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HOUSE BILL NO. 1726

Offered January 18, 1995

A BILL to amend and reenact §§ 28.2-201 and 28.2-309 of the Code of Virginia and to repeal Article 2 (§§ 28.2-408 through 28.2-411) of Chapter 4 of Title 28.2 of the Code of Virginia, relating to the regulation of menhaden fishing.

Patrons—Croshaw, McDonnell, Purkey, Tata, Wagner and Wardrup; Senators: Holland, C.A. and Stolle

Referred to Committee on Chesapeake and Its Tributaries

Be it enacted by the General Assembly of Virginia:**1. That §§ 28.2-201 and 28.2-309 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.

A. The Commission may:

1. 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 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 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 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.

B. The Commission shall promulgate regulations governing the management of the menhaden fishery including, but not limited to, area, seasonal, net, and catch restrictions on the taking of menhaden for commercial purposes.

§ 28.2-309. Distance nets may extend across body of water or channel; prohibition; regulations; penalty.

A. It is unlawful to set or fish any net or nets across any river, bay, estuary, creek, or inlet which are longer than one-fourth the width of the body of water from mean low water to mean low water at the point where the net or nets are set or fished.

B. It is unlawful to set or fish any net, ~~other than a menhaden net,~~ in any portion of a marked channel of a river, bay, estuary, creek, or inlet which has navigation aids installed or approved by any agency of government. However, the prohibitions and restrictions on setting nets contained in this subsection shall not apply to any net set on the eastern or ocean side of the Counties of Accomack and Northampton. The Commission shall have the authority to promulgate regulations governing the setting of any net on the eastern or ocean side of the Counties of Accomack and Northampton.

C. It shall be unlawful to set or fish any net which is a hazard to navigation.

D. Any person who violates the provisions of this section is guilty of a Class 3 misdemeanor.

2. That Article 2 (§§ 28.2-408 through 28.2-411) of Chapter 4 of Title 28.2 of the Code of Virginia is repealed.

INTRODUCED

HB1726