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HOUSE BILL NO. 2369

Offered January 13, 2011

A BILL to amend and reenact the second enactment of Chapter 41 of the Acts of Assembly of 2007, as amended by Chapters 178 and 728 of the Acts of Assembly of 2010, and to amend and reenact § 28.2-1000.2 of the Code of Virginia, relating to limits on the taking of menhaden.

Patron—Knight

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapters 178 and 728 of the Acts of Assembly of 2010, as previously enacted by Chapter 41 of the Acts of Assembly of 2007, is amended and reenacted as follows:

2. That the provisions of this act shall expire on January 1, 2014 2017.

2. That 28.2-1000.2 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-1000.2. (~~Expires January 1, 2014~~) Annual closure of the Chesapeake Bay purse seine fishery for Atlantic menhaden.

A. For the purpose of this section:

"Chesapeake Bay" means the territorial waters of the Commonwealth lying west of the Chesapeake Bay Bridge-Tunnel.

"Purse seine fishery for Atlantic menhaden" means those vessels licensed pursuant to § 28.2-402 that harvest menhaden for the purpose of manufacturing them into fertilizer, fish meal, or oil.

B. Upon notification by the National Marine Fisheries Service of the date on which the purse seine fishery for Atlantic menhaden meets the annual menhaden harvest cap in the Chesapeake Bay, the Secretary of Natural Resources shall promptly publish a notice in the Virginia Register announcing the date of closure. The Secretary of Natural Resources shall also notify the operators of the purse seine fishery for Atlantic menhaden by the most convenient and expeditious means available. The date of closure shall be based on mandatory daily catch reports submitted to the National Marine Fisheries Service by the purse seine fishery for Atlantic menhaden.

C. The annual menhaden harvest cap for the purse seine fishery for Atlantic menhaden shall be 109,020 metric tons; subject to annual adjustment for underages or overages as specified in subsection D. In no event, however, shall the harvest of this fishery exceed 122,740 metric tons in any one year; however, beginning January 1, 2012, and thereafter for five years, the harvest cap for the purse seine fishery for Atlantic menhaden shall be reduced annually by 20 percent of the original cap established by this subsection, whereupon the Atlantic menhaden fishery shall be closed.

D. If the harvest of the purse seine fishery for Atlantic menhaden does not exceed 109,020 metric tons in any year to which the harvest cap applies, then the difference between the actual harvest and the harvest cap shall be applied as a credit applicable to the allowable harvest for the purse seine fishery for Atlantic menhaden for the following year. The credit may be used only for the subsequent annual harvest and shall not be spread over multiple years. Any annual harvest in excess of the harvest cap shall be deducted from the harvest cap, as modified pursuant to this subsection and subsection C for the subsequent annual harvest.

E. The 2007 harvest cap for the purse seine fishery for Atlantic menhaden shall be adjusted for any underage or overage, as specified in subsection D, from the actual 2006 harvest of the purse seine fishery for Atlantic menhaden.

F. No person shall take Atlantic menhaden by purse seine for reduction purposes from the Chesapeake Bay after the later of the date of closure implemented pursuant to subsection B or the date that actual notice is provided of such closure pursuant to subsection B. Any person violating this provision shall be guilty of a Class 1 misdemeanor.

3. That § 28.2-1000.2 as it is amended by the second enactment of this act shall not expire on January 1, 2017.

4. That the provisions of this act shall become effective on January 1, 2012.

INTRODUCED

HB2369