

By Mr. Brownell of Quincy, petition of Thomas F. Brownell and Michael W. Morrissey relative to contaminated shellfish areas. Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

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

AN ACT RELATIVE TO CONTAMINATED SHELLFISH AREAS.

*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 striking out section 74, as most recently amended by  
3 section 215 of chapter 706 of the acts of 1975, and inserting in place  
4 thereof the following section: —

5 The division of Marine Fisheries shall examine from time to time  
6 as conditions may require, or upon the request of the commissioner  
7 of public health, the mayor or city manager of a city, or the  
8 selectmen or town manager of a town, but not more frequently  
9 than one in two years, the coastal waters and flats of the common-  
10 wealth and samples of shellfish therein or thereon in order to  
11 determine what areas thereof are so contaminated that shellfish  
12 obtained therefrom are unfit for food and dangerous to the public  
13 health. The division of Marine Fisheries shall forward the results of  
14 all tests as directed by the commissioner of public health. If, after  
15 such examination, either the division or the department determines  
16 that such contamination exists, it shall, by written order, promul-  
17 gate definite bounds of the area or areas so determined to be  
18 contaminated, and may specify the period of time during which  
19 such determination shall be in effect. Before such determination  
20 shall be in effect, the division or the department making such a  
21 determination shall:

- 22 (1) Publish the results of its determination thereof in a news-  
23 paper published in each city and town in which or adjacent to  
24 which any such contaminated area is situated.

25 (2) File in the office of the clerk of every such city and town the  
26 results of such determination.

27 (3) Cause to be posted at points on or near every such area a  
28 description thereof, specifying said bounds and a statement that  
29 such area is contaminated.

30 (4) Notify the division of law enforcement of its determination  
31 by filing with it properly authenticated copies, certified by the  
32 secretary of state, its determination, publication, filing, and  
33 posting.

34 Whenever, as a result of subsequent examination of an area or  
35 areas determined by said division to be contaminated, it deter-  
36 mines that the shellfish in such area or areas are safe to use as food,  
37 notice of such determination shall be published immediately, and  
38 the directors notified thereof; provided, however, that if the said  
39 division or department has specified a period of time during which  
40 the determination of pollution shall be in effect, such publication  
41 and notice shall not be required if such period has expired. The  
42 record of any examination hereunder and the bacteriological  
43 counts made therein shall be subject to inspection upon request.

44 Personnel of the department of public health and the division of  
45 marine fisheries in the performance of their duties under this  
46 section, may enter upon and pass through or over private lands or  
47 property whether or not covered by water.

48 The presentation in evidence by any officer of the common-  
49 wealth empowered to enforce this chapter of a document attested  
50 by the director of the division or the commissioner of the depart-  
51 ment or his deputy to the effect that the provisions of this section  
52 have been complied with shall be prima facie evidence that an  
53 effective determination has been made.

54 This section shall not apply to scallops.

1 SECTION 2. Said Chapter 130 is hereby further amended by  
2 striking out section 74A, as amended by section 216 of said chapter  
3 706, and inserting in place thereof the following section: —

4 Both the department of public health and the division of marine  
5 fisheries shall have the authority immediately to designate shellfish  
6 areas as contaminated and that shellfish obtained therefrom are  
7 unfit for food and dangerous to the public health, in the event of an  
8 emergency as determined by the department or division.

9 Such designation shall be reported to the director of the division  
10 of marine fisheries and to the division of law enforcement, who  
11 shall take the necessary action to prevent the taking of shellfish  
12 from such area for human consumption and so notify local author-  
13 ities in each instance. Such determination shall be in effect until  
14 subsequent examination, initiated not more than thirty days after  
15 the emergency has been determined, shows the shellfish from such  
16 area to be safe for human consumption and the department or  
17 departments which designated the emergency declare it to be over.  
18 In the event that the department of public health determines that  
19 there is an emergency, the commissioner of public health shall have  
20 the power to direct the activities of all employees of the division of  
21 marine fisheries who are regularly engaged in monitoring the con-  
22 dition of shellfish during that emergency.

