

## Department of Planning and Budget 2013 Fiscal Impact Statement

1. **Bill Number:** SB1291

**House of Origin**     Introduced       Substitute       Engrossed  
**Second House**     In Committee     Substitute       Enrolled

2. **Patron:**        Stuart, R. H.

3. **Committee:** Passed Both Houses.

4. **Title:**            Menhaden fishery; allowable catch for those landed in State, etc., report.  
Emergency.

5. **Summary:** This bill establishes a total allowable landings of 144,272.84 metric tons per year for Atlantic menhaden landed in Virginia by the purse seine menhaden reduction sector, the purse seine menhaden bait sector, and the non-purse seine menhaden bait sector. This legislation authorizes the Commission to establish and administer a limited entry purse seine menhaden bait license according to specific criteria. This total allowable landings represents a 20 percent reduction from the average 2009, 2010, and 2011 landings, as mandated by the Atlantic States Marine Fisheries Commission. Any overage of the total allowable landings in the current year will result in a reduction of the total allowable landings in the following year.

The enrolled bill provides that the Commissioner may administer the interstate transfer of menhaden landings. The total allowable landings for menhaden shall be allocated in proportion to each sector's share of average landings and in proportion to each gear type landings within the non-purse seine bait sector during the period of 2002 through 2011, with the Commission authorized to establish an individual transferrable quota system for any purse seine menhaden bait licensee according to specific requirements. Guidelines for the monitoring of all sectors of the menhaden fishery that may result in a closure of any or all sectors are established. Upon the closing of the non-purse seine sector, any person may possess and land up to 6,000 pounds of menhaden per day, and such landings shall be reported to the Commission but shall not count against the annual total allowable landings. All licensees of the three menhaden sectors shall report to the Commission according to the requirements established by the Commission.

This bill also requires the Commission to establish a biological sampling program to include development of an adult menhaden survey index from Virginia pound nets. License fees are established for the purse seine menhaden reduction and purse seine menhaden bait sectors, according to fees adjusted in 2005 as \$249 for vessels under 70 gross tons and \$996 for vessels over 70 gross tons. The Commission may limit the number of gear licenses or permits to fish, except for those licenses in the purse seine reduction sector. The annual menhaden harvest cap for the purse seine menhaden reduction sector shall be 87,216 metric tons, subject to annual adjustments for under-harvest or over-harvest of the cap. The bill contains a

sunset date of January 1, 2015. The bill states that an emergency exists and that the bill is in force from its passage.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Final.

**8. Fiscal Implications:** The bill requires the Marine Resources Commission (MRC) to establish and administer a limited entry purse seine menhaden bait license. The license fees associated with this requirement are already in place and will not change. The bill also updates the pricing list license fees of the purse seine menhaden reduction sector to reflect current practices. Pursuant to § 3.2-2705, Code of Virginia, with some exceptions, all moneys collected and allocated from marine fisheries license fees required under Subtitle II (§ 28.2-200 et seq.) of Title 28.2 shall be paid into the state treasury and credited to the Marine Products Fund which supports the Marine Products Board.

The bill also requires that MRC establish a Transferrable Quota System, maintain on its website a tally of the menhaden harvest for each sector receiving an allocation, and develop landing reporting forms for fishermen. These activities can be absorbed within the agency's current resources.

The provisions of the bill also require MRC to establish a biological sampling program and adult abundance index on menhaden. The bill specifies that the agency must submit a report to the General Assembly and the Governor on the progress in establishing the program and survey index by December 1, 2013. In the report, MRC must (i) describe progress in establishing the biological sampling program and development of the adult menhaden survey index called for by this section, (ii) discuss any difficulties in implementing the requirements of this section, including a lack of resources to properly implement the program, and (iii) provide a list of resources the Commission believes are necessary to properly implement the sampling program and index, with detailed justification, including an estimate of the cost of each item requested. At this time, it is unknown what the full costs will be to establish this sampling program and the adult abundance index. If any increase in appropriation is necessary, as indicated in the report submitted by December 1, 2013, it can be addressed during the 2014 Session.

Lastly, the bill provides that any violation of the provisions of § 28.2-400.4 is subject to a Class 1 misdemeanor. As such, the legislation could result in an increase in the jail population since Class 1 misdemeanor outcomes result in sentences of up to 12 months in jail (and a fine up to \$2,500). Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's FY 2012 Jail Cost Report (November 1, 2012), the estimated total state support for local and regional jails averaged \$26.54 per state inmate, per day in FY 2011.

**9. Specific Agency or Political Subdivisions Affected:** Marine Resources Commission; state and local courts and jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill is the companion bill to HB2254.

**Date:** 2/28/13

**Document:** G:\Legislation\2013 Session\FIS\SB1291ER2.docx