

HOUSE No. 617

Bill accompanying the petition of Marcus H. Howes for legislation to authorize the town of Barnstable to grant licenses for the purpose of cultivating and planting clams and quahaugs. Fisheries and Game. January 16.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Eleven.

AN ACT

Relative to the Planting and Cultivating of Clams and
Quahaugs in the Town of Barnstable.

*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. Upon an application in writing the se-
2 lectmen of the town of Barnstable may grant a written
3 license subject to such rules and regulations as they may
4 make for the purpose of planting and cultivating clams
5 and quahaugs upon and in the flats, waters and creeks
6 of the said town of Barnstable below mean high water
7 mark and within the limits to be specified in the license,
8 not however impairing the private rights of any person,
9 for a term of not more than ten years to any inhabitant
10 of the town of Barnstable, and the territory covered by

11 such license shall not be more than five acres for each
12 clam or quahaug grant, and all such licenses may be
13 assigned by the licensee to any person who is an inhab-
14 itant of said town, but shall not be assigned or trans-
15 ferred without the written consent of the selectmen of
16 said town.

1 SECTION 2. The licenses herein provided for shall not
2 be granted if their exercise would materially obstruct
3 navigable waters. No license shall be granted under
4 this act until after a public hearing, notice of which shall
5 be published in a newspaper published in said town at
6 least ten days before the hearing. Such notice shall
7 state the name and residence of the applicant, the date
8 of filing the application and the location, area, and de-
9 scription of the grounds applied for.

1 SECTION 3. It shall be unlawful for any person ex-
2 cept the licensee or his agents or assigns to dig or take
3 such shellfish or seed within the territory covered by a
4 license granted hereunder or to remove the same from
5 said territory.

1 SECTION 4. A license granted hereunder shall de-
2 scribe by metes and bounds the waters, flats and creeks
3 to which the license is applicable, and it shall have no
4 force until it is recorded with the town clerk of said
5 town, and the licensee shall pay annually to the town
6 a fee of not less than one dollar nor more than five dol-
7 lars per acre for the license, as the selectmen shall de-
8 termine. A recording fee of fifty cents shall be paid to
9 the town clerk for recording said license or any assign-
10 ment thereof.

1 SECTION 5. The said license and any assignment
2 thereof shall be recorded in a book to be kept for such
3 purpose in the office of the town clerk, and such book
4 shall be open to the inspection of the public. Forms for
5 licenses and for assignments shall be provided by the
6 selectmen.

1 SECTION 6. If it appears to the selectmen that the
2 licensee or his heirs or assigns for a period of any two
3 years does not actually occupy and use the grant for the
4 purposes specified in the license, they may, after a public
5 hearing, thirty days' notice of which shall be given to
6 the licensee, revoke such license and the use of the terri-
7 tory shall revert to the town.

1 SECTION 7. The licensee, his heirs or assigns, shall,
2 for the purposes described in the license, have the ex-
3 clusive use of the territory described therein during the
4 term of the license, and may in an action of tort, recover
5 treble damages of any person who without his or their
6 consent, digs or takes such shellfish or seed in the terri-
7 tory covered by the license, or removes the same there-
8 from. Whoever digs, takes or removes such shellfish or
9 seed shall in addition be subject to a penalty of twenty
10 dollars for each offence.

1 SECTION 8. All acts and parts of acts inconsistent
2 herewith are hereby repealed.

1 SECTION 9. This act shall take effect upon its passage.

