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HOUSE BILL NO. 1610

Offered February 16, 2018

A *BILL to amend and reenact §§ 28.2-400.2 and 28.2-1000.2 of the Code of Virginia, relating to menhaden; total landings.*

Patrons—Knight, Ingram, Miyares, Reid and Yancey; Senator: Wagner

Introduced at the request of the Governor

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-400.2 and 28.2-1000.2 of the Code of Virginia are amended and reenacted as follows:

§ 28.2-400.2. Total allowable landings for menhaden.

A. Except as provided for in subsections B, C, and D, and E, the total allowable landings for menhaden shall be ~~168,937.75~~ 170,797.17 metric tons per year.

B. If the total allowable landings specified in subsection A are exceeded in any year, the total allowable landings for the subsequent year ~~will~~ shall be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in § 28.2-400.3.

C. The Commissioner may request a transfer of menhaden landings from any other state that is a member of the Atlantic States Marine Fisheries Commission. If the Commonwealth receives a transfer of menhaden in any year from another state, the total allowable landings for only that year shall increase by the amount of transferred landings. The Commissioner may transfer menhaden to another state only if there are unused landings after December 15.

D. Any portion of the one percent of the coast-wide total allowable catch set aside by the Atlantic States Marine Fisheries Commission for episodic events that is unused as of September 1 of any year shall be returned to Virginia and other states according to allocation guidelines established by the Atlantic States Marine Fisheries Commission. Any such return of this portion of the coast-wide total allowable catch to Virginia shall increase the total allowable landings for that year.

E. Any portion of the annual coast-wide total allowable catch relinquished by a state that is a member of the Atlantic States Marine Fisheries Commission shall be redistributed to Virginia and other states according to allocation guidelines established by the Atlantic States Marine Fisheries Commission. Any such redistribution of the coast-wide total allowable catch to Virginia shall increase the total allowable landings for that year.

§ 28.2-1000.2. Annual closure of the Chesapeake Bay purse seine 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 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.

B. Upon a determination that the purse seine fishery for Atlantic menhaden meets the annual menhaden harvest cap in the Chesapeake Bay, the Commissioner shall promptly publish a notice in the Virginia Register announcing the date of closure. The Commissioner shall also notify the operators of the purse seine fishery for Atlantic menhaden by the most convenient and expeditious means available. The date of closure shall be based on mandatory daily landings reports required to be submitted under § 28.2-400.5 by the purse seine fishery for Atlantic menhaden.

C. The annual menhaden harvest cap for the purse seine fishery for Atlantic menhaden shall be ~~87,216~~ 51,000 metric tons, subject to annual adjustment for ~~underages or~~ overages as specified in subsection D. ~~In no event, however, shall the harvest of this fishery exceed 98,192 metric tons in any one year.~~

D. If the harvest of the purse seine fishery for Atlantic menhaden does not exceed 87,216 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 year.

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59 E. No person shall take Atlantic menhaden by purse seine for reduction purposes from the
60 Chesapeake Bay after the later of the date of closure implemented pursuant to subsection B or the date
61 that actual notice is provided of such closure pursuant to subsection B. Any person violating this
62 provision shall be guilty of a Class 1 misdemeanor.