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HOUSE BILL NO. 1383

Offered January 11, 2023

Prefiled November 8, 2022

A BILL to amend and reenact §§ 28.2-204.1, 28.2-208.2, 28.2-402, and 28.2-409 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 28.2-401.1, relating to prohibition of menhaden reduction fishing.

Patron—Anderson

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-204.1, 28.2-208.2, 28.2-402, and 28.2-409 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 28.2-401.1 as follows:

§ 28.2-204.1. Limited sale of gear licenses and permits; regulations.

A. The Commission may limit the number of gear licenses or permits to fish, ~~except those licenses issued pursuant to subdivisions 1 and 2 of § 28.2-402, issued for use in a specific fishery.~~ The Commission may, despite any such limits, issue such gear licenses or permits to fish to any person who has resided for at least five years on an island in the Commonwealth that is at least three miles from the mainland.

B. The Commission is authorized to promulgate regulations to carry out the provisions of this section. In determining whether to limit the sale of gear licenses or permits to fish, and determining who receives licenses, the Commission shall consider all factors relevant to the Commonwealth's fishery management policy, including but not limited to:

1. Economic and social consequences;
2. Food production;
3. Dependence on the fishery by licensees;
4. Efficiency of gear used in the fishery;
5. Impact on species and fisheries; and
6. Abundance of the resource.

§ 28.2-208.2. Menhaden Management Advisory Committee established.

The Commissioner shall establish a Menhaden Management Advisory Committee (the Committee) to provide guidance to the Commission on the sustainable management of the menhaden resource and harvest of the bait ~~and reduction fisheries fishery~~ in the waters of the Commonwealth, including the Chesapeake Bay. The Committee shall consist of not more than ~~42~~ 11 nonlegislative citizen members who shall be residents of the Commonwealth with knowledge of the menhaden resource, to be appointed by the Commissioner, including ~~one representative of the menhaden reduction fishery,~~ one representative of the menhaden bait fishery, one representative of a labor organization involved in the menhaden fishery, one recreational angler, one member of a Virginia-based conservation organization, one representative of the sportfishing industry, and the Virginia appointee to the Atlantic Menhaden Technical Committee of the Atlantic States Marine Fisheries Commission.

§ 28.2-401.1. Menhaden reduction fishing permits prohibited.

The Commission shall not grant any permit for menhaden reduction fishing.

§ 28.2-402. License fee to take menhaden with purse nets.

Any person desiring to take or catch menhaden with purse nets shall pay to the officer or agent a license fee as follows or as subsequently revised by the Commission pursuant to § 28.2-201:

1. ~~On each boat or vessel under 70 gross tons fishing for the purse seine menhaden reduction sector,~~ \$249.
2. ~~On each vessel 70 gross tons or over fishing for the purse seine menhaden reduction sector,~~ \$996.
3. ~~On each boat or vessel under 70 gross tons fishing for the purse seine menhaden bait sector,~~ \$249.
4. ~~2. On each vessel 70 gross tons or over fishing for the purse seine menhaden bait sector,~~ \$996.

~~Any person purchasing more than one of these licenses for the same vessel shall pay a fee equal to that for a single license.~~

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

~~A. Except as provided in subsection B of this section, it shall be~~ *It is* 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

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59 Kibble Pond, thence in a northerly direction in a straight line to the easternmost edge of high land on
60 Stingray Point;

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

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

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

66 5. In Cape Charles harbor eastward of a line from the western tip of the jetty on the southern side of
67 the channel to the westernmost tip of the jetty on the northern side of the channel; in Kings Creek and
68 Cherrystone inlet eastward of a line from the western end of the jetty on the north side of Cape Charles
69 harbor to the southern end of Wescoat Point; in Mattawoman and Hungars Creek eastward of a line
70 from the northwesternmost tip of land in Old Town Neck to Great Neck Point; in Nassawadox Creek
71 eastward of a line from Shooting Point to Nassawadox Point; in Occohannock Creek eastward of a line
72 from Sparrow Point to the southernmost tip of Powells Bluff; in Nandua Creek eastward of a line from
73 the northernmost point of Milbys Point to the southwesternmost point of land in Hacks Neck, said line
74 having a true bearing of 027°; in Pungoteague Creek eastward of a line from Bluff Point to the
75 southeasternmost point of Finneys Island; in Onancock Creek eastward of a line from Thicket Point to
76 Ware Point; in Chesconessex Creek eastward of a line from the northernmost point of Sound Beach to
77 the northwesternmost point of Beach Island; in Deep Creek, Hunting Creek and Guilford Creek eastward
78 of a line from the easternmost tip of Russel Island to Halfmoon Point to Peters Point to Simpson Point
79 to Flood Point to Ebb Point to the mouth of Great Gut; in Messongo Creek eastward of a line from
80 South Point to North Point in the Virginia portion of the Pocomoke River northeast of a line from Long
81 Point to Virginia-Maryland spar buoy "A"; in the Great Wicomico River from the mouth of Whay's
82 Creek to Sandy Point; in Dividing Creek, Prentice Creek and Jarvis Creek westward of a line from
83 Hughlett Point to Jarvis Point; in Indian Creek and Henrys Creek westward of a line from the
84 southeasternmost point of land on the eastern side of the mouth of Henrys Creek to the easternmost
85 point of Fleets Bay Neck; in Dymers Creek westward of a line from the southernmost point of Grog
86 Island to the easternmost point of Poplar Neck; in Tabbs Creek westward of the line across the mouth
87 of the creek at its narrowest point; in Horn Harbor and Dyer Creek westward of a line from the
88 southernmost tip of Beach Point to the northernmost point on the south side of the mouth of Dyer
89 Creek; in Back Creek, Clarkston Creek, Chisman Creek, Poquoson River, Bennett Creek, and adjacent
90 waters westward of a line from the southeasternmost point of Goodwin Islands to the westernmost point
91 of Cow Island; in Back River westward of a line from Plumtree Point to the westernmost point of
92 Northend Point; in Little Creek southward of a line from the north point of the west jetty to the north
93 point of the east jetty; in Lynnhaven Bay southward of the Lynnhaven Inlet Bridge on U. S. Route 60;
94 and

95 6. In any territorial sea or inland waters of the Commonwealth, including the Chesapeake Bay and
96 its tributaries, for the purposes of menhaden reduction fishing.

97 B. During the period from the first Monday in May through the third Friday in November, vessels
98 under seventy gross tons which are licensed in accordance with subdivision 1 of § 28.2-402 are
99 authorized to take or catch menhaden in the following waters: in the Rappahannock River eastward and
100 southward from a line extending from Towles Point to Burnham Wharf and from Orchard Point to
101 Towles Point; in Dividing Creek eastward from a line extending from Jarvis Point to Ditchley Pump
102 House; in Indian Creek eastward from a line directly across the creek at Rappahannock Oyster
103 Company; in Dymers Creek eastward from a line directly across the creek at the eastern end of Standard
104 Products dock.

105 2. That the Virginia Department of Environmental Quality shall prepare a report relating to
106 menhaden reduction fishing in the territorial sea and inland waters of the Commonwealth,
107 including the Chesapeake Bay and its tributaries. Such report shall include the following: (i) the
108 environmental impact of menhaden reduction fishing on wildlife habitat; (ii) the environmental
109 impact of menhaden reduction fishing on water quality; and (iii) measures proposed to minimize
110 any negative environmental impacts of menhaden reduction fishing. Such report shall be submitted
111 to the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources and
112 the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources by
113 July 1, 2024.

114 3. That the provisions of this act shall become effective on November 18, 2023.

115 4. That the provisions of act shall expire on November 22, 2025.