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## HOUSE BILL NO. 303

Offered January 9, 2008

Prefiled January 3, 2008

*A BILL to amend and reenact § 28.2-1000.2 of the Code of Virginia, relating to menhaden.*

Patrons—Nichols and Bouchard

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:****1. That § 28.2-1000.2 of the Code of Virginia is amended and reenacted as follows:**

~~§ 28.2-1000.2. (Expires December 31, 2010) Annual closure~~ *Moratorium of the Chesapeake Bay purse seine commercial fishery for Atlantic menhaden.*

A. For the purpose of this section:

"Chesapeake Bay" means the territorial waters of the Commonwealth lying west of the Chesapeake Bay Bridge-Tunnel.

~~"Purse seine Commercial fishery for Atlantic menhaden" means those vessels licensed pursuant to § 28.2-402 that harvest menhaden for the purpose of manufacturing them into fertilizer, fish meal, or oil~~ *any commercial purpose.*

B. Upon notification by the National Marine Fisheries Service of the date on which the ~~purse seine commercial~~ fishery for Atlantic menhaden meets the annual menhaden harvest cap in the Chesapeake Bay, the Secretary of Natural Resources shall promptly publish a notice in the Virginia Register announcing the date of closure. The Secretary of Natural Resources shall also notify the operators of the ~~purse seine commercial~~ fishery for Atlantic menhaden by the most convenient and expeditious means available. The date of closure shall be based on mandatory daily catch reports submitted to the National Marine Fisheries Service by the ~~purse seine commercial~~ fishery for Atlantic menhaden.

C. The annual menhaden harvest cap for the ~~purse seine commercial~~ fishery for Atlantic menhaden shall be ~~109,020 metric tons, subject to annual adjustment for underages or overages reduced by 20 percent each year for five years as specified in subsection D. In no event, however, shall the harvest of this fishery exceed 122,740 metric tons in any one year~~ *Beginning on the date of closure of the commercial fishery for Atlantic Menhaden for 2013, there shall be a moratorium on the harvest of Atlantic menhaden for commercial purposes.*

D. If the harvest of the ~~purse seine~~ fishery for Atlantic menhaden does not exceed 109,020 metric tons in any year to which the harvest cap applies, then the difference between the actual harvest and the harvest cap shall be applied as a credit applicable to the allowable harvest for the purse seine fishery for Atlantic menhaden for the following year. The credit may be used only for the subsequent annual harvest and shall not be spread over multiple years. Any annual harvest in excess of the harvest cap shall be deducted from the harvest cap, as modified pursuant to this subsection and subsection C for the subsequent annual harvest.

E. The 2007 harvest cap for the purse seine fishery for Atlantic menhaden shall be adjusted for any underage or overage, as specified in subsection D, from the actual 2006 harvest of the purse seine fishery for Atlantic menhaden.

F. No person shall take Atlantic menhaden by purse seine for reduction purposes from the Chesapeake Bay after the later of the date of closure implemented pursuant to subsection B or the date that actual notice is provided of such closure pursuant to subsection B. *The 2009 menhaden harvest cap for the commercial fishery for Atlantic menhaden shall be 87,216 metric tons; the 2010 menhaden harvest cap for the commercial fishery for Atlantic menhaden shall be 65,412 metric tons; the 2011 menhaden harvest cap for the commercial fishery for Atlantic menhaden shall be 43,608 metric tons; and the 2012 menhaden harvest cap for the commercial fishery for Atlantic menhaden shall be 21,804 metric tons.*

E. Any person violating this provision shall be guilty of a Class 1 misdemeanor.

INTRODUCED

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