

HOUSE No. 1063

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 8, 1928.

The committee on Public Health, to whom was referred the petition (accompanied by bill, House, No. 518) of Ernest J. Dean relative to the administration and enforcement of the laws regulating the taking, marketing and transportation of shellfish, report the accompanying bill (House, No. 1063).

For the committee,

IRVING E. WALKER.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Twenty-Eight.

An Act relative to the Administration and Enforcement of the Laws regulating the Taking, Marketing and Transportation of Shellfish.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter one hundred and thirty of
2 the General Laws is hereby amended by striking out
3 section one hundred and thirty-eight, inserted by sec-
4 tion one of chapter three hundred and seventy of the
5 acts of nineteen hundred and twenty-six, and insert-
6 ing in place thereof the following:— *Section 138.*
7 Whoever, without the written approval of the com-
8 missioner of public health, digs or takes shellfish for
9 any purpose from any area determined under the
10 preceding section or corresponding provisions of
11 earlier laws to be contaminated and while such de-
12 termination is in force, or whoever knowingly trans-
13 ports or causes to be transported or has in possession
14 shellfish so taken, or whoever makes use of a certificate
15 issued under section one hundred and thirty-nine after
16 its revocation or cancellation as therein provided or
17 wilfully fails to surrender the same at the request of
18 the department, shall be punished by a fine of not
19 less than twenty nor more than one hundred dollars
20 or by imprisonment for not more than thirty days, or

21 both. The provisions of this section shall be enforced
22 by fish and game wardens and deputy fish and game
23 wardens of the division of fisheries and game of the
24 department of conservation assigned to enforce the
25 shellfish laws and by all other officers authorized to
26 make arrests. The superior court shall have juris-
27 diction in equity to enforce the provisions of this
28 section and section one hundred and thirty-nine and
29 of the rules and regulations of the department of public
30 health made under said section one hundred and
31 thirty-nine, and to restrain the violation thereof. In
32 any prosecution for a violation of the provision of this
33 section prohibiting the digging or taking, without the
34 written approval of the commissioner of public health,
35 of shellfish from areas determined to be contaminated,
36 possession, except by a common carrier, of shellfish
37 apparently so dug or taken shall be prima facie evi-
38 dence of a violation of such provision.

1 SECTION 2. Said chapter one hundred and thirty
2 is hereby further amended by striking out section one
3 hundred and thirty-nine, inserted by said section one
4 of said chapter three hundred and seventy, and in-
5 serting in place thereof the following: —

6 *Section 139.* Subject to such rules and regulations
7 as it may promulgate, the department shall issue
8 certificates relative to the condition of the tidal
9 waters and flats and shellfish taken therefrom, in
10 respect to contamination, and, upon the request of
11 and the payment of a fee of ten dollars by a person
12 who buys shellfish or maintains an establishment for
13 packing shellfish and desires to ship the same outside
14 the commonwealth, and, upon the request of and the
15 payment of a fee of two dollars by a person who takes

16 or digs shellfish and desires to ship the same outside
17 the commonwealth, the department may annually
18 issue certificates relative to the condition of the es-
19 tablishment or equipment of such person. The said
20 certificates shall be in such form as will most effectively
21 safeguard the public health and meet the provisions
22 of the laws, rules, regulations or requirements of the
23 United States as to interstate commerce in shellfish
24 and of other states in relation to the importation, in-
25 spection and consumption of shellfish within their
26 respective limits. The department may also promul-
27 gate rules and regulations relative to the form, con-
28 tents and use of said certificates to such extent as
29 may be necessary to safeguard the public health and
30 to enable the shellfish industry to comply with the
31 said provisions. The commissioner of public health
32 may revoke and cancel and require the surrender of
33 any certificate issued under this section if, in his
34 opinion, after a hearing by the said commissioner or
35 someone designated by him the holder thereof is
36 guilty of violating any such rule or regulation or any
37 provision of this or the preceding section, or upon a
38 change in the facts and conditions set forth in such
39 certificate. Pending the hearing the certificate shall
40 be considered to be suspended.