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**HOUSE BILL NO. 252**

Offered January 11, 2006

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*A BILL to amend and reenact §§ 28.2-409 and 28.2-410 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 28.2-203.2, and to repeal § 28.2-1000.1 of the Code of Virginia, relating to the fishing of menhaden.*

Patron—Cosgrove

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28.2-409 and 28.2-410 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 28.2-203.2 as follows:**

*§ 28.2-203.2. Authority of Commission to adopt regulations for the taking of menhaden.*

*A. Notwithstanding any provision of Chapter 4 (§ 28.2-400 et seq.), the Commission shall adopt regulations as necessary to implement the provisions of the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden.*

*B. However, no regulation adopted pursuant to subsection A shall impose limits on the taking of menhaden that are more restrictive than the provisions of the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden.*

*C. Any regulation proposed by the Commission that may impose a moratorium on the taking of menhaden shall be subject to legislative review under subsection B of § 2.2-4014, as if it were a final regulation.*

*§ 28.2-409. Menhaden fishing prohibited in certain areas; exception.*

*A. Except as provided in subsection B of this section or as otherwise provided by regulation, it shall be unlawful to take or catch menhaden with purse nets in the following waters:*

*1. In the Piankatank River and its tributaries above and west of a line beginning at the northernmost, as measured from the low-water mark, edge of land known as Gwynn's Island at or near the mouth of Kibble Pond, thence in a northerly direction in a straight line to the easternmost edge of high land on Stingray Point;*

*2. In the Rappahannock River and its tributaries above and west of the R.O. Norris, Jr., Bridge;*

*3. In the York River and its tributaries above and west of a line extending northwardly from the western line of Goodwin Islands through the western line of Ellen Island to the northern bank of the York;*

*4. In the East, North, Ware and Severn Rivers and their tributaries; and*

*5. In Cape Charles harbor eastward of a line from the western tip of the jetty on the southern side of the channel to the westernmost tip of the jetty on the northern side of the channel; in Kings Creek and Cherrystone inlet eastward of a line from the western end of the jetty on the north side of Cape Charles harbor to the southern end of Wescoat Point; in Mattawoman and Hungars Creek eastward of a line from the northwesternmost tip of land in Old Town Neck to Great Neck Point; in Nassawadox Creek eastward of a line from Shooting Point to Nassawadox Point; in Occohannock Creek eastward of a line from Sparrow Point to the southernmost tip of Powells Bluff; in Nandua Creek eastward of a line from the northernmost point of Milbys Point to the southwesternmost point of land in Hacks Neck, said line having a true bearing of 027/d; in Pungoteague Creek eastward of a line from Bluff Point to the southeasternmost point of Finneys Island; in Onancock Creek eastward of a line from Thicket Point to Ware Point; in Chesconessex Creek eastward of a line from the northernmost point of Sound Beach to the northwesternmost point of Beach Island; in Deep Creek, Hunting Creek and Guilford Creek eastward of a line from the easternmost tip of Russel Island to Halfmoon Point to Peters Point to Simpson Point to Flood Point to Ebb Point to the mouth of Great Gut; in Messongo Creek eastward of a line from South Point to North Point in the Virginia portion of the Pocomoke River northeast of a line from Long Point to Virginia-Maryland spar buoy "A"; in the Great Wicomico River from the mouth of Whay's Creek to Sandy Point; in Dividing Creek, Prentice Creek and Jarvis Creek westward of a line from Hughlett Point to Jarvis Point; in Indian Creek and Henrys Creek westward of a line from the southeasternmost point of land on the eastern side of the mouth of Henrys Creek to the easternmost point of Fleets Bay Neck; in Dymers Creek westward of a line from the southernmost point of Grog Island to the easternmost point of Poplar Neck; in Tabbs Creek westward of the line across the mouth of the creek at its narrowest point; in Horn Harbor and Dyer Creek westward of a line from the southernmost tip of Beach Point to the northernmost point on the south side of the mouth of Dyer*

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59 Creek; in Back Creek, Clarkston Creek, Chisman Creek, Poquoson River, Bennett Creek, and adjacent  
60 waters westward of a line from the southeasternmost point of Goodwin Islands to the westernmost point  
61 of Cow Island; in Back River westward of a line from Plumtree Point to the westernmost point of  
62 Northend Point; in Little Creek southward of a line from the north point of the west jetty to the north  
63 point of the east jetty; in Lynnhaven Bay southward of the Lynnhaven Inlet Bridge on U. S. Route 60.

64 B. ~~During~~ *Except as provided by regulation, during* the period from the first Monday in May  
65 through the third Friday in November, vessels under ~~seventy~~ 70 gross tons ~~which that~~ are licensed in  
66 accordance with subdivision 1 of § 28.2-402 are authorized to take or catch menhaden in the following  
67 waters: in the Rappahannock River eastward and southward from a line extending from Towles Point to  
68 Burnham Wharf and from Orchard Point to Towles Point; in Dividing Creek eastward from a line  
69 extending from Jarvis Point to Ditchley Pump House; in Indian Creek eastward from a line directly  
70 across the creek at Rappahannock Oyster Company; in Dymers Creek eastward from a line directly  
71 across the creek at the eastern end of Standard Products dock.

72 § 28.2-410. Closed season for menhaden fishing; forbidden nets; penalty.

73 Except as provided in § 28.2-409 *or as otherwise provided by regulation*, it is unlawful for any  
74 person to take or catch with a purse net in the waters of ~~this the~~ Commonwealth, or waters within its  
75 jurisdiction, menhaden between the Saturday following the third Friday in November and the Sunday  
76 preceding the first Monday in May. However, in the waters east of the Chesapeake Bay Bridge Tunnel  
77 within the three-mile limit of the Virginia shoreline such prohibition shall be between the Friday before  
78 Christmas and the Sunday preceding the first Monday in May. It is also unlawful for any person to use  
79 any purse net or other net having a stretched mesh of less than 1-3/4 inches. Any person violating any  
80 of the provisions of this section is guilty of a Class 1 misdemeanor.

81 **2. That § 28.2-1000.1 of the Code of Virginia is repealed.**

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