

By Mr. Dean of Chilmark, petition of Ernest J. Dean relative to the administration and enforcement of the laws regulating the taking, marketing and transportation of shellfish. Public Health. Jan. 12.

The Commonwealth of Massachusetts

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

An Act relative to the Administration and Enforcement of the Laws regulating the Taking, Marketing and Transportation of Shellfish.

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 one hundred and thirty
2 of the General Laws is hereby amended by
3 striking out section one hundred and thirty-
4 eight, inserted by section one of chapter three
5 hundred and seventy of the acts of nineteen
6 hundred and twenty-six, and inserting in place
7 thereof the following:— *Section 138.* Who-
8 ever, without the written approval of the com-
9 missioner of public health, digs or takes
10 shellfish for any purpose from any area
11 determined under the preceding section or cor-
12 responding provisions of earlier laws to be
13 contaminated and while such determination is
14 in force, or whoever knowingly transports or

15 causes to be transported or has in possession
16 shellfish so taken, or whoever makes use of a
17 certificate issued under section one hundred
18 and thirty-nine after its revocation or can-
19 cellation as therein provided or wilfully fails
20 to surrender the same at the request of the
21 department, shall be punished by a fine of not
22 less than twenty nor more than one hundred
23 dollars or by imprisonment for not more than
24 thirty days, or both. The provisions of this
25 section shall be enforced by fish and game
26 wardens and deputy fish and game wardens of
27 the division of fisheries and game of the depart-
28 ment of conservation assigned to enforce the
29 shellfish laws and by all other officers author-
30 ized to make arrests. The superior court
31 shall have jurisdiction in equity to enforce the
32 provisions of this section and section one
33 hundred and thirty-nine and of the rules and
34 regulations of the department of public health
35 made under said section one hundred and
36 thirty-nine, and to restrain the violation
37 thereof. In any prosecution for a violation
38 of the provision of this section prohibiting the
39 digging or taking, without the written approval
40 of the commissioner of public health, of shell-
41 fish from areas determined to be contaminated,
42 possession, except by a common carrier, of
43 shellfish apparently so dug or taken shall be
44 prima facie evidence of a violation of such
45 provision.

1 SECTION 2. Said chapter one hundred and
2 thirty is hereby further amended by striking
3 out section one hundred and thirty-nine,
4 inserted by said section one of said chapter
5 three hundred and seventy, and inserting in
6 place thereof the following:—

7 *Section 139.* Subject to such rules and regu-
8 lations as it may promulgate, the department
9 shall issue certificates relative to the condition
10 of the tidal waters and flats and shellfish taken
11 therefrom, in respect to contamination, and
12 upon request and the payment of a fee of
13 dollars the
14 department may issue certificates relative to
15 the condition of the establishment or equip-
16 ment of a person desiring to ship shellfish
17 outside the commonwealth. The said certificate
18 shall be in such form as will most effectively
19 safeguard the public health and meet the
20 provisions of the laws, rules, regulations or
21 requirements of the United States as to
22 interstate commerce in shellfish and of other
23 states in relation to the importation, inspection
24 and consumption of shellfish within their
25 respective limits. The department may
26 promulgate rules and regulations relative to
27 the issuance, form, contents and use of said
28 certificates to such extent as may be necessary
29 to safeguard the public health and to enable
30 the shellfish industry to comply with the said
31 provisions. The commissioner of public health

32 may revoke and cancel and require the sur-
33 render of any certificate issued under this
34 section if, in his opinion, the holder thereof is
35 guilty of violating any such rule or regulation
36 or any provision of this or the preceding sec-
37 tion, or upon a change in the facts and condi-
38 tions set forth in such certificate.