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HOUSE BILL NO. 1573

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Delegate Helsel)

House Amendments in [] — February 3, 2017

A BILL to amend and reenact § 28.2-232 of the Code of Virginia, relating to Marine Resources Commission; licenses; revocation.

Be it enacted by the General Assembly of Virginia:

1. That § 28.2-232 of the Code of Virginia is amended and reenacted as follows:

§ 28.2-232. Revocation of licenses.

A. The Commission may revoke the fishing privileges within the Commonwealth's tidal waters and revoke, or prohibit the issuance, reissuance, or renewal of any licenses if, after a hearing held after 10 days' notice to the applicant or licensee, it finds that the person has violated any provision of this subtitle. [*The Commission shall not revoke any license other than the license for the fishery in which the violation occurred. The Commission may revoke licenses other than the applicable license upon a second or subsequent violation within five years.*]

B. The duration of the license revocation and prohibition shall be fixed by the Commission up to a maximum of five years ~~with the withdrawal of all fishing privileges conferred by this title during that period~~, taking into account (i) evidence of repeated or habitual disregard for violations of the conservation, health ~~and~~, or safety laws and regulations; (ii) abusive conduct and behavior toward officers; and (iii) the severity of any damage that has occurred, or might have occurred, to the natural resources, the public health, or the seafood industry.

In determining whether to revoke a person's tidal fishing privileges for up to a maximum of five years, the Commission shall take into account (i) evidence of habitual disregard for the conservation, health, or safety laws and regulations; (ii) whether the violation of this subtitle was committed while the person's licenses or privileges were revoked or while the person was under a Commission-ordered probation period; and (iii) evidence that significant harm occurred, or might have occurred, to the natural resources, the public health, or the seafood industry.

C. The Commission may assess a civil penalty of up to \$10,000 against a person if it finds, after a hearing held after 10 days' notice, that the person has engaged in fishing, other than for recreational purposes as defined in § 28.2-226.1, while the person's applicable licenses ~~and~~ or fishing privileges have been revoked pursuant to this section or § 28.2-528. In setting the amount of the civil penalty, the Commission shall consider the person's history of violating the conservation, health, and safety laws and regulations of the Commonwealth. *The Commission shall accept payment of the civil penalty by credit card and may collect such actual credit card service charges as apply.*

D. If the person fails to pay the civil penalty within 180 days of the assessment of the civil penalty by the Commission, the Commissioner may transmit a true copy of the order assessing such civil penalty to the clerk of the court of any county or city wherein it is ascertained that the person owing the penalty has any estate, and the clerk to whom such copy is so sent shall record it, as a judgment is required by law to be recorded, and shall index the same as well in the name of the Commonwealth as of the person owing the penalty, and thereupon there shall be a lien in favor of the Commonwealth on the property of the person within such county or city in the amount of the civil penalty.

E. Civil penalties collected pursuant to this section shall be deposited into the Virginia Marine Products Fund established in § 3.2-2705.

An appeal from the Commission's decision may be taken to the courts as provided in Article 3 (§ 28.2-216 et seq.) ~~of this chapter.~~

ENGROSSED

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