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HOUSE BILL NO. 1381

Offered January 11, 2023

Prefiled November 7, 2022

A BILL to amend and reenact § 28.2-201 of the Code of Virginia, relating to Marine Resources Commission; regulations for the management of menhaden.

Patron—Anderson

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That § 28.2-201 of the Code of Virginia is amended and reenacted as follows:****§ 28.2-201. Authority of Commission to make regulations, establish licenses, and prepare fishery management plans; accept federal grants; enforcement; penalty for violation of regulation.**

The Commission may:

1. Adopt 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 adopt regulations necessary for the conservation and reasonable use of surf clams.

2. Establish new licenses and fees 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 licenses, any restrictions or control over the devices or the persons operating the device.

3. Establish fees for permits required for delayed or limited entry fisheries, shellfish relaying, scientific collections, and for the administrative transfer of these permits among fisherman, where applicable.

4. Beginning July 1, 2004, and not more frequently than every three years thereafter, increase fees for tidal fisheries licenses and permits that are authorized under this title or by regulation adopted pursuant to Article 2 (§ 28.2-209 et seq.). Any fee increase for such licenses and permits shall be capped at \$5 or a percentage equal to the increase in the Consumer Price Index calculated from the time the fee was last set or adjusted, whichever is greater. Beginning July 1, 2004, any amounts generated from the increases in commercial fishing licenses and permits shall be paid into the Marine Fishing Improvement Fund for the purposes authorized by § 28.2-208, and any amounts generated from the increases in recreational fishing licenses shall be paid into the Virginia Saltwater Recreational Fishing Development Fund for the purposes authorized by § 28.2-302.3. The Commission may charge nonresidents a higher fee than residents for purchase of any of the fishing licenses issued pursuant to §§ 28.2-302.2, 28.2-302.2:1, 28.2-302.6, 28.2-302.7, 28.2-302.8, 28.2-302.10, and 28.2-302.10:1. The fee charged to a nonresident shall be no greater than twice the Virginia resident fee. The Commission may prohibit the sale of the private boat license established by § 28.2-302.7 to a nonresident whose boat is not registered in Virginia.

5. The Commission shall ensure that increases in licenses and fees are equitably distributed among resource user groups.

6. 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 § 2.2-2825.

7. 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.

8. The Commonwealth hereby assents to the provisions of the Federal Aid in Sport Fish Restoration Act of August 9, 1950 (16 U.S.C. §§ 777-777k), as amended. The Commission is authorized to perform all such acts as may be necessary for the establishment and implementation of cooperative fish restoration and management projects as defined by these federal statutes and the implementing regulations adopted thereunder.

Notwithstanding any provision of Chapter 4 (§ 28.2-400 et seq.), the Commission shall have the

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59 exclusive authority to manage Atlantic menhaden and shall adopt regulations necessary for its
60 management, including those necessary to comply with the Atlantic States Marine Fisheries Commission
61 Interstate Fishery Management Plan for Atlantic Menhaden. ~~The Commission shall only adopt~~
62 ~~regulations for the management of menhaden between October 1 and December 31 unless regulatory~~
63 ~~action is necessary to address an emergency situation pursuant to § 28.2-210 or to ensure compliance~~
64 ~~with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic~~
65 ~~Menhaden.~~ Any regulation for the management of Atlantic menhaden shall be subject to judicial review
66 in accordance with the provisions of § 28.2-215.