



# STATE OF CONNECTICUT

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**Testimony presented to the Environment Committee of  
The Connecticut General Assembly**

**By the Connecticut Department of Agriculture**

**February 11, 2013**

**S.B. 805 - AN ACT CONCERNING THE TAKING OF EASTERN OYSTERS**

**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 respectfully requests the adoption of this legislation, which will support the growth of new shellfish companies. Connecticut has the potential for incredible economic growth in its oyster industry, provided the state can remove some existing legislative and administrative hurdles. This proposed act would remove one of those barriers.

Connecticut's shellfish industry currently is dominated by a few large companies. CGS Sections 26-234b, which limits the sale of oysters less than three inches long, fuels that dominance and inhibits entry of new, small shellfish companies, severely diminishing economic growth of the industry.

The language of CGS Sections 26-234b was originally crafted to restrict open free market commerce among smaller-scale oystermen in favor of the larger companies which dominated the industry at that time. Unfortunately, an unintended consequence of this statute is the exclusion of the renowned Connecticut oyster from the "boutique" oyster bar market. This market is ideally suited to smaller shellfish producers and currently is the fastest growing segment of the industry in other parts of the country. The proposed change would be effective in eliminating the free-market restrictions of the originally crafted statute.

Connecticut's commercially produced oysters are harvested from private, leased shellfish beds, upon which oysters are cultivated through planting and multiple relocations (as opposed to uncultivated oysters that grow naturally in public waters). The proposed legislation would enable oyster companies to sell shellfish they own and have cultivated in this manner at a smaller, "boutique" size that can bring a premium price.

The proposed bill enables smaller-scale oystermen to plant, cultivate, and harvest oysters on less-desirable leased bottom, without wintering the oysters over in order to obtain a three-inch size. It is this wintering over that subjects the oysters to the natural hazards discussed below.

Shortening the time oysters are subjected to natural hazards and reducing the harvester's losses will create significant growth and expansion of Connecticut's oyster industry. A two-inch or greater market size will help reduce loss of cultivated oysters to predators, severe storms, and poachers, since the oysters will be vulnerable to these hazards for a shorter length of time.

Cultivated oysters planted on hard bottom in leased beds without natural protection can wash from the leased bed during severe storm events. The leased beds that have natural protection have been controlled since the mid 1800s by a small number of large shellfish companies, while those beds leased in the past 20 years to new, smaller companies lack this important natural protection. Planted oysters in these unprotected beds are often lost to storms before they reach the current three-inch market harvest size. The proposed bill would help prevent these losses, since oysters planted at an appropriate size in the spring in these same unprotected areas can grow to two inches prior to severe winter storm events.

Furthermore, the legislation would reduce the risk of two major, naturally occurring oyster diseases, Dermo and MSX, which caused severe damage to Connecticut's oyster industry in 1997 and 1998. Because older oysters are more susceptible to the negative effects of Dermo and MSX infections, these diseases are effectively controlled by harvesting the oysters at an earlier age.

A claim will be made that three-inch oysters are the "spawners" that sustain oystering in Long Island Sound, and removal of these shellfish at a two-inch size would vastly damage the natural population of young seed oysters on public oyster beds near the shore. It is from these public shoreline beds that seed oysters are harvested for planting and cultivating on private, leased beds in deeper waters as part of commercial production.

While three-inch oysters do spawn and produce new "seed" oysters, the claim is misleading in this context. Oysters are also mature and spawn at the two-inch stage. Spawning and settlement rates are affected more by environmental factors than size. The oysters affected by this proposed change are already located on private, leased shellfish beds in deeper water, where spawning and settlement occurs at much lower rates than in shallow water near shore.

If the logic of the argument against the two-inch harvest limit were sound, removal of two-inch and smaller oysters from the natural public beds near shore—which occurs on a regular basis in the harvesting of seed oysters—would have destroyed natural populations long ago. However this is not the case. These natural beds have produced and sustained intensive harvests since the 1800s, despite the removal of oysters of all sizes.

The fact is that in these natural seed oyster beds—where spawning occurs at a much higher rate than in deeper water—two-inch oysters need to be moved prior to the next spawning period (approximately July 15 – September 15) to prevent newly spawned oysters from attaching to the shells of existing oysters in those beds.

Once additional set attaches to these existing oysters and begins growing, not only is more labor required to separate and process the aggregate oysters, but the value of those oysters is

decreased, since they are no longer suitable for the top-value half-shell market. Reducing additional set on seed oysters in shallow-water natural beds by planting the seed oysters onto deeper-water, private, leased beds creates substantial efficiencies, and generally achieves labor savings.

Enabling producers to harvest oysters at a smaller size will result in a free-market system with significantly increased economic productivity. The current three-inch market size restricts free commerce and favors a small number of shellfish companies that have controlled the most desirable oyster beds dating back to the mid-1800s, which have natural protections and are conducive to holding oysters through the winter.

This proposed bill is one of the Department of Agriculture's several legislative initiatives intended to support the growth of new shellfish companies. These initiatives intend to do the following:

- 1) Simplify the process for new companies to obtain their first 25-acre shellfish lease;
- 2) Increase the number of smaller shellfish producers; and
- 3) Enable those producers to concentrate on smaller volumes of high-quality, high-value oysters for the "boutique" half-shell market.

Connecticut was world renowned for its oyster production in the late 1800s and for its per-oyster value in the 1990s. Today, a large portion of the state's 80,000 acres of private and public shellfish grounds are operated by only 10 oyster producers. Connecticut shellfish harvesters are not required to report landings, but it is estimated that 220,000 hundred-count bags of oysters having a value of \$8,010,682 were harvested in Connecticut in 2010.

In contrast, Rhode Island's 43 producers, operating on only 161 acres of beds, in 2011 produced 4,074,186 million oysters (or 40,741 hundred-count bags), valued at \$2,459,761.00.

It is clear that Connecticut has the potential for incredible economic growth in its oyster industry, as long as some of these current legislative and administrative hurdles are removed. With that in mind, the Department of Agriculture respectfully requests the adoption of this legislation.

The proposed legislation will not increase the workload for the Department, increase any regulatory burden for either party, or result in any negative fiscal impact on existing companies. However, the legislative change will enable the development and expansion of smaller oyster companies onto leased shellfish bed that have been, until now, undesirable for oyster production due to the longer grow-out periods (and subsequent losses) required for a three-inch harvest size.

The Department believes language before the Committee could be improved to insure that no oysters less than two inches are farmed and offer the following suggestion.

Sec. 26-234b. Taking of eastern oysters. Regulations. No person may take eastern oysters (*Crassostrea virginica*) from the waters of this state which are less than two [three] inches long or which are otherwise not ready for harvest, as determined by the Commissioner of Agriculture, except that the taking of such oysters for sale, transplant and relay for aquaculture purposes within the waters of the state shall not be prohibited. The Commissioner of Agriculture may

adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

**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.**