

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO FISH AND WILDLIFE - RHODE ISLAND FREEDOM TO FISH AND
MARINE CONSERVATION ACT

Introduced By: Senator Michael J. McCaffrey

Date Introduced: May 20, 2021

Referred To: Senate Environment & Agriculture

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 20-3.2-3 of the General Laws in Chapter 20-3.2 entitled "Rhode
2 Island Freedom to Fish and Marine Conservation Act" is hereby amended to read as follows:

3 **20-3.2-3. Freedom to fish.**

4 (a) The marine waters of Rhode Island, or portions thereof, shall not be closed to
5 recreational or commercial fishing unless such closure is:

6 (1) Deemed necessary in order to protect, manage, or restore marine fish, shellfish,
7 crustaceans, and associated marine habitats or other marine resources, protect public health or
8 safety, or address some other public purpose;

9 (2) Based on the best currently available scientific information; and

10 (3) Developed via public review and stakeholder input through chapter 35 of title 42 and
11 other applicable state law, and with the advice of the marine fisheries council; except where the
12 director deems it necessary to institute a closure via emergency rule, in which case the regulation
13 must meet the standards set forth by chapter 35 of title 42 and have an effective period of not more
14 than one hundred twenty (120) days; ~~or~~

15 [\(4\) Made pursuant to § 20-3.2-4.](#)

16 (b) Any marine waters of Rhode Island, or portions thereof, that are closed to recreational
17 or commercial fishing shall be reopened if and when the original justification for such closure
18 ceases to apply.

1 (c) As part of the annual reporting requirements as specified in § 20-2.1-9(6), the
2 department of environmental management, upon advice of the marine fisheries council, shall
3 include therein an evaluation of any closures identified as significant by the council and any
4 relevant scientific information related thereto that was collected during the year.

5 SECTION 2. Section 20-3.2-3 of the General Laws in Chapter 20-3.2 entitled “Rhode
6 Island Freedom to Fish and Marine Conservation Act” is hereby amended by adding the following
7 section:

8 **20-3.2-4. Shellfish restoration.**

9 (a) Wild shellfish harvests are at historic lows, and natural recruitment rates are too low to
10 sustain healthy populations because shellfish are an important indicator of the overall health of the
11 ecosystem. Accordingly, the department of environmental management shall, based on the best
12 currently available scientific information, and pursuant to the Rhode Island shellfish management
13 plan:

14 (1) Establish baseline shellfish harvest targets and a timeline to accomplish the restoration
15 targets of quahog, oyster, and bay scallop populations to support and sustain commercial and
16 recreational fishermen and the commercial and recreational fishing industry; and

17 (2) Establish rules and regulations to ensure that the genetic integrity of quahog, oyster,
18 and bay scallop populations are maintained.

19 (b) The director of the department of environmental management shall enforce subsection
20 (a) of this section. If the director of the department of environmental management fails to enforce
21 subsection (a) of this section, aggrieved parties may bring an action in the superior court seeking
22 injunctive relief, a declaratory judgment, a writ of mandamus or any combination thereof.

23 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would establish baseline shellfish harvest targets and a timeline to accomplish the
2 restoration targets of quahog, oyster, and bay scallop populations. The director of the department
3 of environmental management would enforce the provisions of this act, and if the director fails to
4 enforce this act, an aggrieved party would be able to bring an action in superior court.

5 This act would take effect upon passage.

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