



General Assembly

Amendment

February Session, 2014

LCO No. 5122

HB0508505122SD0

Offered by:

SEN. MAYNARD, 18th Dist.

SEN. FASANO, 34th Dist.

To: Subst. House Bill No. 5085

File No. 717

Cal. No. 518

(As Amended by House Amendment Schedule "A")

**"AN ACT CONCERNING SHELLFISH GROUNDS LEASES, THE
STEALING OF SHELLFISH, SHELLFISH RECALLS AND THE
TAKING OF EASTERN OYSTERS."**

1 Strike section 1 and insert the following in lieu thereof:

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3 the general statutes is repealed and the following is substituted in lieu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

5 (a) Except as provided in subsection (e) of this section, the
6 Commissioner of Agriculture may lease in the name of the state, under
7 such regulations as the commissioner may prescribe and for a period
8 not longer than ten years, all shellfish areas that have been conveyed to
9 the state or placed under state jurisdiction by the town of West Haven
10 and any undesignated grounds, within the exclusive jurisdiction of the
11 state, for the purpose of planting and cultivating shellfish. The

12 authority herein conferred shall include the Cormell Reef, Portchester,
13 Great Captain's Island, Field Point and Greenwich Point natural beds
14 as located and described in section 3295 of the general statutes,
15 revision of 1918. Any person desiring to lease grounds for such
16 purpose shall make application in writing to the commissioner and all
17 grounds leased by authority of the provisions of this section shall be
18 leased to the highest responsible bidder, for a minimum fee of four
19 dollars per acre. Such lease or lease renewal shall require the lessee to
20 make a good faith effort to cultivate and harvest shellfish from the
21 leased area. Such lease or lease renewal shall prohibit the lessee from
22 entering a contract whereby the lessee agrees not to cultivate and
23 harvest shellfish for any period of time. No lessee may enter an
24 agreement with a third party that will prevent the lessee from carrying
25 out the lessee's obligations under the lease unless the Department of
26 Agriculture and the Attorney General have approved such agreement.
27 The form of such application and lease shall be approved by the
28 Attorney General, and all such leases shall be recorded in the records
29 of the commissioner. No lease shall be granted to a resident of a state
30 which does not lease shellfish grounds to residents of this state, except
31 that any nonresident who was granted a lease on or before October 1,
32 1985, may, upon the expiration of such lease, apply for a renewal or
33 further lease as provided in this section. The commissioner shall grant
34 any such lease to nonresidents upon the same terms and conditions as
35 to residents of this state. Any lessee or holder of shellfish grounds, on
36 the expiration of any lease thereof which has been or which may be
37 granted, having fulfilled all of such lessee's or holder's obligations
38 under the lease shall, upon application to the commissioner, have
39 preference in the reletting of such ground for a like term to that
40 granted in the original lease, excluding the rental fee, which shall not
41 be less than the minimum fee per acre as provided in this subsection. A
42 lease renewal shall not be granted if the applicant is in arrears for rent
43 on the original lease of such grounds. The commissioner may deny the
44 renewal of any such lease entered into or renewed after the effective
45 date of this section, upon the provision of thirty days' advance notice
46 of such denial to the lessee or holder of such shellfish grounds, and

47 any sublessee of such shellfish grounds, if the lessee or holder of
48 shellfish grounds is: (1) In default in the payment of rent for any
49 shellfish grounds of this state, or (2) the principal or corporate officer
50 of any business entity that holds such a lease of shellfish grounds in
51 this state and such business entity is in default in the payment of rent
52 for such lease, provided the commissioner shall provide such lessee or
53 holder of such lease notice of not less than thirty days of such default
54 and shall grant a one-year renewal of said lease for shellfish grounds.
55 The commissioner shall grant such a one-year renewal for such a lease,
56 provided the lessee is otherwise in compliance with said lease, not
57 more than three times. Any request for such a one-year renewal for
58 such a lease may be denied if the lessee has failed to pay the rent for
59 said one-year renewal period. The commissioner, after denying
60 renewal of any such lease, shall, upon the expiration of such lease,
61 send notification of the termination of such lease to all lessees and
62 sublessees of such lease, by means of certified mail. Such notice shall
63 indicate that any such sublessee shall have ninety days from the
64 postmark date for such notice to vacate the subleased area. Such
65 application for such renewal or further lease shall be granted without
66 notice or advertisement of the pendency thereof; provided no renewal
67 or further lease of such ground shall be granted when the
68 commissioner, for cause, ceases to lease such ground for shellfish
69 culture. All assignments or transfers of leases shall be subject to the
70 approval of the commissioner and shall be recorded in his records.
71 Any person who interferes with, annoys or molests another in the
72 enjoyment of any lease authorized by the provisions of this section
73 shall be subject to the penalties provided in section 26-237. The
74 provisions of sections 26-212, 26-215 and 26-232 shall not apply to any
75 shellfish grounds leased pursuant to the provisions of this section."

76 Strike section 5 and insert the following in lieu thereof:

77 "Sec. 5. Section 26-234b of the general statutes is repealed and the
78 following is substituted in lieu thereof (*Effective July 1, 2014*):

79 No person [may] shall take eastern oysters (*Crassostrea virginica*)

80 from the waters of this state [which] that are less than three inches long
 81 or [which] that are otherwise not ready for harvest, as determined by
 82 the Commissioner of Agriculture, except that (1) ten per cent of any
 83 such take may consist of oysters that are less than three inches long but
 84 not less than two and one-half inches long, and (2) the taking of such
 85 oysters for sale, transplant and relay for aquaculture purposes within
 86 the waters of the state shall not be prohibited. For purposes of
 87 determining compliance with the size requirements established
 88 pursuant to this section, the Department of Agriculture shall conduct
 89 any applicable inspection and measurements of eastern oysters after
 90 such oysters are processed and packaged for the purpose of sale or
 91 distribution. The Commissioner of Agriculture may adopt regulations,
 92 in accordance with the provisions of chapter 54, to carry out the
 93 purposes of this section.

94 After the last section, add the following and renumber sections and
 95 internal references accordingly:

96 "Sec. 501. (NEW) (*Effective July 1, 2014*) The Commissioner of
 97 Agriculture may issue permits for the taking of hatchery-produced
 98 oysters from the waters of this state that are less than three inches long.
 99 For the purposes of this section, "hatchery-produced oysters" means
 100 any oyster that is hatched in a controlled environment."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	26-194(a)
Sec. 5	<i>July 1, 2014</i>	26-234b
Sec. 501	<i>July 1, 2014</i>	New section