

**HOUSE . . . . . No. 1988**

---

The Commonwealth of Massachusetts

PRESENTED BY:

*Antonio F. D. Cabral*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act to promote Massachusetts' fishing industry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Mark C. Montigny</i>	<input type="checkbox"/> <i>[District]</i>
<i>Patricia A. Haddad</i>	<input type="checkbox"/> <i>5th Bristol</i>

**HOUSE . . . . . No. 1988**

---

By Mr. Cabral of New Bedford, a petition (accompanied by bill, House, No. 1988) of Antonio F. D. Cabral, Mark C. Montigny and Patricia A. Haddad relative to marine fisheries, fishing and fishing vessels. Environment, Natural Resources and Agriculture.

---

The Commonwealth of Massachusetts

An Act to promote Massachusetts' fishing industry.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 21A of the general laws, as appearing in the 2008 official edition,  
2 is hereby amended by striking section 4A.

3 SECTION 2. The general laws are hereby amended by inserting after chapter 25C the  
4 following:--

5 CHAPTER 25D.

6 DEPARTMENT OF MARINE RESOURCES AND FISHERIES

7 Section 1. In this chapter, unless the context otherwise requires, the following words  
8 shall have the following meanings and the following rules of construction shall apply:

9 "Angling", fishing with hand line or rod, with naturally or artificially baited hook.

10 "Canned lobster meat or crab meat", lobster meat or crab meat preserved by heat  
11 processing, freezing, or refrigeration, and packed in a container impervious to contamination and  
12 so sealed that once opened it cannot be re-sealed and re-used for its original purpose.

13 "Clam", a marine mollusk of the species *Mya arenaria* commonly called the soft-shell  
14 clam.

15 "Close season", the time during which fish cannot lawfully be taken.

16 "Coastal waters", all waters of the commonwealth within the rise and fall of the tide and  
17 the marine limits of the jurisdiction of the commonwealth, but not waters within or above any  
18 fishway or dam nor waters above any jurisdictional boundary legally established pursuant to  
19 section five of chapter one hundred and thirty in rivers and streams flowing into the sea.

20 "Commissioner", the commissioner of the department of marine resources and fisheries.

21 "Dealer", any person who commercially handles fish.

22 "Department", the department of marine resources and fisheries.

23 "Fish", any animal life inhabiting the ocean or its connecting waters including any  
24 crustacean or marine fish, whether free swimming or free moving, and any shellfish or sea  
25 worms, whether or not imbedded in the soil. All provisions of the chapter relative to fish shall, so  
26 far as apt, apply also to lobster meat and crab meat after the same has been taken from the shell.

27 The verb, "to fish", in all of its moods and tenses, to take or to attempt to take fish by any  
28 method or means, whether or not such method or means results in their capture.

29 "Fish car", a box or other contrivance in coastal waters, whether floating or sunken, used  
30 for keeping fish alive.

31 "Lobster", the common American lobster, of the species *Homarus americanus*.

32 "Marine fisheries", all fisheries in coastal waters.

33 "Open season", the time during which fish may lawfully be taken.

34 "Quahaug", a marine mollusk of the species *Venus mercenaria* commonly called the  
35 hard-shell clam.

36 "Recreational saltwater fishing", the non-commercial taking or attempted taking of finfish  
37 for personal or family use; provided, however, that the finfish are not sold, traded or bartered.

38 "Registered under the laws of the state", any vessel from a Massachusetts port which is  
39 licensed to operate for commercial fishing purposes under the authority of this chapter, or any  
40 vessel from a Massachusetts port which is operated for commercial fishing purposes by any  
41 person licensed under the authority of this chapter.

42 "Retail dealer", any person not a wholesale dealer who distributes fish commercially.

43 "Scallop", a marine mollusk of the species *Aequipecten irradians*, commonly known as  
44 the cape scallop or bay scallop.

45 "Sea scallop", a marine mollusk of the species *Pecten magellanicus*, commonly known as  
46 deep water scallop.

47 "secretary", the secretary of the executive office of housing and economic development

48 "Seed clam", a soft-shell clam of a size less than the minimum prescribed in section sixty-  
49 nine and useable for planting purposes only.

50 "Seed quahaug", a quahaug of a size less than the minimum prescribed in section sixty-  
51 nine and useable for planting purposes only.

52 "Seed scallop", an immature scallop without the annual growth line as described in  
53 section seventy.

54 "Shellfish", clams, conchs, limpets, mussels, oysters, periwinkles, quahaugs, razor clams  
55 or razor fish, scallops, sea clams, sea quahaugs, sea scallops and winkles.

56 "Short lobster", any lobster measuring less than prescribed in section forty-four.

57 "Territorial waters", the same as coastal waters.

58 "Truckman", any person other than a common carrier, using a truck or other vehicle in  
59 distributing fish.

60 "Wholesale dealer", any person who distributes fish commercially in bulk or for resale by  
61 a dealer, or who operates branch stores for the retail sale of fish.

62 A person who knowingly counsels, aids or assists in a violation of any provision of this  
63 chapter or of any rule or regulation made thereunder or knowingly shares in any of the proceeds  
64 of said violation by receiving or possessing fish, shall be deemed to have incurred the penalties  
65 imposed thereby upon the person guilty of such violation.

66 Whenever the taking of fish is authorized, reference is had to taking by lawful means  
67 and in a lawful manner.

68 Any reference to the taking or having in possession of a fish shall include the taking or  
69 having in possession of any part or portion thereof.

70 This chapter and regulations made under the authority thereof shall apply to all marine  
71 fisheries and fish within the jurisdiction of the commonwealth and to all vessels registered under  
72 the laws of the commonwealth. This provision shall not be construed to limit the authority of the  
73 director to protect anadromous fish by providing for their passage from the coastal waters to  
74 spawning grounds in streams and ponds in inland waters and to regulate fisheries contained  
75 therein for the taking of such anadromous fish.

76 Section 2. The department of seafood and marine resources shall be within the executive  
77 office of housing and economic development and shall be under the administrative supervision  
78 of a director who shall be called the commissioner of seafood and marine resources. The  
79 commissioner shall be appointed and may be removed by the governor. The department shall  
80 administer all the laws relating to marine fisheries as appearing in chapter twenty-five D and any  
81 other general or special laws, except as pertain to the enforcement thereof. It shall be responsible  
82 for the biological development of marine fish and fisheries. Said department shall co-operate  
83 with all departments, boards, officials and institutions of the commonwealth or its subdivisions

84 that may be concerned in any way with matters under its supervision. It shall co-operate with  
85 adjoining states and with the United States of America, or any agency thereof, with foreign  
86 countries, and any other agency, as may be authorized by the general court, and receive and  
87 dispense such funds from any of such agencies, states or governments as may be authorized by  
88 the general court.

89           Section 1B. There shall be in the department a commission to be known as the marine  
90 fisheries advisory commission hereinafter called the commission, which shall consist of nine  
91 members, who shall represent to the extent possible the various segments of the fishing industry,  
92 including geographic diversity, types of catch, business size, employment and type and stage of  
93 production, from fishing to processing to wholesale and retail trade. The members shall be  
94 appointed by the governor for a term of three years. No member of the commission shall hold  
95 any other position in the department while serving as such.

96           The commission shall annually elect its own chairman and clerk and shall keep accurate  
97 records of its meetings and hearings and shall meet at least quarterly and at the call of the  
98 chairman. A quorum to conduct business shall consist of five members. The commission shall  
99 hold public hearings relative to matters within the jurisdiction of the department and shall make  
100 recommendations to the commissioner for the proper management and development of the  
101 marine fisheries of the commonwealth. The commissioner or his designee shall attend all  
102 meetings and hearings of the commission and may present evidence thereat and shall include in  
103 his annual report a report of the commission. The members of the commission shall serve  
104 without compensation but shall be reimbursed for actual expenses incurred in the performance of  
105 their official duties.

106           Section 3. Licenses, permits and certificates of registration issued by the director or his  
107 agent shall not, except as otherwise provided in this chapter, be transferable and shall be  
108 produced for examination upon demand of any authorized person.

109           Notwithstanding the foregoing, the department promulgate regulations to permit the  
110 transfer of fishing licenses held in a limited entry fishery, so-called.

111           Unless otherwise specifically provided by law or regulations promulgated by the  
112 department, every license, permit or certificate issued under any provision of this chapter or any  
113 other provision of law relating to marine fish and fisheries or of any rule or regulation made  
114 under authority thereof, held by any person convicted of a violation of any of the laws relating to  
115 marine fish and fisheries or any rule or regulation made under authority thereof by a court of  
116 competent jurisdiction, or any person who pleads nolo contendere or admits to sufficient facts in  
117 a court of competent jurisdiction to an allegation of a violation of any such law, rule or  
118 regulation, may be suspended and inoperative for one month for the first offense, three months  
119 for the second offense, and for one year for any subsequent offense. All suspended or void  
120 licenses, permits or certificates shall be surrendered forthwith to any officer authorized to

121 enforce the laws relating to marine fish and fisheries. No person whose license, permit or  
122 certificate has become suspended or void shall be given a new license, permit or certificate under  
123 authority of any provision of law relating to marine fish and fisheries during the period of  
124 suspension, and any license, permit or certificate so issued shall also be void and shall be  
125 surrendered forthwith on demand of any officer authorized to enforce the laws relating to marine  
126 fish and fisheries. No fee received for a license, permit or certificate suspended or made void  
127 under this section shall be refunded. All traps, trawls, pots, buoys, lines, boats or other fishing  
128 gear used in violation of the laws relating to lobsters may be impounded by the division of law  
129 enforcement for a period of not less than thirty days nor more than one year from and after the  
130 date on which the owner, lessee or person in possession of such traps, trawls, pots, buoys, lines,  
131 boats or other fishing gear is convicted of such violation.

132           Whoever violates any provision of this chapter shall, unless otherwise provided, be  
133 punished by a fine of not less than ten nor more than five thousand dollars, or by imprisonment  
134 for not more than one year, or both.

135           Whoever violates any rule or regulation made under authority of this chapter shall, unless  
136 otherwise provided, be punished by a fine of not less than fifty nor more than one thousand  
137 dollars.

138           Any penalty imposed under this section shall be in addition to the suspension or  
139 revocation of licenses, permits or certificates as authorized by this section, and to any forfeiture  
140 proceedings authorized under this chapter.

141           Section 4. Whoever loses or by mistake or accident destroys a license, permit or  
142 certificate issued under any provision of this chapter may, upon application to the commissioner,  
143 accompanied by a fee of three dollars and an affidavit setting forth the circumstances of said  
144 loss, receive a duplicate thereof.

145           Section 5. The commissioner or his agent shall make a record, in books kept therefor, of  
146 all licenses, permits or certificates issued by him under the authority of this chapter, and shall  
147 date each license, permit or certificate as of the date of issue; and except as hereinafter provided  
148 no other date shall be placed on such license, permit or certificate. Such books shall be subject at  
149 all times to audit and inspection by the state auditor or by the comptroller or by their respective  
150 agents.

151           Nothing herein shall be construed to prohibit the sale of license, permits and certificates  
152 during the month of December in any year to be valid for use only on and after January first next  
153 succeeding. Any license, permit or certificate so sold shall have the date of sale endorsed  
154 thereon.

155           Section 6. In a city or town bordering on coastal waters, a police officer employed on a  
156 full time, provisional or reserve basis shall, for the enforcement of the provisions of this chapter

157 have the authority granted to an environmental police officer, subject to such rules and  
158 regulations as the commissioner is hereby authorized to adopt.

159         Section 7. The commissioner, chiefs of enforcement, deputy chiefs of enforcement and  
160 all environmental police officers and deputy environmental police officers or a member of the  
161 state police may, without a warrant, search any boat, vessel, fish car, bag, box, locker, package,  
162 crate, any building other than a dwelling house, any motor vehicle as defined in section one of  
163 chapter ninety, or other vehicle, or any other personal property in which he has reasonable cause  
164 to believe, and does believe, that fish taken, held, kept, possessed, transported or held for  
165 transportation or sale in violation of law, may be found, and may seize any such fish there found,  
166 and may seize any boat, vessel, fish car, bag, box, locker, package, crate, any motor vehicle as  
167 defined in section one of chapter ninety, or other vehicle, or any other personal property used in  
168 a violation of the laws relative to marine fisheries and hold the same for forfeiture.

169         Any such person or officer may arrest without a warrant any person found violating any  
170 provision of this chapter or of any ordinance, rule or regulation made under authority thereof, or  
171 any other provision of law relative to marine fisheries.

172         Section 8. A court or official authorized to issue warrants in criminal cases shall, upon a  
173 sworn complaint that the complainant believes that any fish unlawfully taken or possessed are  
174 concealed in any boat, vehicle, fish car, box, locker, crate, package, building or other particular  
175 place, other than a dwelling house, within its or his jurisdiction, if satisfied that there is  
176 reasonable cause for such belief, issue a warrant to search therefor. The warrant shall designate  
177 and describe the place to be searched and the articles for which search is to be made and, if  
178 possible, the person by whom the articles are believed to be owned, kept or possessed, and shall  
179 be directed to any officer named in section eleven commanding him to search the place where  
180 the fish for which he is required to search are believed to be concealed, and to seize such fish.

181         Section 9. All fish unlawfully taken, held, possessed or dealt with contrary to any  
182 provision of this chapter or of any rule or regulation made under authority thereof, and all boats,  
183 vehicles and apparatus used therein, may, in addition to any or all of the penalties contained  
184 therein, be seized, libelled and forfeited to the commonwealth.

185         Whenever seizure and confiscation or forfeiture is provided by any provision of this  
186 chapter, unless another procedure is therein indicated such confiscation or forfeiture shall be  
187 according to the provisions of chapter two hundred and fifty-seven. Fish so seized except  
188 shellfish apparently taken from an area determined under section seventy-four or corresponding  
189 provisions of earlier laws to be contaminated, and except fish seized under the provisions of  
190 section eighty-nine, may be so libelled or, at the discretion of the commissioner, be disposed of  
191 by him for the best interests of the commonwealth, or, in the alternative, be sold at private sale or  
192 public auction, and the net proceeds of such sale may be libeled in the same manner and with the  
193 same effect as if such proceeds were the property itself, unless the person named in the warrant

194 or some person in his behalf shall before the commencement of such libel or sale request that the  
195 fish be preserved until final action is had thereon. Shellfish apparently taken from an area  
196 determined to be contaminated as aforesaid, and fish seized under the provisions of section  
197 eighty-nine, shall be disposed of by the director in such manner as will prevent the use thereof as  
198 food.

199           Section 10. The commissioner, the chiefs of enforcement, deputy chiefs of enforcement  
200 and all environmental police officers and deputy environmental police officers, or any member  
201 of the state police may request any person whom he has cause to believe is engaged in  
202 unlawfully fishing, or to be unlawfully in possession of fish, or to be in possession of fish  
203 unlawfully taken, to forthwith display for inspection all fish then in his possession, and may  
204 arrest without warrant a person refusing or failing to comply with such request.

205           Whoever, being in a boat in coastal waters throws or dumps overboard the contents of  
206 any pail, bag, barrel or other receptacle, or throws overboard any fish, after having been  
207 requested or signaled by any officer authorized to enforce this section to stand by for inspection  
208 shall be deemed to have violated this section.

209           Whoever violates any provision of this section shall be punished by a fine of not less than  
210 one hundred nor more than two hundred dollars.

211           Section 11. Actions and prosecutions under the laws relative to fish or marine fisheries  
212 shall, unless otherwise expressly provided, be commenced within one year after the time when  
213 the cause of action accrued or the offence was committed.

214           Section 12. Any game protector, fish and game warden, coastal warden, conservation  
215 officer or other person who is empowered to make arrests for violations of the conservation or  
216 marine fishing laws of the state of New Hampshire or of the state of Rhode Island may pursue  
217 any person found fishing in the coastal waters of such state in violation of the marine fishing  
218 laws thereof onto adjacent coastal waters of this commonwealth and there arrest him and take  
219 him into such other state for the purpose of prosecuting him for such violation; provided, that  
220 such other state shall have enacted legislation giving substantially similar authority to the  
221 environmental police officers of the division of law enforcement including deputy environmental  
222 police officers and other appropriate officers of this commonwealth relative to persons found  
223 fishing in the coastal waters of this commonwealth in violation of the marine fishing laws  
224 thereof.

225           Section 13. Any occupation under this chapter of tide waters or any work done therein,  
226 shall be subject to the pertinent provisions of chapter ninety-one.

227           Section 14. The director may:

228 (1) Destroy from time to time license books and stubs, licenses, permits, certificates of  
229 registration and blanks relative thereto, after the same have been properly audited by the state  
230 auditor, and such other documents as the director deems advisable after the same have been  
231 noted on the official records;

232 (2) Take, or in writing authorize his agents to take fish at any time or in any manner for  
233 purposes connected with propagation or scientific observation;

234 (3) Investigate questions relating to fish and personally or by assistants, institute and  
235 conduct inquiries pertaining to such questions, and conduct such biological research and assist  
236 cities and towns in the development of shellfish conservation and management plans as will, in  
237 his opinion, tend to conserve, improve and increase the supply of fish in the coastal waters.

238 (4) Aid in the promotion and development of the commercial fishing industry; investigate  
239 improved methods of marketing and distributing commercial fish products within the  
240 commonwealth; and establish standards and design labels for the identification of commercial  
241 fish products processed, prepared or packed for distribution and for retail sales;

242 (5) Arrange for lectures and may issue for general distribution such publications as he  
243 considers best adapted to promote the interests of commercial fisheries;

244 (6) Establish and maintain properties at such places within the commonwealth as he may  
245 select for the purpose of propagating, rearing and protecting fish;

246 (7) Occupy, use and control not exceeding ten ponds and estuaries, creeks or other arms  
247 of the sea, within the coastal waters, and the necessary land thereto adjoining, for the propagation  
248 and distribution of fish frequenting the coastal waters and for the scientific investigation of their  
249 habits, if such occupation and use do not impair the private rights of any person or materially  
250 obstruct any navigable waters. Notice of such occupation and use and the purpose thereof shall  
251 be conspicuously posted by the director at the nearest points to said ponds and estuaries, creeks  
252 or other arms of the sea, and shall be recorded in the registry of deeds in the county or district  
253 where they are situated.

254 (8) With the approval of the secretary, for the purpose of protecting and improving  
255 marine resources, on behalf of the commonwealth acquire in fee by purchase, gift or devise, or  
256 by lease, or with the consent of the owners, may control, any land with buildings and  
257 improvements thereon and with the consent of the owner of any land may control the flow of any  
258 water on or over his land.

259 (9) With the approval of the governor, receive in trust for the commonwealth any grant or  
260 devise of real property or any gift or bequest of personal property for the purpose of aiding in the  
261 enhancement and protection of any marine resources; provided, that, unless approved by the  
262 general court, no obligation shall be imposed on the commonwealth to expend in carrying out

263 any such trust an amount greater than the income of the trust property, or greater than the income  
264 and the principal thereof, if by the terms of such trust the principal may be expended. Any such  
265 gift or bequest of money or securities shall be transferred forthwith to the state treasurer, who  
266 shall administer it as provided in section sixteen of chapter ten.

267 (10) Notwithstanding any contrary provision of law, with the exception of chapter 130 of  
268 the General Laws of the Commonwealth of Massachusetts, adopt, amend, or repeal all rules and  
269 regulations, with the approval of the Governor, necessary for the maintenance, preservation and  
270 protection of all marine fisheries resources between the mean high water mark of the  
271 commonwealth and a straight line extension of the lateral boundaries of the commonwealth  
272 drawn seaward to a distance of 200 miles or to a point where the water depth reaches 100  
273 fathom, whichever is the greatest. Any person, firm or corporation convicted of violating any  
274 rule or regulation authorized under the provisions of this paragraph shall be punished by a fine  
275 not to exceed ten thousand dollars (\$10,000). Violations may be prosecuted in any superior court  
276 within the Commonwealth of Massachusetts.

277 (11) Subject to the notice provisions of chapter thirty A, without hearing, with the  
278 approval of the commissioner, adopt regulations declared by him to be emergency regulations  
279 necessary for immediate management or control of the marine fisheries. Such emergency  
280 regulations may be limited in time but shall not remain in effect for a period longer than forty-  
281 five days.

282 (12) Authorize agents to sell certain permits issued pursuant to section 83 and authorize  
283 agents who are not employed by the commonwealth to charge an administrative fee for such  
284 permits not to exceed \$1.50 for each permit.

285 Section 15. Upon petition signed by any interested party or upon his own motion, the  
286 commissioner shall submit to the marine fisheries advisory commission proposals relating to the  
287 management of the marine fisheries. After public hearing, notice of which shall be published in a  
288 newspaper of general distribution in the areas affected, the commission shall in writing approve  
289 or disapprove such proposals. If any proposal is so approved, the director shall in accordance  
290 with such approval adopt, amend or repeal rules and regulations, subject to the approval of the  
291 secretary, which shall govern the following activities only:

292 (1) The manner of taking fish;

293 (2) The legal size limits of fish to be taken;

294 (3) The seasons and hours during which fish may be taken;

295 (4) The numbers or quantities of fish which may be taken;

296 (5) The opening and closing of areas within the coastal waters to the taking of any and  
297 all types of fish; provided that no area shall be so opened or closed without the consent of the

298 selectmen of the town or the mayor and council of the city affected thereby. Upon the request of  
299 the commission, the selectmen or mayor and council shall hold a public hearing upon the  
300 question and shall thereafter notify the commission in writing within forty-five days after such  
301 request has been received or consent will be deemed to have been granted.

302 No such rule or regulation shall require a license for the taking of finned fish from  
303 coastal waters for non-commercial purposes.

304 Section 16. Notwithstanding the provisions of this chapter, the commissioner may, by  
305 issuance of a written permit under such terms and conditions as he may impose, authorize the  
306 possession and taking of fish at any season and of any size for purposes of propagation, rearing,  
307 harvesting or sale in connection with an aquacultural enterprise in which the fish being so  
308 propagated, reared and harvested are kept separate from natural stocks of the same species.

309 Section 17. (a) The commissioner shall establish a state recreational saltwater fishing  
310 permit program to comply with the state exemption requirements of section 401 (g)(2) of the  
311 Magnuson-Stevens Fishery Conservation and Management Act, 16 USC 1881 (g)(2) and may  
312 promulgate regulations implementing the state program in accordance with sections 17 and 17A.

313 (b) No person shall engage in the recreational activity of finfishing, or take or land  
314 finfish for recreational purposes in or from the coastal waters of the commonwealth without first  
315 obtaining a saltwater recreational fishing permit from the commissioner. The permit process  
316 shall require the applicant to submit, in addition to any other information required by the  
317 commissioner, the applicant's name, address, telephone number and date of birth. A permit shall  
318 not be required in the following circumstances:

319 (1) a non-resident holding a valid recreational saltwater fishing permit from a coastal  
320 state; provided, however, that the commissioner shall determine that: the requirements of such  
321 other state permit are substantially the same as the commonwealth's permit requirements; and the  
322 privileges granted under law to the resident of the other coastal state are similar to those  
323 permitted by the commonwealth;

324 (2) a person under 16 years of age;

325 (3) a disabled person, as defined in section 1 of chapter 19C; or

326 (4) a person fishing as a passenger on a for-hire vessel; provided, however, that the  
327 owner of the vessel has a valid permit from the director as provided in subsection (c).

328 (c) The commissioner may issue a recreational saltwater fishing permit to an individual  
329 or a business entity that is engaged in for-hire recreational fishing in the coastal waters of the  
330 commonwealth, and such permit shall be valid for all persons on board the for-hire vessel. The  
331 commissioner may establish categories and related requirements for such permits.

332 (d) The commissioner may establish categories of recreational saltwater fishing permits,  
333 including, but not limited to, individual permits, age-related permits and for-hire permits, and  
334 may charge a separate annual fee for each category of permits. The amounts of such fees shall be  
335 established by the secretary of administration and finance under section 3B of chapter 7;  
336 provided, however, that the director or authorized agents may not charge a fee to individuals  
337 requesting a permit who, at the time of permit application, are 60 years of age or older or less  
338 than 16 years of age. The director shall develop a fee schedule for all classes of permits and  
339 submit such schedule to the clerks of the house of representatives and senate not less than 30  
340 days before the schedule is to take effect.

341 (e) The commissioner may authorize agents to sell recreational saltwater fishing permits  
342 issued under this section and authorize agents who are not employed by the commonwealth to  
343 charge and retain a reasonable service fee for such service.

344 (f) The commissioner may designate not more than 2 days in each year as free  
345 recreational saltwater fishing days. A person may take saltwater finfish for noncommercial  
346 purposes on a free recreational saltwater fishing day without obtaining or possessing a permit or  
347 paying a permit fee as prescribed in this section; provided, however, that a person who takes  
348 saltwater finfish on a free recreational fishing day must comply with all laws, rules and  
349 regulations governing the holders of a recreational fishing permit and all other conditions and  
350 limitations regulating the taking of saltwater finfish.

351 (g) There shall be established within the department a marine recreational fisheries  
352 development panel. The panel shall advise the commissioner on the development and  
353 administration of recreational saltwater fishing improvement programs, including, but not limited  
354 to, the improvement of public access to marine recreational fisheries. The panel shall consist of 2  
355 members of the marine fisheries advisory commission and 3 members of the public at large, all  
356 of whom shall have specific expertise and background in the commonwealth's marine  
357 recreational fisheries. The panel members shall be appointed by the commissioner for terms not  
358 to exceed 3 years. Any member shall be eligible for reappointment. The panel shall meet at least  
359 twice annually and shall also meet at the request of the director or the commissioner. Three of  
360 the members shall constitute a quorum and the affirmative vote of a majority of members present  
361 at a duly called meeting where a quorum is present shall be necessary for any action to be taken  
362 by the panel.

363 Section 18. Whoever violates section 17, or any rule or regulation made under authority  
364 thereof, shall be punished by a fine per offense as promulgated by the director. All funds  
365 received by the commonwealth under this section shall be deposited in the Marine Recreational  
366 Fisheries Development Fund established by section 35NN of chapter 10.

367 Section 19. Whoever without right enters in or upon any building or other structure or  
368 any area of land, flats or water, set apart and used by or under authority of the director for

369 conducting scientific experiments or investigations or for propagation or protection of fish, or  
370 whoever contrary to regulations fishes in waters so set apart and used after the director has  
371 caused printed notices of such occupation and use and the purposes thereof to be placed in a  
372 conspicuous position upon any such building or other structure or adjacent to any such area of  
373 land, flats or water, and whoever injures or defaces any such building or other structure or any  
374 notice posted as aforesaid, or injures or destroys any property used in such experiments or  
375 investigations or for such purposes, or otherwise interferes therewith, shall be punished by a fine  
376 of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six  
377 months.

378           Section 20. The commissioner shall assist and co-operate with coastal cities and towns  
379 for the purpose of increasing the supply of shellfish and exterminating the enemies thereof within  
380 their borders, and for this purpose may expend such sums as may be appropriated therefor. The  
381 expenditure of any funds so appropriated shall be apportioned by the commissioner among said  
382 coastal cities and towns in such amounts as will, in his opinion, effect the greatest amount of  
383 relief and assistance to the shellfish industry; provided, that no money shall be expended  
384 hereunder in any such city or town for the purpose of such relief or assistance unless such city or  
385 town, within one year prior to the date of such expenditure, shall have expended an amount equal  
386 to at least one fourth of the total cost of such work, or shall have contributed services or material  
387 of a value, as determined by the commissioner, equal to such proportion. The work of increasing  
388 the supply of shellfish and exterminating the enemies thereof in coastal cities and towns aided  
389 hereunder shall be done and expenditures therefor shall be made in such manner as the  
390 commissioner may determine and in accordance with rules and regulations which the director  
391 shall make with respect thereto, which rules and regulations he is hereby authorized to make and  
392 enforce.

393           The commissioner, in the operation of any plant for the treatment or purification or  
394 propagation of shellfish, is hereby authorized and directed to investigate and study methods for  
395 the treatment or purification of shellfish taken from areas determined under section seventy-four  
396 to be contaminated. The commissioner, in the course of such investigation, shall confer with the  
397 state department of public health and may expend for expert, clerical and other services and  
398 expenses such sums as may be appropriated therefor. The commissioner shall, before exercising  
399 the authority to assist and co-operate as provided in this section, receive the advice of the  
400 biologist of the department and a written opinion from him thereon.

401           The commissioner, acting on behalf of the commonwealth and with the approval of the  
402 governor and council, may enter into contracts or agreements with agencies of the federal  
403 government or any private institute or corporation for carrying out research and laboratory work  
404 necessary for purposes of the treatment or purification of shellfish and the propagation of  
405 shellfish in the coastal areas of the commonwealth, and may expend such sums as may be  
406 appropriated for the purpose.

407 Section 21. The commissioner shall assist and cooperate with coastal cities and towns for  
408 the purpose of establishing and maintaining a program of self-help to said cities and towns for  
409 the cultivation, propagation and protection of shellfish. Funds to carry out the purposes of this  
410 section shall annually be appropriated from the Tourism and Industrial Promotion Fund. The  
411 commissioner may expend such sums as may be appropriated from said fund, but such sums as  
412 are expended therefor shall be conditional upon the expenditure of an equal amount of money by  
413 said cities and towns.

414 The treasurer of each participating city or town shall certify to the commissioner annually  
415 the amounts so appropriated by said city or town, which for the purposes of this act shall be  
416 equal to the total shellfish department budget.

417 The commissioner shall certify to the state treasurer on an annual basis all sums pledged  
418 to the aforesaid purpose by said cities and towns. Family use areas and recreational shellfish  
419 areas set aside pursuant to section fifty-two which are cultivated, propagated or protected under  
420 the funding or provisions of this section shall be open to all inhabitants of the commonwealth  
421 upon payment of a reasonable fee.

422 Section 23. The commissioner shall devise a system of statistical information useful to  
423 the commercial and recreational fishing industry of the commonwealth and may collect and  
424 compile fishery statistics obtained thereunder. He may require for such purposes statistical  
425 reporting from all fishermen, wholesale and retail fish dealers and fish processors on such forms  
426 and at such time to be determined by him. Said statistical reports shall be signed and submitted  
427 under the pains and penalties of perjury and subject to chapter sixty-six and chapter sixty-six A,  
428 shall be held strictly confidential by the director and shall not be disclosed except in compliance  
429 with a valid court order. The commissioner may, by regulation, prescribe such procedures as  
430 may be necessary to preserve such confidentiality, except that the commissioner may release or  
431 make public any such statistics in any aggregate or summary form which does not directly or  
432 indirectly disclose the identity or business of any person who submits such statistics.

433 Any license, permit or certificate issued by the department to any person who refuses or  
434 fails to submit, or knowingly submits a false statistical report shall be suspended and surrendered  
435 to the commissioner. Persons who fail to submit, or knowingly file a false report shall not have  
436 issued to them a new license, permit or certificate until an accurate statistical report is submitted  
437 to the director.

438 The commissioner may enter into cooperative agreements with local, state or federal  
439 authorities for the purpose of joint conservation and management of marine fisheries and for the  
440 implementation and enforcement of rules and regulations relative thereto, and may, subject to  
441 chapter thirty A, implement any regulations as developed and recommended by the Atlantic  
442 States Marine Fisheries Commission.

443 The commissioner shall, from to time, prepare and distribute bulletins and reports  
444 embodying statistical and other information relative to marine fisheries. He shall also assist and  
445 cooperate with local authorities in the promulgation of rules and regulations for the protection  
446 and conservation of marine fisheries.

447 Whoever violates any provisions of this act shall be fined not less than one hundred  
448 dollars nor more than one thousand dollars.

449 Section 24. The proprietors of lands upon which a pond is created and maintained by  
450 excavating and enclosing the same and by the artificial flowing of same with coastal waters, for  
451 the purpose of cultivating and maintaining fish thereon, shall have the exclusive rights to  
452 cultivate and the exclusive ownership and control of, all fish thereon or therein, whether  
453 artificially or naturally propagated; provided, that no fish determined by the director to be  
454 injurious may be cultivated or maintained thereon or therein, and that no fish may be taken  
455 therefrom of a size, of an age, at a season, or for a purpose, prohibited by law; and provided,  
456 further, that before any such excavation shall be made plans for an artificial flowage of the same  
457 with coastal waters shall be approved by the director and the department of environmental  
458 protection.

459 Section 25. The aldermen or city council of a city or the selectmen of a town lying upon  
460 coastal waters may, in writing, and upon blanks, supplied by the commissioner, authorize any  
461 person to construct weirs, pound nets or fish traps in tidewater in locations where no harbor lines  
462 exist and also in locations beyond established harbor lines, within the limits of such city or town,  
463 for a term not exceeding five years, upon such conditions and subject to such regulations as the  
464 aldermen, city council or the selectmen may impose; but no authority so given shall be valid  
465 unless approved in writing as to location and construction by the department and the  
466 commissioner, and subject to such conditions as it and he may impose; nor until such  
467 authorization, together with such approval, has been filed with the commissioner.

468 Section 26. Any person who constructs or maintains any weir, pound net or fish trap after  
469 having received written approval therefor as provided in section twenty-nine shall at all times  
470 while such structure is maintained have the same plainly marked with the number of such  
471 approval painted or printed on a sign or flag in figures at least six inches in height and  
472 conspicuously displayed on the inshore and offshore ends of such structure. Violation of the  
473 provisions of this section shall be punished by a fine of not more than twenty-five dollars.

474 Section 27. Whoever without the consent of the owner takes or uses or destroys, injures  
475 or molests any weir, pound net, fish trap, seine, set net or lobster or crab pot or other fishing  
476 gear, or any fish car or other contrivance used for the purpose of storing fish, including any such  
477 fishing gear which is swept ashore by storm or tide or other natural causes and deposited upon  
478 the shore, beaches or flats, whether public or private, or takes fish therefrom without the consent

479 of the owner, shall be punished by a fine of not less than five hundred nor more than one  
480 thousand dollars or by imprisonment for two months, or both.

481           Section 28. The owner of any fishing gear mentioned in section twenty-eight which is  
482 swept ashore by storm or tide or other natural causes and deposited upon the shore, beaches or  
483 flats, whether public or private, may recover the same within thirty days from the time of such  
484 deposit without liability for trespass; provided, that such owner in so doing does not commit any  
485 unreasonable or wanton injury to the property whereupon such fishing gear is deposited. In the  
486 event such fishing gear shall not be so recovered within such period or recovered by other legal  
487 means within sixty days it shall enure to the riparian owner of such shore, beach or flat in the  
488 manner provided in chapter one hundred and thirty-four.

489           Section 29. The owner of every boat, and the owner of every pound net, fish trap, weir,  
490 fyke net or similar contrivance, fishing pier, seine, drag or gill net, lobster or crab pot or trap or  
491 other fishing gear, hereinafter referred to as devices, used for fishing purposes, and every  
492 licensee under section thirty-four shall annually, before January thirty-first, make a written  
493 report, on oath, to the director, of the number of pounds and the value of each kind of edible fish  
494 caught by him with such boat or such devices and the number of lobsters and edible crabs taken  
495 by him in pots or traps for the twelve months ending on the preceding December thirty-first, and  
496 the number and value of the devices, if any, used in such catching or taking, and the number of  
497 persons, if any, employed therein; and for such purpose the commissioner shall annually, on or  
498 before March fifteenth, provide him, upon his application, with suitable blank forms for such  
499 reports, so arranged that each month's catch may be separately recorded thereon; and, in filling  
500 out such reports, such owner shall give, so far as practicable, the above required results of each  
501 month's fishing. In lieu of said annual report the commissioner may require such owner to  
502 submit a monthly report of such facts listed herein as the commissioner may deem advisable.  
503 Such owner shall apply to the commissioner for such blank forms. The owner of any fish cars or  
504 other contrivances used for keeping fish, lobsters or edible crabs shall have his name and  
505 residence legibly marked thereon. The license, permit or certificate of any person to take such  
506 fish, lobsters or edible crabs who refuses, or knowingly or wilfully neglects to make the report  
507 required hereby or knowingly or wilfully makes a false report shall be suspended and he shall not  
508 receive a new license, certificate or permit until such report is made. Whoever knowingly and  
509 wilfully violates any provision of this section shall be punished by a fine of not less than ten nor  
510 more than one hundred dollars.

511           Section 30. Whoever, between March fifteenth and the following June fifteenth, catches  
512 or takes any smelt from the waters of the commonwealth, or whoever buys, receives, sells or  
513 offers or exposes for sale, transports or has in his possession a smelt so taken, shall for a first  
514 offence be punished by a fine of one dollar for every such smelt or by imprisonment for not more  
515 than six months and for a subsequent offence by both said fine and imprisonment. Any wholesale  
516 or retail dealer who sells, offers or exposes for sale or has in his possession any smelt between  
517 the said dates must have in his possession a tag or bill of lading or other paper showing that such

518 smelt was taken from waters outside the commonwealth, and the possession of a smelt between  
519 said dates by a person other than a wholesale or retail dealer holding such a certificate shall be  
520 prima facie evidence of violation of this section.

521 Section 31. Whoever takes or attempts to take a smelt in any other manner than by  
522 angling shall be punished by a fine of not less than ten nor more than fifty dollars and shall in  
523 addition thereto forfeit one dollar for each smelt if any so taken, but this section shall not apply  
524 to smelt inadvertently taken in a seine or net during the time and in the manner in which fishing  
525 is allowed for perch, herring or alewives; provided, that such smelt so taken shall be immediately  
526 liberated alive in the waters from which taken.

527 Possession of any net, seine, trap or device for catching fish, other than a naturally or  
528 artificially baited hook, in or upon the harbors, rivers or tributaries of the commonwealth, or on  
529 the banks of the same, if adapted to and apparently intended for the present catching of smelt,  
530 shall be prima facie evidence of a violation of this section and the possession in or upon said  
531 harbors, rivers or tributaries, or on the banks of the same, of any fresh smelt, between sunset and  
532 sunrise, or under other circumstances reasonably indicating the catching of the same otherwise  
533 than by angling, shall be prima facie evidence that said smelt were caught or intended to be  
534 caught contrary to such provisions by the person in whose possession they are found.

535 Section 32. For the purpose of protecting smelt and their spawn the director may close  
536 such portions of streams flowing into the coastal waters during the spawning season of such fish  
537 as he may deem necessary and may forbid the entrance into such portions of said streams by  
538 posting on or near such closed areas notices of such closing, giving the bounds thereof; provided  
539 however, that such closing and such prohibition of entrance shall not be for a period longer than  
540 sixty days in any one year. Whoever violates the provisions of this section or molests or disturbs  
541 smelt or their spawn within such closed areas shall be punished by a fine of not less than ten nor  
542 more than fifty dollars or imprisonment for not more than thirty days, or both.

543 Section 33. No person, either as principal, agent or employee, shall at any time catch  
544 lobsters or edible crabs in, or take them from, the coastal waters or place, set, keep, maintain,  
545 supervise, lift, raise or draw in or from the said waters, or cause to be placed, set, kept,  
546 maintained, supervised, lifted, raised or drawn in or from the said waters, any pot, trap or other  
547 contrivance designed for, or adapted to, the taking of lobsters or edible crabs, unless licensed so  
548 to do under section thirty-four.

549 No person shall at any time take from any waters under the jurisdiction of the  
550 commonwealth any lobsters by spearing, dipping or dragging.

551 In the waters of Gosnold in the county of Dukes County, no such pot, trap or other  
552 contrivance shall be buoyed otherwise than separately and plainly.

553 Violation of any provision of this section shall be punished by a fine of not less than two  
554 hundred nor more than five hundred dollars, or by imprisonment for not more than three months,  
555 or both. Nothing in this section or section thirty-four shall be construed to prohibit or regulate the  
556 taking of crabs other than edible crabs solely for bait purposes, or for the taking of edible crabs  
557 for use of one's immediate family; provided, that the number of such edible crabs so taken by  
558 any one person shall not exceed fifty in one day and such edible crabs shall not be taken by pots  
559 or traps.

560 Section 34. Any person may take green crabs, more specifically known as the species  
561 *Carcinides Maenas*, provided, that such person (a) gives written notice to such effect to the  
562 director, (b) marks all traps, gear and buoys in a uniform manner in accordance with  
563 requirements set forth by said director, and (c) files an annual report with the commissioner  
564 setting forth the approximate number of bushels of said crabs taken each month of the year and  
565 whether such crabs were destroyed or used for bait purposes in the commonwealth. Any person  
566 subject to the provisions of this section shall comply with regulations which the commissioner is  
567 hereby authorized to promulgate from time to time.

568 Section 35. A person shall not fish for or take lobsters or edible crabs in coastal waters or  
569 land the same in the commonwealth without a permit issued by the commissioner or his agent. A  
570 noncommercial lobster and crab permit shall authorize the holder and the members of holder's  
571 immediate family residing in the same residence as the holder to fish for, take or land by the use  
572 of pots only lobsters and edible crabs for consumption, and not for sale, by himself and the  
573 members of his immediate family residing in the same residence as the holder; provided,  
574 however, that the holder and such other persons shall not use more than ten traps for such fishing  
575 at any one time; and provided, further, that only one license shall be issued to one family in a  
576 single household in any calendar year; and provided, further, that for the purpose of this section  
577 the term "immediate family" shall mean the spouse, children, parents, grandparents, brothers and  
578 sisters of the holder. A commercial fisherman permit (lobster) authorizes the holder thereof to  
579 fish for, take and land lobsters and edible crabs for commercial purposes. No person holding a  
580 commercial fisherman permit (lobster) need at the same time hold a noncommercial lobster and  
581 crab permit. Upon application to the director, and endorsement on his license, the holder of a  
582 commercial fisherman permit (lobster) may have the privilege afforded the holder of any type of  
583 commercial fisherman permit issued under section 79. A commercial fisherman permit (lobster)  
584 shall be issued to an individual but it may be endorsed for use on fishing vessels, in which case it  
585 shall cover all persons, except skin or scuba divers, on board such vessel. An individual skin or  
586 scuba diver may be granted a commercial fisherman permit (lobster); provided, however, no skin  
587 or scuba diver shall be allowed to dive for lobster and edible crabs by authority granted by a  
588 commercial fisherman permit endorsed for use on fishing vessels. The holder of a commercial  
589 fisherman permit (lobster) shall carry on his person or post on his vessel said permit at all times  
590 while engaging in fishing. In addition to the above noncommercial lobster and crab permit and  
591 the commercial fisherman permit (lobster) there shall be a seasonal commercial fisherman permit

592 (lobster). Such a permit shall be issued to full-time students only, after such verification of  
593 student status as the director may determine, and shall allow the holder to take and sell lobster  
594 during the period June fifteen to September fifteen and shall limit the holder to the use of not  
595 more than twenty-five pots. Except as hereinafter provided, such licenses to catch or take both  
596 lobsters and edible crabs shall be granted only to individuals who are citizens of the  
597 commonwealth and who have resided therein for at least one year next preceding the date of such  
598 license, but no such license shall be issued to a minor under seventeen years of age except with  
599 the written consent of his parent, guardian or custodian and at the discretion of the  
600 commissioner.

601           A nonresident of the commonwealth who is a citizen of the United States or who is an  
602 alien who possesses an alien registration receipt card issued to him by the United States  
603 Department of Justice, Immigration and Naturalization Service, temporarily residing or intending  
604 temporarily to reside in any coastal city or town, and who owns more than five thousand dollars  
605 in real estate within the commonwealth as determined by tax records may, in any year, upon  
606 payment of the fee required by this section obtain a license to take lobsters or edible crabs during  
607 June, July, August and September of such year, for consumption only by the licensee and his  
608 family who are so residing. Licenses hereunder, except those granted to nonresidents, shall  
609 expire on December thirty-first next succeeding the granting of the same unless sooner made  
610 void as provided in this chapter. Each applicant for a license under this section shall state the  
611 color scheme of the buoys desired to be used by him, which, if approved by the commissioner,  
612 shall be set forth in his license, and all buoys used by him shall be marked accordingly, and all  
613 buoys, pots, traps, and lobster cars used by him shall be marked with the licensee's number  
614 assigned to him by the commissioner, which shall be burned or cut into the surface thereof. The  
615 size of said numbers shall be prescribed by regulation of the commissioner. All buoys, pots,  
616 traps, and lobster cars that are not marked as required shall be removed from the coastal waters  
617 by any officer who is empowered to enforce this section and shall be held for up to six months. If  
618 the owner of any such buoy, pot, trap or lobster car fails to claim same within said six months it  
619 shall be permanently confiscated and disposed of by the director of law enforcement or his  
620 designee for the best interest of the commonwealth. Said commissioner, designee, or officer shall  
621 in no way be liable for such removal, confiscation or disposal. Before any buoy, pot, trap or  
622 lobster car is transferred, sold or given away the owner shall burn or cut the letter "T" into the  
623 buoy, pot, trap or lobster car, after his number, to indicate that the buoy, pot, trap or lobster car  
624 has been transferred and the new owner shall burn or cut his number into the buoy, pot, trap or  
625 lobster car. It shall be prima facie evidence of a violation of this section if a person has in his  
626 possession or uses any buoy, pot, trap or lobster car, that has had the license number removed,  
627 altered or defaced. No person shall use wooden lobster buoys in the coastal waters after January  
628 first, nineteen hundred and seventy-four.

629           A permittee shall at all times, while acting in pursuance of his permit, exhibit his permit  
630 upon the demand of any officer qualified to serve criminal process, and upon failure to do so

631 shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or  
632 imprisonment for one month or both.

633           The commissioner shall state in his annual report the number of licenses of each kind  
634 granted under this section.

635           Section 36. No person or persons shall take or attempt to take, by diving, lobsters, or  
636 edible crabs from the coastal waters, unless he displays his lobster license number upon his air  
637 tank, and for each person diving alone or for each group of divers upon the surface of said  
638 waters, in the area where the person or persons is taking or attempting to take lobsters and edible  
639 crabs, a floating marker shall be displayed with the license number of each person diving alone  
640 or in the case of any group of divers the license number of every person taking or attempting to  
641 take lobsters shall be displayed. Said number on a floating marker shall be displayed in the form  
642 of a single panel not less than twelve inches in height and width and shall be buoyed in an  
643 upright position. The marker shall have a white background with the licensee's number, or in the  
644 case of a group the licensees' numbers, displayed on both sides thereof by black numerals of a  
645 size prescribed by regulation of the director.

646           No person shall take or attempt to take with the aid and use of a boat any lobsters or  
647 edible crabs by pots, traps or other contrivances designed or adapted to the taking of lobsters or  
648 edible crabs without first displaying the buoy colors used by him in accordance with his license  
649 by painting the color or colors (a) on each side of the hull or upon panels attached to each side of  
650 the hull, or (b) upon both sides of a single panel which is attached to the boat on top of the bow,  
651 or by mounting a buoy, not less than eleven inches in length, and four inches in diameter, with  
652 his color scheme thereon, in an upright position at least six inches above the roof of the boat.  
653 Color schemes painted on the hull of the boat or upon panels shall be displayed as a solid colored  
654 strip four inches high and eighteen inches long, each strip abutting another on the longest side, if  
655 more than one color, to form a rectangle or square. The rectangle or square thus formed shall  
656 have a black border all the way around at least one inch wide. All color schemes so displayed  
657 shall be clearly visible from both sides of the boat.

658           Whoever violates any provision of this section shall be punished by a fine of not less than  
659 one hundred nor more than two hundred dollars.

660           Section 37. All applicants issued a commercial fishermen permit for the taking of lobsters  
661 in coastal waters shall document their catch and sale of lobsters at such times and upon such  
662 forms as may be determined by the director. Individual catch data so documented shall be  
663 confidential and shall not be disclosed except in aggregate form. The commissioner may develop  
664 such forms and require such information as he deems necessary in the administration of this  
665 section. All such forms shall be signed by the applicant under the pains and penalties of perjury.  
666 Failure to submit complete forms as required by this section or falsification of any such form or  
667 any application as required by this section may result in a fine of not less than five hundred nor

668 more than one thousand dollars and suspension of eligibility for issuance of a commercial permit  
669 for a period not to exceed three years. Any permit not renewed as required by this section by July  
670 first of each year may be subject to revocation by the department.

671 Each year between December first and March first the commissioner shall renew an  
672 existing commercial fishermen permit for the taking of lobsters in coastal waters held by any  
673 qualified person during the previous year. The commissioner may renew permits to those  
674 individuals who have been previously engaged in commercial lobstering and can document that  
675 due to personal medical incapacity or other unforeseen circumstances, were unable to renew their  
676 commercial lobster permit during the prescribed renewal period. The marine fisheries advisory  
677 commission shall promulgate regulations establishing the criteria in which such renewals may  
678 take place.

679 Any commercial fishermen permit for the taking of lobsters in coastal waters may be  
680 transferred between members of an immediate family subject to the approval of the director.  
681 Permits may be transferred to other qualified applicants subject to regulations promulgated by  
682 the marine fisheries advisory commission. Said regulations shall set forth the specific criteria and  
683 process in which permits may be transferred and shall address the following concerns:—

- 684 (a) the maintenance and stability of a healthy lobster population;
- 685 (b) the economic viability of lobstering as a vocation and way of life;
- 686 (c) the needs of retiring lobstermen to sell or transfer their business interests;

687 The director may maintain a list of potential applicants for the transfer of said permits.

688 Upon the recommendation of the marine fisheries advisory commission, the secretary of  
689 the executive office of administration and finance shall set such fees as he deems appropriate to  
690 the administration of this section.

691 Any applicant for the transfer of any existing permit described in this section aggrieved  
692 by the decision of the director may appeal that decision to the commissioner whose decision  
693 upon appeal shall be final. The commissioner's decision, however, shall be governed by the  
694 criteria contained in this section.

695 Section 38. No person shall tend, lift, raise or draw a lobster or crab pot or trap, or take  
696 lobsters or edible crabs from such a pot or trap, or catch or take lobsters from the coastal waters  
697 by any means, except during the period from one half hour before sunrise until one half hour  
698 after sunset, except that traps may be taken up by the owner or by his employee or agent, if  
699 licensed under section thirty-four, at any time when they are endangered by storms, and except  
700 that the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of  
701 enforcement, environmental police officers and deputy environmental police officers may at any  
702 time lift, raise or draw such pot or trap with its contents, if any, for the purpose of inspection

703 provided in this chapter. Violation of the provisions of this section shall be punished by a fine of  
704 not less than ten nor more than fifty dollars.

705           Section 39. No person, either as principal, agent or employee, shall between January first  
706 and the following April thirtieth, both dates inclusive, take or catch edible crabs, by the use of  
707 traps or otherwise, from the coastal waters. Violation of the provisions of this section shall be  
708 punished by a fine of not less than ten nor more than fifty dollars.

709           Section 40. Any person who takes, sells or has in possession any female lobster bearing  
710 externally attached eggs shall be punished for the first offense by a fine of not less than \$150 nor  
711 more than \$500 for every such lobster and for a subsequent offense by a fine of not less than  
712 \$500 nor more than \$1,000 for every such lobster, or by imprisonment for not less than 60 days  
713 nor more than six months, or both such fine and imprisonment. A person who takes any such  
714 lobster and immediately returns it alive to the waters from which it was taken shall not be subject  
715 to such penalty. This section shall not apply to lobsters extruding eggs in fish cars or pounds if  
716 they are immediately liberated alive in the coastal waters, nor to the taking or possession of  
717 lobsters as provided in section forty-two.

718           Section 41. Any person who takes, sells or has in his possession any female lobster from  
719 which the eggs have been removed by means other than natural hatching, shall be punished for  
720 the first offense by a fine of not less than \$250 nor more than \$1,000 for every such lobster and  
721 for a subsequent offense by a fine of not less than \$1,000 nor more than \$2,000 for every such  
722 lobster, or by imprisonment for not less than 90 days nor more than one year, or both such fine  
723 and imprisonment. Detection on a female lobster of any substance capable of removing attached  
724 eggs or of physical evidence that attached eggs have been removed by a method other than by  
725 natural hatching shall be prima facie evidence that a violation of this section has occurred. Any  
726 environmental police officer, deputy environmental police officer or the commissioner or his  
727 designee may, in the performance of his duties, remove one or more appendages from any  
728 lobster for testing purposes.

729           Section 42. The commissioner shall, to the extent of appropriation or appropriations  
730 therefor, establish and maintain a plant or plants for the propagation of lobsters by rearing them  
731 from the time of hatching to the bottom crawling stages. Lobsters from which the eggs are to be  
732 obtained for such hatching and rearing shall be taken and disposed of in accordance with section  
733 forty-three. The commissioner, in his budget estimates, filed pursuant to section three of chapter  
734 twenty-nine, shall include a statement of appropriation or appropriations recommended by him  
735 for the purpose of carrying this section into effect.

736           Section 43. Between March first and October thirty-first, both dates inclusive, in any  
737 year, the commissioner may authorize the taking or possession of egg-bearing lobsters by any  
738 person licensed under section thirty-four to catch or take lobsters and edible crabs, upon the  
739 condition that such egg-bearing lobsters shall be taken, held or delivered in accordance with the

740 instructions of the director to a plant for the propagation of lobsters established and maintained  
741 for rearing them from the time of hatching to the bottom crawling stages or for such other  
742 disposition as the director may deem for the best interests of the commonwealth. If the eggs from  
743 the lobsters so obtained shall be hatched the young therefrom shall be reared to the bottom  
744 crawling stages. Lobsters from which eggs have been so hatched, and the young lobsters so  
745 reared, shall be liberated, as nearly as possible, in the areas from which such egg-bearing lobsters  
746 were obtained and in the same proportion. Nothing in this section shall be so construed as to  
747 prevent the commissioner from otherwise disposing of lobsters from which eggs have been so  
748 removed, or young lobsters so reared, when in the opinion of the commissioner by so doing  
749 depleted or non-productive areas may be benefited.

750           Section 44. Whoever sells, or offers for sale, or has in possession for a period longer than  
751 is necessary for immediate measuring, or for any purpose other than legally disposing of same, a  
752 lobster measuring in length less than the minimum size prescribed by this section, alive or dead,  
753 cooked or uncooked, measured from the rear of the eye socket along a line parallel to the center  
754 line of the body shell to the rear end of the body shell, shall be punished for the first offense by a  
755 fine of not less than one hundred nor more than five hundred dollars for every such lobster and  
756 for a subsequent offense by a fine of not less than five hundred nor more than one thousand  
757 dollars for every such lobster or by imprisonment for not less than one nor more than three  
758 months or both, and such lobster shall be seized and forfeited, and shall be disposed of by the  
759 commissioner to the best interest of the commonwealth.

760           Beginning on January 1, 1989, the minimum size shall be 3 1/4 inches. Thereafter, the  
761 commissioner may, by regulation approved by the marine fisheries advisory commission,  
762 increase the minimum size, and may establish different minimum sizes in separate geographic  
763 areas, if he determines that such increases are necessary to achieve compliance with the Atlantic  
764 States Marine Fisheries Commission Fisheries Management Plan for American lobster.

765           If the measurement of any such lobster taken from one or the other eye sockets is of the  
766 required length, such lobster shall be deemed to be a legal lobster. In all prosecutions under this  
767 section any mutilation of any lobster which affects its measurement as aforesaid shall be prima  
768 facie evidence that the lobster was or is less than the required length; provided, however, that the  
769 commissioner shall, by regulation approved by the marine fisheries advisory commission, permit  
770 the possession and on-shore processing of shell-on frozen lobster tails by wholesale dealers;  
771 provided, further, that possession of lobster tails at sea, or at any location where processing is not  
772 being conducted, shall be prohibited and shall be subject to the penalties provided in the first  
773 paragraph; and provided, further, that said processing shall be conducted only by wholesale  
774 dealers who have been issued a special permit by the commissioner and whose facilities are  
775 certified as U.S.D.C. Type I or the equivalent thereof. This section shall not apply to common  
776 carriers having lobster in possession for the purpose of transportation.

777 Section 45. The commissioner may, by regulation approved by the marine fisheries  
778 advisory commission and promulgated pursuant to chapter thirty A, establish a program to  
779 protect V-notched lobsters. For purposes of this section, the term “V-notched lobster” means a  
780 female egg-bearing lobster from which a V-shaped piece of tail has been cut from the first right  
781 flipper next to the middle flipper by a person holding or covered by a permit issued pursuant to  
782 section thirty-four.

783 Section 46. No commercial fishing vessel landing lobsters taken by any method other  
784 than by pots or traps shall land for the purpose of sale or distribution any lobsters or any part  
785 thereof at any location within the jurisdiction of the commonwealth in excess of one hundred  
786 lobsters for a fishing trip of one twenty-four hour day or less duration, with a maximum limit of  
787 five hundred lobsters within a period of seven consecutive days. The commissioner, with  
788 approval of the marine fisheries advisory commission, shall promulgate rules to implement this  
789 section within ninety days of its effective date.

790 The commissioner shall monitor the performance of vessels taking and landing lobsters in  
791 the commonwealth taken by other than pots and traps. If landings by vessels landing lobsters  
792 taken by other than by pots or traps exceed six percent of total lobster landings in any year, the  
793 director shall implement regulations, subject to the approval of said marine fisheries advisory  
794 commission, to limit lobster landings in subsequent years by vessels using other than pots or  
795 traps to no more than six percent of total lobster landings in the commonwealth.

796 The provisions of this section governing the landing of lobsters by vessels fishing with  
797 other than pots or traps, shall be superseded by the development or implementation subsequent to  
798 the effective date of this act of either a federal or interstate fishery management plan governing  
799 the taking or landing of lobsters under the jurisdiction of the federal government.

800 Section 47. All barrels, boxes or other containers containing lobsters, or lobster meat after  
801 the same has been taken from the shell, shall, before being delivered to any carrier, be marked by  
802 the shipper in a plain and legible manner on the outside thereof “Lobsters” or “Lobster Meat”, as  
803 the case may be, in capital letters at least one inch in length, together with the full name and  
804 address of the shipper, and, in the case of such lobster meat, also with the words, “removed  
805 under permit No. ”, followed by the number of the permit under which the same was taken  
806 from the shell; and, unless in barrels, boxes or other containers so marked, no lobster or lobster  
807 meat shall be transported. Any such barrels, boxes or other containers delivered to or transported  
808 by any carrier without being marked as above required, and the lobsters or lobster meat therein,  
809 shall be seized and forfeited. Violation of any provision of this section shall be punished by a  
810 fine of not less than five hundred nor more than one thousand dollars. This section and section  
811 forty-nine shall not apply to lobsters or lobster meat passing through the commonwealth under  
812 authority of the laws of the United States.

813 Section 48. In case of seizure by any duly authorized officer of any lobsters or lobster  
814 meat contained in any barrel, box or other container which is not marked as provided in section  
815 forty-four, or of any lobster measuring less than the length prescribed by section forty-five, such  
816 lobsters as are alive and measure less than such prescribed length shall be liberated by the  
817 director, and all other such lobsters and all such lobster meat found in such barrel, box or other  
818 container shall be held and disposed of as provided in section fifty-one.

819 Section 49. Any carrier who knowingly receives or carries from place to place any lobster  
820 or lobster meat in barrels, boxes or other containers not marked as provided in section forty-six  
821 shall be punished by a fine of not more than five hundred dollars.

822 Section 50. When any lobster or lobster meat is seized for the violation of any provision  
823 of section forty-eight, the officer making the seizure shall immediately notify the shipper thereof,  
824 if known, and shall proceed to enforce the forfeiture of such lobsters as he is not required to  
825 liberate, or of such lobster meat, in accordance with section nine.

826 Section 51. No person shall sell, or represent for the purpose of sale, any lobster as a  
827 native lobster unless the same shall have been originally caught or taken in the coastal waters;  
828 nor shall any person so sell, or represent for the purpose of sale, any crustacean as a lobster  
829 unless the same is of the species known as *Homarus americanus*; nor shall any person so sell, or  
830 represent for the purpose of sale, any meat as lobster meat unless such meat is wholly from  
831 crustaceans of such species. Violations of any provision of this section shall be punished by a  
832 fine of not less than fifty nor more than five hundred dollars.

833 Section 52. No retail establishment or person shall sell or represent for the purpose of  
834 sale, any item as crabmeat unless the same is from crustaceans of any species of crab, so-called.  
835 A retail establishment or person selling a product which contains crabmeat in any proportion  
836 shall list separately the names and percentages of all noncrabmeat substances contained therein.  
837 A violation of any provision of this section shall be punishable by a fine of not less than fifty nor  
838 more than five hundred dollars

839 Section 53. The selectmen of a town bordering upon coastal waters, if so authorized by  
840 their town, and the board of aldermen or the city council of any city so situated may control,  
841 regulate or prohibit the taking of eels and any or all kinds of shellfish and sea worms within such  
842 cities and towns and may, from time to time, without other or special authority therefor, make  
843 any regulations not contrary to law in regard to said fisheries as they deem expedient, including  
844 the times, places, methods, purposes, uses, sizes, quantities and any other particulars of such  
845 taking, and may grant permits, and establish the fees therefor, subject to any such regulation,  
846 then or thereafter in force. Any such authorizations to said selectmen hereunder shall continue in  
847 force until subsequent action of such town shall repeal the same. Any regulations made under  
848 authority of this section shall continue in force until the board of aldermen, city council, or  
849 selectmen, as the case may be, shall alter, amend, rescind or repeal the same, or the authority of

850 the selectmen to make and enforce such regulations shall be repealed. No city or town shall  
851 require a person to be licensed to take shellfish who is accompanying or operating a boat for a  
852 person so licensed and who is not otherwise actively engaged in or assisting in such fishing.

853 Any regulations made hereunder shall take effect as therein stated, shall be published by  
854 posting a copy of the same in the office of the aldermen, city council or selectmen making the  
855 same, and in the office of the city or town clerk, and in three or more public places in said city or  
856 town, or by publishing the same once in a newspaper, if any, published in said city or town, and  
857 by sending a certified copy thereof to the commissioner, twenty-four hours at least before the  
858 time set for the same to take effect; provided that the director may, if he deems it necessary for  
859 the protection of shellfish in emergency, authorize the making of such regulations effective  
860 immediately, in which case publication shall be made within forty-eight hours after the same  
861 shall take effect. The records of the aldermen, city council or selectmen, as to the contents of the  
862 regulations, and the method and time of publication thereof, or a copy thereof attested by their  
863 secretary, shall be prima facie evidence of such facts therein stated. The records of the town as to  
864 the instructions to the selectmen, or a copy thereof attested by the town clerk, shall be prima  
865 facie evidence of such instructions.

866 If any city or town bordering on the coastal waters neglects or refuses to take the control  
867 of the shellfish, sea worms or eels within its boundaries as provided in this section, such control  
868 shall be temporarily exercised by the commissioner for the benefit of such city or town and such  
869 authority shall continue until such time as the aldermen or city council of such city or the  
870 selectmen under authority of a vote of such town shall take over such control. Nothing in this  
871 paragraph shall be construed as authorizing the director to take control of or exercise the  
872 authority provided in this section over the taking of clams from any areas leased from the  
873 commonwealth by cities or towns in Essex county as provided in chapter seven hundred and ten  
874 of the acts of nineteen hundred and twelve and amendments thereto nor shall such authority  
875 extend to the issuance of private shellfish grants as provided in section fifty-eight.

876 Every city or town which exercises the authority over such coastal fisheries as provided  
877 in this section shall set aside an area or areas not then in private control or under municipal  
878 cultivation in which the commercial taking of shellfish shall be prohibited and from which  
879 shellfish may be taken, for his own family use, by any inhabitant of the commonwealth holding a  
880 permit therefor from such city or town. In any city or town issuing such permits to take shellfish  
881 for family use, any inhabitant of the commonwealth shall be issued such a permit upon payment  
882 of the fee, if any, established therefor. Such permits shall be uniform, and the regulations  
883 established in connection therewith shall make no distinction among different classes of permit  
884 holders except with respect to the amount of the fee therefor. Such permit shall not allow the  
885 taking of shellfish of a size at a season prohibited by law and the amount therefor taken for any  
886 family shall not exceed in any one week, one bushel of any or all kinds of shellfish, but the  
887 councilmen or selectmen, as the case may be, may, with the approval of the commissioner,  
888 reduce the maximum amount of any or all of such shellfish taken for such purpose.

889 Nothing in this section shall be construed to authorize the aldermen, city council or  
890 selectmen to exercise any authority hereunder in areas declared under section seventy-five or  
891 under corresponding provisions of earlier laws to be contaminated unless such action is in  
892 accordance with a management plan developed by cities and towns with the assistance and  
893 approval of the commissioner.

894 For purposes of this section and of section fifty-four, the term shellfish shall not include  
895 the commercial harvest of those species of shellfish known as sea clams (*spilosa solidissima*) and  
896 ocean quahogs (*artica islandica*); provided, however, that the commissioner may authorize the  
897 commercial management of sea clams and ocean quahogs by regional management of cities and  
898 towns, if in his opinion regional management will be in the best interests of the commonwealth.  
899 Regional management shall be based upon a regional plan developed by the cities and towns  
900 concerned and approved by the commissioner. The commissioner is authorized to promulgate  
901 rules and regulations for the development, approval and implementation of all regional plans.

902 Section 54. All permits issued under section fifty-two shall be issued in the name of the  
903 body authorizing the issuing of the same; but, under a vote of such body, any such permit shall  
904 be valid if issued bearing the signature of any one member thereof, or of the city or town clerk. A  
905 record of the name, residence and address of every person to whom such a permit is issued, with  
906 any special details relating to such permit, shall be entered by the officer issuing the same in a  
907 book kept in his office for that purpose.

908 Section 55. Cities by a vote of the board of aldermen, or city council, and towns by a vote  
909 at a town meeting, may appropriate money for the cultivation, propagation and protection of  
910 shellfish. The board of aldermen, or city council, or selectmen when so authorized by their town  
911 may from time to time declare a close season for any or all kinds of shellfish for not more than  
912 three years in such waters, flats or creeks, not then the subject of a private grant, within the limits  
913 of their respective cities and towns, as they deem proper, and may plant, grow and protect  
914 shellfish in such waters, flats or creeks; provided, that no private rights are impaired; and  
915 provided, further, that when any close season, declared as aforesaid, shall have ended, such flats,  
916 waters or creeks shall not within two years thereafter be licensed for the private cultivation of  
917 shellfish.

918 Section 56. No permit for the taking of shellfish for commercial purposes, except in the  
919 city of New Bedford, shall be issued by the aldermen or councilmen of any city or the selectmen  
920 of any town to an alien unless he has resided in such city or town for at least five years next  
921 preceding the date of his application therefor, or has been a resident of the county in which such  
922 city or town lies for at least five years next preceding the date of such application and has taken  
923 shellfish commercially therefrom for such period.

924 Section 57. Whenever under the authority of any law two or more municipalities have  
925 joint property in, or the right of joint control of, any marine fisheries referred to in section fifty-

926 three, the board of aldermen or city council of the city, or the selectmen of the town if so  
927 authorized by the town, in which such fisheries lie may exclusively exercise all the rights,  
928 privileges and authority conferred by said section with respect to such fisheries, make  
929 appropriations therefor as provided in section fifty-five and exercise such other control,  
930 privileges and responsibilities as are granted in other sections of this chapter pertinent thereto, as  
931 though such joint control or property did not exist; provided that in the exercise of such rights,  
932 privileges, responsibilities and authority such board of aldermen, city council or selectmen shall  
933 grant to the citizens of such other municipalities the same rights and privileges as are granted to  
934 the citizens of their city or town.

935           Section 58. The city council or mayor of any city, or the selectmen of any town, may  
936 upon written application, accompanied by plans sufficient to show the intended project and  
937 project area to be licensed, and after public notice and hearing pursuant to section sixty-one,  
938 grant to any person a shellfish aquaculture license.

939           Said license shall authorize said licensee in such city or town at all times of the year, in,  
940 upon, or from a specific portion of coastal waters of the commonwealth, of tidal flats or land  
941 under coastal waters: (1) to plant and grow shellfish, bottom/off bottom culture; (2) to place  
942 shellfish in or under protective devices affixed directly to the tidal flats or land under coastal  
943 waters, such as boxes, trays, pens, bags, or nets; (3) to harvest and take legal shellfish; (4) to  
944 plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of  
945 racks, rafts or floats.

946           After receipt of a written application by the city council or selectmen, and after the notice  
947 and public hearing requirements of this section are satisfied and the licensing authority approves  
948 the application, the director shall, after inspection of the intended project area, certify that  
949 issuance of a shellfish aquaculture license and operation thereunder will cause no substantial  
950 adverse effect on the shellfish or other natural resources of the city or town. Upon such  
951 certification by the director, the city council or selectmen may issue the license, provided,  
952 however, that no license shall be issued for any areas then or within two years prior thereto,  
953 closed for municipal cultivation under the provisions of section fifty-five. Failure of the director  
954 to so certify shall be deemed a denial of the shellfish aquaculture license. The commissioner's  
955 certification or refusal to certify shall be reviewable in accordance with section fourteen of  
956 chapter thirty A.

957           Licenses under this section shall be granted or denied in writing within sixty days after  
958 receipt of the written application and shall be issued upon forms supplied by such cities and  
959 towns and upon such terms and conditions and subject to such terms, conditions or regulations as  
960 the city council or selectmen issuing the same shall deem proper, but not so as to impair the  
961 private rights of any person or to materially obstruct navigable waters, and said license shall  
962 describe by metes and bounds the waters, flats or creeks covered thereby. Shellfish aquaculture  
963 licenses pursuant to this section shall be subject to any rules and regulations promulgated by the

964 director, including those concerning the use and scope of predator controls in the intertidal zone,  
965 and said licenses may be further conditioned by the director as he deems necessary and  
966 appropriate, including species to be propagated and the source and movement of seed shellfish.

967 Said license shall be for a period of not more than ten years and may be renewed for  
968 similar periods. Said license may be revoked by the city council, selectmen or the director for  
969 failure to comply with any terms, conditions or regulations set forth by these entities, or for lack  
970 of substantial use of the licensed area. Said licensee shall have the right to the exclusive use of  
971 the lands and waters for the purposes of growing shellfish thereon, and the licensee shall plainly  
972 mark the boundaries of said area. The selectmen or city council shall permit, as a condition of the  
973 license, such public uses of said waters and lands as are compatible with the aquacultural  
974 enterprise.

975 Whoever without the consent of the licensee, unless otherwise permitted by the terms and  
976 conditions of said license: (1) takes shellfish from the licensed lands or waters or from said  
977 racks, rafts or floats; (2) disturbs the licensed area or the growth of the shellfish thereon in any  
978 way; (3) discharges any substance which may directly or indirectly injure the shellfish; (4)  
979 willfully injures, defaces, destroys, removes or trespasses upon said racks, rafts, or floats; or (5)  
980 willfully injures, defaces, destroys, removes or trespasses upon said protective devices affixed  
981 directly to the tidal flats, such as boxes, trays, pens, bags, or nets shall be liable in tort for treble  
982 damages and costs to the licensee injured by such act.

983 Nothing in this section shall be deemed to affect the validity, conditions, or terms of any  
984 license granted under the corresponding provisions of earlier laws and in full force upon the  
985 effective date of this section. Nothing in this section shall excuse the licensee from complying  
986 with other laws of the commonwealth, including environmental laws and laws concerning  
987 interference with navigation.

988 Said shellfish aquaculture license may be transferred pursuant to section fifty-nine and all  
989 rights and privileges enjoyed by the licensee shall be assumed by the transferee.

990 Any license issued under the provisions of this section shall, upon the death of the  
991 licensee, continue in full force and effect, subject to the same terms, conditions, and regulations  
992 imposed upon the original license, for the balance of the unexpired term, or one year whichever  
993 is longer, for the use of the members of the immediate family of the deceased licensee. For the  
994 purposes of this section, immediate family shall mean the spouse, son, daughter, mother, father,  
995 brother and sister of said deceased licensee.

996 Nothing in this section shall be deemed to affect the validity, conditions, or term of any  
997 license granted under corresponding provisions of earlier laws and in full force upon the  
998 effective date of this section.

999           Section 59. Any license granted under section fifty-seven or corresponding provisions of  
1000 earlier laws may be transferred with the approval of the city council or selectmen to any person  
1001 to whom it might originally have been granted, and, whether or not so transferred, may, within  
1002 two years before the expiration of its then current term, be renewed from the expiration of the  
1003 original term for a further term or terms, each term not to exceed fifteen years. The provisions of  
1004 this chapter or of corresponding provisions of earlier laws applicable to the original issuance of  
1005 such license shall, so far as apt, apply to a transfer or a renewal thereof hereunder.

1006           Section 60. Any person, firm or corporation qualified as provided in section fifty-seven  
1007 and desiring to obtain a license thereunder shall present to the city council or selectmen a written  
1008 application setting forth the name and residence of the applicant, a definite description made by  
1009 reference to a survey conducted by the applicant, and a request that such license be granted to the  
1010 applicant.

1011           Section 61. No license referred to in section fifty-eight shall be granted, transferred or  
1012 renewed until after a public hearing, due notice of which has been posted in three or more public  
1013 places, and published in a newspaper, if any, published in the city or town where the territory  
1014 described in the application is situated at least ten days before the time fixed for the hearing,  
1015 stating the name and residence of the applicant or transferee, as the case may be, the date of the  
1016 filing of the application for such license, transfer or renewal, and the location, area and  
1017 description of said territory.

1018           Section 62. The licensee upon receiving his license shall cause the territory covered  
1019 thereby to be plainly marked out by monuments, marks or ranges and by stakes or buoys, with  
1020 the number of his license painted in figures at least two inches in height in a conspicuous place  
1021 on each of said stakes or buoys or on flags attached thereto, which shall be maintained by him or  
1022 his transferee during the term of the license or of any renewal thereof. Failure to place or  
1023 reasonably to maintain the same shall be sufficient cause for revocation of the license.

1024           Section 63. The aldermen, city council or selectmen shall keep in their offices plans  
1025 showing all such licensed areas, and, in a book devoted to that purpose only, a record of each  
1026 license granted and of all transfers or renewals thereof, which shall include the name and  
1027 residence of the licensee or transferee, the dates of issue, transfer, renewal and expiration thereof,  
1028 and a copy of the description of the licensed areas as the same appears in the license. Each  
1029 license, and all transfers or renewals thereof, shall forthwith after the granting or approval  
1030 thereof be transmitted by the board so granting or approving the same to the city or town clerk,  
1031 who shall record the same in a book kept especially therefor in his office. The licensee or  
1032 transferee shall within thirty days after such issue or approval pay to said clerk for each license  
1033 or renewal issued or transfer approved one dollar for such recording, and for each license issued  
1034 shall also pay four dollars as reimbursement of said city or town for the cost incurred in granting  
1035 said license, a record of which payment shall forthwith be entered upon said record by said clerk,  
1036 and such license, transfer or renewal shall not take effect until said fees are paid and entry

1037 thereof made as aforesaid. Said records shall be open to public inspection at all reasonable times.  
1038 Forms for such license and for the transfer or renewal of the same shall be provided by the  
1039 aldermen, city council or selectmen at the expense of their city or town.

1040         Section 64. The licensee or transferee, or his legal representatives, shall, for the purposes  
1041 set forth in section fifty-seven and in accord with the terms set forth in said license, have during  
1042 the term of the license or of any renewal thereof the exclusive use of the waters, flats or creeks  
1043 described in the license, and the exclusive right to take all shellfish therefrom during the time  
1044 therein specified, notwithstanding any regulations made by the aldermen, city council or  
1045 selectmen of the city or town, subsequent to the issuance of such license or to the renewal  
1046 thereof, as the case may be; provided, that this section shall not be construed to authorize any  
1047 taking prohibited by law. The licensee or transferee, or his legal representatives, may in tort  
1048 recover treble damages of any person who without his or their consent, unless otherwise  
1049 authorized by law or by lawful regulation so to do, digs or takes shellfish of any kind, or shells,  
1050 from such waters, flats or creeks, or disturbs the same thereon, during the continuance of the  
1051 license or of any renewal thereof.

1052         Section 65. Every such licensee or transferee shall pay to the city or town, on or before a  
1053 date to be fixed by the aldermen, city council or selectmen, an annual fee of not less than five nor  
1054 more than twenty-five dollars per acre, or part thereof. If any such fee is not paid within six  
1055 months after it becomes due the license shall thereupon be forfeited.

1056         Section 66. Every licensee or transferee of a license referred to in section fifty-seven shall  
1057 submit on oath on or before December thirty-first in each year to the director and to the city  
1058 council or selectmen of the city or town wherein the licensed area is situated a report of the total  
1059 number of each kind of shellfish planted, produced or marketed during the preceding year upon  
1060 or from such licensed area, and an estimate of the total number of each kind of shellfish at the  
1061 time of such report planted or growing thereon. The city council or selectmen may specify a  
1062 reasonable yearly market value to be produced by each shellfish project licensed pursuant to  
1063 section fifty-eight. Failure of the licensed shellfish project to meet such a value for any three  
1064 consecutive years thereafter may result in a forfeit of the shellfish aquaculture license and  
1065 licensed area.

1066         Section 67. Whoever willfully injures, defaces, destroys or removes any mark or bound  
1067 used to define the extent of any shellfish license or grant, or places any unauthorized mark  
1068 thereon, or ties or fastens any boat or vessel thereto, shall be punished by a fine of not less than  
1069 three nor more than twenty dollars and shall be liable in tort for double damages and costs to the  
1070 licensee or transferee injured by such act.

1071         Section 68. Whoever works a dredge, oyster tongs or rakes, or any other implement for  
1072 the taking of shellfish of any description upon any shellfish grounds or beds covered by a license  
1073 granted under section fifty-seven or corresponding provisions of earlier laws, or in any way

1074 disturbs the growth of the shellfish thereon, or whoever discharges any substance which may  
1075 directly or indirectly injure the shellfish upon any such grounds or beds, without the consent of  
1076 the licensee or transferee, as the case may be, or whoever, while upon or sailing over any such  
1077 grounds or beds, casts, hauls, or has overboard any such dredge, tongs, rake or other implement  
1078 for the taking of shellfish of any description, under any pretence or for any purpose whatever,  
1079 without the consent of the licensee or transferee, as the case may be, shall for the first offense be  
1080 punished by a fine of not more than twenty dollars or by imprisonment for not more than one  
1081 month, and for a subsequent offence by a fine of not more than fifty dollars or by imprisonment  
1082 for not more than six months.

1083           Section 69. No person shall dig, take or carry away any shellfish or shells between one  
1084 half hour after sunset and one half hour before sunrise, by any method whatever, from any  
1085 waters, flats or creeks as to which a license under section fifty-eight or corresponding provisions  
1086 of earlier laws is outstanding. A licensee or transferee of such a license violating this section  
1087 shall, in addition to all other penalties provided, forfeit his license and the shellfish remaining on  
1088 the licensed premises.

1089           Whoever violates any provision of this section, or whoever, without the consent of the  
1090 licensee or transferee, digs or takes any shellfish or shells from any waters, flats or creeks  
1091 described in any license granted under section fifty-eight, or corresponding provisions of earlier  
1092 laws, during the continuance of such license or of any renewal thereof, shall be punished by a  
1093 fine of not more than one hundred dollars or by imprisonment for not less than one nor more than  
1094 six months, or both.

1095           Section 70. Whoever takes or has in his possession quahaugs or soft shelled clams or  
1096 oysters smaller than the minimum size established by the director through regulations,  
1097 hereinafter referred to as seed quahaugs, seed clams and seed oysters, to the amount of more than  
1098 five percent of any batch, shall be punished in accordance with section two; provided, however,  
1099 that it shall not be unlawful to take seed quahaugs, seed clams or seed oysters or have the same  
1100 in possession under authority of a permit therefor, which the director is hereby authorized to  
1101 grant, for a replanting in waters or flats within the commonwealth.

1102           Section 71. No person shall take from the flats or coastal waters of the commonwealth  
1103 scallops other than adult scallops, or sell or offer for sale or have in possession such scallops. For  
1104 the purposes of this section an adult scallop shall be a scallop with a well-defined raised annual  
1105 growth line, and any scallop without such line shall be deemed a "seed" scallop. Scallops taken  
1106 from the coastal waters shall immediately be culled when taken, and all scallops other than adult  
1107 scallops shall forthwith be returned alive to the coastal waters whence taken; but it shall not be  
1108 unlawful to sell or have in possession scallops other than adult scallops unavoidably left in the  
1109 catch after it has been culled, to the amount of not more than five per cent of the total catch  
1110 remaining. All scallops taken in accordance with this section shall be taken ashore in the shell.  
1111 This and section seventy-one shall not apply to seed and adult scallops carried by storm or tide

1112 from the natural beds and deposited on beaches and flats where, in the opinion of the  
1113 commissioner, they cannot survive, but the taking of said seed scallops and the taking and sale of  
1114 said adult scallops may be authorized by him at any season of the year. The commissioner shall  
1115 promulgate rules and regulations governing the taking and sale of said seed and adult scallops by  
1116 special permits, which he is empowered to issue without fee, or otherwise so as to prevent the  
1117 sale of seed scallops at any time, or the sale of adult scallops between April first and the  
1118 following October first, except as authorized herein. Whoever violates any provision of this  
1119 section shall be fined not less than ten nor more than fifty dollars and imprisonment for thirty  
1120 days or both.

1121           Section 72. Except as provided in sections seventy and seventy-three, no person shall  
1122 take scallops between April first and the following October first from the flats or coastal waters  
1123 of the commonwealth, or buy or sell or have in possession scallops so taken. Whoever violates  
1124 any provision of this section shall be punished by a fine of not less than ten nor more than fifty  
1125 dollars and imprisonment for thirty days or both.

1126           Section 73. No person shall for any purpose take more than a total of ten bushels of  
1127 scallops, including shells, in one day, unless authorized by the director under sections seventy-  
1128 one and seventy-four so to do. Whoever violates any provision of this section shall be punished  
1129 by a fine of not less than ten nor more than fifty dollars and imprisonment for thirty days or both.

1130           Section 74. The provisions of sections seventy-two and seventy-three in respect to the  
1131 open and close season, and in respect to the number of scallops that may be taken, may be  
1132 temporarily modified if, on petition of the aldermen, city council or selectmen to the director, the  
1133 commissioner after investigation, determines that, owing to unusual circumstances, such  
1134 modification is expedient. In that case, he may authorize, for a prescribed period, the aldermen,  
1135 city council or selectmen to issue permits to inhabitants of their respective cities or towns to take  
1136 scallops in such quantities and at such times as he deems expedient.

1137           Section 75. The department shall examine from time to time as conditions may require, or  
1138 upon request of the commissioner of public health, the mayor or city manager of a city, or the  
1139 selectmen or town manager of a town, the coastal waters and flats of the commonwealth and  
1140 samples of shellfish therein or thereon in order to determine what areas thereof are so  
1141 contaminated that shellfish obtained therefrom are unfit for food and dangerous to the public  
1142 health. The department fisheries shall forward the results of all tests as directed by the  
1143 commissioner of public health. If, after such examination, either the department of public health  
1144 or the department determines that such contamination exists, it shall, by written order,  
1145 promulgate definite bounds of the area or areas so determined to be contaminated, and may  
1146 specify the period of time during which such determination shall be in effect. Before such  
1147 determination shall be in effect, such department or division making the determination shall:

1148 (1) Publish the results of its determination thereof in a newspaper published in each city  
1149 and town in which or adjacent to which any contaminated area is situated.

1150 (2) File in the office of the clerk of every such city or town the results of the  
1151 determination.

1152 (3) Cause to be posted at points on or near every such area a description thereof,  
1153 specifying said bounds and a statement that such an area is contaminated.

1154 (4) If the department of public health makes the determination, notify the commissioner  
1155 and the director of the division of law enforcement of its determination by filing with them  
1156 properly authenticated copies, certified by the secretary of state, of its determination, publication,  
1157 filing and posting.

1158 (5) If the department makes the determination, notify the director of the division of law  
1159 enforcement of its determination by filing with him properly authenticated copies, certified by  
1160 the secretary of state, of its determination, publication, filing and posting.

1161 Whenever, as a result of a subsequent examination of an area or areas determined by the  
1162 department or the department of public health to be contaminated, such department determines  
1163 that the shellfish in such area or areas are safe to use as food, notice of such determination shall  
1164 be published immediately, and provided to the commissioner and to the director of the division  
1165 of law enforcement, in the case of a determination by the department of public health, and to the  
1166 director of the division of law enforcement in the case of a determination by the department;  
1167 provided, however, that if the department of public health or the department has specified a  
1168 period of time during which the determination of pollution shall be in effect, such publication  
1169 and notice shall not be required if such period has expired. The record of any examination  
1170 hereunder and the bacteriological counts made therein shall be subject to inspection upon  
1171 request.

1172 Personnel at the department of public health and the department in the performance of  
1173 their duties under this section, may enter upon and pass through or over private lands or property  
1174 whether or not covered by water.

1175 The presentation in evidence by any officer of the commonwealth empowered to enforce  
1176 this chapter of a document attested to by the commissioner of the department of public health or  
1177 the commissioner or either of their designees to the effect that the provisions of this section have  
1178 been complied with shall be prima facie evidence that an effective determination has been made.

1179 The department of public health and the department, acting jointly, after consultation  
1180 with the department of environmental protection, can promulgate rules and regulations  
1181 establishing standards and criteria for the classification of all shellfish growing areas within the

1182 commonwealth. Such standards and criteria shall conform at a minimum to those established by  
1183 the national shellfish sanitation program.

1184           This section shall not apply to scallops or conch unless scallops or conch are specifically  
1185 included in such determination.

1186           Section 76. Both the department of public health and the department shall have the  
1187 authority immediately to designate shellfish areas as contaminated and that shellfish obtained  
1188 therefrom are unfit for food and dangerous to the public health, in the event of an emergency as  
1189 determined by either the department of public health or the department. Such designation shall  
1190 be reported to the division of law enforcement, and, in the case of a determination by the  
1191 department of public health, to the department, who shall take the necessary action to prevent the  
1192 taking of shellfish from such area for human consumption and so notify local authorities in each  
1193 instance. Such determination shall be in effect until subsequent examination, initiated not more  
1194 than thirty days after the emergency has been determined, shows the shellfish from such area to  
1195 be safe for human consumption and the said department which designated the emergency  
1196 declares it to be over. In the event that the department of public health determines that there is an  
1197 emergency, the commissioner of public health shall have the power to direct the activities of all  
1198 employees of the division of marine fisheries who are regularly engaged in monitoring the  
1199 condition of shellfish during that emergency.

1200           This section shall not apply to scallops or conch unless scallops or conch are specifically  
1201 included in such determination.

1202           Section 77. The commissioner may grant, and may revoke, written permits for the  
1203 digging or taking of shellfish from an area determined under section seventy-five or  
1204 corresponding provisions of earlier laws to be contaminated while such determination is in force,  
1205 every such permit to be upon the express condition, which shall be set forth therein, that all  
1206 shellfish dug or taken from the area or areas covered by such permit by the holder thereof shall,  
1207 before being used or disposed of for consumption as food, be purified at a plant, or by a method,  
1208 approved in writing by the commissioner of public health and upon such further conditions and  
1209 regulations as will, in the opinion of the director, most effectively prevent the use of said  
1210 shellfish as food until so purified. For the purpose of this paragraph the director, upon receipt of  
1211 the proper fees, may issue the following classes of permits:—a master digger’s permit for an  
1212 individual who digs or takes shellfish from such areas for such purification; a digger’s permit for  
1213 an individual who digs shellfish for the holder of a master digger’s permit; and a bait permit for  
1214 an individual who digs and takes shellfish from such areas for bait purposes only; provided, that  
1215 no person shall be eligible for a bait permit hereunder who has a digger’s permit or who sells  
1216 shellfish for food purposes. In order to assure full compliance with said conditions and  
1217 regulations, the commissioner shall require a bond to be obtained by a master digger in a sum not  
1218 to exceed one thousand dollars for a master digger whose record includes no prior judicial or  
1219 administrative convictions related to this chapter; not to exceed twenty-five hundred dollars for a

1220 master digger whose record includes one prior judicial or administrative conviction, related to  
1221 this chapter; and, not to exceed five thousand dollars for a master digger whose record includes  
1222 two or more prior judicial or administrative convictions related to this chapter. The  
1223 commissioner may require forfeiture of all or part of such bond for any violation of said  
1224 conditions and regulations. Any city or town may develop a shellfish conservation and  
1225 management plan containing such information as the director may require and shall submit said  
1226 plan to the director for his approval. Any city or town having a plan approved by the director  
1227 may require permits for the taking of shellfish from areas determined under section seventy-five  
1228 to be contaminated, provided that all other permits and licenses required by law are obtained.  
1229 Fees shall be reasonable and commensurate with the services provided by the city or town. If at  
1230 any time the director finds any city or town in violation of any provision of its approved shellfish  
1231 conservation and management plan he may forthwith withdraw his approval of such plan. No  
1232 city or town permit shall be required by any master digger or subordinate on any mildly  
1233 contaminated area where the commissioner has withdrawn his approval of that city or town's  
1234 shellfish conservation and management plan as provided herein until such plan is deemed  
1235 approved by the commissioner. In evaluating the plan for approval, the commissioner shall take  
1236 into consideration the city or town's efforts to fairly administer the distribution of, and fees for,  
1237 local permits to be issued to residents and nonresidents.

1238           Whoever, without a permit as provided in this section or contrary to the provisions of  
1239 such permit, digs or takes shellfish for any purpose from any area determined under section  
1240 seventy-five or section seventy-five or under corresponding provisions of earlier laws to be  
1241 contaminated, while such determination is in force, or knowingly transports or causes to be  
1242 transported or has in his possession shellfish so dug or taken, shall be punished, if the violation  
1243 occurred between one-half hour before sunrise and one-half hour after the following sunset, by a  
1244 fine of not less than three hundred nor more than one thousand dollars or three times the value of  
1245 such shellfish, whichever is greater, or by imprisonment for not more than two years in a jail or  
1246 house of correction, or both, and if the violation occurred between one-half hour after sunset and  
1247 one-half hour before the following sunrise, by a fine of not less than five hundred nor more than  
1248 two thousand dollars, or three times the value of such shellfish, whichever is greater, or by  
1249 imprisonment for not more than three years in the state prison, or both. Any licensed wholesaler  
1250 or retailer found in violation of this section shall be punished by a fine of not less than one  
1251 hundred nor more than ten thousand dollars or by imprisonment for not more than three years, or  
1252 both. The superior court shall have jurisdiction in equity to enforce this section and the rules and  
1253 regulations of the director made hereunder and to restrain the violation thereof. In any  
1254 prosecution for a violation of this section, the possession by a digger, licensed wholesaler or  
1255 retail dealer, but not by a common carrier, of shellfish taken in apparent violation of this section  
1256 shall be prima facie evidence of a violation thereof.

1257           Section 78. The commissioner may construct and operate shellfish purification plants for  
1258 the treatment of shellfish taken from areas determined under section seventy-five or any

1259 corresponding provisions of earlier laws, to be contaminated, and may operate such existing  
1260 purification plants to serve such areas as he may deem necessary for these purposes. Said  
1261 commissioner or his designee shall have sole authority over the acceptance, treatment and  
1262 discharge of shellfish at such plants, subject to the rules and regulations, which the department of  
1263 public health is hereby authorized and directed to adopt, relative to the protection of the public  
1264 health in the consumption of such shellfish.

1265           Section 79. For the purpose of partially defraying the costs of the operation and  
1266 maintenance of shellfish purification plants, the department shall charge the users of said service  
1267 an amount which shall be determined annually by the commissioner of administration under the  
1268 provision of section three B of chapter seven.

1269           Section 80. Except as permitted in sections thirty-four and seventy-seven, no person shall  
1270 fish for or take fish for commercial purposes in the coastal waters, or land raw fish, whether  
1271 frozen or unfrozen, in the commonwealth, for the purpose of sale unless he is the holder of a  
1272 commercial fisherman permit. A commercial fisherman permit may be issued to an individual or  
1273 it may be issued in the name or number of a vessel, in which case it shall be valid for all persons  
1274 on board said vessel. A vessel permit may be transferred upon application to the commissioner.  
1275 Notwithstanding any contrary provisions contained in this section and except as provided in  
1276 section seventy-eight, a person shall not dig or take shellfish or marine worms for commercial  
1277 purposes unless he is the holder of a commercial fisherman permit (shellfish) or unless he is the  
1278 holder of a commercial fisherman permit which has been specially endorsed, at no additional  
1279 charge, for the taking of such shellfish or marine worms; a person holding a permit issued under  
1280 section seventy-seven shall not hold a permit issued under this section for the taking or digging  
1281 of shellfish or marine worms. Notwithstanding any contrary provision contained in this section, a  
1282 person who has in his possession a commercial fisherman permit for rod and reel may take by  
1283 rod and reel or by diving and sell fin fish lawfully taken from the coastal waters.

1284           A person shall not for commercial purposes acquire, handle, store, distribute, process,  
1285 fillet, ship or sell raw fish, whether frozen or unfrozen in bulk or for resale, without first  
1286 obtaining a wholesale dealer permit issued jointly by the department and the department of  
1287 public health; provided, however, that the holder of a valid commercial fisherman permit who  
1288 catches fish or takes lobsters and sells such fish or lobsters to wholesale or retail dealers  
1289 exclusively shall be exempt from obtaining a wholesale dealer permit; and provided, further, that  
1290 the holder of a wholesale dealer permit shall not procure raw fish, whether frozen or unfrozen,  
1291 from any person who does not hold a valid commercial fisherman permit. A person shall not sell  
1292 raw fish at retail, whether frozen or unfrozen without first obtaining a retail dealer permit issued  
1293 jointly by the department and the department of public health; provided, however, that the holder  
1294 of a valid wholesale dealer permit may sell fish at retail at one location which shall be named on  
1295 the permit; and provided, further, that the holder of a retail dealer permit shall not procure raw  
1296 fish, whether frozen or unfrozen, from any person who does not hold a valid commercial  
1297 fisherman permit or a valid wholesale dealer permit. Upon application to the director and

1298 endorsement on the permit the holder of a retail dealer permit may take bait for sale under said  
1299 permit.

1300           A person shall not for commercial purposes shuck shellfish, or pack or repack shucked  
1301 shellfish, or dig, take, pack or buy shellfish within this commonwealth for shipment outside the  
1302 commonwealth, without the approval of the director which shall be endorsed on the certificate or  
1303 permit held by such person at no additional cost.

1304           No person shall take or sell fish from a fishery regulated by the commissioner without a  
1305 regulated marine fishery permit, in addition to any other permit that may be required by this  
1306 chapter.

1307           The commissioner shall promulgate rules and regulations relative to the form, contents,  
1308 and use of all permits issued under this chapter except the form, contents and use of wholesale  
1309 and retail seafood dealer permits which shall be subject to rules and regulations promulgated by  
1310 the commissioner and the commissioner of public health. The commissioner shall revoke and  
1311 cancel and require the surrender of any permit issued under this chapter if, in his opinion, after a  
1312 hearing, after due notice by him or some person designated by him, the holder has violated any  
1313 rule or regulation of the commissioner or of any provision of this section or section seventy-  
1314 seven, or upon a change in the facts and conditions set forth in such permit or certificate. The  
1315 commissioner of public health shall also have the authority to revoke and cancel and require the  
1316 surrender of any wholesale dealer or retail dealer permit issued under this chapter if, in his  
1317 opinion, after a hearing, after due notice by him or some person designated by him, the holder  
1318 has violated any rule or regulation of the department of public health or any general or specific  
1319 law pertaining to fish or the sale thereof, or upon a change in the facts and conditions set forth in  
1320 such permit. Pending the hearing, the certificate may be suspended. Whoever violates any  
1321 provision of this section shall be punished by a fine of not less than ten dollars nor more than ten  
1322 thousand dollars or by imprisonment for not more than three years, or both.

1323           Section 81. No person shall transport, or cause to be transported, into this commonwealth  
1324 for consumption as food any shellfish taken or dug from areas outside the commonwealth, or  
1325 sell, cause to be sold, or keep, offer or expose for sale for consumption as aforesaid any shellfish  
1326 so taken or dug, unless such person has been certified by the regulatory authority in the United  
1327 States or foreign country under the uniform sanitation requirements of the cooperative program  
1328 for the certification of interstate shellfish shippers, nor shall any person transport or cause to be  
1329 transported within this commonwealth any shellfish for consumption as food, unless the  
1330 container of such shellfish shall, at all times while in such transportation, bear a label or tag  
1331 legibly marked with the name and address of the producer and of the shipper thereof and the  
1332 numbers of such certificates, and the name of the place where and the date when taken, nor shall  
1333 any person counterfeit, alter, deface or tamper with any label or tag, and absence of such label or  
1334 tag so marked or failure to allow an inspection shall be prima facie evidence of violation of this

1335 section; provided, that the foregoing provisions relative to transportation shall not apply to  
1336 common carriers, their servants or agents.

1337           Whoever violates any provision of this section shall be punished by a fine of not less than  
1338 one hundred nor more than ten thousand dollars or by imprisonment for not more than three  
1339 years, or both. The provisions of this section shall be enforced by the department of public  
1340 health, local boards of health, the director and all officers qualified to serve criminal process;  
1341 provided, that the provisions of this section and of section eighty-three shall not apply to  
1342 shellfish taken from an area declared to be contaminated under the provisions of section seventy-  
1343 four or corresponding provisions of earlier laws.

1344           Section 82. No wholesale or retail dealer in shellfish, and no person holding a victualler's  
1345 license, shall receive any shellfish unless the same bears a label or tag legibly marked with the  
1346 source of supply, the date when taken, and either the certificate or permit number or the name  
1347 and address of the producer or shipper, and all shellfish in transit shall bear such label or tag so  
1348 marked. If such shellfish have been processed at a shellfish purification plant operated under the  
1349 provisions of section seventy-six, the label or tag shall be so marked, and shall contain such other  
1350 information as the director may by rule or regulation require. He shall for sixty days after receipt  
1351 of such shellfish keep in his place of business a record of the markings on such tag or label,  
1352 which record shall at all reasonable times be open to inspection by any representative of the  
1353 department or of the department of public health. Whoever violates any provision of this section  
1354 or fails or neglects to furnish the required label or tag or furnishes such a label or tag bearing  
1355 false or misleading information or counterfeits, alters, defaces, or tampers with any label or tag  
1356 shall be punished by a fine of not less than one hundred nor more than ten thousand dollars or by  
1357 imprisonment for not more than three years, or both.

1358           Section 83. For the purposes of defraying the costs of the department's research,  
1359 management and other activities including administrative and operating expenses, and the cost of  
1360 issuing the following resident and nonresident permits and any inspections relative thereto,  
1361 resident and nonresident permit fees, the amounts which shall be determined by the secretary of  
1362 administration and finance under the provisions of section three B of chapter seven for the filing  
1363 thereof, shall be paid to the commissioner or his agent by the person to whom the same is issued  
1364 for any calendar year or part thereof.

1365           A. Commercial Fisherman (For the taking of fish for sale)

1366           Individual (For named individual only)

1367           Shellfish

1368           Rod and Reel — Unlimited (For the sale of fin fish lawfully taken by rod and reel or by  
1369 diving)

- 1370 Boat (100 feet or more in total length) (60 to 99 feet in total length) (Up to 59 feet in total  
1371 length)
- 1372 Lobster (For the taking of lobsters for sale)
- 1373 Seasonal Lobster
- 1374 B. Wholesale Dealer (Any wholesaler dealing in fresh or raw fish)
- 1375 C. Retail Dealer (Any retailer dealing in fresh or raw fish)
- 1376 D. Special Permits
- 1377 Non-Commercial Lobster and Crab (Up to 10 pots and/or diving privileges)
- 1378 Master Digger
- 1379 Subordinate Digger
- 1380 Regulated Fishery (For fishing in special areas)
- 1381 Domestic Processing Vessel
- 1382 Foreign Processing Vessel
- 1383 Other — Miscellaneous
- 1384 E. Duplicate (Replacing Original).

1385 Section 84. No person shall sell, exchange, transport or deliver, or offer or expose for  
1386 sale, exchange or deliver, or have in his custody or possession with intent to sell, exchange,  
1387 transport or deliver, any scallops which have been soaked, or any scallops not in the shell unless  
1388 such scallops are in a box, carton, tray or other container plainly and conspicuously stamped,  
1389 labelled or marked with (a) the word “Massachusetts”, followed by the name of the town or of  
1390 the locality where taken, if taken from waters or flats within the commonwealth; or (b) the name  
1391 of the state, country or province where taken, if taken from waters or flats outside the  
1392 commonwealth; or (c) the words “Sea Scallops”, if of the species commonly so known. Said box,  
1393 carton, tray or container shall also be marked in the same manner with the number of the  
1394 certificate under which said scallops were removed or with such other identification as may be  
1395 required by the commissioner by rule or regulation, which he is hereby authorized to adopt.

1396 Whoever fails to comply with any provision of this section, or whoever falsely stamps,  
1397 labels or marks such a box, carton, tray or other container, or whoever falsely advertises any of  
1398 the shellfish herein referred to, shall be punished by a fine of not less than fifty nor more than  
1399 five hundred dollars or imprisonment for thirty days or both.

1400 This section shall not apply to common carriers having scallops in possession for the  
1401 purpose of transportation.

1402 Section 85. A town may open ditches, sluiceways or canals into any pond within its limits  
1403 not then in private possession for the introduction and propagation in such pond or in any part  
1404 thereof of herring, alewives or other swimming marine food fish, and for the creation of fisheries  
1405 for the same. A town creating such fishery shall own it, may make regulations concerning it, and  
1406 may lease it for terms of not more than five years, on conditions mutually agreed upon.

1407 Section 86. The board of aldermen or the city council of any city wherein there is a public  
1408 fishery for alewives, or the selectmen of a town, wherein there is such a fishery, if so authorized  
1409 by their town, may petition the commissioner for the right to control and regulate such fishery  
1410 within their city or town and the director shall forthwith, after due notice and after a hearing held  
1411 in such city or town, determine whether such control would be proper and reasonable and if the  
1412 public interests therein would be best served thereby, and may thereupon deny the petition or  
1413 grant it under such terms, subject to such regulations or restrictions not contrary to law as he may  
1414 deem expedient.

1415 Whenever such petition shall be granted said aldermen, city council or selectmen, as the  
1416 case may be, may regulate and control such fishery and may lease it for terms of not more than  
1417 five years on conditions mutually agreed upon, notwithstanding the provisions of special laws  
1418 relating to such fishery in that particular locality but not contrary to terms, regulations or  
1419 restrictions contained in the order of the director in granting such petition; provided, that any  
1420 other city or town which deems that its fisheries are adversely affected by such an order may so  
1421 petition the director, who shall thereupon stay the operation of his original order until he has  
1422 considered the petition and shall thereafter, in a writing stating his reasons therefor, confirm,  
1423 alter, amend or rescind such original order.

1424 Section 87. Whoever takes, kills or hauls onshore or disturbs, injures, hinders or obstructs  
1425 the passage of any herring, alewives or other swimming marine food fish in a fishery created by  
1426 a city or town, without its permission or that of its lessees, or in a fishery legally created by a  
1427 corporation, without the permission of such corporation, or in a public fishery regulated and  
1428 controlled by a city or town, contrary to its regulations, shall be punished by a fine of not less  
1429 than five nor more than fifty dollars. Prosecutions under this section shall be commenced within  
1430 thirty days after the commission of the offence.

1431 Section 88. Sections eighty-five, eighty-six and eighty-seven shall not impair the private  
1432 rights of any person under any law passed before April twenty-fifth, eighteen hundred and sixty-  
1433 six, or under any contract existing on said date, or authorize a town to enter upon or build canals  
1434 or sluiceways into a pond which is private property. Whenever in section eighty-five or section  
1435 eighty-six authority is granted to lease alewife fisheries, such leasing shall be made at public  
1436 auction, held in such city or town, each of such fisheries to be leased separately, and no such

1437 lease shall authorize the operation of any fishery thereunder subsequent to June fifteenth in any  
1438 year. Notices of any auction hereunder shall be published and posted as provided by law for  
1439 notices of town meetings, and every such lease shall terminate on June fifteenth.

1440           Section 89. In each city and town bordering on coastal waters the mayor or the selectmen,  
1441 as the case may be, shall appoint a person or persons, qualified by training and experience in the  
1442 field of shellfishery management, as shellfish constables or deputy shellfish constables. A person  
1443 having successfully completed the shellfish wardens training course at the Massachusetts  
1444 Maritime Academy as certified by said academy, shall be considered qualified by training and  
1445 experience in the field of shellfishery management and shall be eligible for appointment as a  
1446 shellfish constable or deputy shellfish constable. Such shellfish constables and deputy shellfish  
1447 constables shall be appointed for terms of three years, and may be reappointed. They shall,  
1448 subject to the appointing authority, initiate, promote and manage shellfisheries in such city or  
1449 town and shall make or cause to be made such studies as may be necessary to enhance the value  
1450 of such shellfisheries. They shall enforce all statutes, ordinances, by-laws, rules and regulations  
1451 relative to shellfish in such city or town. They shall, for the enforcement of sections twenty-  
1452 seven, thirty-eight, forty-two, forty-four and forty-five, have the authority granted to natural  
1453 resource officers, subject to written rules and regulations of the commissioner. In the  
1454 performance of his duties, a shellfish constable or deputy shellfish constable may request any  
1455 person who he has cause to believe is engaged in unlawful shellfishing, is in unlawful possession  
1456 of shellfish, or is in possession of shellfish unlawfully taken, to display forthwith for inspection  
1457 all shellfish in his possession, and he may arrest without a warrant any person refusing or failing  
1458 to comply with such request.

1459           Upon the appointment of a shellfish constable or deputy shellfish constable under this  
1460 section, the appointing authority shall forthwith notify the director of the division of marine  
1461 fisheries and the director of the division of law enforcement.

1462           Section 90. Whoever, other than a common carrier, carries out of the commonwealth in  
1463 any vessel or smack owned without the commonwealth any fish, except oysters, taken within the  
1464 coastal waters, and whoever in any such vessel or smack takes any fish within the coastal waters  
1465 for the purpose of carrying them out of the commonwealth, shall be punished by a fine of fifty  
1466 dollars, and all fish so taken or carried shall be forfeited to the commonwealth and disposed of  
1467 by the director for the best interests of the commonwealth.

1468           Section 91. No person shall take or attempt to take eels, *Anguilla rostrata*, by any  
1469 contrivance other than by nets, pots, spears, or angling. The commissioner is hereby authorized  
1470 to establish rules and regulations governing the size, shape, mesh size, and manner of marking  
1471 such nets or pots.

1472           It shall be unlawful for a person to take or possess elvers or eels of a size less than four  
1473 inches total length.

1474           Whoever violates any provision of this section shall be punished by a fine of not less than  
1475 one hundred dollars or by imprisonment for not more than thirty days, or both.

1476           Section 92. No person shall willfully detain, hunt, kill or injure a gray seal (*halichoerus*  
1477 *gryphus*), also called a Nantucket horsehead. Whoever violates any provision of this section shall  
1478 be punished by a fine not to exceed five hundred dollars.

1479           Section 93. No person shall take by mechanical means Irish moss or kelp, marine plants  
1480 of the species *chondrus crispus*, except with the written approval of the director and in  
1481 accordance with such rules and regulations relative thereto as he may adopt.

1482           Section 94. Whoever catches or takes from, the coastal waters any starfish, or winkles  
1483 and their egg strings, or cockles shall deposit the same at some place above high water mark or at  
1484 some suitable place designated by the selectmen of the town wherein such disposition is made.  
1485 Whoever violates any provision of this section shall be punished by a fine of five dollars and, in  
1486 addition thereto, all permits or licenses issued to such person under authority of this chapter shall  
1487 be void and no new permit or license shall be issued to him under such authority within the six  
1488 months next following the date of his conviction, except upon approval of the commissioner.

1489           Section 95. This chapter shall not be deemed to affect any privileges granted in any  
1490 special statute relating to fisheries in any particular place, except such provisions thereof as  
1491 relate to shellfish and shellfisheries, to alewife fisheries, and to those activities which are the  
1492 subject of rules and regulations under section seventeen A.

1493           SECTION 3. (a) Notwithstanding any general or special law to the contrary, this section  
1494 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property  
1495 and legal obligations and functions of state government from the division of marine fisheries to  
1496 the department of marine resources and fisheries, as transferee agency.

1497           (b) Subject to appropriation, the employees of the transferor agency, including those who  
1498 immediately before the effective date of this act held permanent appointment in positions  
1499 classified under chapter 31 of the General Laws or have tenure in their positions as provided by  
1500 section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential  
1501 positions, are hereby transferred to the transferee agency, without interruption of service within  
1502 the meaning of section 9A of chapter 30, without impairment of seniority, retirement or other  
1503 rights of the employee, and without reduction in compensation or salary grade, notwithstanding  
1504 any change in title or duties resulting from such reorganization, and without loss of accrued  
1505 rights to holidays, sick leave, vacation and benefits, and without change in union representation  
1506 or certified collective bargaining unit as certified by the state labor relations commission or in  
1507 local union representation or affiliation. Any collective bargaining agreement in effect  
1508 immediately before the transfer date shall continue in effect and the terms and conditions of  
1509 employment therein shall continue as if the employees had not been so transferred. The  
1510 reorganization shall not impair the civil service status of any such reassigned employee who

1511 immediately before the effective date of this act either held a permanent appointment in a  
1512 position classified under chapter 31 of the General Laws or had tenure in a position by reason of  
1513 section 9A of chapter 30 of the General Laws.

1514 (c) Notwithstanding any general or special law to the contrary, all such employees shall  
1515 continue to retain their right to bargain collectively pursuant to chapter 150E of the General  
1516 Laws and shall be considered employees for the purposes of chapter 150E.

1517 Nothing in this section shall confer upon any employee any right not held immediately  
1518 before the date of the transfer, or to prohibit any reduction of salary grade, transfer,  
1519 reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything  
1520 in this section prohibit the abolition of any management position within the division of marine  
1521 fisheries after transfer to the department.

1522 (d) All petitions, requests, investigations, filings and other proceedings appropriately and  
1523 duly brought before the transferor agency, or pending before it before the effective date of this  
1524 act, shall continue unabated and remain in force, but shall be assumed and completed by the  
1525 transferee agency.

1526 (e) All orders, advisories, findings, rules and regulations duly made and all approvals  
1527 duly granted by the transferor agency, which are in force immediately before the effective date of  
1528 this act, shall continue in force and shall thereafter be enforced, until superseded, revised,  
1529 rescinded or canceled, in accordance with law, by the transferee agency.

1530 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other  
1531 property, both personal and real, including all such property held in trust, which immediately  
1532 before the effective date of this act are in the custody of the transferor agency, shall be  
1533 transferred to the transferee agency.

1534 (g) All duly existing contracts, leases and obligations of the transferor agency, shall  
1535 continue in effect but shall be assumed by the transferee agency. No such existing right or  
1536 remedy of any character shall be lost, impaired or affected by this act.

1537 (h) Whenever the term "division of marine fisheries" appears in any statute, regulation,  
1538 contract or other document, it shall be taken to mean the department of marine resources and  
1539 fisheries.

1540 SECTION 4. The general laws are hereby amended by inserting after chapter 25D the  
1541 following:--

1542 CHAPTER 25E.

1543 DIVISION OF COASTAL MANAGEMENT

1544 Section 1. In this chapter, unless the context otherwise requires, the definitions contained  
1545 in Chapter 25D shall apply.

1546 Section 2. The division of coastal management shall be within the department of marine  
1547 resources and fisheries, wildlife and environmental law enforcement in the executive office of  
1548 environmental affairs and shall be under the administrative supervision of a director who shall be  
1549 called the director of coastal management. The director of the division of coastal management  
1550 shall be appointed and may be removed by the commissioner of the department of marine  
1551 resources and fisheries. The said division of coastal management shall administer all the laws  
1552 relating to coastal management as appearing in chapter one hundred and thirty and any other  
1553 general or special laws, except as pertain to the enforcement thereof. Said division shall co-  
1554 operate with all departments, boards, officials and institutions of the commonwealth or its  
1555 subdivisions that may be concerned in any way with matters under its supervision. It shall co-  
1556 operate with adjoining states and with the United States of America, or any agency thereof, with  
1557 foreign countries, and any other agency, as may be authorized by the general court, and receive  
1558 and dispense such funds from any of such agencies, states or governments as may be authorized  
1559 by the general court.

1560 Section 3. The director shall from time to time determine and establish the jurisdictional  
1561 boundaries of each agency in rivers and streams flowing into the sea. Said jurisdictional  
1562 boundaries may be based upon existing, man-made, natural, geographic or other known  
1563 landmarks, or determined and established by other appropriate methods or means. The  
1564 determination and establishment of any jurisdictional boundary made pursuant to this section  
1565 shall serve solely to distinguish the jurisdiction of the division from the department for purposes  
1566 of fisheries management authority, shall be prima facie evidence of the jurisdiction of each  
1567 respective agency, and shall have no other independent legal significance. The director may  
1568 prepare plans and maps delineating said jurisdictional boundaries, and shall file a copy thereof  
1569 with the secretary of state and the director of the division of law enforcement.

1570 Section 4. In a city or town bordering on coastal waters, a police officer employed on a  
1571 full time, provisional or reserve basis shall, for the enforcement of the provisions of the chapter  
1572 have the authority granted to an environmental police officer, subject to such rules and  
1573 regulations as the director with the approval of the commissioner are hereby authorized to adopt.

1574 Section 5. Except in the case of emergency imperiling life or property or an unavoidable  
1575 accident or except in accordance with the terms of a permit issued pursuant to state or federal  
1576 water pollution control laws, whoever from any source puts, throws, discharges or suffers or  
1577 permits to be discharged or to escape into any coastal waters, any oil, poisonous or other  
1578 injurious substance, including but not limited to, sawdust, shavings, garbage, ashes, acids,  
1579 sewage and dye-stuffs, whether simple, mixed or compound, or heated effluent, which directly or  
1580 indirectly materially injure fish, fishspawn or seed therein, or takes any such fish by such means,  
1581 or whoever kills or destroys fish in such waters by the use of dynamite or other explosives, or

1582 takes any such fish in such waters by such means, or explodes dynamite or other explosive in  
1583 such waters, shall be punished by a fine of not less than \$5,000 nor more than \$25,000 or by  
1584 imprisonment for not more than one year or both.

1585           Section 6. Whoever, contrary to any provision of section five, himself, or by his agent or  
1586 servant, does, or allows or suffers to be done, any act causing damage to the shellfish resources  
1587 within the limits of a city or town shall be liable to said city or town in tort, in triple the amount  
1588 of damage thereby done.

1589           Whoever, contrary to any provision of section five, himself, or by his agent or servant,  
1590 does, or allows or suffers to be done, any act causing damage to any fishery resource, with the  
1591 exception of shellfish located within the limits of a city or town, within the marine boundaries of  
1592 the commonwealth, shall be liable to the commonwealth in tort, in triple the amount of damage  
1593 thereby done.

1594           Whoever, contrary to any provision of section five, himself, or by his agent or servant,  
1595 does, or allows or suffers to be done, any act causing damage to any private fishery resource  
1596 within the marine boundaries of the commonwealth, shall be liable in tort, in triple the amount of  
1597 the damage, to any person owning or leasing such private fishery rights.

1598           Section 7. The entrance or discharge into the coastal waters, or the tributaries of such  
1599 waters, of sewage or any other substance which might be injurious to the public health or might  
1600 tend to contaminate any shellfish areas or shellfish therein which may be determined by the  
1601 director to be of commercial value, or injuriously affect the fisheries therein, is hereby  
1602 prohibited; provided, that this section shall not be deemed to interfere with the exercise of any  
1603 right of drainage which had been approved by the department of public health prior to January  
1604 first, nineteen hundred and forty-two, or in any drainage thereafter approved by said department  
1605 or the department of environmental protection; provided further, that before granting such new  
1606 approval the commissioner of environmental protection shall have consulted with the director as  
1607 to the value of the marine fisheries involved. The provisions of this section shall not apply to any  
1608 such entrance or discharge of heated effluent authorized under the terms of a permit for such  
1609 entrance or discharge issued pursuant to state or federal water pollution control laws.

1610           Section 8. The supreme judicial court or any justice thereof, and the superior court or any  
1611 justice thereof, shall have jurisdiction in equity to enforce sections five, six or seven.  
1612 Proceedings to enforce the same may be instituted and prosecuted by the attorney general at the  
1613 request of the commissioner.

1614           Section 9. Whoever, contrary to any provision of section seven, himself, or by his agent  
1615 or servant, permits the entrance or discharge into or on any part of said coastal waters or  
1616 tributaries of such waters, sewage, heated effluent, or any other substance injurious to public  
1617 health or tending to contaminate any shellfish area or shellfish therein, within the limits of a city  
1618 or town, shall be punished by a fine of not less than one hundred and fifty nor more than five

1619 thousand dollars or by imprisonment for not more than one year or both and shall be liable in  
1620 tort, to said city or town, in triple the amount of damage thereby done.

1621           Whoever, contrary to any provision of section seven, himself, or by his agent or servant,  
1622 permits the entrance or discharge into or on any part of said coastal waters or tributaries of such  
1623 waters, sewage, heated effluent, or any other substance injurious to public health or causing  
1624 injury or damage to any fishery resource, with the exception of shellfish located within the limits  
1625 of a city or town, within the marine boundaries of the commonwealth, shall be punished by a fine  
1626 of not less than one hundred and fifty dollars nor more than five thousand dollars or by  
1627 imprisonment for not more than one year or both and shall be liable in tort to the commonwealth,  
1628 in triple the amount of damage thereby done.

1629           Whoever, contrary to any provision of section seven, himself, or by his agent or servant,  
1630 permits the entrance or discharge into or on any part of said coastal waters or tributaries of such  
1631 waters, sewage, heated effluent, or any other substance injurious to public health or causing  
1632 injury or damage to any private fishery resource within the boundaries of the commonwealth  
1633 shall be liable in tort, to the owners or lessees of any private rights therein, in triple the amount  
1634 of damage thereby done.

1635           Section 10. The commissioner of environmental protection may from time to time, for the  
1636 purpose of promoting the public safety, health and welfare, and protecting public and private  
1637 property, wildlife and marine fisheries, adopt, amend, modify or repeal orders regulating,  
1638 restricting or prohibiting dredging, filling, removing or otherwise altering, or polluting, coastal  
1639 wetlands. In this section "coastal wetlands" shall mean any bank, marsh, swamp, meadow, flat or  
1640 other low land subject to tidal action or coastal storm flowage and such contiguous land as said  
1641 commissioner reasonably deems necessary to affect by any such order in carrying out the  
1642 purposes of this section.

1643           The commissioner of environmental protection shall, before adopting, amending,  
1644 modifying or repealing any such order, hold a public hearing thereon in the municipality in  
1645 which the coastal wetlands to be affected are located, giving notice thereof to the state  
1646 reclamation board, the department of highways and the department of environmental  
1647 management and each assessed owner of such wetlands by mail at least twenty-one days prior  
1648 thereto.

1649           Upon the adoption of any such order or any order amending, modifying or repealing the  
1650 same, the commissioner of environmental protection shall cause a copy thereof, together with a  
1651 plan of the lands affected and a list of the assessed owners of such lands, to be recorded in the  
1652 proper registry of deeds or, if such lands are registered, in the registry district of the land court,  
1653 and shall mail a copy of such order and plan to each assessed owner of such lands affected  
1654 thereby. Such orders shall not be subject to the provisions of chapter one hundred and eighty-  
1655 four. Any person who violates any such order, (a) shall be punished by a fine of not less than one

1656 hundred nor more than twenty-five thousand dollars, or by imprisonment for not more than one  
1657 year, or both such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed  
1658 twenty-five thousand dollars per violation. Each day such violation continues shall constitute a  
1659 separate offense.

1660 The superior court shall have jurisdiction to restrain violations of such orders.

1661 Any person having an ownership interest, any lessees holding a lease of twenty-five years  
1662 length or more and any mortgagor having an interest in land affected by any such order, may,  
1663 within ninety days after receiving notice thereof, petition the superior court to determine whether  
1664 such order so restricts the use of his property as to deprive him of the practical uses thereof and  
1665 is therefor an unreasonable exercise of the police power because the order constitutes the  
1666 equivalent of taking without compensation. If the court finds the order to be an unreasonable  
1667 exercise of the police power, as aforesaid, the court shall enter a finding that such order shall not  
1668 apply to the land of the petitioner; provided, however, that such findings shall not affect any  
1669 other land than that of the petitioner. The commissioner of environmental protection shall cause  
1670 a copy of such finding to be recorded forthwith in the proper registry of deeds or, if the land is  
1671 registered, in the registry district of the land court. The method provided in this paragraph for the  
1672 determination of the issue of whether any such order constitutes a taking without compensation  
1673 shall be exclusive, and such issue shall not be determined in any other proceeding, nor shall any  
1674 person have a right to petition for the assessment of damages under chapter seventy-nine by  
1675 reason of the adoption of any such order.

1676 The department of environmental management may, after a finding has been entered that  
1677 such order shall not apply to certain land as provided in the preceding paragraph, take the fee or  
1678 any lesser interest in such land in the name of the commonwealth by eminent domain under the  
1679 provisions of chapter seventy-nine and hold the same for the purposes set forth in this section.

1680 No action by the commissioner of environmental protection or the department of  
1681 environmental protection under this section shall prohibit, restrict or impair the exercise or  
1682 performance of the powers and duties conferred or imposed by law in the department of  
1683 highways, the Massachusetts Water Resources Authority, the state reclamation board or any  
1684 mosquito control or other project operating under or authorized by chapter two hundred and  
1685 fifty-two.

1686 No order adopted hereunder shall apply to any area under the control of the metropolitan  
1687 district commission and the Massachusetts Water Resources Authority. No order adopted  
1688 hereunder shall permit the construction in coastal wetlands of access driveways to unrestricted  
1689 land except in a manner which allows the flow of the tide.

1690 Section 11. There is hereby established within the division of coastal management a  
1691 coastal zone management office which shall be administered by a director who shall be  
1692 appointed and may be removed by the secretary. The director shall be a person of skill and

1693 experience in the field of coastal zone management. The director shall appoint all necessary  
1694 employees within his office, except as may be otherwise provided by law. The positions of  
1695 director and of any employees of the office shall not be subject to the provisions of chapter  
1696 thirty-one or section nine A of chapter thirty.

1697         The director shall direct the coastal zone management office, consistent with state law, to  
1698 adopt, and from time to time amend rules, regulations, procedures, standards, guidelines, and  
1699 policies which shall constitute the Massachusetts coastal zone management program. The  
1700 purpose of the program shall be to secure for the inhabitants of the commonwealth the objectives  
1701 and benefits of the federal Coastal Zone Management Act, 16 USC 1451 et seq.

1702         SECTION 5. (a) Notwithstanding any general or special law to the contrary, this section  
1703 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property  
1704 and legal obligations and functions of the office of coastal zone management from the executive  
1705 office of environmental affairs to the department of marine resources and fisheries, as transferee  
1706 agency.

1707         (b) Subject to appropriation, the employees of the transferor agency, including those who  
1708 immediately before the effective date of this act held permanent appointment in positions  
1709 classified under chapter 31 of the General Laws or have tenure in their positions as provided by  
1710 section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential  
1711 positions, are hereby transferred to the transferee agency, without interruption of service within  
1712 the meaning of section 9A of chapter 30, without impairment of seniority, retirement or other  
1713 rights of the employee, and without reduction in compensation or salary grade, notwithstanding  
1714 any change in title or duties resulting from such reorganization, and without loss of accrued  
1715 rights to holidays, sick leave, vacation and benefits, and without change in union representation  
1716 or certified collective bargaining unit as certified by the state labor relations commission or in  
1717 local union representation or affiliation. Any collective bargaining agreement in effect  
1718 immediately before the transfer date shall continue in effect and the terms and conditions of  
1719 employment therein shall continue as if the employees had not been so transferred. The  
1720 reorganization shall not impair the civil service status of any such reassigned employee who  
1721 immediately before the effective date of this act either held a permanent appointment in a  
1722 position classified under chapter 31 of the General Laws or had tenure in a position by reason of  
1723 section 9A of chapter 30 of the General Laws.

1724         (c) Notwithstanding any general or special law to the contrary, all such employees shall  
1725 continue to retain their right to bargain collectively pursuant to chapter 150E of the General  
1726 Laws and shall be considered employees for the purposes of chapter 150E.

1727         Nothing in this section shall confer upon any employee any right not held immediately  
1728 before the date of the transfer, or to prohibit any reduction of salary grade, transfer,  
1729 reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything

1730 in this section prohibit the abolition of any management position within the office of coastal zone  
1731 management after transfer to the department.

1732 (d) All petitions, requests, investigations, filings and other proceedings appropriately and  
1733 duly brought before the transferor agency, or pending before it before the effective date of this  
1734 act, shall continue unabated and remain in force, but shall be assumed and completed by the  
1735 transferee agency.

1736 (e) All orders, advisories, findings, rules and regulations duly made and all approvals  
1737 duly granted by the transferor agency, which are in force immediately before the effective date of  
1738 this act, shall continue in force and shall thereafter be enforced, until superseded, revised,  
1739 rescinded or canceled, in accordance with law, by the transferee agency.

1740 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other  
1741 property, both personal and real, including all such property held in trust, which immediately  
1742 before the effective date of this act are in the custody of the transferor agency, shall be  
1743 transferred to the transferee agency.

1744 (g) All duly existing contracts, leases and obligations of the transferor agency, shall  
1745 continue in effect but shall be assumed by the transferee agency. No such existing right or  
1746 remedy of any character shall be lost, impaired or affected by this act.

1747 SECTION 5. The general laws are hereby amended by striking chapter 130, as appearing  
1748 in the 2008 official edition.

1749 SECTION 6. Section 1 of chapter 131 of the general laws is hereby amended in lines 19  
1750 and 20, by deleting the definition of "Commissioner" and inserting in place thereof the  
1751 following:--

1752 "Commissioner", the commissioner of freshwater fisheries, wildlife and environmental  
1753 law enforcement.'

1754 SECTION 7. Section 1 of chapter 131 of the general laws is hereby amended in lines 23  
1755 and 24, by deleting the definition of "Department" and inserting in place thereof the following:--

1756 "Department", the department of freshwater fisheries, wildlife and environmental law  
1757 enforcement.'

1758 SECTION 8. Section 1 of chapter 131 of the general laws is hereby amended in line 27,  
1759 by deleting the definition of "Director" and inserting in place thereof the following:--

1760 "Director", the director of freshwater fisheries, wildlife and environmental law  
1761 enforcement.'