

Accompanying the sixth recommendation of the Department of Natural Resources (House, No. 140). Natural Resources and Agriculture.

The Commonwealth of Massachusetts

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

AN ACT TO ENCOURAGE AQUACULTURE.

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 inserting after section 17A the following new sec-
3 tion: —

4 Notwithstanding the provisions of sections forty-one through
5 forty-four, inclusive, sixty-nine, seventy, seventy-one and seventy-
6 two, the Director may, by issuance of a written permit under such
7 terms and conditions as he may impose, authorize the possession
8 of fish at any season and of any size for purposes of propagation,
9 rearing, harvesting or sale in connection with an aquacultural
10 enterprise in which the fish being so propagated, reared and har-
11 vested are kept separate from natural stocks of the same species.

1 SECTION 2. Section 57 of chapter 130 of the General Laws
2 added by chapter 598 of the acts of 1941, is hereby amended by
3 striking the first paragraph thereof and inserting in place thereof
4 the following new paragraph: —

5 The city council of a city or the selectmen of any town when
6 so authorized by their town may, upon written application there-
7 for and after public notice and hearing thereon as provided in
8 section sixty, grant to any person a license for a period not
9 exceeding ten years to plant, grow, and take shellfish and to
10 plant cultch for the purpose of catching shellfish seed, in such
11 city or town at all times of the year, in, upon or from a specific
12 portion of flats or land under coastal waters, provided the div-
13 ision of marine fisheries shall, after inspection, certify that the
14 license and operation thereunder would cause no substantial ad-
15 verse effect on the natural shellfish resources of the town, and

16 provided further, no license shall be issued for any area then or
17 within two years prior thereto, closed for municipal cultivation
18 under the provisions of section fifty-four. Licenses under this
19 section shall be issued upon forms supplied by such cities and
20 towns and upon such terms and conditions and subject to such
21 regulations as the city council or selectmen issuing the same shall
22 deem proper, but not so as to impair the private rights of any
23 person or to materially obstruct navigable waters, and they shall
24 describe by meets and bounds the waters, flats or creeks covered
25 thereby.

1 SECTION 3. Section 58 of said chapter 130, added by
2 chapter 598 of the acts of 1941, is hereby amended by inserting
3 after the word "transferred", the first time it appears in said
4 section, the following words: – with the approval of the city
5 council or selectmen.

1 SECTION 4. Section 59 of said chapter 130, added by
2 chapter 598 of the acts of 1941, is hereby amended by striking
3 out the words "a request that the territory be surveyed and a
4 plan thereof made, if the same has not already been done" and
5 inserting in place thereof the following words: – a surveyed plan.

1 SECTION 5. Section 61 of said chapter 130, added by
2 chapter 598 of the acts of 1941, is hereby amended by striking
3 out the first sentence thereof.

1 SECTION 6. Section 62 of said chapter 130, added by said
2 chapter 598, is hereby amended by striking out in the third
3 sentence, the following words: – in making such survey and plan
4 and.

1 SECTION 7. Section 64 of said chapter 130, added by said
2 chapter 598, is hereby amended by striking out the words "not
3 less than one nor more than five" and inserting in place thereof
4 the following words: – "not less than five nor more than twenty-
5 five dollars per acre, or part thereof".

1 SECTION 8. Section 65 of said Chapter 130, added by
2 chapter 598 of the acts of 1941, is hereby amended by striking

3 out the words "twenty-five" in line 9 and inserting in place
4 thereof the word "one hundred". Said section 65 is hereby fur-
5 ther amended by striking out the word "fifty" in line 10 and
6 inserting in place thereof the words "two hundred and fifty".
7 Said section 65 is hereby further amended by striking out the
8 word "may" in line 13 and inserting in place thereof the word
9 "shall".

1 SECTION 9. Chapter 130 of the General Laws is hereby
2 amended by inserting after section 68 the following new sec-
3 tions: —

4 *Section 68A.* The director, with the approval of the com-
5 missioner, upon a written application accompanied by plans suf-
6 ficient to show the intended work, and after a public hearing in
7 the city or town in which the waters are located, may grant to
8 any person an aquaculture license to grow shellfish by means of
9 racks, rafts, or floats in waters of the Commonwealth below the
10 line of extreme low water provided the division, after inspection,
11 certifies that the license and operation thereunder would cause
12 no adverse effect on the shellfish or other natural resources of
13 the town. Said license shall be for a period of not more than ten
14 years and may be renewed for similar periods after a public
15 hearing in the community. Said license, to be for such fee as the
16 director may specify, may contain terms and conditions and may
17 be revoked for failure to comply therewith or for lack of sub-
18 stantial use of the licensed area. Said license may be transferred
19 with the approval of the director and commissioner. Said licensee
20 shall have the right to the exclusive use of the lands and waters
21 within one hundred feet of said racks, rafts or floats for the
22 purposes of growing shellfish thereon, and the licensee shall
23 plainly mark the boundaries of said area. The division shall per-
24 mit, as a condition of the license, such public uses of said waters
25 and lands as are compatible with the aquacultural enterprise. No
26 person without the consent of the licensee and unless permitted
27 by the terms of the license, shall take shellfish from the licensed
28 lands or waters, or from said racks, rafts or floats, or in any way
29 disturb the growth of the shellfish thereon, or discharge any
30 substance which may directly or indirectly injure the shellfish
31 upon said racks, rafts or floats, or willfully injure, deface, des-
32 troy, remove or trespass upon said racks, rafts or floats or any

33 mark or bound used to define the extent of any shellfish license,
34 or tie or fasten any boat or vessel thereto. Any person per-
35 forming any act described in the preceding sentence shall be
36 liable in tort for treble damages and costs to the licensee or
37 transferee injured by such act. Nothing in this section shall ex-
38 cuse the licensee from complying with other laws concerning
39 interference with navigation.