

ASSEMBLY, No. 343

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

Establishes restrictions and requirements for use of fishing gear and conch, fishing, and lobster pots on artificial reefs.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning use of fishing gear on artificial reefs, and
2 supplementing P.L.1979, c.199 (C.23:2B-1 et seq.).

3

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

6

7 1. a. (1) Except as otherwise provided pursuant to paragraph
8 (2) of this subsection, no person, within the marine waters of the
9 State, may use, leave unattended, set or deploy any fishing gear, or
10 attempt to take any fin fish by any method other than rod-and-reel,
11 hand line, spear, or recreational gig, within the geographical
12 boundaries of the Sandy Hook or Axel Carlson permitted artificial
13 reef sites, or within 300 feet thereof.

14 (2) Notwithstanding the provisions of paragraph (1) of this
15 subsection to the contrary and except as otherwise provided
16 pursuant to section 2 of this act, a person, within the marine waters
17 of the State, may use, leave unattended, set or deploy any fishing
18 gear, or attempt to take any fish by any method, which is licensed
19 or permitted by the Department of Environmental Protection, within
20 the geographical boundaries, or within 300 feet thereof, of the
21 following areas of the permitted artificial reef sites with the
22 following latitudinal and longitudinal coordinates:

23 (a) On the Sandy Hook permitted artificial reef site – NW
24 40.22.93n x 73.56.80w; NE 40.23.03n x 73.55.48w; SW 40.22.30n
25 x 73.56.80w; SE 40.22.55n x 73.55.48w; and

26 (b) On the Axel Carlson permitted artificial reef site –

27 (i) in the northwest corner of the reef site – SE 40.03.50n x
28 73.59.60w; SW 40.03.50n x 74.00.20w; NW 40.04.20n x
29 74.00.20w; NE 40.04.20n x 73.59.60w; and

30 (ii) in the southwest corner of the reef site – NE 40.00.90n x
31 73.59.90w; NW 40.00.90n x 74.00.70w; SE 39.59.80n x 73.59.90w;
32 SW 39.59.80n x 74.00.70w.

33 b. The department shall apply, within three months after the
34 date of enactment of this act, to the Mid-Atlantic Fishery
35 Management Council to designate all permitted artificial reef sites
36 constructed under the Artificial Reef Program of the New Jersey
37 Division of Fish and Wildlife within federal waters as Special
38 Management Zones pursuant to section 648.148 of title 50, Code of
39 Federal Regulations.

40 c. The department, in consultation with the United States Fish
41 and Wildlife Service, shall review and revise projects associated
42 with the Artificial Reef Program to ensure that the projects are
43 eligible for use of funds received as part of any federal law
44 providing funding for artificial reef programs, including but not
45 limited to, the federal Dingell-Johnson “Sport Fish Restoration
46 Act,” 16 U.S.C. s.777 et seq.

47 d. On and after the date of enactment of this act, federal funds
48 received by the State for support of recreational fishing on artificial

1 reefs shall be used exclusively for areas of permitted artificial reef
2 sites other than those areas described in paragraph (2) of subsection
3 a. of this section, and may be used to expand the size and areas of
4 the Sandy Hook and Axel Carlson artificial reefs to offset the areas
5 of the artificial reefs designated pursuant to paragraph (2) of
6 subsection a. of this section. The operation, maintenance, and
7 restoration of the areas of the artificial reefs designated pursuant to
8 paragraph (2) of subsection a. of this section may be funded by
9 donations, or federal or State moneys specifically allocated for,
10 applied for by, or provided to commercial fishermen.

11 e. As used in this section, “permitted artificial reef site” means
12 a site for which the department, or any other State agency, has been
13 issued a permit by the United States Army Corp of Engineers for
14 the construction of an artificial reef, the coordinates of which are
15 established pursuant to permit CENAP-OP-R-200401135-1, or any
16 such subsequent permit therefor or update thereto, and which are
17 identified on nautical charts 12326, 12323, 12318, and 12214 issued
18 by the National Oceanic and Atmospheric Administration.

19

20 2. a. No person issued a license pursuant to section 2 of
21 P.L.1941, c.211 (C.23:5-24.2) to set lobster or fish pots may set a
22 lobster or fish pot in a permitted artificial reef site, except in those
23 areas designated pursuant to paragraph (2) of subsection a. of
24 section 1 of this act. In those areas, no person may set more than 75
25 such pots, or a string of pots exceeding more than 25 pots per line.
26 The licensee shall check and empty the pots of all fish and other
27 organisms weekly, and shall remove them from the water in
28 accordance with the manner and standards prescribed therefor by
29 the Department of Environmental Protection in rules and
30 regulations adopted by the department.

31 b. Whenever a pot or trawl is in use in an area at a permitted
32 artificial reef site designated pursuant to paragraph (2) of subsection
33 a. of section 1 of this act, the endpoints on the trawl, or the sinking
34 line linking the pots, shall be clearly marked by the use of a
35 minimum of one high flyer on each endpoint of the trawl or sinking
36 line. For the purpose of this subsection, “high flyer” means a flag,
37 radar reflector, or radio beam transmitter on a pole, buoy, fishing
38 line, or other equipment, that is visible above the water line.

39 c. A person issued a license pursuant to section 2 of P.L.1941,
40 c.211 (C.23:5-24.2) to set lobster pots who is doing so
41 recreationally pursuant to a recreational lobster pot permit may not
42 set any lobster pots in the areas of a permitted artificial reef site
43 designated pursuant to paragraph (2) of subsection a. of section 1 of
44 this act.

45 d. In areas at a permitted artificial reef site designated pursuant
46 to paragraph (2) of subsection a. of section 1 of this act, no
47 commercial fishing for:

1 (1) lobster using lobster pots shall be permitted from November
2 1 through December 15; and

3 (2) other fish using fish pots shall be permitted from May 15
4 through October 1.

5 e. The Department of Environmental Protection may, pursuant
6 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
7 1 et seq.), adopt rules and regulations to implement this section.

8
9 3. a. Within one year after the date of enactment of this act,
10 the Division of Fish and Wildlife in the Department of
11 Environmental Protection, in consultation with the Marine Fisheries
12 Council, shall develop a pot management plan for the use of lobster
13 and fish pots by persons licensed pursuant to section 2 of P.L.1941,
14 c.211 (C.23:5-24.2) to set such pots.

15 b. The Department of Environmental Protection shall, pursuant
16 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
17 1 et seq.), adopt rules and regulations to establish the pot
18 management plan developed pursuant to subsection a. of this
19 section and for its implementation.

20
21 4. This act shall take effect immediately.

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24 STATEMENT

25

26 This bill specifically designates certain areas of the Sandy Hook
27 and Axel Carlson artificial reefs for use by commercial fishermen.
28 The bill includes in these areas the 300 feet around the geographical
29 boundaries described by latitudinal and longitudinal coordinates in
30 the bill. The description and coordinates of the geographical
31 boundaries are as follows:

32 1) On the Sandy Hook permitted artificial reef site – NW
33 40.22.93n x 73.56.80w; NE 40.23.03n x 73.55.48w; SW 40.22.30n
34 x 73.56.80w; SE 40.22.55n x 73.55.48w; and

35 2) On the Axel Carlson permitted artificial reef site –

36 a) in the northwest corner of the reef site – SE 40.03.50n x
37 73.59.60w; SW 40.03.50n x 74.00.20w; NW 40.04.20n x
38 74.00.20w; NE 40.04.20n x 73.59.60w; and

39 b) in the southwest corner of the reef site – NE 40.00.90n x
40 73.59.90w; NW 40.00.90n x 74.00.70w; SE 39.59.80n x 73.59.90w;
41 SW 39.59.80n x 74.00.70w.

42 These designated areas represent about 50 percent of the area
43 historically available to commercial fishermen.

44 In these designated areas, the bill restricts the number of lobster
45 or fish pots that can be set to 75 pots, and a limit of 25 pots per line
46 to any string of pots. The endpoints of any trawl or sinking line
47 linking pots are required to be clearly marked with at least one
48 “high flyer” – defined in the bill as a flag, radar reflector, or radio

1 beam transmitter on a pole, buoy, fishing line, or other equipment,
2 that is visible above the water line. No commercial fishing of
3 lobster using lobster pots would be permitted in the designated
4 areas from November 1 through December 15, and of other fish
5 using fish pots from May 15 through October 1. The bill prohibits
6 the recreational use of lobster pots in the designated areas.

7 The term “fish pot” in the bill includes conch pots because they
8 are considered to be fish pots in regulations. Also, under current
9 law and regulation, there is no distinction between commercial or
10 recreational use of other fish pots including conch pots, although
11 most of the major fisheries in the State, other than conch, currently
12 require commercial landing permits. Therefore, only conch and a
13 very limited number of other fish can be caught with pots by a
14 person who does not have a commercial landing permit.

15 The bill further requires federal funds received by the State for
16 the support of recreational fishing on artificial reefs to be used
17 exclusively for areas of permitted artificial reef sites other than
18 those areas designated for commercial fishing as described above.
19 The funds may also be used to expand the size and area of the
20 Sandy Hook and Axel Carlson artificial reefs to offset the areas of
21 the artificial reefs designated for commercial fishing. The bill
22 provides that the operation, maintenance, and restoration of the
23 designated areas for commercial fishermen may be funded by
24 donations, or federal or State moneys specifically allocated for,
25 applied for by, or provided to commercial fishermen.

26 The bill requires the Department of Environmental Protection, in
27 consultation with the United States Fish and Wildlife Service, to
28 review and revise projects associated with the State Artificial Reef
29 Program to ensure that the projects are eligible for use of funds
30 received as part of any federal law providing funding for artificial
31 reef programs, including but not limited to, the federal Dingell-
32 Johnson “Sport Fish Restoration Act,” 16 U.S.C. s.777 et seq.

33 Finally, the bill requires the DEP to apply, within three months
34 after the date of enactment of the bill into law, to the Mid-Atlantic
35 Fishery Management Council to designate all permitted artificial
36 reef sites constructed under the Artificial Reef Program of the New
37 Jersey Division of Fish and Wildlife within federal waters as
38 Special Management Zones pursuant to section 648.148 of title 50,
39 Code of Federal Regulations.