



STATE OF CONNECTICUT

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By the Connecticut Department of Agriculture

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S.B. 803 - AN ACT CONCERNING AQUACULTURE JOB GROWTH

Chairmen Meyer and Gentile, Vice Chairs Maynard and Albis, Ranking Members Chapin and Shaban and members of the Environment Committee, thank you for the opportunity to testify today.

The Department of Agriculture's Bureau of Aquaculture is the lead authority on shellfish regulation and aquaculture development in the state. In those capacities the agency is pleased to provide this testimony in support of the proposed bill, An Act Concerning Aquaculture Job Growth.

This legislation will enable the Department of Agriculture to eliminate existing barriers to small and emerging companies interested in entering the shellfish industry.

The development of smaller-scale, gear-oriented, cage-culture shellfish aquaculture operations can provide significant job opportunities and related economic benefits. These smaller companies can operate with a small percentage of the overhead associated with traditional bottom-culture cultivation. Traditional bottom-culture shellfishing requires large vessels equipped with dredges, a large boat crew, a larger number of acres, and is subject to significant storm-related losses.

In contrast, cage-culture aquaculture operations can start out quite small, as a large number of cages can be placed in a smaller area and can be worked with a smaller boat and crew. These small aquaculture operations produce a premium product that can demand high prices—they can succeed with more limited resources than required for traditional bottom cultivation.

The shellfish industry in Connecticut currently is in excellent shape. Hard clam production and continued successful clam recruitment has allowed commercial shellfish operators to maintain record high harvests for the past seven years.

Oyster producers are slowly coming back into production after the 1998 oyster disease outbreaks. Recovery had been slow, as no commercial scale oyster sets were seen until 2004; however oyster recruitment has grown exponentially since. Oysters have re-colonized all areas

that were devastated by the disease event. The Department of Agriculture does recognize, however, that enhancement efforts should be undertaken to increase the level of recruitment in the natural seed oyster beds if we are to sustain continued high harvest numbers.

Connecticut shellfish production has reached extraordinary levels, but there is significant room for growth.

This legislation is an attempt to promote existing smaller companies and improve their economic sustainability. It also enables the unrestricted creation of new companies in order to develop "green," environmentally friendly jobs. The intent of this legislation is to encourage job creation and foster revenue generating businesses.

It is important that an overview of shellfish administration and industry be provided to place this new legislation into context.

There are presently 40 shellfish operations licensed to harvest and pack shellfish for interstate distribution. Only 28 of these operations have state-leased or town-franchised grounds that they harvest; the remaining 12 companies are extremely small and lease from a town.

The 28 larger operations cultivate 54,118 acres of state-leased and 5,000 acres of town-franchised grounds. In the late 1800s, the state and towns recorded in Superior Court areas known as "public natural seed oyster beds," which comprise about 20,000 acres from Greenwich to New Haven. The combined acreage of these state-leased, town-franchised, and public beds amounts to 80,000 acres.

This 80,000 acre figure is significant, as it is virtually unchanged from the acreage that was cultivated in the late 1800s, when Connecticut produced record numbers of oysters that were internationally renowned for their quality.

The Connecticut franchise shellfish bed system was created in 1865. It was instrumental in the development of the oyster industry, which continued to expand through 1915.

In 1915, the mechanism of issuing a right to plant and cultivate shellfish was changed, and all new shellfish parcels were issued as leases. The enabling legislation allowed for the transfer of leases, but did not provide for any adjustments in the fees over time.

In 2006, the minimum fee on leases was statutorily adjusted to \$4.00/acre on all active leases originating as far back as 1915. This is important to note because only the largest companies use the \$4.00/acre leases to plant and cultivate shellfish, while almost all of the smaller operations use leases in which the average cost is \$24.00/acre, and in many cases much higher.

The majority of state-leased acreage is located between Greenwich and East Haven, to a water depth of 45 feet, and as far as several miles from shore. The potential for additional development in the western half of the state is extremely limited, as most of the bottom located at depths of 40 feet or less is currently under cultivation or utilized as a public natural oyster seed bed.

Using a GIS software tool, the Department of Agriculture has calculated that another potential 88,000 acres of leased area exists between Branford and Stonington.

Important note: The Department of Agriculture has made no changes to the existing shellfish lease statute 26-194a, which presently is used by any individual or shellfish company to acquire additional lease grounds. This proposed bill instead creates two new subsections (f & g).

Subsection (g) enables the Commissioner of Agriculture to designate up to 25 acres to any new shellfish applicant, at a fee of \$25.00/acre. The lease must be cultivated by that individual; no subleasing, assignment, or transfer can occur. If the operation ceases, the ground returns to the state.

The acreage of 25 acres is proposed because many new aquaculturists want to start small. It is reasonable to lease as few as 5 acres and operate 25 to 50 cages successfully. This fee has been established because it is the average lease cost per acre (see above).

A change to the current process is needed. Without a mechanism for a new company to enter the industry, interested parties often discard their proposed aquaculture project as they become frustrated with the cumbersome and cost-prohibitive process.

The existing sealed-bid process, established in section 26-194a, awards leases to the highest responsible bidder. The proposed new legislation in subsection (f) would enable existing shellfish operations that lease fewer than 500 acres to petition the Department of Agriculture for additional lease acreage. The commissioner would be able to designate the proposed lease to the highest responsible bidder meeting these new requirements.

The lease must conform to the qualifying standards above at a minimum fee of \$25.00/acre, rather than the \$4.00/acre minimum established in section 26-194a. The individual must plant and cultivate shellfish on the lease. Any lease awarded under this section cannot be subleased, transferred, or assigned, unlike those issued under 26-194a.

This change would provide the smallest existing shellfish companies an opportunity to acquire additional acreage, limiting their competition to companies of similar size and resources. These companies will still be required to pay a minimum fee that is more than five times higher than the current open-bidding process allows.

Connecticut must take steps to ensure that the overall industry remains healthy and viable by affording smaller companies with limited resources the opportunity to expand. The benefit of this legislative change would only favor companies that continue to cultivate shellfish, and can be used only until a company acquires a combined 500-acre total.

The Department of Agriculture has significant concerns with the current leasing program:

- 1) The largest and longest-operating companies pay an extremely low average lease rate;
- 2) Several medium-sized companies have paid extremely high lease rates that are not necessarily driven by the shellfish resource available;

- 3) Small harvesters have raised valid concerns that the existing process limits their ability to place additional grounds up for bid. More often than not, such bids have been awarded to much larger companies with far greater resources, at exorbitant per acre rates of up to 98 times the minimum statutory rate.

The existing sealed-bid process involves several steps:

- 1) An individual identifies grounds that he/she would like to acquire;
- 2) The grounds are engineered by the Department of Transportation;
- 3) The Department of Agriculture places those grounds up for public bid;
- 4) The proposed grounds are awarded to the highest bidder via the sealed-bid process.

These leases are proposed by new and small companies looking for area to start or expand their operation; however these companies almost never win a lease under the existing sealed-bid system. Instead, the record indicates that established companies have continuously bid on newly proposed grounds at a rate much higher than the average, effectively shutting out new or small companies seeking to expand.

The important distinction is that these large established companies do not themselves identify these grounds as desirable until someone else puts the grounds up for bid. The effect of these actions by the established companies is that new and smaller companies are blocked from acquiring the grounds that they themselves have identified as desirable for shellfish cultivation.

Small companies do not have the financial resources to pay such extremely high rates, so time and time again; they have lost out on an opportunity to expand their businesses. This situation is not conducive to the long-term viability, diversification, or sustainability of Connecticut's shellfish industry.

The Department of Agriculture does recognize that the existing process has resulted in many higher-than-average per-acre lease payments from existing large operations. However, the awarding of those leases has prevented the development of new operations and the expansion of the smallest operations. It has also prevented the creation of new jobs and the increased economic activity associated with the acquisition of infrastructure and materials needed to enter the shellfish industry.

The large companies will insist they have the right to grow their business and the Department of Agriculture agrees. The proposed statutory change will not prevent established companies from identifying and proposing new leases upon which to bid. It does serve to prevent established companies from bidding at excessively high rates on grounds identified and proposed by new and small individually-owned companies.

Thank you.

Thank you for your time today and for your thoughtful consideration of this testimony. Please let us know if we can provide any additional information that would be helpful.