



General Assembly

January Session, 2013

Raised Bill No. 803

LCO No. 2615

02615_____ENV

Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING AQUACULTURE JOB GROWTH.

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

1 Section 1. Section 26-194 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

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

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

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

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

58 (c) The Commissioner of Agriculture shall assess the owner of any
59 facility that requires a certificate issued pursuant to section 16-50k or
60 that requires approval by the Federal Energy Regulatory Commission
61 and that crosses any grounds of Long Island Sound within the
62 jurisdiction of the state, including, but not limited to, any shellfish area
63 or leased, designated or granted grounds, an annual host payment fee
64 of forty cents per linear foot for the length of such facility within the
65 jurisdiction of the state. [The Commissioner of Agriculture shall
66 deposit seventy-five per cent of the proceeds of such fee into the
67 expand and grow Connecticut agriculture account established
68 pursuant to section 22-38c and shall transfer the remaining twenty-five
69 per cent to the General Fund.] Seventy-five per cent of the proceeds of
70 such fee shall be deposited in the Shellfish Fund, established pursuant
71 to section 26-237b and in the expand and grow Connecticut agriculture
72 account, established in section 22-38c. The commissioner shall
73 determine the portion of such seventy-five per cent that shall be
74 deposited in each account. The commissioner shall transfer the
75 remaining twenty-five per cent of such proceeds to the General Fund.

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

82 utility line or public use structure. The Commissioner of Agriculture
83 may implement a voluntary, supervised comanagement program with
84 lessees in order to relocate shellfish from undesignated areas within
85 proposed project or corridor impact areas. Any funds received
86 pursuant to this subsection as a result of such voluntary, supervised
87 comanagement program shall be deposited in the Shellfish Fund,
88 established pursuant to section 26-237b.

89 (e) The commissioner may designate to each regional agricultural
90 science and technology education center, established pursuant to
91 section 10-64, shellfish areas described in subsection (a) of this section
92 that are necessary for conducting educational grow-out activities
93 related to commercial scale aquaculture operations within state
94 jurisdictional waters, provided: (1) The total acreage designated
95 pursuant to this subsection for each such center is not more than fifty
96 acres of restricted relay grow-out beds and fifty acres of approved
97 harvest beds; and (2) any shellfish areas designated pursuant to this
98 subsection are not in production at the time of such designation.

99 (f) Notwithstanding subsection (a) of this section, the Commissioner
100 of Agriculture may lease shellfish areas, as described in subsection (a)
101 of this section, to: (1) A business entity registered with the Secretary of
102 the State on or after January 1, 2013, that is determined by the
103 commissioner to be unaffiliated with any licensed shellfish shellstock
104 shipper, or (2) a licensed shellfish shellstock shipper with less than five
105 hundred acres of leased town or state shellfish grounds. The
106 commissioner may designate such shellfish grounds for lease and
107 prescribe the application for such lease. Shellfish grounds designated
108 for lease pursuant to this subsection shall be leased to the highest
109 responsible bidder, as determined by the commissioner and at a
110 minimum fee of twenty-five dollars per acre. Such business entity or
111 licensed shellfish shellstock shipper may be awarded one lease of
112 shellfish grounds per bidding process conducted pursuant to this
113 subsection. The issuance of a lease or lease renewal pursuant to this

114 subsection shall require such lessee to make a good faith effort to
115 cultivate and harvest shellfish from the leased area and prohibit such
116 lessee from subleasing, assigning or transferring such leased area.

117 (g) The Commissioner of Agriculture may lease not more than
118 twenty-five acres of shellfish grounds to an aquaculture applicant, as
119 described in section 22-11f, at an annual rate of twenty-five dollars per
120 acre. The issuance of a lease or lease renewal pursuant to this
121 subsection shall require such lessee to make a good faith effort to
122 cultivate and harvest shellfish from the leased area and prohibit such
123 lessee from subleasing, assigning or transferring such leased area.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	26-194

Statement of Purpose:

To encourage job growth in the field of aquaculture by providing the Commissioner of Agriculture with the authority to lease more shellfish grounds and make certain shellfish grounds more productive.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]