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HOUSE BILL NO. 2357

Offered January 20, 1997

A BILL to amend and reenact §§ 3.1-73.6, 29.1-301 and 29.1-417 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 9.1 of Title 3 sections numbered 3.1-73.9 and 3.1-73.10, and by adding a section numbered 29.1-103.1, relating to regulation of aquaculture; penalty.

Patron—Deeds

Referred to Committee on Agriculture

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-73.6, 29.1-301 and 29.1-417 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9.1 of Title 3 sections numbered 3.1-73.9 and 3.1-73.10, and by adding a section numbered 29.1-103.1 as follows:

CHAPTER 9.1.

AQUACULTURE DEVELOPMENT ACT.

§ 3.1-73.6. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Aquaculture" means the propagation, rearing, enhancement, and harvest of aquatic organisms in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water.

"Aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.

"Aquatic organism" means any species or hybrid of aquatic animal or plant, including, but not limited to, "fish," "fishes," "shellfish," "marine fish," and "organisms" as those terms are defined by § 28.2-100.

"Board" means the Board of Agriculture and Consumer Services.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Freshwater aquaculture" means the production and sale of commercially raised freshwater fish and freshwater crustacea.

§ 3.1-73.9. Board to promulgate regulations.

A. The Board shall promulgate regulations governing the operation of freshwater aquaculture facilities. The regulations shall:

1. Require that any person desiring to operate a freshwater aquaculture facility obtain a license from the Department;

2. Impose an annual license fee in an amount sufficient to cover the costs of regulating the operation of freshwater aquaculture facilities;

3. Prescribe standards under which fish raised in freshwater aquaculture facilities shall be bred, transported, possessed, bought and sold;

4. Prohibit the release into the waters of the Commonwealth of fish raised in freshwater aquaculture facilities and species of fish which are not native to the Commonwealth;

5. Include any provisions necessary to prevent the spread of fish diseases;

6. Provide that the Department may deny, suspend or revoke a license if the applicant for a license or a licensee violates the regulations; and

7. Include such other provisions the Board deems necessary.

B. Any person violating regulations developed pursuant to subsection A shall be guilty of a class 3 misdemeanor.

§ 3.1-73.10. License required to operate aquaculture facilities.

After the effective date of the regulations promulgated pursuant to § 3.1-73.9, no person shall operate a freshwater aquaculture facility without first obtaining a license from the Department.

§ 29.1-103.1. Board may not regulate aquaculture.

Notwithstanding any other provision of law, the Board shall not regulate freshwater aquaculture as defined in § 3.1-73.6.

§ 29.1-301. Exemptions from license requirements.

A. No license shall be required of landowners, their spouses, or their children and minor grandchildren, resident or nonresident, to hunt, trap and fish within the boundaries of their own lands and inland waters or while within such boundaries or upon any private permanent extension therefrom,

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60 to fish in any abutting public waters.

61 B. No license shall be required of any stockholder owning fifty percent or more of the stock of any
62 domestic corporation owning land in this Commonwealth, his or her spouse and children and minor
63 grandchildren, resident or nonresident, to hunt, trap and fish within the boundaries of lands and inland
64 waters owned by the domestic corporation.

65 C. No license shall be required of bona fide tenants, renters or lessees to hunt, trap or fish within the
66 boundaries of the lands or waters on which they reside or while within such boundaries or upon any
67 private permanent extension therefrom, to fish in any abutting public waters if such individuals have the
68 written consent of the landlord upon their person. A guest of the owner of a private fish pond shall not
69 be required to have a fishing license to fish in such pond.

70 D. No license shall be required of resident persons under sixteen years old to fish.

71 D1. No license shall be required of resident persons under twelve years old to hunt, provided such
72 person is accompanied and directly supervised by an adult who has, on his person, a valid Virginia
73 hunting license as described in subsection B of § 29.1-300.1.

74 E. No license shall be required of a resident person sixty-five years of age or over to hunt or trap on
75 private property in the county or city in which he resides. An annual license at a fee of one dollar shall
76 be required of a resident person sixty-five years of age or older to fish in any inland waters of the
77 Commonwealth which shall be in addition to a license to fish for trout as specified in subsection B of
78 § 29.1-310. A resident sixty-five years of age or older may, upon proof of age satisfactory to the
79 Department and the payment of a one-dollar fee, apply for and receive from any authorized agent of the
80 Department a nontransferable annual license permitting such person to hunt or an annual license
81 permitting such person to trap in all cities and counties of the Commonwealth. Any lifetime license
82 issued pursuant to this article prior to July 1, 1988, shall remain valid for the lifetime of the person to
83 whom it was issued. Any license issued pursuant to this section includes any damage stamp required
84 pursuant to Article 3 (§ 29.1-352 et seq.) of this chapter.

85 F. No license to fish, except for trout as provided in subsection B of § 29.1-310, shall be required of
86 nonresident persons under twelve years of age when accompanied by a person possessing a valid license
87 to fish in Virginia.

88 G. No license shall be required to trap rabbits with box traps.

89 H. No license shall be required of resident persons under sixteen years of age to trap when
90 accompanied by any person eighteen years of age or older who possesses a valid state license to trap in
91 this Commonwealth.

92 I. No license to hunt, trap or fish shall be required of any Indian who habitually resides on an Indian
93 reservation; however, such Indian must have on his person an identification card or paper signed by the
94 chief of his reservation, setting forth that the person named is an actual resident upon such reservation.
95 Such card or paper shall create a presumption of residence, which may be rebutted by proof of actual
96 residence elsewhere.

97 J. No license to fish shall be required of legally blind persons.

98 K. No fishing license shall be required in any inland waters of the Commonwealth, except those
99 stocked with trout by the Department or other public body, on free fishing days. The Board shall
100 designate no more than two free fishing days in any calendar year.

101 L. No license to fish, except for trout as provided in subsection B of § 29.1-310, in Laurel Lake and
102 Beaver Pond at Breaks Interstate Park shall be required of a resident of the State of Kentucky who (i)
103 possesses a valid license to fish in Kentucky or (ii) is exempt under Kentucky law from the requirement
104 of possessing a valid fishing license.

105 *M. No fishing license shall be required to fish from a private facility used solely for freshwater*
106 *aquaculture as that term is defined in § 3.1-73.6.*

107 § 29.1-417. Capturing, holding, propagating, and disposing of wildlife for authorized purposes.

108 The fee for a permit to capture, hold, propagate, and dispose of wildlife for purposes authorized by
109 the Board, shall be an amount sufficient to defray the costs of processing the permit and administering
110 the permitted activity. However, in no instance shall the fees established by the Board exceed the
111 following:

- 112 1. For deer farming, \$350;
- 113 2. For wolf-hybrid kennels, \$100;
- 114 3. For endangered species, scientific collection and wildlife holder, \$20; and
- 115 4. For all other such permits, \$50.

116 The permit shall also authorize the permittee to artificially raise trout or catfish for sale from a
117 privately owned facility where the permittee allows public fishing from its facilities. If this fee has been
118 paid, no license shall be required to fish from such a facility.

119 **2. That the provisions of §§ 29.1-103.1 and 29.1-417 of this act shall become effective upon the**
120 **effective date of the regulations promulgated pursuant to § 3.1-73.9.**