

[Second Reprint]

ASSEMBLY, No. 5432

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 20, 2019

Sponsored by:

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SYNOPSIS

Requires DEP Commissioner to establish individual transferable quota system for menhaden purse seine fishery.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on November 18, 2019, with amendments.



(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning the menhaden purse seine fishery and
2 amending 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 13 of P.L.2013, c.74 (C.23:3-51.11) is amended to
8 read as follows:

9 13. a. (1) The annual State menhaden catch quota shall be
10 established by the Atlantic States Marine Fisheries Commission.
11 The commissioner , or the commissioner's designee, may request a
12 quota transfer from other states or regions, in accordance with the
13 administrative procedure outlined by the Atlantic States Marine
14 Fisheries Commission.

15 (2) The commissioner , or the commissioner's designee, shall
16 divide and allocate the annual State menhaden catch quota as
17 provided in this paragraph. The annual New Jersey menhaden bait
18 quota shall be divided among the various gear types, with the purse
19 seine fishery being allocated 95 percent of the quota, and pound
20 nets, wire pound nets, gill nets, trawls, bait nets, and other
21 authorized gear being allocated the remaining five percent,
22 combined. If the quota for any gear type is exceeded, the
23 overharvested amount shall be deducted from the following year's
24 quota.

25 b. The season for fishing and landing menhaden in the State
26 shall be:

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

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

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

33 (4) January 1 to December 31 for licensees taking menhaden, or
34 landing menhaden taken, by trawl;

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

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

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

42 (1) on a Saturday or Sunday;

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

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

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:

¹Assembly AAN committee amendments adopted June 13, 2019.

²Senate SEN committee amendments adopted November 18, 2019.

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

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

8 (3) Any notice required pursuant to this subsection shall be
9 made available for public viewing on the department's Internet
10 website, and shall be issued electronically, via e-mail, to all the
11 holders of a Menhaden Purse Seine Fishing Vessel License, a
12 Menhaden Purse Seine Fishing Vessel Operator's License, a
13 Menhaden Landing License, a Menhaden Personal Use and Limited
14 Sale License, and a Menhaden Dealer License. Each such licensee
15 shall be required, at the time of licensure, to provide the
16 commissioner with their e-mail address, in order to facilitate the
17 provision of notice pursuant to this section.

18 e. If the season for a particular gear type is closed because the
19 quota amount allocated to that gear type has been harvested and
20 landed: (1) the holder of a Menhaden Landing License for that gear
21 type or the holder of a Menhaden Personal Use and Limited Sale
22 License may continue to land an incidental catch as provided by the
23 Atlantic States Marine Fisheries Commission Fishery Management
24 Plan for Atlantic Menhaden; and (2) the holder of a Menhaden
25 Dealer License may continue to accept an incidental catch from the
26 holder of a Menhaden Landing License or the holder of a Menhaden
27 Personal Use and Limited Sale License, as provided by the Atlantic
28 States Marine Fisheries Commission Fishery Management Plan for
29 Atlantic Menhaden. The incidental catch allowance authorized by
30 this subsection shall be applied to the annual menhaden catch quota
31 as provided by the Atlantic States Marine Fisheries Commission
32 Fishery Management Plan for Atlantic Menhaden.

33 f. (1) Within 60 days after the enactment of
34 P.L. , c. _ (pending before the Legislature as this bill), the
35 commissioner, or the commissioner's designee, shall establish an
36 individual transferable quota '[(ITQ)]' system for the menhaden
37 purse seine fishery. To qualify to receive an allocation under the
38 ITQ system established pursuant to this subsection, a vessel and its
39 owner or operator shall hold, prior to the date of enactment of
40 P.L. , c. _ (pending before the Legislature as this bill), a valid
41 Menhaden Landing License for the menhaden purse seine fishery.

42 Each ITQ shall be allocated based upon a qualified vessel's
43 rounded percentage share of the average of its menhaden landings
44 in 2014 through 2018, inclusive, except that no qualified vessel
45 shall be allocated an ITQ in an amount less than 200,000 pounds in
46 the initial allocation. After the initial allocation pursuant to this
47 paragraph: (a) the percentage of quota for the menhaden purse
48 seine fishery established for each ITQ holder shall remain static;

1 and (b) each ITQ holder's individual poundage quota shall increase
2 or decrease based on the overall menhaden purse seine fishery quota
3 allocated to the State and the ITQ holder's fixed percentage of that
4 allocation. The commissioner, or the commissioner's designee,
5 shall notify, in writing, each owner or operator of a qualified vessel
6 of their ITQ established pursuant to this paragraph.

7 (2) The owner of a qualified vessel may transfer all or part of
8 the vessel's ITQ to another qualified vessel, on a temporary or
9 permanent basis, upon approval by the commissioner or the
10 commissioner's designee.

11 (3) A ITQ holder who does not harvest, or transfer to be
12 harvested pursuant to paragraph (2) of this subsection, a minimum
13 of 80 percent of the holder's quota for two consecutive years may,
14 at the discretion of the commissioner or the commissioner's
15 designee, have the quota redistributed to the remainder of the ITQ
16 holders using the calculation set forth in paragraph (1) of this
17 subsection.

18 (4) If upon the date of enactment of P.L. , c. (pending
19 before the Legislature as this bill), the menhaden purse seine fishery
20 is open for the 2019 fishing season and all qualified vessels have
21 harvested less than their individual allocation for the 2019 fishing
22 season as calculated pursuant to paragraph (1) of this subsection,
23 each qualified vessel shall be subject to their individual ITQ
24 established pursuant to paragraph (1) of this subsection for the
25 remainder of the 2019 fishing season.

26 ¹(5) ²No later than ten years after the date of enactment of
27 P.L. , c. (pending before the Legislature as this bill), the
28 commissioner, or the commissioner's designee, shall conduct an
29 assessment of the ITQ system established pursuant to this
30 subsection and send a written report of the assessment, including
31 any recommendations for legislative action if deemed appropriate,
32 to the Chairperson of the Senate Environment and Energy
33 Committee and the Assembly Agriculture and Natural Resources
34 Committee, or their successors.

35 (6)² As used in this subsection, "ITQ" means an individual
36 transferable quota as allocated pursuant to this subsection.¹

37 (cf: P.L.2014, c.57, s.9)

38
39 2. This act shall take effect immediately.