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HOUSE BILL NO. 138

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on January 27, 2010)

(Patron Prior to Substitute—Delegate Pollard)

A BILL to amend and reenact § 28.2-603 of the Code of Virginia, relating to creation of aquaculture opportunity zones.

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-603 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-603. General oyster planting grounds; aquaculture opportunity zones.

A. Waterfront that is not already assigned or reserved for the riparian owners, and the beds of the bays, rivers, and creeks and shores of the sea lying outside the limits of navigation projects adopted and authorized by the Congress and not required for the disposal of materials dredged incident to the maintenance of such projects, and grounds other than public oyster beds, rocks, or shoals, as defined by law and included in the Baylor survey, may be occupied for the purpose of planting or propagating oysters, including the use of temporary protective enclosures in compliance with this chapter and Commission regulations, and may be leased by the Commissioner upon the receipt of a proper application.

B. The Commission shall establish commercial shellfish aquaculture opportunity zones, pursuant to § 28.2-603.1, in the waters off the shores of the Northern Neck, the Middle Peninsula, and Tangier Island. Such zones shall be established by regulations. The regulations shall prescribe (i) the location of such zones; (ii) the proper procedures for the maintenance of such zones, including the (a) proper placement and handling of gear and other apparatus so as not to create a safety hazard, and (b) seasonal and time-of-day use of such zones; and (iii) penalties for violations of the regulations. Once established, such zones shall be exempt from the provisions of §§ 28.2-606 through 28.2-608, §§ 28.2-612 through 28.2-615, and § 28.2-617. The Commission may establish a single fee for the application and use of the aquaculture opportunity zones.

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