



General Assembly

Amendment

February Session, 2014

LCO No. 4426

HB0508504426HDO

Offered by:

REP. GENTILE, 104th Dist.
REP. ALBIS, 99th Dist.
REP. SHABAN, 135th Dist.
REP. MINER, 66th Dist.
REP. BACKER, 121st Dist.

REP. O'DEA, 125th Dist.
SEN. MEYER, 12th Dist.
SEN. CHAPIN, 30th Dist.
SEN. DUFF, 25th Dist.
SEN. MAYNARD, 18th Dist.

To: Subst. House Bill No. 5085

File No. 464

Cal. No. 272

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

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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4 the general statutes is repealed and the following is substituted in lieu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

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

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

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

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

78 Any person who, in the daytime, unlawfully takes and carries away

79 any [oysters] shellfish lawfully planted or cultivated in any waters, or
80 any [oysters] shellfish being on any place designated for the planting
81 or cultivation of [oysters] shellfish, shall be fined not more than three
82 hundred dollars or imprisoned not more than one year; and, if such
83 offense is committed in the night season, [he] such person shall be
84 fined not more than five hundred dollars or imprisoned not more than
85 one year.

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

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

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

96 Any person, firm or corporation (1) harvesting or taking shellfish
97 from an area closed and posted by the Department of Agriculture
98 against the removal of shellfish, except as provided in section 26-192h,
99 or an area closed by commercial shellfish transplant license issuance or
100 by order of the local director of health with the approval of the
101 department, (2) misusing any shipping tag or license in violation of
102 section 26-192c, (3) mislabeling shellfish shipments or deliveries with
103 any false information, (4) failing to identify shellfish shipments or
104 deliveries in accordance with the National Shellfish Sanitation
105 Program Model Ordinance, as amended from time to time, (5)
106 harvesting shellfish from undesignated grounds, [or] (6) harvesting
107 shellfish from designated grounds not listed on a license issued by the
108 Department of Agriculture to such person, firm or corporation, or (7)
109 failing to initiate a voluntary or mandated recall of all implicated
110 shellfish products in accordance with procedures that are consistent

111 with the Recall Enforcement Policy of 21 CFR 7 shall be fined (A) one
112 thousand dollars, or (B) three times the market value of any shellfish
113 taken, based on the quantity and type involved in the violation if such
114 amount is greater than one thousand dollars, or imprisoned not more
115 than one year. The Commissioner of Agriculture may revoke any
116 license issued by said commissioner for up to sixty days for the second
117 violation of this section within six months and up to ninety days for a
118 third violation of this section within nine months. Any person who
119 defaces or removes a sign posted by the Department of Agriculture in
120 accordance with the provisions of section 26-192e shall be fined not
121 more than five hundred dollars or imprisoned not more than six
122 months. The provisions of this section are in addition to and in no way
123 derogate any other enforcement provisions or penalties contained in
124 any other section of the general statutes.

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

127 No person [may] shall take eastern oysters (*Crassostrea virginica*)
128 from the waters of this state [which] that are less than [three] two and
129 three-quarters inches long or [which] that are otherwise not ready for
130 harvest, as determined by the Commissioner of Agriculture, except
131 that (1) ten per cent of any such take may consist of oysters that are
132 less than two and three-quarters inches long but not less than two and
133 one-half inches long, and (2) the taking of such oysters for sale,
134 transplant and relay for aquaculture purposes within the waters of the
135 state shall not be prohibited. For purposes of determining compliance
136 with the size requirements established pursuant to this section, the
137 Department of Agriculture shall conduct any applicable inspection and
138 measurements of eastern oysters after such oysters are processed and
139 packaged for the purpose of sale or distribution. The Commissioner of
140 Agriculture may adopt regulations, in accordance with the provisions
141 of chapter 54, to 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>July 1, 2014</i>	26-234b