

STATE OF NEW YORK

9024

IN SENATE

May 4, 2022

Introduced by Sen. HINCHEY -- (at request of the Department of Environmental Conservation) -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to limits on the number of commercial licenses that may be issued by the department of environmental conservation for food fish, lobster, crab, and whelk, and the process for issuing such licenses to applicants, and provides for temporary authorization to undertake licensed activities on the licensee's behalf

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1, 2, 3, 4 and 5 of section 13-0328 of the
2 environmental conservation law, as amended by chapter 656 of the laws of
3 2021, are amended to read as follows:
4 1. Commercial food fish licenses. Commercial food fish licenses
5 provided for by section 13-0335 of this title shall be issued as
6 follows:
7 a. for the period beginning January first, two thousand eighteen
8 through December thirty-first, two thousand [~~twenty-two~~ twenty-four,
9 the number of resident commercial food fish licenses and the number of
10 non-resident commercial food fish licenses shall not exceed the follow-
11 ing annual limits:
12 (i) for two thousand eighteen, the number of licenses shall be limited
13 to the number of licenses issued in two thousand seventeen, plus fifty
14 percent of any difference between the number of licenses issued in two
15 thousand seventeen and nine hundred sixty-nine;
16 (ii) for two thousand nineteen, the number of licenses shall be limit-
17 ed to the number of licenses established in subparagraph (i) of this
18 paragraph;
19 (iii) for two thousand twenty, the number of licenses shall be limited
20 to the number of licenses established in subparagraph (i) of this para-
21 graph;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD14131-01-2

1 (iv) for two thousand twenty-one, the number of licenses shall be
2 limited to the number of licenses established in subparagraph (i) of
3 this paragraph; ~~and~~

4 (v) for two thousand twenty-two, the number of licenses shall be
5 limited to the number of licenses established in subparagraph (i) of
6 this paragraph;

7 (vi) for two thousand twenty-three, the number of licenses shall be
8 limited to the number of licenses established in subparagraph (i) of
9 this paragraph; and

10 (vii) for two thousand twenty-four, the number of licenses shall be
11 limited to the number of licenses established in subparagraph (i) of
12 this paragraph.

13 b. for the period beginning January first, two thousand ~~[twenty-one]~~
14 twenty-two through December thirty-first, two thousand ~~[twenty-two]~~
15 twenty-four, persons who were issued a commercial food fish license in
16 the previous year shall be eligible to be issued such license.

17 c. for the period beginning January first, two thousand ~~[twenty-one]~~
18 twenty-two through December thirty-first, two thousand ~~[twenty-two]~~
19 twenty-four, the department shall issue commercial food fish licenses to
20 persons who were not issued such license in the previous year provided
21 that the total number of such licenses issued to such persons does not
22 exceed the difference between the number of licenses established in
23 paragraph a of this subdivision and the number of such licenses issued
24 pursuant to paragraph b of this subdivision, subject to the following:

25 (i) ~~[licenses shall be issued in the order in which the applications~~
26 ~~were received, except that where multiple applications are received by~~
27 ~~the department on the same day,]~~ where the total number of commercial
28 food fish license applications from persons who were not issued such
29 license in the previous year exceeds the number of licenses that are
30 available, the department shall randomly select recipients of the avail-
31 able licenses from among those applications received by the first busi-
32 ness day of the applicable license year, provided however that appli-
33 cants shall receive one extra entry for each previous year that they
34 applied for such license and were not selected, and applicants for whom
35 the department has received notice of successful completion of
36 an apprenticeship pursuant to subdivision seven of this section shall ~~[be~~
37 ~~considered by the department prior to other applicants]~~ receive one
38 extra entry, and provided further that the department is authorized to
39 adopt regulations to amend or supplement this process for issuing
40 commercial food fish licenses;

41 (ii) licenses may be issued to individuals only;

42 (iii) licenses shall be issued to applicants who are sixteen years of
43 age or older at the time of the application; and

44 (iv) licenses shall be issued only to persons who demonstrate in a
45 manner acceptable to the department that they received an average of at
46 least fifteen thousand dollars of income over three consecutive years
47 from commercial fishing or fishing, or who successfully complete a
48 commercial food fish apprenticeship pursuant to subdivision seven of
49 this section. As used in this subparagraph, "commercial fishing" means
50 the taking and sale of marine resources including fish, shellfish, crus-
51 tacea or other marine biota and "fishing" means commercial fishing and
52 carrying fishing passengers for hire. Individuals who wish to qualify
53 based on income from "fishing" must hold a valid marine and coastal
54 district party and charter boat license. No more than ten percent of the
55 licenses issued each year based on income eligibility pursuant to this
56 paragraph shall be issued to applicants who qualify based solely upon

1 income derived from operation of or employment by a party or charter
2 boat. For the income evaluation of this subdivision, the department may
3 consider persons who would otherwise be eligible but for having served
4 in the United States armed forces on active duty, provided that such
5 individual (1) has received an honorable or general discharge, or (2)
6 has a qualifying condition, as defined in section three hundred fifty of
7 the executive law, and has received a discharge other than bad conduct
8 or dishonorable from such service, or (3) is a discharged LGBT veteran,
9 as defined in section three hundred fifty of the executive law, and has
10 received a discharge other than bad conduct or dishonorable from such
11 service, shall not be deemed ineligible.

12 2. Commercial lobster permits. Commercial lobster permits provided for
13 by section 13-0329 of this title shall be issued as follows:

14 for the period beginning January first, two thousand [~~twenty-one~~]
15 ~~twenty-two~~, through December thirty-first, two thousand [~~twenty-two~~]
16 ~~twenty-four~~, only persons who were issued a commercial lobster permit in
17 the previous year shall be eligible to be issued such permit.

18 3. Commercial crab permits. Commercial crab permits provided for by
19 section 13-0331 of this title shall be issued as follows:

20 a. for the period beginning January first, two thousand eighteen
21 through December thirty-first, two thousand [~~twenty-two~~] ~~twenty-four~~,
22 the number of resident commercial crab permits and the number of non-re-
23 sident commercial crab permits shall not exceed the following annual
24 limits:

25 (i) for two thousand eighteen, the number of permits shall be limited
26 to the number of permits issued in two thousand seventeen, plus fifty
27 percent of any difference between the number of permits issued in two
28 thousand seventeen and five hundred sixty-three;

29 (ii) for two thousand nineteen, the number of permits shall be limited
30 to the number of permits established in subparagraph (i) of this para-
31 graph;

32 (iii) for two thousand twenty, the number of permits shall be limited
33 to the number of permits established in subparagraph (i) of this para-
34 graph;

35 (iv) for two thousand twenty-one, the number of licenses shall be
36 limited to the number of licenses established in subparagraph (i) of
37 this paragraph; [~~and~~]

38 (v) for two thousand twenty-two, the number of licenses shall be
39 limited to the number of licenses established in subparagraph (i) of
40 this paragraph;

41 (vi) for two thousand twenty-three, the number of licenses shall be
42 limited to the number of licenses established in subparagraph (i) of
43 this paragraph; and

44 (vii) for two thousand twenty-four, the number of licenses shall be
45 limited to the number of licenses established in subparagraph (i) of
46 this paragraph.

47 b. for the period beginning January first, two thousand [~~twenty-one~~]
48 ~~twenty-two~~ through December thirty-first, two thousand [~~twenty-two~~]
49 ~~twenty-four~~, persons who were issued a commercial crab permit in the
50 previous year shall be eligible to be issued such permit.

51 c. for the period beginning January first, two thousand [~~twenty-one~~]
52 ~~twenty-two~~ through December thirty-first, two thousand [~~twenty-two~~]
53 ~~twenty-four~~, the department shall issue commercial crab permits to
54 persons who were not issued such permit in the previous year provided
55 that the total number of such permits issued to such persons does not
56 exceed the difference between the number of permits established in para-

1 graph a of this subdivision and the number of such permits issued pursu-
2 ant to paragraph b of this subdivision, subject to the following:

3 (i) [~~permits shall be issued in the order in which the applications~~
4 ~~were received, except that where multiple applications are received by~~
5 ~~the department on the same day,~~] where the total number of commercial
6 crab permit applications from persons who were not issued such permit in
7 the previous year exceeds the number of permits that are available, the
8 department shall randomly select recipients of the available permits
9 from among those applications received by the first business day of the
10 applicable permit year, provided however that applicants shall receive
11 one extra entry for each previous year that they applied for such permit
12 and were not selected, and applicants for whom the department has
13 received notice of successful completion of an apprenticeship pursuant
14 to subdivision seven of this section shall [~~be considered by the depart-~~
15 ~~ment prior to other applicants~~] receive one extra entry, and provided
16 further that the department is authorized to adopt regulations to amend
17 or supplement this process for issuing commercial crab permits;

18 (ii) permits may be issued to individuals only;

19 (iii) permits shall be issued to applicants who are sixteen years of
20 age or older at the time of the application; and

21 (iv) permits shall be issued only to persons who demonstrate in a
22 manner acceptable to the department that they received an average of at
23 least fifteen thousand dollars of income over three consecutive years
24 from commercial fishing or fishing, or who successfully complete an
25 apprenticeship pursuant to subdivision seven of this section. As used in
26 this subparagraph, "commercial fishing" means the taking and sale of
27 marine resources including fish, shellfish, crustacea or other marine
28 biota and "fishing" means commercial fishing and carrying fishing
29 passengers for hire. Individuals who wish to qualify based on income
30 from "fishing" must hold a valid marine and coastal district party and
31 charter boat license. No more than ten percent of the permits issued
32 each year based on income eligibility pursuant to this paragraph shall
33 be issued to applicants who qualify based upon income derived from oper-
34 ation of or employment by a party or charter boat.

35 4. Commercial whelk or conch licenses. Commercial whelk or conch
36 licenses provided for by section 13-0330 of this title shall be issued
37 as follows:

38 a. for the period beginning January first, two thousand eighteen
39 through December thirty-first, two thousand [~~twenty-two~~] twenty-four,
40 the number of resident commercial whelk or conch licenses and the number
41 of non-resident commercial whelk or conch licenses shall not exceed the
42 following annual limits:

43 (i) for two thousand eighteen, the number of licenses shall be limited
44 to the number of licenses issued in two thousand seventeen plus fifty
45 percent of any difference between the number of licenses issued in two
46 thousand seventeen and two hundred fifty-two;

47 (ii) for two thousand nineteen, the number of licenses shall be limit-
48 ed to the number of licenses established in subparagraph (i) of this
49 paragraph;

50 (iii) for two thousand twenty, the number of licenses shall be limited
51 to the number of licenses established in subparagraph (i) of this para-
52 graph;

53 (iv) for two thousand twenty-one, the number of licenses shall be
54 limited to the number of licenses established in subparagraph (i) of
55 this paragraph; [~~and~~]

1 (v) for two thousand twenty-two, the number of licenses shall be
2 limited to the number of licenses established in subparagraph (i) of
3 this paragraph;

4 (vi) for two thousand twenty-three, the number of licenses shall be
5 limited to the number of licenses established in subparagraph (i) of
6 this paragraph; and

7 (vii) for two thousand twenty-four, the number of licenses shall be
8 limited to the number of licenses established in subparagraph (i) of
9 this paragraph.

10 b. for the period beginning January first, two thousand [~~twenty-one~~
11 ~~twenty-two~~ through December thirty-first, two thousand [~~twenty-two~~
12 ~~twenty-four~~, persons who were issued a commercial whelk or conch license
13 in the previous year shall be eligible to be issued such license.

14 c. for the period beginning January first, two thousand [~~twenty-one~~
15 ~~twenty-two~~ through December thirty-first, two thousand [~~twenty-two~~
16 ~~twenty-four~~, persons who were not issued a commercial whelk or conch
17 license in the previous year shall be eligible to be issued such license
18 provided that the total number of such licenses issued to such persons
19 shall not exceed the difference between the number of licenses estab-
20 lished in paragraph a of this subdivision and the number of such
21 licenses issued pursuant to paragraph b of this subdivision, subject to
22 the following:

23 (i) [~~licenses shall be issued in the order in which the applications~~
24 ~~were received, except that where multiple applications are received by~~
25 ~~the department on the same day,~~ where the total number of commercial
26 whelk or conch license applications from persons who were not issued
27 such license in the previous year exceeds the number of licenses that
28 are available, the department shall randomly select recipients of the
29 available licenses from among those applications received by the first
30 business day of the applicable license year, provided however that
31 applicants shall receive one extra entry for each previous year that
32 they applied for such license and were not selected, and applicants for
33 whom the department has received notice of successful completion of an
34 apprenticeship pursuant to subdivision seven of this section shall [~~be~~
35 ~~considered by the department prior to other applicants~~] receive one
36 extra entry, and provided further that the department is authorized to
37 adopt regulations to amend or supplement this process for issuing
38 commercial whelk or conch licenses;

39 (ii) licenses may be issued to individuals only;

40 (iii) licenses shall be issued to applicants who are sixteen years of
41 age or older at the time of the application; and

42 (iv) licenses shall be issued only to persons who demonstrate in a
43 manner acceptable to the department that they received an average of at
44 least fifteen thousand dollars of income over three consecutive years
45 from commercial fishing or fishing, or who successfully complete an
46 apprenticeship pursuant to subdivision seven of this section. As used in
47 this subparagraph, "commercial fishing" means the taking and sale of
48 marine resources including fish, shellfish, crustacea or other marine
49 biota and "fishing" means commercial fishing and carrying fishing
50 passengers for hire. Individuals who wish to qualify based on income
51 from "fishing" must hold a valid marine and coastal district party and
52 charter boat license. No more than ten percent of the licenses issued
53 each year pursuant to this paragraph shall be issued to applicants who
54 qualify based upon income derived from operation of or employment by a
55 party or charter boat.

1 5. Marine and coastal district party and charter boat licenses. Marine
2 and coastal district party and charter boat licenses provided for by
3 section 13-0336 of this title shall be issued as follows, except that
4 this subdivision shall not apply to the owner or operator of a party
5 boat or charter boat whose vessel is classified by the United States
6 Coast Guard as an Inspected Passenger Vessel and which is licensed to
7 carry more than six passengers:

8 a. for the years two thousand [~~twenty-one~~] twenty-two through two
9 thousand [~~twenty-two~~] twenty-four, the annual number of marine and coas-
10 tal district party and charter boat licenses issued shall not exceed
11 five hundred seventeen.

12 b. for the years two thousand [~~twenty-one~~] twenty-two through two
13 thousand [~~twenty-two~~] twenty-four, persons who were issued a marine and
14 coastal district party and charter boat license in the previous year
15 shall be eligible to be issued such license.

16 c. for the years two thousand [~~twenty-one~~] twenty-two through two
17 thousand [~~twenty-two~~] twenty-four, the department shall issue marine and
18 coastal district party and charter boat licenses to persons who were not
19 issued such license in the previous year, provided that the total number
20 of licenses issued does not exceed five hundred seventeen, subject to
21 the following:

22 (i) [~~licenses shall be issued in the order in which the applications~~
23 ~~were received~~] where the total number of marine and coastal district
24 party and charter boat license applications from persons who were not
25 issued such license in the previous year exceeds the number of licenses
26 that are available, the department shall randomly select recipients of
27 the available licenses from among those applications received by the
28 first business day of the applicable license year, provided however that
29 applicants shall receive one extra entry for each previous year that
30 they applied and were not selected, and provided further that the
31 department is authorized to adopt regulations to amend or supplement
32 this process for issuing marine and coastal district party and charter
33 boat licenses;

34 (ii) licenses shall be issued only to persons who hold an Uninspected
35 Passenger Vessel license issued by the United States Coast Guard.

36 § 2. Section 13-0328 of the environmental conservation law is amended
37 by adding a new subdivision 8 to read as follows:

38 8. Temporary authorization. In the event of a temporary emergency, a
39 licensee or permittee may provide written authorization for a person to
40 temporarily undertake any licensed activities on the licensee's or
41 permittee's behalf. Such authorization shall not be effective until it
42 has been approved by the department. A copy of such written authori-
43 zation shall be filed with the department, and the department shall
44 determine what constitutes a temporary emergency and the appropriate
45 maximum duration of a temporary emergency for the purposes of this
46 subdivision. The department is authorized to adopt regulations to
47 establish requirements for this program.

48 § 3. This act shall take effect December 31, 2022; provided, however,
49 that if chapter 656 of the laws of 2021 shall not have taken effect on
50 or before such date then this act shall take effect on the same date and
51 in the same manner as such chapter of the laws of 2021, takes effect.
52 Effective immediately, the addition, amendment and/or repeal of any rule
53 or regulation necessary for the implementation of this act on its effec-
54 tive date are authorized to be made and completed on or before such
55 effective date.