

Accompanying the thirty-eighth recommendation of the Department of Fisheries, Wildlife and Recreational Vehicles (House, No. 123). Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Five.

AN ACT RELATIVE TO THE NON-CRIMINAL DISPOSITION OF CERTAIN SHELLFISH 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 is hereby amended by striking out
2 section 6F inserted by Chapter 387 of the acts of 1978, and insert-
3 ing in place thereof the following section: —

4 *Section 6F.* If the director, his assistants and any natural
5 resource officers, deputy natural resource officers, members of the
6 State and Metropolitan District police and local town law
7 enforcement officials in shellfish beds over which they have juris-
8 diction, empowered to enforce the sections contained in Section
9 6G, has probable cause to believe that a violation of said sections
10 has occurred or is occurring, he may request the offender to state
11 his name and address. Whoever, upon such request, refuses to
12 state his name and address may be arrested without a warrant, or if
13 he states a false name and address or a name and address which is
14 not his name and address in ordinary use, shall be punished by a
15 fine of two hundred dollars.

16 Such officer may, as an alternative to instituting criminal pro-
17 ceedings, forthwith give to the offender a written notice to appear
18 before the clerk of the district court having jurisdiction at any time
19 during office hours, not later than twenty-one days after the date
20 of such violation. Five copies of such notice shall be made and each
21 shall contain the name and address of the offender and if served
22 with the notice in hand at the time of such violation, the number of

23 his license, if any, to operate motor vehicles; the registration
24 number of the vehicle or motorboat involved, if any; the number of
25 the license, certificate, or permit, if any, issued pursuant to chapter
26 one hundred and thirty or chapter one hundred and thirty-one
27 which is relevant to the violation so charged; the time and place of
28 the violation; the specific offense or offenses charged; and the time
29 and place for his required appearance. Such notice shall be signed
30 by the officer, and shall be signed by the offender in acknowledgment
31 that the notice has been received. The officer shall deliver to
32 the offender at the time and place of the violation a copy of said
33 notice. At or before the completion of each tour of duty the officer
34 shall forward to his commanding officer copies of each notice of
35 such violation that he has issued during such tour. Said commanding
36 officer shall retain and safely preserve one of such copies.
37 Before the end of his tour of duty, such issuing officer shall
38 forward to the respective court before whom the offender has been
39 notified to appear, the court copy of each notice of such violation
40 that he has issued during such tour. The clerk of each district court
41 shall maintain a separate docket of all such notices to appear.

42 Any person so notified to appear before the Clerk of a District
43 Court may appear before such Clerk and confess the offense
44 charged, either personally or through an agent duly authorized in
45 writing; or may mail to such Clerk, with the Citation, the fine
46 provided therein provided that it is the first offense for such
47 violation within two calendar years. At the time of such appearance
48 said person shall provide the Clerk with the notice issued by said
49 officer and shall pay to the Clerk the fine as provided in Section
50 6G. such payment to be made only by cash, postal note, money
51 order or check. Payment of such fine shall operate as a final
52 disposition of the case. All monies collected as a result of these
53 fines shall be retained by the District Court. Proceedings under
54 this paragraph shall not be deemed as criminal; and a person so
55 notified to appear before the Clerk of a District Court shall not be
56 required to report to any probation officer, and no record of the
57 case shall be entered into the probation records. If at any time, the
58 court finds that the interest of justice so require, it may cause a
59 warrant to be issued as provided in Section thirty-two of Chapter
60 two hundred and eighteen of the General Laws.

61 If any person notified to appear before the clerk of the district
62 court fails to so appear and pay the fine provided hereunder or,
63 having appeared, desires not to avail himself of the procedure for
64 the non-criminal disposition of the case, the clerk shall notify the
65 officer concerned, who shall forthwith make a criminal complaint.
66 If any person fails to appear in accordance with a summons issued
67 upon such complaint the clerk shall send to such person by certi-
68 fied mail, return receipt requested, a notice that the complaint is
69 pending and that if the person fails to appear within twenty-one
70 days from the sending of such notice, a warrant for his arrest will
71 be issued. If any person fails to appear within twenty-one days
72 from the sending of such notice, the court shall issue a warrant for
73 his arrest.

74 The director, his assistants and all natural resource officers,
75 deputy natural resource officers, members of the state police, and
76 members of the metropolitan district commission police in areas
77 over which they have jurisdiction, empowered to enforce the pro-
78 visions of section six G may seize any shellfish unlawfully taken or
79 held which shall be forfeited to the commonwealth and disposed of
80 by the director for the best interests of the commonwealth.

81 The secretary of the executive office of environmental affairs
82 shall adopt rules and regulations consistent with the provisions of
83 this chapter and shall file said regulations in accordance with the
84 provisions of section thirty-seven of chapter thirty.

1 SECTION 2. Said chapter 21 is hereby further amended by
2 striking out section six G, as so appearing, and inserting in place
3 thereof the following section: —

4 *Section 6G.* A person notified to appear before the clerk of a
5 district court as provided in section six F for a violation of sections
6 four A of chapter twenty-one may so appear within the time
7 specified and pay a fine of fifty dollars.

8 A person notified to appear before the clerk of a district court as
9 provided in said section six F for a violation of sections thirty-five,
10 thirty-seven, thirty-eight, thirty-eight A, forty-one, forty-one A,
11 forty-four, sixty-seven, sixty-eight, seventy-five, eighty, ninety-
12 two, one hundred A and one hundred C of Chapter one hundred

13 and thirty may so appear within the time specified and pay a fine of
14 one hundred dollars.

15 A person notified to appear before the clerk of a district court as
16 provided in said section six F for a violation of section forty-seven
17 and section seventy-five of chapter one hundred and thirty may so
18 appear within the time specified and pay a fine of two hundred
19 dollars.

20 A person notified to appear before the clerk of a district court as
21 provided in said section six F for a violation of sections one, five,
22 six, eight, ten, thirteen, sixteen, nineteen A, twenty-three through
23 twenty-five, inclusive, twenty-six, twenty-six A, twenty-seven,
24 twenty-eight, thirty, thirty-two, thirty-three, thirty-six, thirty-
25 eight, forty-four, forty-seven, forty-nine to fifty-four, inclusive,
26 fifty-seven, fifty-nine, sixty-one, sixty-six, sixty-nine, seventy,
27 seventy-one, seventy-two, seventy-six, seventy-seven, seventy-
28 nine, eighty, and eighty-two of chapter one hundred and thirty-one
29 may so appear and pay a fine of fifty dollars.

30 A person notified to appear before the clerk of a district court as
31 provided in section six F for violation of sections eleven, fifty-
32 eight, sixty-three, sixty-five, sixty-six, sixty-seven, seventy, and
33 seventy-five A of chapter one hundred and thirty-one may appear
34 and pay a fine of one hundred dollars.

35 A person notified to appear before the clerk of a district court as
36 provided in section six F for violation of section eighty A of
37 chapter one hundred and thirty-one may so appear and pay a fine
38 of two hundred dollars.