



House of Representatives

File No. 584

General Assembly

February Session, 2010

(Reprint of File No. 98)

House Bill No. 5131
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 16, 2010

***AN ACT CONCERNING VOCATIONAL AGRICULTURE SCIENCE AND
TECHNOLOGY AQUACULTURE CENTER SHELLFISH BEDS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 26-194 of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) [The] Except as provided in subsection (e) of this section, the
5 Commissioner of Agriculture may lease in the name of the state, under
6 such regulations as [he] the commissioner may prescribe and for a
7 period not longer than ten years, all shellfish areas that have been
8 conveyed to the state or placed under state jurisdiction by the town of
9 West Haven and any undesignated grounds, within the exclusive
10 jurisdiction of the state, for the purpose of planting and cultivating
11 shellfish. The authority herein conferred shall include the Cornell
12 Reef, Portchester, Great Captain's Island, Field Point and Greenwich
13 Point natural beds as located and described in section 3295 of the
14 general statutes, revision of 1918. Any person desiring to lease grounds
15 for such purpose shall make application in writing to the

16 commissioner and all grounds leased by authority of the provisions of
17 this section shall be leased to the highest responsible bidder, for a
18 minimum fee of four dollars per acre. Such lease or lease renewal shall
19 require the lessee to make a good faith effort to cultivate and harvest
20 shellfish from the leased area. Such lease or lease renewal shall
21 prohibit the lessee from entering a contract whereby the lessee agrees
22 not to cultivate and harvest shellfish for any period of time. No lessee
23 may enter an agreement with a third party that will prevent the lessee
24 from carrying out the lessee's obligations under the lease unless the
25 Department of Agriculture and the Attorney General have approved
26 such agreement. The form of such application and lease shall be
27 approved by the Attorney General, and all such leases shall be
28 recorded in the records of the commissioner. No lease shall be granted
29 to a resident of a state which does not lease shellfish grounds to
30 residents of this state, except that any nonresident who was granted a
31 lease on or before October 1, 1985, may, upon the expiration of such
32 lease, apply for a renewal or further lease as provided in this section.
33 The commissioner shall grant any such lease to nonresidents upon the
34 same terms and conditions as to residents of this state. Any lessee or
35 holder of shellfish grounds, on the expiration of any lease thereof
36 which has been or which may be granted, having fulfilled all of such
37 lessee's or holder's obligations under the lease shall, upon application
38 to the commissioner, have preference in the reletting of such ground
39 for a like term to that granted in the original lease, excluding the rental
40 fee, which shall not be less than the minimum fee per acre as provided
41 in this subsection. A lease renewal shall not be granted if the applicant
42 is in arrears for rent on the original lease of such grounds. Such
43 application for such renewal or further lease shall be granted without
44 notice or advertisement of the pendency thereof; provided no renewal
45 or further lease of such ground shall be granted when the
46 commissioner, for cause, ceases to lease such ground for shellfish
47 culture. All assignments or transfers of leases shall be subject to the
48 approval of the commissioner and shall be recorded in his records.
49 Any person who interferes with, annoys or molests another in the
50 enjoyment of any lease authorized by the provisions of this section

51 shall be subject to the penalties provided in section 26-237. The
52 provisions of sections 26-212, 26-215 and 26-232 shall not apply to any
53 shellfish grounds leased pursuant to the provisions of this section.

54 (b) Upon request of a lessee, the commissioner may divide or
55 consolidate shellfish grounds leased by such lessee, if the
56 commissioner determines such division or consolidation to be in the
57 best interests of the state. The minimum fee per acre shall apply to
58 shellfish grounds divided or consolidated pursuant to this subsection.

59 (c) The Commissioner of Agriculture shall assess the owner of any
60 facility that requires a certificate issued pursuant to section 16-50k or
61 that requires approval by the Federal Energy Regulatory Commission
62 and that crosses any grounds of Long Island Sound within the
63 jurisdiction of the state, including, but not limited to, any shellfish area
64 or leased, designated or granted grounds, an annual host payment fee
65 of forty cents per linear foot for the length of such facility within the
66 jurisdiction of the state. The Commissioner of Agriculture shall deposit
67 seventy-five per cent of the proceeds of such fee into the expand and
68 grow Connecticut agriculture account established pursuant to section
69 22-38c and shall transfer the remaining twenty-five per cent to the
70 General Fund.

71 (d) Notwithstanding the provisions of subsection (a) of this section,
72 any owner of a utility line or public use structure that impacts a leased
73 area shall pay to the lessee the costs of removing or relocating any
74 shellfish. Nothing in this subsection shall be construed to prohibit the
75 state or any lessee from recovering damages incurred by the state or
76 the lessee caused by the installation, construction or presence of such
77 utility line or public use structure.

78 (e) The commissioner may designate to each regional agricultural
79 science and technology education center, established pursuant to
80 section 10-64, shellfish areas described in subsection (a) of this section
81 that are necessary for conducting educational grow-out activities
82 related to commercial scale aquaculture operations within state

83 jurisdictional waters, provided: (1) The total acreage designated
84 pursuant to this subsection for each such center is not more than fifty
85 acres of restricted relay grow-out beds and fifty acres of approved
86 harvest beds; and (2) any shellfish areas designated pursuant to this
87 subsection are not in production at the time of such designation.

88 [(e)] (f) The Commissioner of Agriculture may designate an agent
89 within the department to exercise the authority of said commissioner
90 under this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	26-194

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: See below

Municipal Impact: None

Explanation

The bill permits the Commissioner of Agriculture to designate certain shellfish areas to regional agricultural science and technology education centers (RASTEC) for educational purposes, instead of to the highest responsible bidder. It is unclear whether RASTEC will be charged a shellfish lease fee.

Currently, the Commissioner of Agriculture is permitted to lease beds to the highest responsible bidder at a minimum rate of \$4 per acre for planting and cultivating. In FY 09, revenue derived from shellfish bed leases was \$974,145.

It is anticipated that 100 acres would be leased to each of the two aquaculture-themed magnet high schools¹ in the state. The aquaculture beds that would be utilized by the RASTEC schools for grow-out and depuration activities are not the same areas that commercial fishermen would use for planting and cultivating.

House "A" restricts the shellfish area available to the RASTEC schools; this has no fiscal impact.

The Out Years

State Impact: None

¹ The Bridgeport Aquaculture Center and the New Haven Vocational Aquaculture Center.

Municipal Impact: None

OLR Bill Analysis**HB 5131 (as amended by House "A")******AN ACT CONCERNING VOCATIONAL AGRICULTURE SCIENCE AND TECHNOLOGY AQUACULTURE CENTER SHELLFISH BEDS.*****SUMMARY:**

This bill allows the Department of Agriculture (DoAg) commissioner to designate shellfish areas that are necessary for conducting educational activities to regional agricultural science and technology education centers (RASTECs). The shellfish areas are those (1) owned by the state, (2) placed under state jurisdiction by the town of West Haven, or (3) within the state's exclusive jurisdiction but undesignated. The designated areas must (1) be no greater than 50 acres each of restricted relay grow-out beds and approved harvest beds and (2) not be in production at time of designation.

The educational activities that may be conducted include grow-out activities related to commercial scale aquaculture in the state's waters.

Current law allows the DoAg commissioner to lease the beds for planting and cultivating to the highest responsible bidder, at a minimum of \$4 per acre, for 10-year terms. The bill appears to exempt RASTECs from the minimum acreage fee and 10-year term.

*House Amendment "A" removes depuration (a technical purification process) as an approved educational activity and limits designated areas to 50 acres each of restricted relay grow-out beds and approved harvest beds, rather than 5% of acreage under the commissioner's control and authority.

EFFECTIVE DATE: October 1, 2010

BACKGROUND

RASTEC

The law allows local school boards to make agreements to establish a RASTEC for their students in conjunction with their regular public school system. Local school boards that do not offer agricultural science and technology training must designate a school that their students interested in such training may attend (CGS § 10-65).

RESTRICTED RELAY CLASSIFICATIONS

By law, DOAg may prohibit the taking or harvesting of shellfish from designated areas in tidal flats, shores, and coastal waters whenever it finds (1) that those areas are contaminated or polluted to the extent that the waters do not meet standards of purity it established, in conjunction with the Department of Public Health, or (2) that shellfish obtained from such areas may be unfit for food or dangerous to the public health.

DOAg must classify the coastal waters, shores, and tidal flats for shellfish taking. The classifications are: approved, conditional (conditional-open and -closed), restricted, conditionally restricted, and prohibited. Any person aggrieved by a classification decision may appeal as the law provides.

An area may be classified as prohibited for taking or harvesting shellfish, if it fails to conform to the standards established by the department for classifications other than prohibited. The department may specify the activities that may occur within each classified area. The activities must be listed on a shellfish license the department issues (CGS § 26-192e).

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 29 Nay 0 (03/05/2010)