

**HOUSE . . . . . No. 1 2 2 8**

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By Mr. Chmura of Ludlow, petition of Steve T. Chmura, Robert W. Gillette and Robert E. Cahill for legislation relative to aquaculture and marine fisheries management. Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Three.

**AN ACT RELATIVE TO AQUACULTURE.**

*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 130 of the General Laws is hereby  
2 amended by inserting after section 17A the following new  
3 section: —

4 Notwithstanding the provisions of section forty-one through  
5 forty-four, inclusive, sixty-nine, seventy, seventy-one and  
6 seventy-two, the Director may, by issuance of a written permit  
7 under such terms and conditions as he may impose, authorize the  
8 possession of fish at any season and of any size for purposes of  
9 propagation, rearing, harvesting or sale in connection with an  
10 aquacultural enterprise in which the fish being so propagated,  
11 reared and harvested are kept separate from natural stocks of the  
12 same species.

1 SECTION 2. Section 57 of chapter 130 of the General Laws  
2 added by chapter 598 of the acts of 1941, is hereby amended by  
3 striking the first paragraph thereof and inserting in place thereof  
4 the following new paragraph: —

5 The city council of a city or the selectmen of any town when  
6 so authorized by their town may, upon written application  
7 therefor and after public notice and hearing thereon as provided  
8 in section sixty, grant to any person a license for a period not  
9 exceeding ten years to plant, grow, and take shellfish and to  
10 plant cultch for the purpose of catching shellfish seed, in such

11 city or town at all times of the year, in, upon or from a specific  
12 portion of flats or land under coastal waters, provided the  
13 division of marine fisheries shall, after inspection, certify that the  
14 license and operation thereunder would cause no substantial  
15 adverse effect on the natural shellfish resources of the town, and  
16 provided further, no license shall be issued for any area then or  
17 within two years prior thereto, closed for municipal cultivation  
18 under the provisions of section fifty-four. Licenses under this  
19 section shall be issued upon forms supplied by such cities and  
20 towns and upon such terms and conditions and subject to such  
21 regulations as the city council or selectmen issuing the same shall  
22 deem proper, but not so as to impair the private rights of any  
23 person or to materially obstruct navigable waters, and they shall  
24 describe by meets and bounds the waters, flats or creeks covered  
25 thereby.

1 SECTION 3. Section 58 of said chapter 130, added by  
2 chapter 598 of the acts of 1941, is hereby amended by inserting  
3 after the word "transferred", the first time it appears in said  
4 section, the following words: — with the approval of the city  
5 council or selectmen.

1 SECTION 4. Section 59 of said chapter 130, added by  
2 chapter 598 of the acts of 1941, is hereby amended by striking  
3 out the words "a request that the territory be surveyed and a  
4 plan thereof made, if the same has not already been done" and  
5 inserting in place thereof the following words: — a surveyed plan.

1 SECTION 5. Section 61 of said chapter 130, added by  
2 chapter 598 of the acts of 1941, is hereby amended by striking  
3 out the first sentence thereof.

1 SECTION 6. Section 62 of said chapter 130, added by said  
2 chapter 598, is hereby amended by striking out in the third  
3 sentence, the following words: — in making such survey and plan  
4 and.

1 SECTION 7. Section 64 of said chapter 130, added by said  
2 chapter 598, is hereby amended by striking out the words "not

3 less than one nor more than five” and inserting in place thereof  
4 the following words: – “not less than five nor more than  
5 twenty-five dollars per acre, or part thereof”.

1 SECTION 8. Section 65 of said chapter 130, added by  
2 chapter 598 of the acts of 1941, is hereby amended by striking  
3 out the words “twenty-five” in line 9 and inserting in place  
4 thereof the word “one hundred”. Said section 65 is hereby  
5 further amended by striking out the word “fifty” in line 10 and  
6 inserting in place thereof the words “two hundred and fifty”.  
7 Said section 65 is hereby further amended by striking out the  
8 word “may” in line 13 and inserting in place thereof the word  
9 “shall”.

1 SECTION 9. Chapter 130 of the General Laws is hereby  
2 amended by inserting after section 68 the following new  
3 sections: –

4 *Section 68A.* The city council of a city or the selectmen of  
5 any town upon a written application accompanied by plans  
6 sufficient to show the intended work, and after a public hearing  
7 in the city or town in which the waters are located, may grant to  
8 any person an aquaculture license to grow shellfish by means of  
9 racks, rafts, or floats in waters of the Commonwealth below the  
10 line of extreme low water provided the division, after inspection  
11 certified that the license and operation thereunder would cause  
12 no adverse effect on the shellfish or other natural resources of  
13 the town. Said license shall be for a period of not more than ten  
14 years and may be renewed for similar periods after a public  
15 hearing in the community. Said license, to be for such fee as the  
16 city council of a city or the selectmen of any town may specify,  
17 may contain terms and conditions and may be revoked for failure  
18 to comply therewith or for lack of substantial use of the licensed  
19 area. Said license may be transferred with the approval of the  
20 city council of a city or the selectmen of any town. Said licensee  
21 shall have the right to the exclusive use of the lands and waters  
22 within one hundred feet of said racks, rafts or floats for the  
23 purposes of growing shellfish thereon, and the licensee shall  
24 plainly mark the boundaries of said area. The city council of a  
25 city or the selectmen of any town shall permit, as a condition of



26 the license, such public uses of said waters and lands as are  
27 compatible with the aquacultural enterprise. No person without  
28 the consent of the licensee and unless permitted by the terms of  
29 the license, shall take shellfish from the licensed lands or waters,  
30 or from said racks, rafts or floats, or in any disturb the growth of  
31 the shellfish thereon, or discharge any substance which may  
32 directly or indirectly injure the shellfish upon said racks, rafts or  
33 floats, or willfully injure, deface, destroy, remove or trespass  
34 upon said racks, rafts or floats or any mark or bound used to  
35 define the extent of any shellfish license, or tie or fasten any  
36 boats or vessel thereto. Any person performing any act described  
37 in the preceding sentence shall be liable in tort for treble  
38 damages and costs to the licensee or transferee injured by such  
39 act. Nothing in this section shall excuse the licensee from  
40 complying with other laws concerning interference with navi-  
41 gation.