



General Assembly

**Substitute Bill No. 5085**

February Session, 2014



**AN ACT CONCERNING SHELLFISH GROUNDS LEASES BY THE DEPARTMENT OF AGRICULTURE.**

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

1 Section 1. Subsection (a) of section 26-194 of the 2014 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (a) 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 the commissioner may prescribe and for a period  
7 not longer than ten years, all shellfish areas that have been conveyed to  
8 the state or placed under state jurisdiction by the town of West Haven  
9 and any undesignated grounds, within the exclusive jurisdiction of the  
10 state, for the purpose of planting and cultivating shellfish. The  
11 authority herein conferred shall include the Cormell Reef, Portchester,  
12 Great Captain's Island, Field Point and Greenwich Point natural beds  
13 as located and described in section 3295 of the general statutes,  
14 revision of 1918. Any person desiring to lease grounds for such  
15 purpose shall make application in writing to the commissioner and all  
16 grounds leased by authority of the provisions of this section shall be  
17 leased to the highest responsible bidder, for a minimum fee of four  
18 dollars per acre. Such lease or lease renewal shall require the lessee to  
19 make a good faith effort to cultivate and harvest shellfish from the

20 leased area. Such lease or lease renewal shall prohibit the lessee from  
21 entering a contract whereby the lessee agrees not to cultivate and  
22 harvest shellfish for any period of time. No lessee may enter an  
23 agreement with a third party that will prevent the lessee from carrying  
24 out the lessee's obligations under the lease unless the Department of  
25 Agriculture and the Attorney General have approved such agreement.  
26 The form of such application and lease shall be approved by the  
27 Attorney General, and all such leases shall be recorded in the records  
28 of the commissioner. No lease shall be granted to a resident of a state  
29 which does not lease shellfish grounds to residents of this state, except  
30 that any nonresident who was granted a lease on or before October 1,  
31 1985, may, upon the expiration of such lease, apply for a renewal or  
32 further lease as provided in this section. The commissioner shall grant  
33 any such lease to nonresidents upon the same terms and conditions as  
34 to residents of this state. Any lessee or holder of shellfish grounds, on  
35 the expiration of any lease thereof which has been or which may be  
36 granted, having fulfilled all of such lessee's or holder's obligations  
37 under the lease shall, upon application to the commissioner, have  
38 preference in the reletting of such ground for a like term to that  
39 granted in the original lease, excluding the rental fee, which shall not  
40 be less than the minimum fee per acre as provided in this subsection. A  
41 lease renewal shall not be granted if the applicant is in arrears for rent  
42 on the original lease of such grounds. The commissioner may deny the  
43 renewal of any such lease entered into or renewed after the effective  
44 date of this section, upon the provision of thirty days' advance notice  
45 of such denial to the lessee or holder of such shellfish grounds, if the  
46 lessee or holder of shellfish grounds is: (1) In default in the payment of  
47 rent for any shellfish grounds of this state, or (2) the principal or  
48 corporate officer of any business entity that holds such a lease of  
49 shellfish grounds in this state and such business entity is in default in  
50 the payment of rent for such lease. Such application for such renewal  
51 or further lease shall be granted without notice or advertisement of the  
52 pendency thereof; provided no renewal or further lease of such ground  
53 shall be granted when the commissioner, for cause, ceases to lease such  
54 ground for shellfish culture. All assignments or transfers of leases shall

55 be subject to the approval of the commissioner and shall be recorded in  
56 his records. Any person who interferes with, annoys or molests  
57 another in the enjoyment of any lease authorized by the provisions of  
58 this section shall be subject to the penalties provided in section 26-237.  
59 The provisions of sections 26-212, 26-215 and 26-232 shall not apply to  
60 any shellfish grounds leased pursuant to the provisions of this section.

61 Sec. 2. Section 26-225 of the general statutes is repealed and the  
62 following is substituted in lieu thereof (*Effective from passage*):

63 Any person who, in the daytime, unlawfully takes and carries away  
64 any [oysters] shellfish lawfully planted or cultivated in any waters, or  
65 any [oysters] shellfish being on any place designated for the planting  
66 or cultivation of [oysters] shellfish, shall be fined not more than three  
67 hundred dollars or imprisoned not more than one year; and, if such  
68 offense is committed in the night season, [he] such person shall be  
69 fined not more than five hundred dollars or imprisoned not more than  
70 one year.

71 Sec. 3. Section 26-226 of the general statutes is repealed and the  
72 following is substituted in lieu thereof (*Effective from passage*):

73 Any person who wilfully injures any [oyster] shellfish enclosure  
74 legally designated, marked out and enclosed or removes any buoys or  
75 stakes used to mark out any [oyster] shellfish ground, or who takes  
76 any shells from such enclosure, shall (1) for a first offense, be fined not  
77 more than two hundred fifty dollars, and (2) for any subsequent  
78 offense, be guilty of a class C misdemeanor.

79 Sec. 4. Section 26-192f of the general statutes is repealed and the  
80 following is substituted in lieu thereof (*Effective from passage*):

81 Any person, firm or corporation (1) harvesting or taking shellfish  
82 from an area closed and posted by the Department of Agriculture  
83 against the removal of shellfish, except as provided in section 26-192h,  
84 or an area closed by commercial shellfish transplant license issuance or  
85 by order of the local director of health with the approval of the

86 department, (2) misusing any shipping tag or license in violation of  
87 section 26-192c, (3) mislabeling shellfish shipments or deliveries with  
88 any false information, (4) failing to identify shellfish shipments or  
89 deliveries in accordance with the National Shellfish Sanitation  
90 Program Model Ordinance, as amended from time to time, (5)  
91 harvesting shellfish from undesignated grounds, [or] (6) harvesting  
92 shellfish from designated grounds not listed on a license issued by the  
93 Department of Agriculture to such person, firm or corporation, or (7)  
94 failing to initiate a voluntary or mandated recall of all implicated  
95 shellfish products in accordance with procedures that are consistent  
96 with the Recall Enforcement Policy of 21 CFR 7 shall be fined (A) one  
97 thousand dollars, or (B) three times the market value of any shellfish  
98 taken, based on the quantity and type involved in the violation if such  
99 amount is greater than one thousand dollars, or imprisoned not more  
100 than one year. The Commissioner of Agriculture may revoke any  
101 license issued by said commissioner for up to sixty days for the second  
102 violation of this section within six months and up to ninety days for a  
103 third violation of this section within nine months. Any person who  
104 defaces or removes a sign posted by the Department of Agriculture in  
105 accordance with the provisions of section 26-192e shall be fined not  
106 more than five hundred dollars or imprisoned not more than six  
107 months. The provisions of this section are in addition to and in no way  
108 derogate any other enforcement provisions or penalties contained in  
109 any other section of the general statutes.

110 Sec. 5. Section 26-234b of the general statutes is repealed and the  
111 following is substituted in lieu thereof (*Effective from passage*):

112 No person [may] shall take eastern oysters (*Crassostrea virginica*)  
113 from the waters of this state [which] that are less than [three] two and  
114 three-quarters inches long or [which] that are otherwise not ready for  
115 harvest, as determined by the Commissioner of Agriculture, except  
116 that (1) five per cent of any such take may consist of oysters that are  
117 less than two and three-quarters inches long but not less than two and  
118 one-half inches long, and (2) the taking of such oysters for sale,

119 transplant and relay for aquaculture purposes within the waters of the  
120 state shall not be prohibited. The Commissioner of Agriculture may  
121 adopt regulations, in accordance with the provisions of chapter 54, to  
122 carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	26-194(a)
Sec. 2	<i>from passage</i>	26-225
Sec. 3	<i>from passage</i>	26-226
Sec. 4	<i>from passage</i>	26-192f
Sec. 5	<i>from passage</i>	26-234b

**ENV**      *Joint Favorable Subst.*