

By Mr. Melia of Boston, petition of John F. Melia for legislation to transfer certain licensing authority for the sale of fish and fish products to the Department of Public Health, Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

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

AN ACT TRANSFERRING CERTAIN LICENSING AUTHORITY TO THE DEPARTMENT OF PUBLIC HEALTH.

*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. Section 1 of Chapter 94 of the General Laws, as  
2 most recently amended by Chapter 607 of the acts of 1973, is  
3 hereby further amended by inserting the following definitions: —  
4 “canned lobster meat or crab meat”, lobster meat or crab meat  
5 preserved by heat processing, freezing or refrigeration, and  
6 packed in a container impervious to contamination and so sealed  
7 and once opened it cannot be resealed or reused for its original  
8 purpose.

9 “Clam”, a marine mollusk of the species *Mya arenaria*  
10 commonly called the soft-shell clam.

11 “Fish”, any animal life inhabiting the ocean or its connecting  
12 waters including any crustacean or marine fish, whether free  
13 swimming or free moving, and any shellfish or sea worms,  
14 whether or not imbedded in the soil. All provisions of the chapter  
15 relative to fish, shall, so far as apt, apply also to lobster meat and  
16 crab meat.

17 “lobster”, the common American lobster, of the species  
18 *Homarus Americanus*.

19 “Retail dealer”, any person not a wholesale dealer who  
20 distributes fish commercially.

21 “Scallop”, a marine mollusk of the species *Aequipecten*  
22 *irradians*, commonly known as the cape scallop or bay scallop.

23 “Sea Scallop”, a marine mollusk of the species *Pecten*  
24 *magellanicus*, commonly known as deep water scallop.

25 "seafood", shall consist of fin fish, shellfish or crustacea which  
26 is either fresh, frozen, cooked, partially cooked, salted or smoked.

27 "Shellfish", clams, conchs, mussels, oysters, periwinkles,  
28 quahaugs, razor clams, or razor fish, scallops, sea clams, sea  
29 quahaugs, sea scallops and winkles.

30 "Wholesale dealer", any person who distributes fish commer-  
31 cially in bulk or for resale by a dealer, or who operates branch  
32 stores for the retail sale of fish.

1 SECTION 2. The second and third paragraphs of section  
2 eighty of chapter one hundred and thirty of the General Laws, as  
3 appearing in section five of chapter 861 of the acts of 1970, are  
4 hereby repealed.

1 SECTION 3. The second sentence of the fifth paragraph of  
2 section eighty of chapter one hundred and thirty of the General  
3 Laws, as so appearing, is hereby amended by striking out the  
4 words, "fish or the sale thereof, or of" found in line eight of said  
5 paragraph as so appearing.

1 SECTION 4. Items B and C of section eighty-three of chapter  
2 one hundred and thirty of the General Laws, as appearing in  
3 section six of Chapter 861 of the Acts of 1970, are hereby  
4 repealed.

1 SECTION 5. Chapter ninety-four of the General Laws is  
2 hereby amended by inserting after section seventy-seven I the  
3 following new section:—

4 *Section 77J.* A person shall not for commercial purposes  
5 acquire, handle, store, distribute, process, fillet, shop or sell  
6 seafood, in bulk, or for resale without first obtaining a wholesale  
7 dealer permit from the department of public health, division of  
8 food and drugs. Said permit shall expire one year from the date of  
9 issuance and the fee for such permit shall be fifty dollars;  
10 *provided*, that the holder of a valid commercial fisherman permit  
11 issued by the department of natural resources who catches fish or  
12 takes lobsters and sells such fish or lobsters to wholesale or retail  
13 dealers exclusively shall be exempt from obtaining a wholesale  
14 dealer permit.

15 A person shall not sell seafood at retail without first obtaining  
16 a retail dealer permit issued by the department of public health,  
17 division of food and drugs, provided that the holder of a  
18 wholesale dealer permit may sell fish at retail at one location  
19 which shall be named on the wholesale dealer permit. The retail  
20 dealer permit shall expire one year from the date of issuance and  
21 the fee for such permit shall be twenty-five dollars.

22 A person shall not for commercial purposes shuck shellfish, or  
23 pack or repack shucked shellfish, or dig, take, pack or buy  
24 shellfish within this Commonwealth for shipment outside the  
25 Commonwealth, without the approval of the director of food and  
26 drugs. An endorsement to this effect shall be designated on the  
27 permit held by such person at no additional cost.

28 Whoever violates any provision of this section shall be  
29 punished by a fine of not less than fifty nor more than one  
30 hundred dollars or by imprisonment for thirty days or both such  
31 fine and imprisonment.

32 Monies received in accordance with the provisions of this  
33 section shall be credited to the marine fisheries fund established  
34 under the provisions of section 2A of chapter 130 of the General  
35 Laws.

1 SECTION 6. Section 2A of chapter 130 of the General Laws,  
2 as appearing in section 7 of chapter 715 of the acts of 1962, is  
3 hereby amended by striking out the last sentence, and inserting in  
4 place thereof the following sentence: — All monies in said fund  
5 shall be appropriated only for the purpose of maintaining,  
6 managing, operating and administering the division of marine  
7 fisheries in carrying out its functions, with the sole exception that  
8 fifty percent of the monies credited to the marine fisheries fund  
9 under the provisions of section 77J of chapter 94 of the General  
10 Laws shall be appropriated solely for the purpose of seafood  
11 inspection and regulation programs of the division of food and  
12 drugs of the department of public health.

