HOUSE DOCKET, NO. 3141 FILED ON: 2/18/2021

HOUSE . . . . . No. 3955

The Commonwealth of Massachusetts

PRESENTED BY:

Patrick Joseph Kearney

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 adoption of the accompanying bill:

An Act relative to a marine special activity license program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Patrick Joseph Kearney	*4th Plymouth*	*2/18/2021*

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HOUSE . . . . . No. 3955

By Mr. Kearney of Scituate, a petition (accompanied by bill, House, No. 3955) of Patrick Joseph Kearney relative to a marine special activity license program. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to a marine special activity license program.

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

Chapter 130 of the General Laws is hereby amended by adding the following section:-

Section 107. (a) For purposes of this section, unless the context clearly indicates otherwise, the following terms shall have the following meanings:-

"Attract" or "attraction", any activity that lures or may lure any marine organism to a person or vessel by using food, bait, chum, dyes, decoys, acoustics or any other means, excluding the mere presence of persons on the water including those persons conducting commercial or recreational fishing activity.

"Harvest", the catching, taking or molesting of a marine organism by any means whatsoever, followed by a reduction of such organism or part thereof to possession. A marine organism that is caught and immediately returned to the water free, alive and unharmed is not harvested.

"Scientific research", an activity that uses marine organisms to conduct 1 or more of the following:

(1) Research activity that involves the application of rigorous, systematic and objective procedures of observation, measurement and experiment to obtain reliable and pertinent data using an experimental design, controls and data analysis to test a stated hypothesis.

(2) Monitoring activity that involves making technical and scientific observations as a means of gathering data according to a predetermined study plan.

(3) Restoration activity that facilitates mitigation or recovery of marine organisms and includes subsequent monitoring to measure the success of the restoration effort

"Special activity license" or "license", a permit for oceanic scientific research described in subsection (b).

(b) The division shall grant special activity licenses for oceanic scientific research, including but not limited to aquaculture or mariculture; scientific, environmental and biological collection and study, assessment or experimentation; collection and possession for education purposes; provided, that if conducting research, study results shall be presented in sufficient detail and clarity to allow for replication, or at a minimum, offer the opportunity to build systematically on findings; provided further, that if conducting monitoring, collected data shall be analyzed to detect physical or biological changes over time in marine organisms, their populations or communities; provided further, that if conducting restoration or mitigation, species such as oysters, corals, sponges, sea fans, sea whips and other marine organisms shall be repaired in the event that the species are damaged and the effectiveness of the restoration or mitigation activity shall be evaluated by subsequent monitoring.

(c) An application for a license shall be reviewed and approved by the director or a designated representative. The director may allow individuals outside of the division to review license applications; provided, that the individuals possess the biological, technical, regulatory and enforcement expertise necessary to appropriately evaluate a requested activity.

(d) The director shall review an application and grant or deny a license based on the following criteria:

(1) eligibility of the applicant;

(2) completeness of information submitted during the application process;

(3) consistency of the requested activities with the license type requested;

(4) degree of compliance with the terms and conditions set forth by a special activity license previously issued to the applicant;

(5) potential impacts of the type, size and method of attraction or harvest gear requested for use;

(6) biological status of the species requested, based on the best available information; provided, that in the absence of stock assessments, the director shall take a risk-averse approach and maintain minimal attraction or harvest levels until such time as the information is available to further evaluate the status of the species;

(7) life history strategies, genetic structure and ecology of the targeted species;

(8) degree of variation from division regulations;

(9) the extent of the requested attraction or harvest beyond the known total annual commercial and recreational attract or harvest of the stock;

(10) established attraction or harvest quotas for the species requested;

(11) locations of proposed attraction or harvest activities and facilities;

(12) intensity of localized attraction or harvest and attraction or harvest frequency;

(13) project specifications and methodologies;

(14) monitoring strategies;

(15) documented experience conducting successful restoration or mitigation activities; and

(16) any additional evaluation criteria specific to the applicable permit.

(e) A special activity license may be issued to:

(1) A principal investigator of a proposed or ongoing scientific research project who is on the faculty or is a student of a college, community college, university or secondary school.

(2) A principal investigator of a proposed or ongoing scientific research project who is affiliated with a marine research institute, laboratory, corporation or organization.

(3) A member of the scientific or technical staff of a marine research institute, laboratory, corporation or organization with demonstrated experience conducting successful restoration or mitigation activities.

(4) A member of the scientific or technical staff of a city, county, state or federal agency.

(5) A member of the scientific or technical staff of a certified aquaculture facility.

(f) (1) There shall be a non-refundable processing fee for a special activity license to be determined annually by the secretary of administration and finance pursuant to section 3B of chapter 7.

(2) An applicant for a license shall complete and submit an application in the form provided by the division.

(g) A special activity license holder shall submit the following to the division:

(1) An activity report detailing all license-related attraction, harvest or sampling activities that resulted in the permanent retention of marine organisms. The activity report shall be a report in addition to any required publications or technical, monitoring or final reports. The activity report shall include: (i) common and scientific names of the marine organisms attracted or harvested, both targeted and incidental; (ii) numbers and sizes attracted or harvested; (iii) locations of attraction or harvest by county; and (iv) disposition of all marine organisms attracted or harvested. The activity report for a license involving prohibited species shall also include the specific attraction or harvesting gear used. If mortality of a prohibited species occurred during attraction, harvest or subsequent possession, the report shall indicate the cause of death if known. If license related activities did not result in the permanent retention or mortality of any marine organism, the license holder shall submit a statement to that effect.

(2) A copy of any publications, technical, monitoring or final reports that were generated as a result of work conducted pursuant to the license. These reports shall include the notation that research was conducted pursuant to a specific license.