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**HOUSE BILL NO. 2165**

Offered January 12, 2011

Prefiled January 12, 2011

A *BILL to amend the Code of Virginia by adding a section numbered 28.2-402.1, relating to fees for taking or catching menhaden with purse nets; penalty.*

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Patron—Abbitt

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 28.2-402.1 as follows:**

§ 28.2-402.1. *Fees assessed on the taking or catching of menhaden with purse nets; Menhaden Assessment Fund established; penalty.*

A. Any person who takes or catches menhaden in Virginia waters with a purse net shall pay \$10 per ton or portion of a ton of menhaden taken. Such payment shall be remitted semiannually to the Commission beginning January 1, 2012, and the money collected shall be paid into a special nonreverting fund in the state treasury to be known as the Menhaden Assessment Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The interest earned on the principal of the fund shall not revert to the general fund. The Fund shall consist of moneys collected for the taking of menhaden and any civil penalties that may be imposed under this section. The Fund shall be administered by the Commission, to be used solely for the purpose of evaluating the menhaden fishery. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

B. The Commission shall conduct the evaluation to determine whether the purse seine fishery is a significant factor in the depletion of menhaden in the Chesapeake Bay or is disrupting the ecological services that menhaden provide to the Bay. In making such determination, the evaluation shall:

1. On an annual basis, determine the abundance of menhaden in the Chesapeake Bay;
2. Develop estimates of the removal of menhaden by predators in the Chesapeake Bay;
3. Determine the rates of exchange of menhaden between the Chesapeake Bay and coastal systems;

and

4. Establish a reliable measure of the level of recruitment of young menhaden into the population.

C. Any person responsible for paying the assessment in subsection A shall also submit a monthly report to the Commission, on a form developed by the Commission, documenting the number of menhaden taken during the month.

D. The Commission may adopt regulations necessary to carry out the provisions of this section.

E. Whenever a court finds that a person has violated any of the provisions of this section, the court shall assess a civil penalty of \$1,000. Each day during which the violation continues shall constitute a separate offense. All civil penalties shall be deposited in the Fund. In addition, the Commission may suspend or revoke the license issued under § 28.2-400 for violation of this section.

**2. That the provisions of this act shall expire on July 1, 2016.**

INTRODUCED

HB2165