

SENATE, No. 2346

STATE OF NEW JERSEY

INTRODUCED DECEMBER 15, 1997

By Senators CAFIERO and SINGER

1 AN ACT concerning juvenile American eels, supplementing P.L.1979,
2 c.199 (C.23:2B-1 et seq.), and repealing P.L.1979, c.227 (C.23:3-
3 72 through C.23:3-74).

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

7
8 1. a. No person may take or attempt to take a juvenile American
9 eel (*Anguilla rostrata*) from the marine waters of the State without (1)
10 a juvenile eel harvester license issued by the Department of
11 Environmental Protection and carried on the person of the licensee,
12 and (2) any other license or permit required by law, rule, or regulation
13 to use specific gear or equipment to take or attempt to take juvenile
14 American eel, which shall be carried on the person of the licensee or
15 permittee.

16 b. (1) No person who has taken a juvenile American eel from the
17 marine waters of the State may sell or barter, or attempt to sell or
18 barter, the juvenile American eel to any person other than a person
19 holding a juvenile eel dealer license issued by the department and
20 carried on the person of the licensee.

21 (2) No person may purchase or barter, or attempt to purchase or
22 barter, a juvenile American eel taken from the marine waters of the
23 State without a juvenile eel dealer license issued by the department and
24 carried on the person of the licensee.

25 (3) No juvenile American eel taken from the marine waters of the
26 State may be transported out of the State unless it first has been sold
27 or bartered to a person in the State holding a juvenile eel dealer license
28 issued by the department and carried on the person of the licensee.

29 c. No person may possess a juvenile American eel without either
30 a juvenile eel harvester license or a juvenile eel dealer license issued by
31 the department and carried on the person of the licensee.

32 d. (1) The fee for a juvenile eel harvester license shall be \$750 for
33 a resident of the State and \$6,000 for a nonresident of the State. The
34 license shall be valid through December 31 of the year in which it is
35 issued.

36 (2) The fee for a juvenile eel dealer license shall be \$1,000 for
37 either a resident or a nonresident of the State. The license shall be

1 valid through December 31 of the year in which it is issued.

2 (3) A juvenile eel harvester license or a juvenile eel dealer license
3 may be purchased only in person during January of the calendar year
4 for which it is valid at such offices or other locations as the
5 department may designate, except that either license may be purchased
6 in person January 1 through April 20 of the year of enactment of
7 P.L. , c. (C.) (now before the Legislature as this bill).

8 e. (1) A juvenile American eel may be taken from the marine
9 waters of the State or possessed only from February 15 through April
10 20 each year.

11 (2) No juvenile American eel may be taken from the marine waters
12 of the State between sunrise Friday through sunset Monday each week
13 during the open season established pursuant to this section.

14 (3) No person may take or attempt to take a juvenile American eel
15 from the marine waters of the State by any method other than a single
16 hand held dip net measuring 24 inches or less in diameter.

17 (4) No person may take or attempt to take a juvenile American eel
18 from the marine waters of the State from a boat or other vessel.

19 (5) No person may use any method or device that channels or
20 diverts juvenile American eels toward a dip net.

21 (6) During the open season for juvenile American eel established
22 pursuant to this section, no person may have in the possession or
23 under the control of that person, or in a vehicle or vessel owned,
24 operated, or under the control of that person, any net material with a
25 mesh of less than 3/8 inch stretched, except that this restriction shall
26 not apply to dip nets.

27 f. Any person holding a juvenile eel dealer license shall report
28 weekly during the open season established pursuant to this section the
29 following information to the department in the form and manner
30 prescribed by the department:

31 (1) the juvenile eel dealer licensee's name, location, mailing
32 address, and license number;

33 (2) the name and juvenile eel harvest license number of every
34 person from whom any juvenile American eels were purchased or
35 bartered, the date and location of the harvest of those eels, and the
36 harvester's gear identification numbers;

37 (3) the number of pounds, or portion thereof, of juvenile American
38 eels purchased or bartered, the date of purchase or barter, the price
39 paid per pound, and the final destination of the eels; and

40 (4) any other information the department may deem useful or
41 appropriate.

42 g. Any person engaged in the commercial aquaculture of American
43 eels in the State may possess juvenile American eels during the closed
44 season if the person maintains records of the date and location of
45 collection, the name and juvenile eel harvest license number of the
46 harvester, the estimated total number or pounds of eels in possession,

1 and the location of the aquaculture facility.

2 h. (1) The department shall adopt, pursuant to the "Administrative
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and
4 regulations as may be necessary to implement this section.

5 (2) The Commissioner of Environmental Protection may: (a) at
6 any time and without prior public notice, close any area of the State
7 to the taking of juvenile American eels from the marine waters of the
8 State to protect the resource or for reasons of public safety or welfare;
9 (b) modify any provision or requirement of this section to maintain or
10 come into compliance with any fishery management plan approved by
11 the Atlantic States Marine Fisheries Commission pursuant to 16
12 U.S.C. s.5104 (b); or (c) modify any provision or requirement of
13 subsections e., f., or g. of this section.

14 i. (1) (a) Any person who violates this section, or any rule or
15 regulation adopted or license or order issued pursuant thereto, shall be
16 subject to the penalties set forth in section 73 of P.L.1979, c.199
17 (C.23:2B-14), except that a person who violates this section, or any
18 rule or regulation adopted or license or order issued pursuant thereto,
19 by failing to obtain the required license or by using a fyke net shall be
20 assessed a monetary penalty of \$6,000.

21 (b) For a second or subsequent offense, in addition to the monetary
22 penalties set forth in subparagraph (a) of this paragraph the juvenile
23 eel harvester license privileges and juvenile eel dealer license privileges
24 of the violator shall be revoked for a period of two years.

25 (c) In addition to the monetary penalties set forth in subparagraph
26 (a) of this paragraph, if the violation involves the use of illegal gear,
27 equipment, or collection techniques or false reporting, any vessel,
28 gear, or equipment used in the commission of the violation shall be
29 subject to seizure and forfeiture as provided in paragraph (4) of this
30 subsection.

31 (2) The department also may institute a civil action in a court of
32 competent jurisdiction for injunctive relief to prohibit and prevent a
33 violation of this section, or any rule or regulation adopted or license
34 or order issued pursuant thereto, and the court may proceed in the
35 action in a summary manner.

36 (3) The department is hereby authorized and empowered to
37 compromise and settle any claim for a penalty under this section in
38 such amount in the discretion of the department as may appear
39 appropriate and equitable under all of the circumstances.

40 (4) A designated enforcement officer of the Department of
41 Environmental Protection, the State Police, or any other law
42 enforcement officer may seize and secure any vessel, gear, or
43 equipment used in the commission of a violation of this section or any
44 rule or regulation adopted or license or order issued pursuant thereto.
45 Upon the seizure of the vessel, gear, or equipment, the enforcement
46 officer, member of the State Police, or other law enforcement officer

1 shall immediately thereafter institute a civil action to determine if the
2 forfeiture is warranted in the court in which the penalty action was
3 filed pursuant to this section, which court shall have jurisdiction to
4 adjudicate the forfeiture action. The owner or any person having a
5 security interest in the vessel, gear, or equipment may secure the
6 release thereof by depositing with the clerk of the court in which the
7 action is pending a bond with good and sufficient sureties in an amount
8 to be fixed by the court, conditioned upon the return of the vessel,
9 gear, or equipment to the Department of Environmental Protection
10 upon demand after completion of the court proceeding. The court
11 may proceed in a summary manner and may direct the confiscation of
12 the vessel, gear, or equipment by the department for its use or for
13 disposal by sale or public auction. Moneys collected by the
14 department through the sale or public auction of the vessel, gear, or
15 equipment shall be deposited in the "American Eel Management
16 Account" established pursuant to subsection j. of this section for use
17 as provided therein.

18 j. There is established within the "hunters' and anglers' license
19 fund" created pursuant to R.S.23:3-11 and R.S.23:3-12 a separate and
20 dedicated account to be known as the "American Eel Management
21 Account." This account shall be credited with all fees collected
22 pursuant to this section and all penalties collected for violations of this
23 section or any rule or regulation adopted or license or order issued
24 pursuant thereto. Any income earned from the investment of moneys
25 in the account shall be credited to the account. The moneys in the
26 account shall be allocated to the department and shall be disbursed
27 only to support enforcement efforts, monitoring activities,
28 administrative costs, data collection and analysis, and aquaculture
29 research and programs pertaining to the American eel.

30 k. For the purposes of this section:

31 "Commercial aquaculture" means the culture or husbandry of
32 American eels in non-wild systems for the purpose of increasing size;

33 "Juvenile American eel" or "juvenile eel" means an American eel
34 (*Anguilla rostrata*) less than six inches in total length or such other
35 length as the department may establish by rule or regulation adopted
36 pursuant to the "Administrative Procedure Act"; and

37 "Resident of the State" means a person who has an actual and bona
38 fide domicile in the State at the time of the application for a license
39 pursuant to this section and who has had an actual and bona fide
40 domicile in the State for at least six months immediately prior thereto.

41

42 2. P.L.1979, c.227 (C.23:3-72 through C.23:3-74) is repealed.

43

44 3. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

This bill would regulate the taking of juvenile American eels (i.e., eels less than six inches in length). Specifically, the bill would require a juvenile eel harvester license to take eels from State marine waters and a juvenile eel dealer license to purchase juvenile American eels taken from marine waters. The bill also would impose restrictions on the sale, possession, and transport of juvenile American eels. Harvest licenses would cost \$750 for State residents and \$6,000 for nonresidents. Dealer licenses would cost \$1,000 for either residents or nonresidents.

The bill also would establish various licensing requirements, harvest restrictions, and reporting requirements on the fishery as well as significant penalties for violations. All fees and penalties collected pursuant to the bill would be deposited into the American Eel Management Account created in the bill, for use by the Department of Environmental Protection (DEP) to fund enforcement and monitoring activities, administrative costs, data collection and analysis, and aquaculture research and programs pertaining to the American eel.

Finally, the bill would authorize the DEP to (1) adopt rules and regulations to implement the bill, (2) modify any provision or requirement in the bill to maintain or come into compliance with any fishery management plan approved by the Atlantic States Marine Fisheries Commission, (3) close the fishery without prior public notice to protect the resource or for reasons of public safety or welfare, and (4) modify certain provisions or requirements in the bill.

Regulates taking of juvenile American eels.