

LD4912376

HOUSE BILL NO. 445

Offered January 24, 1994

A *BILL to amend and reenact §§ 28.2-201 and 28.2-203 of the Code of Virginia, relating to the preparation of fishery management plans.*

Patrons—Murphy and Bloxom; Senators: Cross and Gartlan

Referred to Committee on Chesapeake and Its Tributaries

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-2-1 and 28.2-203 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-201. Authority of Commission to make regulations, establish licenses, and prepare fishery management plans; enforcement; penalty for violation of regulation.

The Commission ~~may~~:

1. ~~Promulgate~~ *May promulgate* regulations, including those for taking seafood, necessary to promote the general welfare of the seafood industry and to conserve and promote the seafood and marine resources of the Commonwealth. The Commission may also promulgate regulations necessary for the conservation and reasonable use of surf clams. Regulations shall not conflict with statutory law. The penalty for violation of a regulation shall be the same as the penalty prescribed for violation of the specific statute under which the regulation has been promulgated.

2. ~~Establish~~ *May establish* a license commensurate with other licenses in an amount not to exceed \$100 for any device used for taking or catching seafood in the tidal waters of the Commonwealth when the device (i) is not otherwise licensed in this title and (ii) is used for commercial purposes. The Commission may specify, when issuing such a license, any restriction or control over the device or the person operating the device.

3. ~~Prepare~~ *Shall prepare* fishery management plans containing evaluations of regulatory management options, based upon scientific, economic, biological, and sociological information, and use them in the development of regulations. The Commissioner may appoint a fisheries advisory committee and its chairman, consisting of representatives of the various fishery user groups, to assist in the preparation and implementation of the fishery management plans. The Commission may expend funds to compensate the members of the committee pursuant to § 14.1-5.2.

4. ~~Provide~~ *May provide* for enforcement of any regulation governing surf clams by any law-enforcement officer of any agency of the Commonwealth or its political subdivisions or by any law-enforcement officer of any agency of the federal government. Enforcement agreements with other agencies or political subdivisions shall be stated in the regulation.

§ 28.2-203. Commission to prepare fishery management plans; standards.

The Commission shall prepare and implement fishery management plans so as to preserve the Commonwealth's exclusive right to manage the fisheries within its territorial jurisdiction. *However, no regulations of the Commission shall be invalid or otherwise brought into question due to the fact that a fishery management plan has not been prepared and implemented.*

Any fishery management plan prepared, and any regulation promulgated to implement the plan, shall be consistent with the following standards for fishery conservation and management:

1. Conservation and management measures shall prevent overfishing while achieving the optimum yield from each fishery. The "optimum yield" of a fishery means the amount of fish or shellfish which will provide the greatest overall benefit to the Commonwealth, with particular reference to commercial fishing for food production and to recreational fishing;

2. Conservation and management measures shall be based upon the best scientific, economic, biological and sociological information available;

3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout the territorial waters of the Commonwealth, and interrelated stocks of fish shall be managed as a unit or in close coordination;

4. Conservation and management measures shall not discriminate among user groups. If it becomes necessary to allocate or assign fishing privileges among various user groups, such allocation shall be (i) fair and equitable to all fishermen; (ii) reasonably calculated to promote conservation; and (iii) carried out in such manner that no person acquires an excessive share of such privileges;

5. Conservation and management shall, where practicable, promote efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose;

6. Conservation and management measures shall take into account variations among, and contingencies in, fisheries, fishery resources, and catches;

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60 7. Conservation and management measures shall, where practicable, minimize regulatory burdens
61 which inhibit innovation, expansion, and normal business operations.