

CHAPTER 57

AN ACT concerning the taking of menhaden, amending P.L.1979, c.199, and amending and supplementing P.L.2013, c.74.

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), sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2 through C.23:3-51.15), and section 12 of P.L.2014, c.57 (C.23:3-51.16).

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. Section 4 of P.L.2013, c.74 (C.23:3-51.2) is amended to read as follows:

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), sections 4 through 17 of P.L.2013, c.74 (C.23:3-51.2 through C.23:3-51.15), and sections 12 through 14 of P.L.2014, c.57 (C.23:3-51.16 through C.23:3-51.18):

"Bait net" means a net, including but not limited to a bait seine, cast net, dip net, lift or umbrella net, or killi-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.

"Other authorized gear" means gear listed in subsection a. of section 2 of P.L.1941, c.211 (C.23:5-24.2), including haul seines, fyke nets, and wire pound nets, licensed and permitted for the taking of menhaden pursuant to P.L.2013, c. 74 (C.23:3-51.2 et al.).

"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.

3. Section 5 of P.L.2013, c.74 (C.23:3-51.3) is amended to read as follows:

C.23:3-51.3 Menhaden Landing License.

5. a. Except as provided pursuant to section 12 of P.L.2014, c.57 (C.23:3-51.16), no person shall land for the purposes of sale or barter, or otherwise sell or barter, more than 100 pounds 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, more than 100 pounds 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 more than 100 pounds 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 more than 100 pounds 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 more than 100 pounds 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, more than 100 pounds of menhaden taken by bait net or other authorized gear;

(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, more than 100 pounds 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, or have been issued a Menhaden Purse Seine Fishing Vessel License with a catch designation in 2014 and shall have landed in the State at least 200,000 pounds of menhaden in any one year between 2009 and 2012, inclusive. The gear type assigned to a Menhaden Landing License issued to a vessel with a Menhaden Purse Seine Fishing Vessel License with a catch designation shall be identified as a purse seine-catch;

(2) In order to obtain a license to land menhaden taken by pound net or wire 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, haul seine, or fyke net, the licensee or 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 Menhaden Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

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 for sale or barter, at any time, and on any trip or day.

4. Section 6 of P.L.2013, c.74 (C.23:3-51.4) is amended to read as follows:

C.23:3-51.4 Extension of time to renew Menhaden Landing License, Menhaden Personal Use and Limited Sale License.

6. a. A licensee who is eligible for renewal of their Menhaden Landing License or Menhaden Personal Use and Limited Sale 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 or Menhaden Personal Use and Limited Sale License number, as applicable;

(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.).

5. Section 7 of P.L.2013, c.74 (C.23:3-51.5) is amended to read as follows:

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, the holder of a Menhaden Landing License, issued pursuant to section 5 of P.L.2013, c.74 (C.23:3-51.3), or the holder of a Menhaden Personal Use and Limited Sale License, issued pursuant to section 12 of P.L.2014, c.57 (C.23:3-51.16), 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, including the Menhaden Landing License designated as a purse seine-catch pursuant to paragraph (1) of subsection f. of section 5 of P.L.2013, c.74 (C.23:3-51.3), 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, 10 percent larger in the hold capacity as measured in cubic feet, and not more than 20 percent more powerful in terms of horsepower, than the 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 or a Menhaden Personal Use and Limited Sale 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.).

6. Section 8 of P.L.2013, c.74 (C.23:3-51.6) is amended to read as follows:

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

8. a. The holder of a Menhaden Landing License or the holder of a Menhaden Personal Use and Limited Sale 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, or in hard copy paper form, as provided pursuant to section 14 of P.L.2014, c.57 (C.23:3-51.18), 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 or Menhaden Personal Use and Limited Sale License number, as applicable;
- (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 Menhaden Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

7. Section 10 of P.L.2013, c.74 (C.23:3-51.8) is amended to read as follows:

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, or in hard copy paper form, as provided pursuant to section 14 of P.L.2014, c.57 (C.23:3-51.18), 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 Menhaden Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

8. Section 12 of P.L.2013, c.74 (C.23:3-51.10) is amended to read as follows:

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 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 Fishing Vessel License, a Menhaden Purse Seine Fishing Vessel Operator's 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.

9. Section 13 of P.L.2013, c.74 (C.23:3-51.11) is amended to read as follows:

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, wire pound nets, gill nets, trawls, bait nets, and other authorized gear 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 or wire pound net;

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

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

(6) January 1 to December 31 for licensees taking menhaden, or landing menhaden taken, by other authorized gear not otherwise specified in this subsection.

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, a Menhaden Personal Use and Limited Sale 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 or the holder of a Menhaden Personal Use and Limited Sale License may continue to land an incidental catch as provided by the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden; and (2) the holder of a Menhaden Dealer License may continue to accept an incidental catch from the holder of a Menhaden Landing License or the holder of a Menhaden Personal Use and Limited Sale License, as provided by the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden. The incidental catch allowance authorized by this subsection shall be applied to the annual menhaden catch quota as provided by the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden.

10. Section 14 of P.L.2013, c.74 (C.23:3-51.12) is amended to read as follows:

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

14. a. There is established within the General Fund, a separate, dedicated, and non-lapsing account to be known as the "Menhaden Marine Fisheries Management Account." This account shall be credited with:

(1) 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;

(2) 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); and

(3) all revenues received from the issuance of Menhaden Personal Use and Limited Sale Licenses pursuant to section 12 of P.L.2014, c.57 (C.23:3-51.16).

b. The moneys in the Menhaden 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 the purposes of menhaden quota management, menhaden biological monitoring, and menhaden fisheries law enforcement in connection with the menhaden marine fishery.

11. Section 17 of P.L.2013, c.74 (C.23:3-51.15) is amended to read as follows:

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, under section 5 or 9 of P.L.2013, c.74 (C.23:3-51.3 or C.23:3-51.7), or under section 12 of P.L.2014, c.57 (C.23:3-51.16), 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) provided these requirements are consistent with the procedures and methods established pursuant to section 14 of P.L.2014, c.57 (C.23:3-51.18);
- 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.

C.23:3-51.16 Menhaden Personal Use and Limited Sale License.

12. a. Any person who intends to take menhaden from any State waters, including the waters of the Atlantic ocean within three nautical miles of the State coast line, for personal use as bait, with the option to sell or barter 500 pounds or less in excess of the amount needed for bait per day by the person, shall apply to the commissioner for a Menhaden Personal Use and Limited Sale License, in accordance with the provisions of this section. Upon receipt of the application and payment of the applicable fee, the commissioner may, in the commissioner's discretion and as authorized pursuant to R.S.23:3-51 and section 3 of P.L.2010, c.72 (C.23:3-51.1), issue to the applicant a Menhaden Personal Use and Limited Sale License, 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. Any license application for a Menhaden Personal Use and Limited Sale 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.

b. The provisions of subsection b. of R.S.23:3-51 shall apply to the license established in subsection a. of this section and the taking of menhaden pursuant to this section.

c. A person who is issued a Menhaden Personal Use and Limited Sale License pursuant to subsection a. of this section may take menhaden with a gill net, and the person shall not be required to tend the net.

d. The holder of a license issued pursuant to this section shall have the license on board the vessel being used in the taking of menhaden at all times during that use of the vessel for that purpose.

e. A person applying for a Menhaden Personal Use and Limited Sale License shall meet the following criteria:

- (1) hold a valid gill net license and a pot fishery license; and
- (2) provide proof of harvesting 5,000 pounds or more of any combination of species harvested in baited pots in any one year between 2009 and 2012, inclusive.

f. (1) A resident of the State who is licensed under this section to land menhaden taken by gill net 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 gill net 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 Menhaden Marine Fisheries Management Account, established pursuant to section 14 of P.L.2013, c.74 (C.23:3-51.12).

g. Nothing in this section, R.S.23:3-51, or any other law, or any rule or regulation adopted pursuant thereto, shall prohibit a person who does not possess a Menhaden Personal Use and Limited Sale License from landing 100 pounds or less of menhaden, at any time, and on any trip or day.

h. Except for the excess 500 pounds or less allowed to be sold or bartered pursuant to subsection a. of this section, a holder of a Menhaden Personal Use and Limited Sale License shall only make personal use of menhaden as bait for the person's commercial fishing pots and shall not use menhaden for any other purpose.

C.23:3-51.17 Review of applicable laws, rules, regulations concerning menhaden.

13. Each year, the committee of the Marine Fisheries Council concerned with the menhaden fishery shall meet to review the current State laws and rules and regulations concerning menhaden, the implementation of those laws and rules and regulations, and the status of the menhaden fishery in the State. The committee may make recommendations to the Marine Fisheries Council concerning any changes in laws, rules or regulations, or policies or procedures implemented pursuant to those laws, rules, or regulations that the committee determines to be prudent for the protection and vitality of the menhaden fishery in the State.

C.23:3-51.18 Reporting procedures and methods.

14. a. The Department of Environmental Protection shall, in cooperation with the Marine Fisheries Council, establish reporting procedures and methods which allow a person to comply with all reporting requirements pursuant to P.L.2013, c.74 (C.23:3-51.2 et al.) in a hard copy paper form to be submitted by fax or mailed via the United States Postal Service or other hard copy delivery service. The department shall also make available by fax and mail via the United States Postal Service or other hard copy delivery service any forms or other documents necessary for meeting reporting requirements pursuant to P.L.2013, c.74.

b. The reporting procedures and methods required to be established pursuant to subsection a. of this section shall be in addition to any electronic reporting procedures and methods established and provided by the department. A person may comply with reporting requirements pursuant to P.L.2013, c.74 by electing at the person's discretion to use the hard copy paper form or electronic form of reporting.

15. For calendar year 2014 only, the Department of Environmental Protection shall transfer 700,000 pounds of the State's menhaden quota from the purse seine allocation to commercial fixed gear, as needed.

16. This act shall take effect immediately.

Approved September 10, 2014.