

By Mr. Gillette of Pembroke, petition of Robert W. Gillette, Richard R. Silva, Richard J. Dwinell and Joseph S. Scelsi that provision be made for the non-criminal disposition of certain fish and game and marine fishery violations. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT PROVIDING FOR THE NON-CRIMINAL DISPOSITION OF CERTAIN FISH AND GAME AND MARINE FISHERY VIOLATIONS.

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 21 of the General Laws is hereby
2 amended by inserting after section 6E the following new
3 section:—

4 *Section 6F.* If the Director, his assistants and any Natural
5 Resource Officer empowered to enforce the section contained in
6 section two of this act, has probable cause to believe that a
7 violation of any of said sections has occurred or is occurring, he
8 may request the offender to state his name and address. Whoever,
9 upon such request, refuses to state his name and address may be
10 arrested without a warrant, or if he states a false name and ad-
11 dress or a name and address which is not his name and address in
12 ordinary use, he shall be punished by a fine of not less than fifty
13 nor more than one hundred dollars. Such officer may, as an
14 alternative to instituting criminal proceedings, forthwith give to
15 the offender a written notice to appear before the clerk of the
16 district court having jurisdiction at any time during office hours,
17 not later than twenty-one days after the date of said violation.
18 Such notice shall be made in triplicate, and shall contain the
19 name and address of the offender and when served with the notice
20 in hand at the time of such violation, the number of his license, if
21 any, to operate motor vehicles; the registration number of the
22 vehicle or motor boat involved, if any; the number of the license,

23 certificate, or permit, if any, issued pursuant to Chapter 130 or
24 Chapter 131 which is pertinent to the violation so charged; the
25 time and place of the violation; the specific offense charged; and
26 the time and place for his required appearance. Such notice shall
27 be signed by the officer, and shall be signed by the offender in
28 acknowledgement that the notice has been received. The officer
29 shall deliver to the offender at the time and place of the violation
30 a copy of said notice. At or before the completion of each tour of
31 duty the officer shall forward to his commanding officer those
32 copies of each notice of such a violation that he has taken
33 cognizance of during such tour which have been delivered by him
34 as aforesaid. Said commanding officer shall retain and safely,
35 preserve one of such copies and shall, at a time not later than the
36 next court day after said delivery, forward another of such copies
37 to the clerk of the court before whom the offender has been
38 notified to appear. The clerk of each district court shall maintain
39 a separate docket of all such notices to appear.

40 Any person notified to appear before the clerk of a district
41 court as herebefore provided may appear before such clerk and
42 confess the offense charged either personally or through an agent
43 duly authorized in writing providing that it is the first offense for
44 said violation within two calendar years. At the time of such
45 appearance said person shall provide the clerk with the written
46 notice issued by the officer and shall pay the clerk the fine for the
47 violation as provided in section two of this act, such payment to
48 be made only by postal note, money order or check. Payment to
49 such clerk of the fine prescribed by this chapter shall operate as a
50 final disposition of the case. Proceedings under this paragraph
51 shall not be deemed criminal; and no person notified to appear
52 before the clerk of a district court as provided herein shall be
53 required to report to any probation officer, and no record of the
54 case shall be entered in the probation records.

55 If in the foregoing process for the non-criminal disposition for
56 the first offense of certain violations contained herein the court
57 finds that the interests of justice so require it may cause an
58 issuance of a warrant as provided in Section 32 of Chapter 218 of
59 the General Laws which shall proceed in the usual manner of
60 criminal process.

61 If any person notified to appear before the clerk of the district
62 court fails to appear and pay the fine provided hereunder or,
63 having appeared, desires not to avail himself of the procedure

64 herebefore provided for the non-criminal disposition of the case,
65 the clerk shall, as soon as may be, notify the officer concerned,
66 who shall forthwith make a complaint and follow the procedure
67 established for criminal cases. If any person fails to appear in
68 accordance with the summons issued upon such complaint the
69 clerk shall send such person by certified mail, return receipt
70 requested, a notice that the complaint is pending and that if the
71 person fails to appear within twenty-one days from the sending of
72 such notice a warrant for his arrest will be issued. If any person
73 fails to appear within twenty-one days from the sending of such
74 notice, the court shall issue a warrant for his arrest.

75 The notice to appear, provided herein, shall be printed in such
76 form as the chief justice of the municipal court of the city of
77 Boston may prescribe for said court; and as the chief justice of the
78 district courts may prescribe for the district courts other than the
79 municipal court of the city of Boston.

80 The Secretary of the Executive Office of Environmental Affairs
81 shall adopt rules and regulation consistent with the provisions of
82 this chapter and shall file said regulations in accordance with the
83 provisions of Section 37 of Chapter 30 of the General Laws.

1 SECTION 2. Chapter 21 of the General Laws is hereby
2 amended by inserting after section 6F the following new
3 section:—

4 *Section 6F.* Any person notified to appear before the clerk of a
5 district court as provided in section one of this act for a violation
6 of section four A of chapter 21 of the General Laws may so
7 appear within the time specified and pay a fine of ten dollars.

8 Any person notified to appear before the clerk of a district
9 court as provided in section one of this act for a violation of the
10 following sections of chapter 130 of the General Laws may so
11 appear within the time specified and pay a fine of ten dollars:
12 Section Seventeen A, thirty-three, thirty-four, thirty-six, thirty-
13 seven, thirty-nine, forty, fifty-one, sixty-nine, seventy, seventy-
14 one, seventy-two, eighty, eighty-one, eighty-two, ninety-five, one
15 hundred and one hundred A.

16 Any person notified to appear before the clerk of a district
17 court as provided in section one of this act for a violation of the
18 following sections of chapter 130 of the General Laws may so

19 appear within the time specified and pay a fine of fifty dollars:
20 Sections thirty-five, thirty-eight, thirty-eight A, forty-one, forty-
21 one A, forty-four, ninety-two, and one hundred C.

22 Any person notified to appear before the clerk of a district
23 court as provided in section one of this act for a violation of the
24 following sections of chapter 130 of the General Laws may so
25 appear within the time specified and pay a fine of one hundred
26 dollars: Section forty-seven and section seventy-five.

27 Any person notified to appear before the clerk of a district
28 court as herebefore provided for a violation of the following
29 sections of chapter 131 of the General Laws may so appear and
30 pay a fine of twenty dollars: Sections, five, eight, ten, eleven,
31 sixteen, nineteen A, twenty-three through twenty-five inclusive,
32 twenty-six, twenty-six A, twenty-seven, thirty, thirty-two, thirty-
33 six, thirty-eight, forty-four, forty-seven, forty-nine through fifty-
34 four inclusive, fifty-seven through fifty-nine inclusive, sixty-nine,
35 seventy-one, seventy-two, seventy-nine, eighty, and eighty-two.