

CHAPTER 74

AN ACT concerning the taking of menhaden for bait and human food, amending P.L.1979, c.199, R.S.23:3-51, and R.S.23:3-52, and supplementing Title 23 of the Revised Statutes.

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

1. Section 73 of P.L.1979, c.199 (C.23:2B-14) is amended to read as follows:

C.23:2B-14 "Act" defined, penalties; enforcement.

73. For purposes of this section, the "act" means and includes all the new sections and amended sections contained herein, all the remaining sections of Title 50 of the Revised Statutes, sections 23:3-41, 23:3-46, 23:3-47, 23:3-48, 23:3-51, 23:3-52, 23:5-9, 23:5-16, 23:9-114, 23:9-115 and 23:9-120 of Title 23 of the Revised Statutes, sections 1, 2, and 3 of P.L.1941, c.211 (C.23:5-24.1 to 23:5-24.3), and sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2 through C.23:3-51.15).

The commissioner may utilize any or all of the following remedies for any violation of this act:

a. (1) A person who violates the provisions of this act or of any rule, regulation, license or permit adopted or issued pursuant to this act shall be liable to a penalty of not less than \$300 or more than \$3,000 for the first offense and not less than \$500 or more than \$5,000 for any subsequent offense, unless the commissioner has established an alternate penalty for a specific offense pursuant to paragraph (2) of this subsection.

(2) The Commissioner of Environmental Protection, with the approval of the Marine Fisheries Council, may, by regulation, establish a penalty schedule for any specific violation of this act or of any rule or regulation adopted pursuant to this act. No such penalty may be less than \$30 or more than \$100 for the first offense or less than \$50 or more than \$200 for any subsequent offense. Any penalty provided for by this act or by the fee schedule adopted by the commissioner shall be collected in a civil action by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court or any municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999." If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

b. (1) A person who violates the provisions of this act or any rule or regulation or any license or permit adopted or issued pursuant to this act shall be liable to the revocation or suspension of any license or permit held by the violator pursuant to this act for such period of time as the court may choose, except when the rule or regulation violated includes a mandatory revocation or suspension schedule in which case that schedule shall determine the period of time of the revocation or suspension.

(2) In the case of a person who knowingly violates the provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or permit adopted or issued pursuant thereto, the violator shall be subject to a mandatory revocation or suspension of the license or permit or privilege for the taking of oysters, clams or other shellfish held by the violator, or in the case of a violator without the necessary license or permit the loss of the privilege to take oysters, clams or other shellfish, for a period of three years for a first offense, five years for a second offense, and 10 years for the third and any subsequent offense. For purposes of this paragraph, a knowing violator shall include, but need not be limited to: (a) a person who is the holder of a commercial shellfish license or permit; (b) a person who is the holder of a recreational shellfish license or permit who is in possession of more than the daily recreational shellfish limit; (c) a person without any

shellfish license or permit who is in possession of more than the daily recreational shellfish limit; (d) a person who is the holder of a recreational shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit; or (e) a person without the necessary shellfish license or permit who is engaging in shellfish activities with the holder of a commercial shellfish license or permit.

c. If a person violates any of the provisions of this act, or any rule or regulation or any license or permit adopted or issued pursuant to this act, the department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation or violations and the court may proceed in the action in a summary manner.

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

d. In addition to the penalties prescribed by this section, a person who violates the provisions of R.S.50:2-11, R.S.50:3-13, R.S.50:4-2 or R.S.50:4-3, or any rule or regulation or any license or permit adopted or issued pursuant thereto, shall be subject to the forfeiture of any vessel, vehicle, or equipment used in the commission of the violation. A designated conservation officer of the Department of Environmental Protection, a member of the State Police, or any other law enforcement officer may seize and secure any vessel, vehicle, or equipment used in the commission of such a violation. Upon the seizure of the vessel, vehicle, or equipment, the conservation officer, member of the State Police, or other law enforcement officer shall immediately thereafter institute a civil action to determine if the forfeiture is warranted in the court in which the penalty action was filed pursuant to this section, which court shall have jurisdiction to adjudicate the forfeiture action. The owner or any person having a security interest in the vessel, vehicle, or equipment may secure its release by depositing with the clerk of the court in which the action is pending a bond with good and sufficient sureties in an amount to be fixed by the court, conditioned upon the return of the vessel, vehicle, or equipment to the Department of Environmental Protection upon demand after completion of the court proceeding. The court may proceed in a summary manner and may direct the confiscation of the vessel, vehicle, or equipment by the department for its use or for disposal by sale or public auction. Moneys collected by the department through the sale or public auction of the vessel, vehicle, or equipment shall be used by the Division of Fish and Wildlife for the enforcement of the provisions of this act.

2. R.S.23:3-51 is amended to read as follows:

License to take menhaden, prohibited takings.

23:3-51. a. Any person who intends to take menhaden with a purse seine or shirred net from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, shall apply to the commissioner for a Menhaden Purse Seine Fishing Vessel License or a Menhaden Purse Seine Fishing Vessel Operator's License, as appropriate, in accordance with the provisions of this section. Upon receipt of the application and payment of the fee required pursuant to R.S.23:3-52, the commissioner may, in the commissioner's discretion and as prescribed pursuant to sections 2 and 3 of P.L.2010, c.72, issue to the applicant a Menhaden Purse Seine Fishing Vessel License or a Menhaden Purse Seine Fishing Vessel Operator's License, as appropriate, except as prohibited by subsection b. of this section. A license issued pursuant to this section shall be valid only for the calendar year for which it is issued, and shall be renewed on an annual basis.

b. Notwithstanding the provisions of subsection a. of this section, the provisions of P.L.2013, c.74 (C.23:3-51.2 et al.), or the provisions of any other law, or any rule or regulation adopted pursuant thereto, to the contrary, the commissioner shall not issue a license for the taking of menhaden, and no person shall take menhaden, from State coastal waters, including the Delaware, Great, Raritan, and Sandy Hook bays, for the purpose of reduction, including the conversion of menhaden to fish meal, oil, or other components.

This subsection shall not be understood to prohibit the taking of menhaden in State coastal waters for the use as bait for commercial or recreational purposes or in whole frozen form for use as human food.

c. (1) The following types of vessels, and their owners or operators, are subject to licensure pursuant to this section:

(a) Any purse seine catch vessel that takes menhaden from State waters on an individual trip basis; and

(b) Any purse seine carry vessel that works in conjunction with the purse seine catch vessel identified in subparagraph (a) of this paragraph.

(2) A menhaden set vessel that participates only in the setting of a purse seine or shirred net in conjunction with a purse seine catch vessel is exempt from licensure pursuant to this section.

(3) A license issued pursuant to this section shall remain on board the licensed vessel at all times.

(4) The holder of a license issued pursuant to this section shall not use, have on board the licensed vessel, or work in conjunction with any other vessel that uses any type of fishing gear other than a purse seine or shirred net.

d. A Menhaden Purse Seine Fishing Vessel License shall be issued in the name of the vessel and the vessel's owner or owner/operator. If the vessel owner is not the operator of the vessel, a Menhaden Purse Seine Fishing Vessel License shall be issued to the vessel owner, as provided in this paragraph, and a separate Menhaden Purse Seine Fishing Vessel Operator's License shall be issued to, and in the name of, the vessel operator, in accordance with the provisions of this section and subsection c. of R.S.23:3-52.

e. (1) No vessel licensed pursuant to this section shall be greater than 90 feet in overall length.

(2) Whenever a Menhaden Purse Seine Fishing Vessel License is issued for a menhaden purse seine catch vessel pursuant to this section, the licensee shall provide the commissioner with certified baseline data indicating the overall length and horsepower of the vessel. Any upgrade or replacement of a licensed purse seine catch vessel shall be limited to a 10 percent increase in overall vessel length, and a 20 percent increase in horsepower.

f. The possession of any fish other than menhaden on a vessel licensed under this section is limited to no more than 500 pounds. The simultaneous possession aboard a vessel of a purse seine or shirred net, menhaden, and any other fish in an amount greater than 500 pounds shall be prima facie evidence of a violation of this subsection.

g. (1) Before commencing menhaden fishing activities on any given day, a person licensed under this section shall notify the department, by phone or, if applicable and offered by the department, by electronic means, of the intention to fish under this section, and the vessel's intended fishing location. The licensee shall also notify the department, by phone or, if applicable and offered by the department, by electronic means, of any anticipated change in the vessel's fishing location. After a licensee has provided notice to the department of their intention to fish for menhaden pursuant to this section on any particular day, the licensee shall be limited, on that day, to the use of a purse seine or shirred net.

(2) Fishing for menhaden pursuant to this section shall be restricted to those areas in the Raritan, Sandy Hook, and Delaware Bays, and in the Atlantic Ocean, which are located at a distance of 0.6 nautical miles or more from the New Jersey coastline and the jetties and fishing piers extending therefrom.

(3) Fishing for menhaden in the Delaware Bay shall be further restricted to those areas of the Bay that lie south and east of LORAN C line 42850, or to any other area of the Bay, as may be designated by the commissioner.

(4) It shall be incumbent upon the vessel operator to determine whether a purse seine or shirred net is likely to drift, during fishing, beyond the fishing boundaries established by this subsection. The drifting of a purse seine or shirred net into any restricted area along the shore or around a jetty or pier while fishing shall constitute a violation of this subsection.

h. No person engaged in the act of fishing pursuant to this section shall disturb any: (a) channel designating stakes, markers, or buoys; (b) crab pots, lobster pots, fish pots, or traps; or (c) staked and leased shellfish grounds.

3. R.S.23:3-52 is amended to read as follows:

Fee.

23:3-52. a. Except as provided by subsection b. of this section, the fees for a Menhaden Purse Seine Fishing Vessel License, issued pursuant to R.S.23:3-51, shall be as follows:

(1) For vessels owned by a resident of New Jersey:

(a) \$125 for each vessel not less than 30 nor more than 100 tons in gross tonnage;

(b) \$250 for each vessel not less than 100 nor more than 150 tons in gross tonnage;

(c) \$400 for each vessel not less than 150 nor more than 175 tons in gross tonnage;

(d) \$550 for each vessel not less than 175 nor more than 200 tons in gross tonnage;

(e) \$900 for each vessel more than 200 tons in gross tonnage; and

(f) \$20 for each vessel up to 30 tons in gross tonnage, which is used to take menhaden for bait purposes only;

(2) For vessels owned by non-residents of New Jersey:

(a) \$450 for each vessel not less than 30 nor more than 100 tons in gross tonnage;

(b) \$700 for each vessel not less than 100 nor more than 150 tons in gross tonnage;

(c) \$1,000 for each vessel not less than 150 nor more than 175 tons in gross tonnage;

(d) \$1,150 for each vessel not less than 175 nor more than 200 tons in gross tonnage; and

(e) \$1,500 for each vessel more than 200 tons in gross tonnage.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, if a resident of New Jersey leases a vessel from out of State, the vessel licensing fee shall be the same as the fee that is applicable to a vessel owned or leased by a nonresident, as provided by paragraph (2) of subsection a. of this section.

c. The fee for a Menhaden Purse Seine Fishing Vessel Operator's License, issued pursuant to R.S.23:3-51, shall be \$50 for a resident of New Jersey and \$75 for a non-resident of New Jersey.

d. Gross tonnage determinations under this section shall be made using Custom House measurements.

e. Any license fees collected pursuant to this section shall be deposited in the "Marine Fisheries Management Account," established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

C.23:3-51.2 Definitions relative to taking of menhaden.

4. As used in R.S.23:3-51, section 3 of P.L.2010, c.72 (C.23:3-51.1) and sections 4 through 17 of P.L.2013, c.74(C.23:3-51.2 through C.23:3-51.15):

“Bait net” means a net, including but not limited to a bait seine, cast net, dip net, lift or umbrella net, or kill pot, deployed for the purpose of taking menhaden to be landed or sold in the State.

“Commissioner” means the Commissioner of Environmental Protection.

“Dealer” means a person who is authorized, by a license issued pursuant to section 9 of P.L.2013, c.74 (C.23:3-51.7), to purchase or barter for menhaden landed in the State, and who is considered a primary buyer of menhaden.

“Fishing” means the taking of menhaden from State or federal waters.

“Gill net vessel” means a vessel that is used in the deployment of a gill net for the purpose of taking menhaden to be landed or sold in the State.

“Menhaden” means a marine fish of the herring family (*Brevoortia tyrannus*).

“Menhaden set vessel” means the smaller of two vessels, often employed in conjunction with a purse seine catch vessel, and used as a replacement for the weight of a purse seine to assist in setting the net.

“Pound net vessel” means a vessel that is used in the deployment of a pound net for the purpose of taking menhaden to be landed or sold in the State.

“Purse seine catch vessel” means a vessel that is used in the deployment of a purse seine or shirred net for the purpose of taking menhaden to be landed or sold in the State, and which may work in conjunction with a purse seine carry vessel or menhaden set vessel in the taking of menhaden by purse seine or shirred net.

“Purse seine carry vessel” means a vessel that is used to carry and land or sell menhaden that has been taken from State or federal waters, and which works in conjunction with a purse seine catch vessel or menhaden set vessel in the taking of menhaden by purse seine.

“Trawl vessel” means a vessel that is used in the deployment of a trawl for the purpose of taking menhaden to be landed or sold in the State.

C.23:3-51.3 Menhaden Landing License.

5. a. No person shall land for the purposes of sale or barter, or otherwise sell or barter, 100 pounds or more of menhaden at any time in the State, unless the person is in possession of a Menhaden Landing License which authorizes the person to participate in the directed bait and whole frozen human food fishery for menhaden.

b. (1) Any person who intends to land for the purposes of sale or barter, or otherwise sell or barter, 100 pounds or more of menhaden at any time shall submit to the commissioner an application for a Menhaden Landing License. Any license application for a Menhaden Landing License shall be filed with the commissioner prior to the annual deadline established thereby for application submission, and any application received by the commissioner after this deadline shall be denied.

(2) A Menhaden Landing License issued pursuant to this subsection shall be valid only for the calendar year for which it is issued, and shall be renewed on an annual basis. The failure of a licensee to annually renew a Menhaden Landing License in accordance with established deadlines shall result in forfeiture of the right to obtain a Menhaden Landing License in future years, except as provided by section 6 of P.L.2013, c.74 (C.23:3-51.4).

c. (1) The following types of vessels, and their owners or operators, are subject to licensure pursuant to this section:

(a) a gill net vessel that is used or is intended to be used to land 100 pounds or more of menhaden on an individual trip basis, for the purposes of sale or barter;

(b) a pound net vessel that is used or is intended to be used to land 100 pounds or more of menhaden on an individual trip basis, for the purposes of sale or barter;

(c) a trawl vessel that is used or is intended to be used to land 100 pounds or more of menhaden on an individual trip basis, for the purposes of sale or barter;

(d) a vessel that is used or is intended to be used to land, on an individual trip basis, and for the purposes of sale or barter, 100 pounds or more of menhaden taken by bait net;

(e) a purse seine carry vessel that is used or is intended to be used to land, on an individual trip basis, and for the purposes of sale or barter, 100 pounds or more of menhaden taken from State or federal waters; and

(f) a purse seine catch vessel that functions as a purse seine carry vessel and satisfies the requirements of subparagraph (e) of this paragraph.

(2) A purse seine catch vessel that does not function as a purse seine carry vessel is exempt from licensure pursuant to this section. However, the owner or operator of a purse seine carry vessel that works in conjunction with a purse seine catch vessel shall identify the purse seine catch vessel on the landing report prepared thereby.

(3) (a) No purse seine carry vessel or purse seine catch vessel functioning as a purse seine carry vessel shall be licensed pursuant to this subsection to land menhaden taken from State waters, unless the vessel is 90 feet or less in overall length.

(b) Nothing in subparagraph (a) of this paragraph shall prohibit the licensure of a purse seine carry vessel or purse seine catch vessel that is greater than 90 feet in overall length, so long as the vessel lands menhaden taken only from federal waters.

(4) A Menhaden Landing License shall be issued by the commissioner in the name of: (a) the vessel and the vessel's owner or operator; or (b) if no vessel will be used in the landing or sale of menhaden, the person applying for the license. If a purse seine carry vessel or a purse seine catch vessel functioning as a purse seine carry vessel is operated by a person who is not the owner of the vessel, the vessel operator shall be licensed separately and apart from the vessel owner.

(5) Any license issued pursuant to this section shall specify the types of gear that may be used by the licensee in the taking of menhaden to be landed thereby.

d. The holder of a Menhaden Landing License shall not use, have on board the licensed vessel, or work in conjunction with any other vessel that uses any type of fishing gear other than the type of gear specifically identified in the license.

e. A Menhaden Landing License issued pursuant to this section shall remain on board the licensed vessel, or, if no vessel is used, in the possession of the licensee, at all times.

f. A person applying for a Menhaden Landing License shall meet the following criteria:

(1) In order to obtain a license to land menhaden taken by purse seine, the vessel shall have landed in the State at least 500,000 pounds of menhaden during one year between 2009 and 2012, inclusive;

(2) In order to obtain a license to land menhaden taken by pound net, the vessel shall have landed in the State at least 100,000 pounds of menhaden during one year between 2009 and 2012, inclusive;

(3) In order to obtain a license to land menhaden taken by gill net, the vessel shall have landed in the State at least 10,000 pounds of menhaden during one year between 2009 and 2012, inclusive;

(4) In order to obtain a license to land menhaden taken by trawl, the vessel shall have landed in the State at least 200 pounds of menhaden during one year between 2009 and 2012, inclusive; and

(5) In order to obtain a license to land menhaden taken by bait net, the person shall have possessed a New Jersey Bait Net License during one year between 2009 and 2012, inclusive. If a person's application for a license to land menhaden taken by bait net is submitted in the year 2014 or thereafter, the commissioner may require the applicant to prove landings and sale of menhaden during the respective years commencing in 2013.

g. (1) A resident of the State who is licensed under this section to land menhaden taken by purse seine shall be required to pay an annual fee of \$150. A resident of the State who is licensed under this section to land menhaden taken using any other type of gear shall be required to pay an annual fee of \$50.

(2) A non-resident of the State who is licensed under this section to land menhaden taken by purse seine shall be required to pay an annual fee of \$750, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater. A non-resident of the State who is licensed under this section to land menhaden taken with any other type of gear shall be required to pay an annual fee of \$250, or an amount equal to the non-resident fee charged for the landing of menhaden in the non-resident's state, whichever is greater.

(3) Any license fees collected pursuant to this subsection shall be deposited in the Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12), and shall be dedicated for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

h. Nothing in this section, in R.S.23:3-51, or in any other law, or rule or regulation adopted pursuant thereto, shall prohibit a person who does not possess a Menhaden Landing License from landing 100 pounds or less of menhaden, at any time, and on any trip or day, provided that the amount of landed menhaden does not exceed 10 percent, by weight, of the total weight of all species landed, sold, or bartered.

C.23:3-51.4 Extension of time to renew Menhaden Landing License.

6. a. A licensee who is eligible for renewal of their Menhaden Landing License may request an extension of time to renew their license in accordance with this section.

b. A licensee seeking a license renewal extension shall submit a written application therefor to the commissioner, on a form developed by the commissioner. The application shall include, at a minimum:

- (1) the name of the licensee and licensed vessel, if any;
- (2) the licensee's Menhaden Landing License number;
- (3) a detailed explanation as to why the extension is needed, including a statement specifying the type and degree of hardship that prevented the timely renewal of the license, and the hardship that will result to the licensee if the license is not renewed; and
- (4) any other appropriate documentation as may be necessary to support the application.

c. An application for license renewal extension shall be approved if the commissioner determines that:

- (1) by reason of extraordinary hardship or exceptional situation or condition, the licensee was precluded from complying with the renewal requirements;
- (2) strict compliance with the renewal requirements provided by law would result in exceptional and undue hardship to the licensee;
- (3) the circumstances supporting the conclusions made in paragraphs (1) and (2) of this subsection were not created by the licensee or persons under the licensee's control; and
- (4) approval of the extension will not unreasonably interfere with the orderly administration of the directed bait or whole frozen human food fishery for menhaden.

d. Within 30 days after receipt of an application for license renewal extension, the commissioner shall approve or deny the application, and shall provide written notice of this determination to the licensee. A licensee whose application for extension is denied may appeal the decision in accordance with the procedure for contested cases under the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

C.23:3-51.5 Transfer of license.

7. a. Upon application to, and approval by, the department, the holder of a Menhaden Purse Seine Fishing Vessel License, issued pursuant to R.S.23:3-51, or the holder of a Menhaden Landing License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-51.3), may transfer their license as follows:

(1) To a replacement vessel when the vessel named in the license is replaced by the licensee; or

(2) To a new owner of the vessel named in the license when the vessel is sold or otherwise transferred to another person.

b. The following limitations shall apply to any license transfer undertaken pursuant to paragraph (1) of subsection a. of this section:

(1) a license shall only be transferrable to a replacement vessel that employs the same type of fishing gear identified in the original license;

(2) a license that is applicable to a purse seine catch vessel shall only be transferrable to a replacement purse seine catch vessel, and a license that is applicable to a purse seine carry vessel shall only be transferrable to a replacement purse seine carry vessel;

(3) a license that is applicable to a purse seine catch vessel or a purse seine carry vessel shall be transferrable to a replacement vessel only if the replacement vessel is not more than 10 percent larger in overall length than the originally licensed purse seine catch vessel or 10 percent larger in the hold capacity of the originally licensed purse seine carry vessel, as measured in cubic feet, and not more than 20 percent more powerful in terms of horsepower, than either originally licensed vessel.

c. A person who transfers a license pursuant to paragraph (2) of subsection a. of this section shall no longer be eligible to obtain a Menhaden Landing License based upon the landing history of the vessel being sold.

d. An applicant for a license transfer shall submit an application to the commissioner, on a form developed by the commissioner, and no license shall be transferred pursuant to this section without the prior approval of the commissioner.

e. A person shall not be eligible for transfer of their license pursuant to this section if: (1) their license is pending suspension or has been suspended pursuant to section 15 of P.L.2013, c.74 (C.23:3-51.13); or (2) the licensee is subject to court action for a violation of R.S.23:3-51 or P.L.2013, c.74 (C.23:3-51.2 et al.).

C.23:3-51.6 Monthly report by licensee to commissioner.

8. a. The holder of a Menhaden Landing License shall submit a monthly report to the commissioner, on a form developed by the commissioner. The licensee shall attest to the validity of the information contained in the monthly report, and shall electronically submit the report to the department using a method approved by the commissioner. If no landing, sale, or barter of menhaden occurred during the month, the licensee shall submit a report to that effect.

b. The monthly report shall include, at a minimum, the following information, which shall be reported on an individual trip basis:

- (1) the name of the licensee and licensed vessel, if any;
- (2) the licensee's Menhaden Landing License number;
- (3) the name of the purse seine catch vessel, if any, which was used in conjunction with the licensed vessel;
- (4) the total amount, in pounds, of menhaden landed by the licensee or licensed vessel;
- (5) the total amount, in pounds, of menhaden discarded by the licensee or licensed vessel;
- (6) the location of harvest;
- (7) the type of gear used for harvest;
- (8) the ports used for the landing of menhaden;
- (9) the date on which, and the dealer to whom, any landed menhaden was sold or bartered by the licensee; and
- (10) any other information required by the department.

c. (1) In addition to any other penalties provided by section 73 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et al.), or by any other law, any licensee who fails to submit a monthly report on or before the 10th day of the month following the month of record shall be subject to a fine of \$50 for a first offense, \$100 for a second offense, and \$200 for any subsequent offense.

(2) Any fines collected pursuant to this subsection shall be deposited in the Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12), and shall be dedicated for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

C.23:3-51.7 Menhaden Dealer License.

9. a. No person shall purchase or barter for menhaden landed in the State, as the first point of sale, unless the person is in possession of a Menhaden Dealer License. No menhaden landed in the State shall be sold or traded to any person who is not licensed under this section.

b. (1) Any person who intends to purchase or barter for menhaden landed in the State shall submit to the commissioner an application for a Menhaden Dealer License.

(2) A Menhaden Dealer License issued pursuant to this subsection shall be valid only for the calendar year for which it is issued, and shall be renewed on an annual basis.

c. No person shall act as the point of sale for menhaden landed in the State unless the person is in possession of both a Menhaden Landing License, issued pursuant to section 5 of this act, and a Menhaden Dealer License, issued pursuant to this section. Any person in possession of a Menhaden Landing License and not selling menhaden to a licensed Menhaden dealer shall also possess a Menhaden Dealer License, and shall report any sales on a weekly basis, in accordance with the provisions of section 10 of this act.

d. The holder of a Menhaden Dealer License, issued pursuant to this section, shall not accept 100 pounds or more of menhaden per day from any person unless that person is in possession of a Menhaden Landing License issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-51.3).

e. (1) A State resident who is licensed as a menhaden dealer pursuant to this section shall be required to pay an annual fee of \$100.

(2) A non-resident of the State who is licensed as a menhaden dealer pursuant to this section shall be required to pay an annual fee of \$500, or an amount equal to the non-resident fee charged to a menhaden dealer in the non-resident's state, whichever is greater.

(3) Any license fees collected pursuant to this subsection shall be deposited in the Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74

(C.23:3-51.12), and shall be dedicated for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

C.23:3-51.8 Weekly report by holders of Menhaden Dealer License.

10. a. The holder of a Menhaden Dealer License shall submit a weekly report to the commissioner, on forms developed by the commissioner. The licensee shall attest to the validity of the information contained in the weekly report, and shall electronically submit the report to the department. If no purchase or trade of menhaden occurred during the week, the licensee shall submit a report to that effect. For the purposes of this section, a week shall begin on Sunday and end on Saturday.

b. The weekly report shall include, at a minimum, the following information:

- (1) the name of the licensee;
- (2) the licensee's Menhaden Dealer License number;
- (3) the Menhaden Landing License number of each person selling or trading menhaden to the dealer during the preceding week;
- (4) the total amount, in pounds, of menhaden purchased or traded during the preceding week;
- (5) the location of harvest for menhaden purchased or traded during the preceding week;
- (6) the type of gear used for the harvest of menhaden purchased or traded during the preceding week;
- (7) the date of purchase or trade; and
- (8) any other information required by the department.

c. (1) In addition to any other penalties provided by section 73 of P.L.1979, c.199 (C.23:2B-14), by P.L.2013, c.74 (C.23:3-51.2 et al.), or by any other law, if a licensed menhaden dealer fails to submit a weekly report, as required by this section, either on or before 12:00 p.m. on the Tuesday following the week of record, the licensee shall be subject to a fine of \$50 for a first offense, \$100 for a second offense, and \$200 for any subsequent offense.

(2) Any fines collected pursuant to this subsection shall be deposited in the Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12), and shall be dedicated for the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement.

C.23:3-51.9 Permitted removal of fish harvested.

11. Removal, from a purse seine, of fish harvested from the waters of the State shall be by brailing or dip net only. No fish pump shall be on board any vessel operating under a license, for the purpose of taking menhaden for bait or human food purposes, unless the pump is completely covered and securely fastened with a brightly colored tarp or other material, and the pump intake or hose is disconnected from the pump and is securely stowed away from the pump so that it is not readily available for use when the vessel is fishing in State waters.

C.23:3-51.10 Requirements for licensees relative to littering, cleanup.

12. a. The holder of a Menhaden Purse Seine Fishing Vessel License or a Menhaden Purse Seine Fishing Vessel Operator's License, issued pursuant to R.S.23:3-51, and the holder of a Menhaden Landing License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-51.3) shall not throw overboard, or otherwise release from a vessel or its nets into the waters of the

State: (1) any quantity of dead fish, except during the course of normal fishing operations; or (2) any refuse, litter, or garbage of any kind.

b. Whenever any fish, fish parts, refuse, litter, or garbage of any kind is released during, or as a result of, a menhaden fishing or landing operation, in violation of the provisions of subsection a. of this section, the holder of a Menhaden Purse Seine License or a Menhaden Landing License, as the case may be, shall report the release to the department as soon as possible and initiate a cleanup of the release within 24 hours thereof, at the licensee's expense, if the release is likely to impact the shoreline.

c. In the event that a licensee fails to initiate a cleanup, in accordance with the provisions of subsection b. of this section, within 24 hours after a release begins, the department may conduct or arrange for the cleanup of the release. However, the licensee shall be liable to pay all costs associated with the cleanup, including any administrative costs incurred by the department. Costs imposed pursuant to this subsection may include the costs associated with damages to, or the cleanup of, marine and estuarine waters of the State, or the State's beaches, shorelines, and marshes.

C.23:3-51.11 Annual State menhaden catch quota.

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

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

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

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

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

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

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

(5) January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by bait net.

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

(1) on a Saturday or Sunday;

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

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

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

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

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

e. If the season for a particular gear type is closed because the quota amount allocated to that gear type has been harvested and landed: (1) the holder of a Menhaden Landing License for that gear type may continue to land an incidental catch of up to 6,000 pounds of menhaden per day; and (2) the holder of a Menhaden Dealer License may continue to accept from a Menhaden Landing License holder an incidental catch of not more than 6,000 pounds of menhaden per day. The incidental catch allowance authorized by this subsection shall not be applied to the annual menhaden catch quota established by the Atlantic States Marine Fisheries Commission.

C.23:3-51.12 "Marine Fisheries Management Account."

14. There is established within the General Fund, a separate, dedicated, and non-lapsing account to be known as the "Marine Fisheries Management Account." This account shall be credited with all revenues received from the issuance of Menhaden Purse Seine Fishing Vessel Licenses and Menhaden Purse Seine Fishing Vessel Operator's Licenses pursuant to R.S.23:3-51 and R.S.23:3-52, and all revenues received from the issuance of Menhaden Landing Licenses and Menhaden Dealer Licenses pursuant to sections 5 and 9 of P.L.2013, c.74 (C.23:3-51.3 and C.23:3-51.7). The moneys in the Marine Fisheries Management Account shall be allocated to the Division of Fish and Wildlife, Marine Fisheries Administration within the Department of Environmental Protection, and shall be dedicated for quota management, biological monitoring, and fisheries law enforcement in connection with marine fisheries.

C.23:3-51.13 Violations, penalties.

15. a. A person who violates any provision of R.S.23:3-51, R.S.23:3-52, or P.L.2013, c.74 (C.23:3-51.2 et al.) shall be subject to the penalties prescribed in section 73 of P.L.1979, c.199 (C.23:2B-14). In addition to those penalties, if a licensee: (1) falsifies or misrepresents any information contained in a report submitted pursuant to section 8 of P.L.2013, c.74 (C.23:3-51.6) or section 10 of P.L.2013, c.74 (C.23:3-51.8); (2) fails to report a release as required by section 12 of P.L.2013, c.74 (C.23:3-51.10); or (3) fishes in, or allows a purse seine or shirred net to drift into, any restricted fishing area, as prohibited by subsection g. of R.S.23:3-51, the licensee shall be subject to the following periods of license suspension:

- (1) a 30-day suspension of their license for a first offense;
- (2) a 60-day suspension of their license for a second offense; and
- (3) a 180-day suspension of their license for a third or subsequent offense.

b. (1) If a license is suspended pursuant to subsection a. of this section, and, for three years thereafter, the licensee does not commit another offense warranting suspension of their license, the initial offense warranting license suspension shall be removed from consideration

in determining an applicable term of license suspension for any offense committed by the licensee after that three-year period.

(2) The forgiveness of prior offenses provided for by this subsection shall apply only to those determinations that pertain to the calculation of applicable license suspension periods. All prior offenses shall be taken into account in the calculation of any monetary penalties provided for by P.L.2013, c.74 (C.23:3-51.2 et al.).

c. A license suspension imposed pursuant to this section shall be applicable to both the licensee and the licensed vessel, if any, and shall be carried out during the normal season of fishing operations, which extends from May 15 through October 15 of each year. If the duration of a license suspension period is not completed during the current year's normal season of fishing operations, the balance of the license suspension shall be made up during the following year's normal season of fishing operations.

C.23:3-51.14 Compliance with instructions, signals of law enforcement officer.

16. In order to facilitate enforcement of R.S.23:3-51 and P.L.2013, c.74 (C.23:3-51.2 et al.) the operator of, or any other person on board, a vessel that is subject to the provisions of R.S.23:3-51 or P.L.2013, c.74 (C.23:3-51.2 et al.), shall immediately comply with the instructions and signals of a law enforcement officer, and shall facilitate the officer's safe boarding, and the inspection by such officer of the vessel, its gear, equipment, catch, and any area where fish may be stored.

C.23:3-51.15 Modifications of requirements by commissioner.

17. The commissioner may, with the approval of the New Jersey Marine Fisheries Council, modify the requirements of R.S.23:3-51, R.S.23:3-52, and P.L.2013, c.74 (C.23:3-51.2 et al.) if such modifications are determined to be necessary either to provide for the optimal utilization of any quotas established for menhaden fishing, or to maintain consistency or State compliance with any menhaden fisheries management plan that has been approved by the Atlantic States Marine Fisheries Commission or any federal fishery management council and adopted by the National Marine Fisheries Service. In particular, upon authorization of the New Jersey Marine Fisheries Council, and in accordance with the provisions of this section, the commissioner may modify the following provisions of law:

a. the qualifications for licensure under R.S.23:3-51, or under section 5 or 9 of P.L.2013, c.74 (C.23:3-51.3 or C.23:3-51.7), including any fee amounts required for licensure under those sections;

b. the qualifications for the transfer of a license under section 7 of P.L.2013, c.74 (C.23:3-51.5);

c. the license suspension schedule established by section 15 of P.L.2013, c.74 (C.23:3-51.13);

d. the specifications applicable to vessel upgrades and replacements, as provided by R.S.23:3-51 or section 7 of P.L.2013, c.74 (C.23:3-51.5);

e. the reporting requirements established by section 8 or section 10 of P.L.2013, c.74 (C.23:3-51.6 or C.23:3-51.8);

f. the quota allocation formula established by subsection a. of section 13 of P.L.2013, c.74 (C.23:3-51.11);

g. the season for menhaden fishing established by subsection b. of section 13 of P.L.2013, c.74 (C.23:3-51.11); or

h. the incidental catch allowance provided by subsection e. of section 13 of P.L.2013, c.74 (C.23:3-51.11), or the allocation of that incidental catch allowance to the State's annual quota.

18. This act shall take effect immediately.

Approved June 27, 2013.