House Bill No. 5131

Public Act No. 10-78

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:

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 Section 26-194 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) **[**The**]** Except as provided in subsection (e) of this section, the Commissioner of Agriculture may lease in the name of the state, under such regulations as **[**he**]** the commissioner may prescribe and for a period not longer than ten years, all shellfish areas that have been conveyed to the state or placed under state jurisdiction by the town of West Haven and any undesignated grounds, within the exclusive jurisdiction of the state, for the purpose of planting and cultivating shellfish. The authority herein conferred shall include the Cormell Reef, Portchester, Great Captain's Island, Field Point and Greenwich Point natural beds as located and described in section 3295 of the general statutes, revision of 1918. Any person desiring to lease grounds for such purpose shall make application in writing to the commissioner and all grounds leased by authority of the provisions of this section shall be leased to the highest responsible bidder, for a minimum fee of four dollars per acre. Such lease or lease renewal shall

require the lessee to make a good faith effort to cultivate and harvest shellfish from the leased area. Such lease or lease renewal shall prohibit the lessee from entering a contract whereby the lessee agrees not to cultivate and harvest shellfish for any period of time. No lessee may enter an agreement with a third party that will prevent the lessee from carrying out the lessee's obligations under the lease unless the Department of Agriculture and the Attorney General have approved such agreement. The form of such application and lease shall be approved by the Attorney General, and all such leases shall be recorded in the records of the commissioner. No lease shall be granted to a resident of a state which does not lease shellfish grounds to residents of this state, except that any nonresident who was granted a lease on or before October 1, 1985, may, upon the expiration of such lease, apply for a renewal or further lease as provided in this section. The commissioner shall grant any such lease to nonresidents upon the same terms and conditions as to residents of this state. Any lessee or holder of shellfish grounds, on the expiration of any lease thereof which has been or which may be granted, having fulfilled all of such lessee's or holder's obligations under the lease shall, upon application to the commissioner, have preference in the reletting of such ground for a like term to that granted in the original lease, excluding the rental fee, which shall not be less than the minimum fee per acre as provided in this subsection. A lease renewal shall not be granted if the applicant is in arrears for rent on the original lease of such grounds. Such application for such renewal or further lease shall be granted without notice or advertisement of the pendency thereof; provided no renewal or further lease of such ground shall be granted when the commissioner, for cause, ceases to lease such ground for shellfish culture. All assignments or transfers of leases shall be subject to the approval of the commissioner and shall be recorded in his records. Any person who interferes with, annoys or molests another in the enjoyment of any lease authorized by the provisions of this section shall be subject to the penalties provided in section 26-237. The

provisions of sections 26-212, 26-215 and 26-232 shall not apply to any shellfish grounds leased pursuant to the provisions of this section.

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

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

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

(e) The commissioner may designate to each regional agricultural science and technology education center, established pursuant to section 10-64, shellfish areas described in subsection (a) of this section that are necessary for conducting educational grow-out activities

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

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

Approved May 26, 2010