



# The Commonwealth of Massachusetts

## Division of Marine Fisheries

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Director

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TO: Boards of Selectmen and City Councils

FROM: Daniel J. McKiernan, Director 

DATE: August 14, 2020

SUBJECT: Fees charged to Commonwealth veterans for recreational shellfishing

This memo reminds municipalities that issue recreational shellfish permits of the requirement to comply with MGL Chapter 130 section 52 to charge veterans of the Commonwealth who purchase a recreational shellfish permit a fee no greater than the fee for residents of the municipality. This memo further explains that nonresident veterans are to be charged as similarly situated residents under a municipality's permit fee structure. Moreover, I am requesting all municipalities to explicitly post the fee for these veteran citizens on its municipal websites.

Specifically, in November 2018, state legislation was enacted at Chapter 218 Section 29 of the Acts of 2018 ("An Act Relative To Veterans' Benefits, Appreciation, Validation and Enforcement," referred to herein as the "Act"). This Act amended M.G.L. c. 130, s. 52 to prohibit a municipality from charging a veteran a fee to harvest shellfish for non-commercial purposes that is greater than the fee charged to residents of that municipality. Municipalities are advised to consult the Secretary of State's web site to determine criteria on how a veteran is defined in Massachusetts. The link to this information is: <https://www.sec.state.ma.us/cis/cisvet/vetdefin.htm>.

Under, M.G.L. c. 130, s. 52 municipalities that manage shellfishing in their waters are required to set aside areas for the non-commercial harvest of shellfish for "family use" and to issue permits to "any inhabitant" of the Commonwealth residents for such purpose. Many municipalities charge a higher fee to non-residents for such permits. The Act amended the fourth paragraph of M.G.L. c. 130, s. 52 as follows (the amended language is highlighted in bold):

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

To comply with the law, a nonresident veteran should be assessed a fee no more than a similarly situated resident of the municipality in accordance with the municipality's permit fee structure. For instance, if the permit fee for resident veterans over a certain age is less than that of other residents, then a nonresident veteran over the specified age should be similarly assessed the lower fee. Here, fees include all fees, such as the fee for the permit itself and any additional fees for "shellfish enhancement" that some communities charge.

I recognize that the law was amended late in the calendar year of 2018 and many municipalities were unable to amend their regulations in time for the issuance of 2019 permits. Furthermore, each municipality has its own schedule and rulemaking processes to make annual revisions to shellfish rules. I understand, from my conversations with many shellfish constables across the Commonwealth, that veterans are receiving the benefit as required by the law because municipal clerks are assessing the proper fees even if the fee schedule is ambiguous in published materials.

However, in my recent examination of various municipal websites listing shellfish regulations and permit fees, there are significant differences in the level of clarity of how the municipalities have met their obligation under the law. **I am requesting that each municipality upgrade their regulations (if necessary) and make clear on its web sites the fees that are charged to Commonwealth's veterans who are seeking a nonresident recreational shellfish permit.**

Thank you for your attention to this matter. Please feel free to contact me if you have any questions at [dan.mckiernan@mass.gov](mailto:dan.mckiernan@mass.gov) .