

# ASSEMBLY, No. 5432

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 20, 2019

**Sponsored by:**

**Assemblyman MATTHEW W. MILAM**

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

**Assemblyman R. BRUCE LAND**

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

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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.**

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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 P.L. \_\_\_\_\_,  
34 c. (pending before the Legislature as this bill), the commissioner,  
35 or the commissioner's designee, shall establish an individual  
36 transferable quota (ITQ) system for the menhaden purse seine  
37 fishery. To qualify to receive an allocation under the ITQ system  
38 established pursuant to this subsection, a vessel and its owner or  
39 operator shall hold, prior to the date of enactment of P.L. \_\_\_\_\_,  
40 c. (pending before the Legislature as this bill), a valid Menhaden  
41 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 before  
19 the Legislature as this bill), the menhaden purse seine fishery is  
20 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 (cf: P.L.2014, c.57, s.9)

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28 2. This act shall take effect immediately.

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#### STATEMENT

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33 This bill would require the Commissioner of Environmental  
34 Protection, or the commissioner's designee, to establish an  
35 individual transferable quota (ITQ) system for the menhaden purse  
36 seine fishery. The bill would also specify that the commissioner's  
37 designee may take certain actions that are now the commissioner's  
38 responsibility relating to the menhaden fishery.

39 In order to receive an allocation under the ITQ system, a vessel  
40 and its owner or operator must hold, prior to the date of the bill  
41 being enacted into law, a valid Menhaden Landing License for the  
42 purse seine fishery. The bill provides that each ITQ would be  
43 allocated based upon a qualified vessel's rounded percentage share  
44 of the average of its menhaden landings in 2014 through 2018,  
45 inclusive, except that no qualified vessel would be allocated an ITQ  
46 in an amount less than 200,000 pounds. The percentage of the  
47 State's quota established for each ITQ holder would remain static.  
48 Individual poundage quotas would increase or decrease based on

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1 the overall menhaden purse seine fishery quota allocated to the  
2 State and the ITQ holder's fixed percentage of that allocation.

3 The ITQ created by this bill would not be allowed to be held and  
4 not fished. The bill provides that if an ITQ holder does not harvest,  
5 or transfer to be harvested, a minimum of 80 percent of the holder's  
6 quota for two consecutive years, the commissioner, or the  
7 commissioner's designee, may redistribute that holder's quota.

8 Lastly, the bill provides that if it is enacted into law during the  
9 2019 fishing season, and all qualified vessels have caught less than  
10 their individual allocation of ITQ for the 2019 fishing season, then  
11 each qualified vessel would be subject to their individual ITQ  
12 established pursuant to the bill for the remainder of the 2019 fishing  
13 season.

14 It is the intention of this legislation to encourage the continued  
15 sustainable harvest of the menhaden resource allocated to the State,  
16 bringing economic value and jobs to the State.