Fund, a separate,  
4 dedicated, and non-lapsing account to be known as the "Menhaden  
5 Marine Fisheries Management Account." This account shall be  
6 credited with:

7       (1) all revenues received from the issuance of Menhaden Purse  
8 Seine Fishing Vessel Licenses and Menhaden Purse Seine Fishing  
9 Vessel Operator's Licenses pursuant to R.S.23:3-51 and R.S.23:3-52  
10 [, and] :

11       (2) all revenues received from the issuance of Menhaden  
12 Landing Licenses and Menhaden Dealer Licenses pursuant to  
13 sections 5 and 9 of P.L.2013, c.74 (C.23:3-51.3 and C.23:3-51.7) ;  
14 and

15       (3) all revenues received from the issuance of Menhaden  
16 Personal Use and Limited Sale Licenses pursuant to section 12 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill).

18       b. The moneys in the Menhaden Marine Fisheries Management  
19 Account shall be allocated to the Division of Fish and Wildlife,  
20 Marine Fisheries Administration within the Department of  
21 Environmental Protection, and shall be dedicated for the purposes  
22 of menhaden quota management, menhaden biological monitoring,  
23 and menhaden fisheries law enforcement in connection with the  
24 menhaden marine [fisheries] fishery.

25 (cf: P.L.2013, c.74, s.14)

26

27       11. Section 17 of P.L.2013, c.74 (C.23:3-51.15) is amended to  
28 ready as follows:

29       17. The commissioner may, with the approval of the New Jersey  
30 Marine Fisheries Council, modify the requirements of R.S.23:3-51,  
31 R.S.23:3-52, and P.L.2013, c.74 (C.23:3-51.2 et al.) if such  
32 modifications are determined to be necessary either to provide for  
33 the optimal utilization of any quotas established for menhaden  
34 fishing, or to maintain consistency or State compliance with any  
35 menhaden fisheries management plan that has been approved by the  
36 Atlantic States Marine Fisheries Commission or any federal fishery  
37 management council and adopted by the National Marine Fisheries  
38 Service. In particular, upon authorization of the New Jersey Marine  
39 Fisheries Council, and in accordance with the provisions of this  
40 section, the commissioner may modify the following provisions of  
41 law:

42       a. the qualifications for licensure under R.S.23:3-51, **[or]**  
43 under section 5 or 9 of P.L.2013, c.74 (C.23:3-51.3 or C.23:3-51.7),  
44 or under section 12 of P.L. , c. (C. ) (pending before the  
45 Legislature as this bill), including any fee amounts required for  
46 licensure under those sections;

47       b. the qualifications for the transfer of a license under section 7  
48 of P.L.2013, c.74 (C.23:3-51.5);

- 1 c. the license suspension schedule established by section 15 of  
2 P.L.2013, c.74 (C.23:3-51.13);
- 3 d. the specifications applicable to vessel upgrades and  
4 replacements, as provided by R.S.23:3-51 or section 7 of P.L.2013,  
5 c.74 (C.23:3-51.5);
- 6 e. the reporting requirements established by section 8 or  
7 section 10 of P.L.2013, c.74 (C.23:3-51.6 or C.23:3-51.8) provided  
8 these requirements are consistent with the procedures and methods  
9 established pursuant to section 14 of P.L. , c. (C. ) (pending  
10 before the Legislature as this bill);
- 11 f. the quota allocation formula established by subsection a. of  
12 section 13 of P.L.2013, c.74 (C.23:3-51.11);
- 13 g. the season for menhaden fishing established by subsection b.  
14 of section 13 of P.L.2013, c.74 (C.23:3-51.11); or
- 15 h. the incidental catch allowance provided by subsection e. of  
16 section 13 of P.L.2013, c.74 (C.23:3-51.11), or the allocation of that  
17 incidental catch allowance to the State's annual quota.  
18 (cf: P.L.2013, c.74, s.17)

19

20 12. (New section) a. Any person who intends to take menhaden  
21 from any State waters, including the waters of the Atlantic ocean  
22 within three nautical miles of the State coast line, for personal use  
23 as bait, with the option to sell or barter 500 pounds or less in excess  
24 of the amount needed for bait per day by the person, shall apply to  
25 the commissioner for a Menhaden Personal Use and Limited Sale  
26 License, in accordance with the provisions of this section. Upon  
27 receipt of the application and payment of the applicable fee, the  
28 commissioner may, in the commissioner's discretion and as  
29 authorized pursuant to R.S.23:3-51 and section 3 of P.L.2010, c.72  
30 (C.23:3-51.1), issue to the applicant a Menhaden Personal Use and  
31 Limited Sale License, except as prohibited by subsection b. of this  
32 section. A license issued pursuant to this section shall be valid only  
33 for the calendar year for which it is issued, and shall be renewed on  
34 an annual basis. Any license application for a Menhaden Personal  
35 Use and Limited Sale License shall be filed with the commissioner  
36 prior to the annual deadline established thereby for application  
37 submission and any application received by the commissioner after  
38 this deadline shall be denied.

39 b. The provisions of subsection b. of R.S.23:3-51 shall apply to  
40 the license established in subsection a. of this section and the taking  
41 of menhaden pursuant to this section.

42 c. A person who is issued a Menhaden Personal Use and  
43 Limited Sale License pursuant to subsection a. of this section may  
44 take menhaden with a gill net, provided that the gill net does not  
45 exceed 150 feet in length, and the person tends the net at all times,  
46 remaining within 500 feet of the set net.

47 d. The holder of a license issued pursuant to this section shall  
48 have the license on board the vessel being used in the taking of

1 menhaden at all times during that use of the vessel for that purpose.

2 e. A person applying for a Menhaden Personal Use and  
3 Limited Sale License shall meet the following criteria:

4 (1) hold a valid gill net license and a pot fishery license; and

5 (2) provide proof of harvesting 5,000 pounds or more of any  
6 combination of species harvested in baited pots in any one year  
7 between 2009 and 2012, inclusive.

8 f. (1) A resident of the State who is licensed under this section  
9 to land menhaden taken by gill net shall be required to pay an  
10 annual fee of \$50.

11 (2) A non-resident of the State who is licensed under this  
12 section to land menhaden taken by gill net shall be required to pay  
13 an annual fee of \$250, or an amount equal to the non-resident fee  
14 charged for the landing of menhaden in the non-resident's state,  
15 whichever is greater.

16 (3) Any license fees collected pursuant to this subsection shall  
17 be deposited in the Menhaden Marine Fisheries Management  
18 Account, established pursuant to section 14 of P.L.2013, c.74  
19 (C.23:3-51.12).

20 g. Nothing in this section, R.S.23:3-51, or any other law, or  
21 any rule or regulation adopted pursuant thereto, shall prohibit a  
22 person who does not possess a Menhaden Personal Use and Limited  
23 Sale License from landing 100 pounds or less of menhaden, at any  
24 time, and on any trip or day.

25 h. Except for the excess 500 pounds or less allowed to be sold  
26 or bartered pursuant to subsection a. of this section, a holder of a  
27 Menhaden Personal Use and Limited Sale License shall only make  
28 personal use of menhaden as bait for the person's commercial  
29 fishing pots and shall not use menhaden for any other purpose.

30

31 13. (New section) Each year, the committee of the Marine  
32 Fisheries Council concerned with the menhaden fishery shall meet  
33 to review the current State laws and rules and regulations  
34 concerning menhaden, the implementation of those laws and rules  
35 and regulations, and the status of the menhaden fishery in the State.  
36 The committee may make recommendations to the Marine Fisheries  
37 Council concerning any changes in laws, rules or regulations, or  
38 policies or procedures implemented pursuant to those laws, rules, or  
39 regulations that the committee determines to be prudent for the  
40 protection and vitality of the menhaden fishery in the State.

41

42 14. (New section) a. The Department of Environmental  
43 Protection shall, in cooperation with the Marine Fisheries Council,  
44 establish reporting procedures and methods which allow a person to  
45 comply with all reporting requirements pursuant to P.L.2013, c.74  
46 (C.23:3-51.2 et al.) in a hard copy paper form to be submitted by  
47 fax or mailed via the United States Postal Service or other hard  
48 copy delivery service. The department shall also make available by



1 fax and mail via the United States Postal Service or other hard copy  
2 delivery service any forms or other documents necessary for  
3 meeting reporting requirements pursuant to P.L.2013, c.74.

4 b. The reporting procedures and methods required to be  
5 established pursuant to subsection a. of this section shall be in  
6 addition to any electronic reporting procedures and methods  
7 established and provided by the department. A person may comply  
8 with reporting requirements pursuant to P.L.2013, c.74 by electing  
9 at the person's discretion to use the hard copy paper form or  
10 electronic form of reporting.

11  
12 15. (New section) For calendar year 2014 only, the Department  
13 of Environmental Protection shall transfer 700,000 pounds of the  
14 State's menhaden quota from the purse seine allocation to  
15 commercial fixed gear, until July 1, 2014, upon which date the  
16 unused pounds transferred pursuant to this section shall be credited  
17 back to the purse seine allocation of the State's menhaden quota.

18  
19 16. This act shall take effect immediately.

20

21

22

#### STATEMENT

23

24 This bill establishes a Menhaden Personal Use and Limited Sale  
25 License and expands the types of gear approved for the taking of  
26 menhaden with certain qualifying harvest levels for specific gear.

27 The bill requires that a person apply to the Commissioner of  
28 Environmental Protection for a Menhaden Personal Use and  
29 Limited Sale License, if the person intends to take menhaden from  
30 any State waters, including the waters of the Atlantic ocean within  
31 three nautical miles of the State coast line, for personal use as bait,  
32 with the option to sell or barter 500 pounds or less in excess of the  
33 amount needed for bait per day by the person. A Menhaden  
34 Personal Use and Limited Sale License issued to the applicant  
35 would be valid only for the calendar year for which it is issued, and  
36 would have to be renewed on an annual basis. Any license  
37 application filed with the commissioner after the annual deadline  
38 established by the commissioner would be denied.

39 The fee for the license would be \$50 annually for a resident of  
40 the State, and for non-residents, \$250, or an amount equal to the  
41 non-resident fee charged for the landing of menhaden in the non-  
42 resident's state, whichever is greater. The license fees collected  
43 pursuant this bill would be deposited in the Menhaden Marine  
44 Fisheries Management Account, established pursuant to section 14  
45 of P.L.2013, c.74 (C.23:3-51.12), and dedicated for the purposes of  
46 menhaden quota management, menhaden biological monitoring, and  
47 menhaden fisheries law enforcement.

48 The bill requires the license holder also:

- 1       1) have a valid gill net license and a pot fishery license; and
- 2       2) provide proof of harvesting 5,000 pounds or more of any
- 3       combination of species harvested in baited pots in any one year
- 4       between 2009 and 2012, inclusive.

5       The license holder is required to have the license on board the  
6       vessel being used in the taking of menhaden at all times during that  
7       use of the vessel for that purpose. The bill authorizes menhaden to  
8       be taken with a gill net, provided that the gill net does not exceed  
9       150 feet in length, and the person tends the net at all times,  
10      remaining within 500 feet of the set net. The bill allows a person  
11      who does not possess a Menhaden Personal Use and Limited Sale  
12      License to land 100 pounds or less of menhaden, at any time, and  
13      on any trip or day. However, except for the excess 500 pounds or  
14      less per day that may be sold or bartered, a holder of a Menhaden  
15      Personal Use and Limited Sale License may only make personal use  
16      of menhaden as bait for the person's commercial fishing pots and  
17      may not use menhaden for any other purpose. The bill also clarifies  
18      that taking more than 100 pounds of menhaden is the amount  
19      requiring a Menhaden Landing License.

20      The bill requires the committee of the Marine Fisheries Council  
21      concerned with the menhaden fishery to meet annually and review  
22      the current State laws and regulations concerning menhaden, the  
23      implementation of those laws and regulations, and the status of the  
24      menhaden fishery in the State. The council's committee is  
25      authorized to make recommendations to the Marine Fisheries  
26      Council concerning any changes in laws, rules or regulations, or  
27      policies or procedures implementing those laws, rules, or  
28      regulations that the council's committee determines to be prudent  
29      for the protection and vitality of the menhaden fishery in the State.

30      The bill directs the Department of Environmental Protection  
31      (DEP), in cooperation with the Marine Fisheries Council, to provide  
32      for hard copy and electronic reporting of catches required by the  
33      law and allow the person to choose how they would comply. The  
34      bill also further clarifies some provisions dealing with the taking of  
35      menhaden by purse seine.

36      The bill provides that, in order to obtain a license to land  
37      menhaden taken by purse seine, the vessel is required to have  
38      landed in the State at least 500,000 pounds of menhaden in one year  
39      between 2009 and 2012, inclusive, or to have been issued a  
40      Menhaden Purse Seine Fishing Vessel License with a catch  
41      designation in 2014 and to have landed in the State at least 200,000  
42      pounds of menhaden in any one year between 2009 and 2012,  
43      inclusive. The bill establishes January 1 to December 31 would be  
44      the season for fishing and landing menhaden with any gear  
45      authorized for such taking by law, and that incidental catches for  
46      holders of a Menhaden Landing License or a Menhaden Personal  
47      Use and Limited Sale License would be as provided by the Atlantic  
48      States Marine Fisheries Commission Fishery Management Plan for

1 Atlantic Menhaden. Furthermore, holders of Menhaden Dealer  
2 Licenses would be allowed to continue to accept menhaden from  
3 these license holders from incidental catches consistent with that  
4 plan.

5 The bill directs the DEP, for calendar year 2014 only, to transfer  
6 700,000 pounds of the State's menhaden quota from the purse seine  
7 allocation to commercial fixed gear, until July 1, 2014. On that  
8 date, the unused transferred pounds would be credited back to the  
9 purse seine allocation of the State's menhaden quota.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 1844**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 23, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No.1844, with committee amendments.

As amended and reported, this bill establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill, as amended and reported, requires that a person apply to the Commissioner of the Department of Environmental Protection (DEP) for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic Ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches

required by the law and allows the person to choose how they would comply. The bill also further clarifies some provisions dealing with the taking of menhaden by purse seine and gill net.

As reported, this bill is identical to the Assembly Committee Substitute (3R) for Assembly Bill No. 2684, as also reported by the committee.

#### COMMITTEE AMENDMENTS

The committee amendments:

1) clarify that a holder of a Menhaden Landing License or the vessel shall have landed at least 10,000 pounds of menhaden during one year between 2009 and 2012 in order to obtain a license to land menhaden taken by gill net, haul seine, or fyke net;

2) clarify that a holder of a Menhaden Personal Use and Limited Sale License taking menhaden with a gill net is not required to tend the net;

3) specify that the transfer of menhaden quota in 2014 would be as needed; and

4) make technical corrections.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the DEP. Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 1844

### STATE OF NEW JERSEY 216th LEGISLATURE

DATED: JULY 3, 2014

#### SUMMARY

- Synopsis:** Establishes Menhaden Personal Use and Limited Sale License, and permits use of certain gear for taking of menhaden.
- Type of Impact:** Minimal expenditure increase offset by license fees.
- Agencies Affected:** Department of Environmental Protection

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Minimal – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the Department of Environmental Protection (DEP). Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department.
- According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.
- The OLS notes that revenues received from the issuance of the licenses are to be deposited in the “Menhaden Marine Fisheries Management Account” and allocated to the Division of Fish and Wildlife’s Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

## **BILL DESCRIPTION**

Senate Bill No. 1844 (1R) of 2014 establishes a Menhaden Personal Use and Limited Sale License and expands the types of gear approved for the taking of menhaden with certain qualifying harvest levels for specific gear. The bill requires that a person apply to the Commissioner of the DEP for a Menhaden Personal Use and Limited Sale License, if the person intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person. A Menhaden Personal Use and Limited Sale License issued to the applicant would be valid only for the calendar year for which it is issued, and would have to be renewed on an annual basis. Any license application filed with the commissioner after the annual deadline established by the commissioner would be denied. The fee for the license would be \$50 annually for a resident of the State, and for non-residents, \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. The license fees collected would be deposited in the Menhaden Marine Fisheries Management Account.

The bill requires the committee of the Marine Fisheries Council concerned with the menhaden fishery to meet annually and review the current State laws and regulations concerning menhaden, the implementation of those laws and regulations, and the status of the menhaden fishery in the State. The council's committee is authorized to make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implementing those laws, rules, or regulations that the council's committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

The bill directs the DEP, in cooperation with the Marine Fisheries Council, to provide for hard copy and electronic reporting of catches required by the law and allows the person to choose how they would comply. The bill also further clarifies some provisions dealing with the taking of menhaden by purse seine and gill net.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

According to informal information provided by the DEP, the additional expenses expected to be incurred by the department to implement and administer the provisions of the bill would be minimal, and are expected to be recovered from license fees.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill would have an indeterminate, likely minimal, fiscal impact on the DEP. Any additional costs incurred by the DEP are likely to be offset by the fees charged for the Menhaden Personal Use and Limited Sale License issued by the department. The OLS notes that revenues received from the issuance of the licenses are to be deposited in the "Menhaden Marine Fisheries Management Account" and allocated to the Division of Fish and Wildlife's Marine Fisheries Administration for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Joseph A. Hroncich  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).