

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 541

*An Act to amend and reenact §§ 28.2-208 and 28.2-550 of the Code of Virginia, relating to the Marine Fishing Improvement Fund.*

[H 441]

Approved April 9, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28.2-208 and 28.2-550 of the Code of Virginia are amended and reenacted as follows:**

§ 28.2-208. Marine Fishing Improvement Fund continued.

There is hereby continued a special, nonreverting fund in the state treasury to be known as the Marine Fishing Improvement Fund, hereinafter referred to as the Fund. The Fund shall consist of (i) that portion of the nonresident harvester's license fees which have not been allocated to the Virginia Marine Products Fund as provided for in § 28.2-227 and (ii) fees collected from the registration of commercial fishermen under § 28.2-241. The Fund shall be administered by the Commission and used solely for (i) managing and improving marine fisheries, (ii) seafood product promotion and development services, (iii) mandatory reporting and stock assessment, (iv) education of commercial fishermen, (v) conservation and management strategies identified by the General Assembly and the Commission, ~~and~~ (vi) public information pamphlets and summaries of rules issued with gear licenses, *and (vii) retaining commercial fishermen to engage in replenishment, research, and stock assessment activities.*

§ 28.2-550. Authority of Commissioner to make certain contracts; funds received to be paid into Public Oyster Rock Replenishment Fund.

A. The Commissioner with the approval of the Commission may contract with any person to take or dredge submerged oyster shells or any other subaqueous materials from the tidal waters of the Commonwealth, and shall have the authority to plant, use, or sell such shells or other materials in whatever manner the Commission deems to be in the best interest of the Commonwealth.

*B. The Commissioner, with the approval of the Commission, may contract with any commercial fisherman to engage in replenishment, research, and stock assessment activities in the Commonwealth. The Commission may promulgate regulations establishing criteria for awarding such contracts, including a preference for commercial fishermen actively engaged in the taking or catching of fish or shellfish who have suffered an adverse economic impact resulting from the implementation of regulations of the Commission regulating the seafood and marine resources of the Commonwealth. In determining whether a person is a commercial fisherman actively engaged in the taking or catching of fish or shellfish, the Commission shall consider, among other relevant evidence, (i) his possession of a license issued pursuant to Article 1 (§ 28.2-500 et seq.) of this chapter or (ii) his voluntary reporting of shellfish catches to the Commission.*

C. The Commission, when it makes a determination in writing that competitive bidding or competitive negotiation is not feasible or fiscally advantageous to the Commonwealth, may authorize other methods of purchasing and contracting for seed oysters, house shells, reef shells, shell bed turning, and other goods and services for oyster ground replenishment, *including contracts with commercial fishermen for replenishment, research, and stock assessment activities as provided in subsection B,* which are in the best interest of the Commonwealth and which are fair and impartial to suppliers. It may establish pricing for its awards and purchases; use selection methods by lot; and open, close, and revise its purchases according to changing conditions of the natural resources, markets, and sources of supply.