

of his religion, he observes as his sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home, provided, however, that any employee intending to be absent from work when so required by his or her creed or religion shall notify his or her employer not less than ten days in advance of each absence, and that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time at some other mutually convenient time. Nothing under this subsection shall be deemed to require an employer to compensate an employee for such absence. "Reasonable Accommodation", as used in this subsection shall mean such accommodation to an employee's or prospective employees' religious observance or practice as shall not cause undue hardship in the conduct of the employer's business. The employee shall have the burden of proof as to the required practice of his creed or religion.

Undue hardship, as used herein, shall include the inability of an employer to provide services which are required by and in compliance with all federal and state laws, including regulations or tariffs promulgated or required by any regulatory agency having jurisdiction over such services or where the health or safety of the public would be unduly compromised by the absence of such employee or employees, or where the employee's presence is indispensable to the orderly transaction of business and his or her work cannot be performed by another employee of substantially similar qualifications during the period of absence, or where the employee's presence is needed to alleviate an emergency situation. The employer shall have the burden of proof to show undue hardship.

*Approved October 17, 1973.*

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**Chap. 930.** AN ACT PROVIDING FOR THE REPAIR, REHABILITATION AND REPLACEMENT OF CERTAIN TIDE GATES, SO CALLED, LOCATED IN THE CITY OF CHELSEA.

*Be it enacted, etc., as follows:*

Section 5 of chapter 803 of the acts of 1972 is hereby amended by striking out, in lines 21 to 23, inclusive, the words "such of the city of Boston's tide gates, so called, as are located in the Charlestown and East Boston districts of said city" and inserting in place thereof the words: — such tide gates, so called, as are located in the Charlestown and East Boston districts of the city of Boston and in the city of Chelsea.

*Approved October 17, 1973.*

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**Chap. 931.** AN ACT RELATIVE TO AQUACULTURE.

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 130 of the General Laws is hereby amended by inserting after section 17A the following section: —

Section 17B. Notwithstanding the provisions of sections forty-one through forty-four, inclusive, sixty-nine, seventy, seventy-one

and seventy-two, the director may, by issuance of a written permit under such terms and conditions as he may impose, authorize the possession of fish at any season and of any size for purposes of propagation, rearing, harvesting or sale in connection with an aquacultural enterprise in which the fish being so propagated, reared and harvested are kept separate from natural stocks of the same species.

SECTION 2. Section 57 of said chapter 130, as appearing in section 1 of chapter 598 of the acts of 1941, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph: —

The city council of a city or the selectmen of any town may, upon written application therefor and after public notice and hearing thereon as provided in section sixty, grant to any person a license for a period not exceeding ten years to plant, grow, and take shellfish and to plant cultch for the purpose of catching shellfish seed, in such city or town at all times of the year, in, upon or from a specific portion of flats or land under coastal waters, provided the division of marine fisheries shall, after inspection, certify that the license and operation thereunder would cause no substantial adverse effect on the natural shellfish resources of the town, and provided further, no license shall be issued for any area then or within two years prior thereto, closed for municipal cultivation under the provisions of section fifty-four. Licenses under this section shall be issued upon forms supplied by such cities and towns and upon such terms and conditions and subject to such regulations as the city council or selectmen issuing the same shall deem proper, but not so as to impair the private rights of any person or to materially obstruct navigable waters, and they shall describe by meets and bounds the waters, flats or creeks covered thereby.

SECTION 3. Section 58 of said chapter 130, as so appearing, is hereby amended by inserting after the word "transferred", in lines 2 and 3, the words: — with the approval of the city council or selectmen.

SECTION 4. Said chapter 130 is hereby further amended by striking out section 59, as so appearing, and inserting in place thereof the following section: —

Section 59. Any person, firm or corporation qualified as provided in section fifty-seven and desiring to obtain a license thereunder shall present to the city council or selectmen a written application setting forth the name and residence of the applicant, a definite description made by reference to a survey conducted by the applicant, and a request that such license be granted to the applicant.

SECTION 5. Section 61 of said chapter 130, as so appearing, is hereby amended by striking out the first sentence.

SECTION 6. The third sentence of section 62 of said chapter 130, as so appearing, is hereby amended by striking out, in line 6, the words: — in making such survey and plan and.

SECTION 7. Section 64 of said chapter 130, as so appearing, is hereby amended by striking out, in line 4, the words "one or more than five" and inserting in place thereof the words: — five nor more than twenty-five.

SECTION 8. Section 65 of said chapter 130, as so appearing, is hereby amended by striking out, in line 11, the word "twenty-five" and inserting in place thereof the words: — one hundred, — by striking out, in line 13, the word "fifty" and inserting in place thereof the words: — two hundred and fifty, — and by striking out, in line 16, the word "may" and inserting in place thereof the word: — shall.

SECTION 9. Said chapter 130 is hereby amended by inserting after section 68 the following section: —

*Section 68A.* The selectmen of a town or the mayor of a city, upon a written application accompanied by plans sufficient to show the intended work, may grant to any person an aquaculture license to grow shellfish by means of racks, rafts, or floats in waters of the commonwealth below the line of extreme low water. The selectmen or mayor shall grant or deny said license in writing within sixty days after receipt of the written application therefor. Not more than thirty days after the grant or denial of a license, any person aggrieved by said grant or denial may, by certified mail, request the division of marine fisheries to determine whether such license or operation thereunder will cause any adverse effect on the shellfish or other natural resources of the city or town. The person making any such request shall, at the same time, send a copy thereof by certified mail to the board of selectmen or the mayor who granted or denied said license. If such person is other than the applicant, upon receipt of such request the division of marine fisheries shall make the determination requested and shall in writing grant or deny said license or impose such conditions as will contribute to the protection of the interests described herein. Such determination shall supersede the prior action of the board of selectmen or mayor.

Any person aggrieved by the determination of the division of marine fisheries under this section may appeal under the provisions of chapter thirty A. Such right of appeal shall be exclusive.

Said license shall be for a period of not more than ten years and may be renewed for similar periods. Said license may contain terms and conditions and may be revoked for failure to comply therewith or for lack of substantial use of the licensed area. Said licensee shall have the right to the exclusive use of the lands and waters within one hundred feet of said racks, rafts or floats for the purposes of growing shellfish thereon, and the license shall plainly mark the boundaries of said area. The selectmen or mayor shall permit, as a condition of the license, such public uses of said waters and lands as are compatible with the aquacultural enterprise. Whoever without the consent of the licensee and unless permitted by the terms of the license, takes shellfish from the licensed lands or waters, or from said racks, rafts or floats, or in any way disturbs

the growth of the shellfish thereon, or discharges any substance which may directly or indirectly injure the shellfish upon said racks, rafts, or floats, or willfully injures, defaces, destroys, removes or trespasses upon said racks, rafts, or floats or any mark or bound used to define the extent of any shellfish license, or ties or fastens any boat or vessel thereto, shall be liable in tort for treble damages and costs to the licensee or transferee injured by such act. Nothing in this section shall excuse the licensee from complying with other laws concerning interference with navigation.

*Approved October 17, 1973.*

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**Chap. 932.** AN ACT EXEMPTING CERTAIN MEDICAL IMPLEMENTS COMMONLY USED BY PERSONS WHO HAVE UNDERGONE A COLOSTOMY OR AN ILEOSTOMY FROM THE TAX ON RETAIL SALES.

*Be it enacted, etc., as follows:*

Section 6 of chapter 64H of the General Laws is hereby amended by adding after paragraph (y), added by section 45A of chapter 555 of the acts of 1971, the following paragraph: —

(z) All medical implements, pads, pouches and solutions purchased by a person who has undergone a colostomy or an ileostomy which are used entirely as the result of such operation.

*Approved October 17, 1973.*

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**Chap. 933.** AN ACT AUTHORIZING MUNICIPAL LIGHTING PLANTS TO OPERATE AND MAINTAIN COMMUNITY ANTENNA TELEVISION SYSTEMS.

*Be it enacted, etc., as follows:*

SECTION 1. Chapter 164 of the General Laws is hereby amended by striking out section 34, as most recently amended by chapter 146 of the acts of 1966, and inserting in place thereof the following section: —

*Section 34.* A town may, in accordance with this chapter, construct, purchase or lease, and maintain within its limits, one or more plants for the manufacture or distribution of gas or electricity or for the operation of a community antenna television system for municipal use or for the use of its inhabitants. Such plants may include suitable land, structures and machinery and other apparatus and appliances for operating a community antenna television system or for manufacturing, using and distributing gas or electricity for said purposes. A town, engaged in the business of operating a community antenna television system, or of distributing gas or electricity, may, as a part of such business if an