

ASSEMBLY, No. 4199

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 1, 2020

Sponsored by:

Assemblyman GERARD SCHARFENBERGER

District 13 (Monmouth)

SYNOPSIS

Revises law establishing 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.

1 d. (1) The commissioner, or the commissioner's designee, shall
2 close the menhaden season in the State, for each respective gear
3 type, by giving not less than two days' notice of the projected date
4 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.2019, c.503,
34 the commissioner, or the commissioner's designee, shall establish
35 an individual transferable quota system for the menhaden purse
36 seine fishery. To qualify to receive an allocation under the ITQ
37 system established pursuant to this subsection, a vessel and its
38 owner or operator shall hold, prior to the date of enactment of
39 P.L.2019, c.503, a valid Menhaden Landing License for the
40 menhaden purse seine fishery.

41 Each ITQ shall be allocated based upon a qualified vessel's
42 rounded percentage share of the average of its menhaden landings
43 in **【2014】** 2011 through 2018 , inclusive, except that no qualified
44 vessel shall be allocated an ITQ in an amount less than 200,000
45 pounds in the initial allocation. After the initial allocation pursuant
46 to this paragraph: (a) the percentage of quota for the menhaden
47 purse seine fishery established for each ITQ holder shall remain
48 static; and (b) each ITQ holder's individual poundage quota shall

1 increase or decrease based on the overall menhaden purse seine
2 fishery quota allocated to the State and the ITQ holder's fixed
3 percentage of that allocation. The commissioner, or the
4 commissioner's designee, shall notify, in writing, each owner or
5 operator of a qualified vessel of their ITQ established pursuant to
6 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.2019, c.503]**
19 P.L. , c. (pending before the Legislature as this bill) , the
20 menhaden purse seine fishery is open for the **[2019]** that year's
21 fishing season and all qualified vessels have harvested less than
22 their individual allocation for the **[2019]** fishing season as
23 calculated pursuant to **[paragraph (1) of this subsection]** P.L.2019,
24 c.503 , each qualified vessel shall be subject to their individual ITQ
25 established pursuant to **[paragraph (1) of this subsection]** P.L.2019,
26 c.503 for the remainder of the **[2019]** fishing season open upon the
27 date of enactment of P.L. , c. (pending before the Legislature as
28 this bill) .

29 (5) No later than ten years after the date of enactment of
30 P.L.2019, c.503, the commissioner, or the commissioner's designee,
31 shall conduct an assessment of the ITQ system established pursuant
32 to this subsection and send a written report of the assessment,
33 including any recommendations for legislative action if deemed
34 appropriate, to the Chairperson of the Senate Environment and
35 Energy Committee and the Assembly Agriculture and Natural
36 Resources Committee, or their successors.

37 (6) As used in this subsection, "ITQ" means an individual
38 transferable quota as allocated pursuant to this subsection.

39 (cf: P.L.2019, c.503, s.1)

40
41 2. This act shall take effect immediately.

42 43 44 STATEMENT

45
46 This bill would amend P.L.2019, c.503, which requires the
47 Commissioner of Environmental Protection, or the commissioner's
48 designee, to establish an individual transferable quota (ITQ) system for

1 the menhaden purse seine fishery. Under the current law, each ITQ is
2 to be allocated based upon a qualified vessel's rounded percentage
3 share of the average of its menhaden landings in 2014 through 2018,
4 inclusive, except that no qualified vessel would be allocated an ITQ in
5 an amount less than 200,000 pounds. This bill would amend the law
6 to provide that the ITQ would be based upon a qualified vessel's
7 rounded percentage share of the average of its menhaden landings in
8 2011 through 2018, inclusive. This bill would provide that an ITQ is
9 based upon eight years of landings, rather than only five.

10 The bill also provides that if it is enacted into law while that year's
11 menhaden purse seine fishery is open and all qualified vessels have
12 harvested less than their individual allocation for the fishing season
13 as calculated pursuant to P.L.2019, c.503, then each
14 qualified vessel would be subject to their individual ITQ established
15 pursuant to P.L.2019, c.503 for the remainder of the fishing season
16 open when the bill is enacted into law.