

1 HB112
2 91009-5
3 By Representatives Ison, Williams and Canfield
4 RFD: Agriculture and Forestry
5 First Read: 06-MAR-07
6 PFD: 03/02/2007

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 To further regulate the commercial use of gill nets
9 and other entangling nets in salt and brackish waters of the
10 state; to further regulate the use of recreational gill net
11 licenses; to require the Department of Conservation and
12 Natural Resources to establish and administer a program to
13 acquire and retire net and seine permits issued to saltwater
14 commercial fishermen in Alabama; to require the department to
15 provide for a program of economic relief for resident
16 saltwater commercial fishermen and seafood processors due to
17 the loss of income from eliminating net and seine permits
18 issued to saltwater commercial fishermen in Alabama; to levy a
19 temporary surcharge on resident and nonresident saltwater
20 fishing licenses; and to create the Marine Resource
21 Restoration Fund in the State Treasury and provide for the
22 expenditure of money in the fund.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. For the purposes of this act, the
25 following words shall have the following meanings:

26 (1) GILL NETS. One or more walls of netting used by
27 saltwater commercial fisherman which captures saltwater

1 finfish by ensnaring or entangling them in the meshes of the
2 nets by the gills, and "entangling net" means a drift net,
3 ~~trammel net, stab net, or any other net~~ trammel net or stab
4 net used by saltwater commercial fishermen which captures
5 saltwater finfish, ~~shellfish~~, or other marine animals by
6 causing all or part of heads, fins, legs, or other body parts
7 to become entangled or ensnared in the meshes of the net, but
8 a hand thrown cast net or shrimp trawl net is not a gill net
9 or entangling net.

10 (2) COASTLINE. The territorial sea base line for the
11 State of Alabama established pursuant to the laws of the
12 United States of America.

13 (3) ALABAMA WATERS. The waters of the Gulf of
14 Mexico, and any other salt and brackish bodies of water under
15 the jurisdiction of the State of Alabama, whether coastal,
16 intracoastal or inland, and any part thereof.

17 (4) NEAR SHORE AND INSHORE ALABAMA WATERS. All salt
18 and brackish Alabama waters inside a line three miles seaward
19 of the coastline along the Gulf of Mexico.

20 Section 2. ~~Effective October 1, 2007, no commercial~~
21 ~~gill nets or other commercial entangling nets shall be used in~~
22 ~~any salt and brackish Alabama waters for the purpose of~~
23 ~~catching or taking any saltwater finfish, shellfish, or other~~
24 ~~marine animals.~~ (a) Beginning October 1, 2007 and annually
25 thereafter until October 1, 2011 October 1, 2012, the
26 Department of Conservation and Natural Resources shall present
27 scientific data gathered from three independent sources to the

1 ~~Legislative Council Advisory Board of Conservation and Natural~~
2 ~~Resources~~ the Commissioner of the Department of Conservation
3 and Natural Resources in conjunction with the Commissioner of
4 Agriculture and Industries regarding the quantity of saltwater
5 finfish in Alabama salt and brackish waters and the amount of
6 finfish harvested and landed by Alabama saltwater commercial
7 fishermen and Alabama recreational saltwater fishermen. The
8 data shall also assess the impact of rules and regulations
9 implemented by the Department regarding the use of commercial
10 gill or other commercial entangling nets and any rules
11 regarding recreational saltwater fishing on the overall
12 quantity of finfish in Alabama salt and brackish waters and
13 the amounts of finfish harvested and landed.

14 ~~(b) After the final report is presented, the~~
15 ~~Legislative Council shall determine if the rules and~~
16 ~~regulations implemented by the Department have positively~~
17 ~~impacted the quantity of finfish available in Alabama salt and~~
18 ~~brackish waters and created a better balance of the amount of~~
19 ~~finfish harvested and landed by Alabama saltwater commercial~~
20 ~~fishermen and Alabama recreational saltwater fishermen. If the~~
21 ~~Legislative Council determines that the rules and regulations~~
22 ~~have not accomplished these objectives, then immediately~~
23 ~~thereafter the Department shall provide that no commercial~~
24 ~~gill nets or other commercial entangling nets shall be used in~~
25 ~~any salt and brackish Alabama waters for the purpose of~~
26 ~~catching or taking any saltwater finfish, shellfish, or other~~
27 ~~marine animals.~~

1 (b) After the final report is presented, if the
2 Advisory Board of Conservation and Natural Resources pursuant
3 to Section 9-2-15 of the Code of Alabama of 1975, determines
4 that the continued use of commercial gill nets in Alabama
5 waters is causing a depletion of the fish population and that
6 the depletion of the fish population cannot be remedied by
7 rules of the department, the department shall provide that no
8 commercial gill nets or other commercial entangling nets shall
9 be used in any salt and brackish Alabama waters for the
10 purpose of catching or taking any saltwater finfish, or other
11 marine animal.

12 (c) If the scientific data is inconclusive, then the
13 ~~Legislature can~~ department shall provide for the continued use
14 of commercial gill nets or other commercial entangling nets by
15 ~~resolution rule.~~

16 ~~Section 3. Effective October 1, 2007, a maximum of~~
17 ~~400 recreational gill net licenses may be issued for use in~~
18 ~~near shore and inshore salt and brackish Alabama waters. The~~
19 ~~licenses shall be issued on a lottery basis in the manner to~~
20 ~~be determined by the Department of Conservation and Natural~~
21 ~~Resources. A recreational gill net may not be over 300 feet~~
22 ~~long and shall be set by wading or vessel. A recreational gill~~
23 ~~net shall be valid only for a 10-day period to be selected by~~
24 ~~the licensee. A recreational gill net license may not be used~~
25 ~~and the 10-day license period shall not include Memorial Day~~
26 ~~or Labor Day and the weekends before the holidays, including~~
27 ~~the Friday before the weekend, or July 3, 4, and 5 of each~~

1 ~~year. Each recreational gill net in use shall have a tag~~
2 ~~attached issued by the department designating the time period~~
3 ~~of lawful use.~~

4 Effective October 1, 2007, all recreational gill
5 nets shall be marked in a manner as determined by the
6 department every 100 feet with the name and license number of
7 the licensee.

8 Section 4. (a) The Department of Conservation and
9 Natural Resources shall establish and administer a voluntary
10 program to acquire and retire ~~all~~ net and seine permits of
11 saltwater commercial fishermen issued pursuant to Section
12 9-12-113, Code of Alabama 1975.

13 (b) Each resident Alabama saltwater commercial
14 fishermen ~~adversely affected by this act~~ who possessed a valid
15 Alabama permit on the effective day of this act and who held
16 such permit for a minimum of ~~three~~ two years prior to October
17 1, 2006, may surrender his or her license by October 1, 2007,
18 and shall be entitled to receive the following:

19 (1) ~~Five payments equal to 20~~ A minimum of five
20 equal payments of 30 percent of the income from dockside
21 values of finfish harvested and landed in Alabama using gill
22 nets using the highest income for the calendar year 2004,
23 2005, or 2006, the first payment paid on or before ~~September~~
24 ~~30, 2008~~ November 30, 2007, and the second and subsequent
25 payments paid on or before September 30, 2012.

26 In addition, any commercial fisherman whose highest
27 income in any of the above years was twenty-five thousand

1 dollars (\$25,000) or less and who surrenders his or her
2 license as provided above shall be entitled to an additional
3 payment of five thousand dollars (\$5,000) on or before
4 November 30, 2007. Depending on the availability of funds for
5 such purpose, the total amount of payments due to an eligible
6 commercial fisherman under this subsection can be provided at
7 the time the initial payment is due.

8 (2) Two academic years of free tuition at any public
9 institution operated by the Department of Postsecondary
10 Education, provided the fisherman has completed registration
11 for any classes to be taken within five years of the effective
12 date of this act.

13 ~~(3) Resident Alabama saltwater commercial fishermen~~
14 ~~who want to receive the economic relief provided in this~~
15 ~~section shall apply for the benefits within five years~~
16 ~~following the effective date of this act.~~

17 (c) Each resident Alabama seafood processor
18 ~~adversely affected by this act~~ who is in business on the
19 effective date of this act and who has been in business for a
20 minimum of three years prior to October 1, 2006, who agrees
21 not to process any finfish caught in Alabama by gill nets
22 after October 1, 2007, shall be entitled to receive ~~five~~
23 ~~payments equal to~~ five equal payments of 20 percent of the
24 income from dockside values of finfish processed that was
25 harvested and landed in Alabama using gill nets using the
26 highest income for the calendar years 2004, 2005, or 2006, the
27 first payment paid on or before September 30, 2008, and the

1 second and subsequent payments paid on or before September 30,
2 2012. Provided, however, the total amount of funds that will
3 be available to provide economic assistance to seafood
4 processors under this section will be ~~\$500,000~~ \$750,000. Such
5 funds shall be divided proportionately among eligible seafood
6 processors based on the total income received by a processor
7 from processing finfish that was harvested and landed in
8 Alabama using gill nets compared to the total amount of
9 finfish processed by all eligible processors harvested and
10 ~~landed in Alabama using gill nets. Eligible seafood processors~~
11 ~~who want to receive the economic relief provided in this~~
12 ~~section shall apply for the benefit within five years~~
13 ~~following the effective date of this act. landed in Alabama~~
14 ~~using gill nets.~~

15 ~~Section 5. This act shall not apply to the use of~~
16 ~~nets for scientific research or governmental purposes.~~

17 ~~Section 6. (a) All commercial gill nets and other~~
18 ~~commercial entangling nets fished in an illegal manner~~
19 ~~pursuant to this section are declared to be a nuisance and may~~
20 ~~be confiscated, along with the entire catch, boat, motor, and~~
21 ~~any other fishing gear in the violator's possession, and all~~
22 ~~of the items may be held as evidence by any agent of the~~
23 ~~Department of Conservation and Natural Resources.~~

24 ~~(b) In addition to other penalties provided in this~~
25 ~~section, a violation of this section or any regulation~~
26 ~~promulgated pursuant to this section, shall be a Class A~~
27 ~~misdemeanor punishable as provided by law except the penalty~~

1 ~~shall include a mandatory minimum fine of \$5,000 for the first~~
2 ~~violation and a suspension of all saltwater licenses for 12~~
3 ~~months. For a second or subsequent violation, there shall be a~~
4 ~~mandatory minimum fine of \$5,000 and a lifetime revocation of~~
5 ~~all saltwater licenses as well as forfeiture of all gear and~~
6 ~~equipment used in the violation. Also, in addition to any~~
7 ~~other penalties provided by law, any person who uses a hook~~
8 ~~and line to catch finfish for resale without obtaining a~~
9 ~~saltwater commercial fishing license shall be subject to the~~
10 ~~same penalties provided herein for use of commercial gill nets~~
11 ~~and other commercial entangling nets in an illegal manner.~~

12 Section 5. Effective for a period of five years
13 following the effective date of this act, there is hereby
14 levied a surcharge of eight dollars (\$8) on each resident and
15 nonresident saltwater fishing license issued under the
16 provisions of Sections 9-11-53.1, 9-11-53.5 and 9-11-55.2 of
17 the Code of Alabama 1975. The surcharge shall be in addition
18 to the regular license and issuance fees on such licenses and
19 shall be collected in the same manner as those fees. The
20 proceeds from the surcharge shall be deposited into the Marine
21 Resources Restoration Fund established in Section ~~8~~ 6 of this
22 act and used for the purposes specified therein.

23 Section 6. (a) There is hereby created in the State
24 Treasury the Marine Resources Restoration Fund which shall
25 receive funds from the additional surcharge on resident and
26 nonresident saltwater fishing licenses levied pursuant to
27 Section ~~7~~ 5 of this act. In addition, the fund shall receive

1 any state, federal, local, or private funds that may be
2 legally applied toward economic relief of saltwater commercial
3 gill net fishermen.

4 (b) The fund is continuously appropriated to the
5 Department of Conservation and Natural Resources for the
6 purpose of implementing the ~~program established in Section 4~~
7 programs established in Sections 3 and 4 of this act. The
8 department shall not use any of the monies in the fund for
9 administrative expenses.

10 (c) All interest and earnings derived from the
11 monies in the fund shall remain in the fund. Any unexpended
12 monies remaining in the fund at the end of the fiscal year
13 shall remain in the fund and shall remain available for
14 expenditure by the department for the purposes specified
15 herein until expended in full.

16 (d) Any funds in the Marine Resources Restoration
17 Fund not used for implementing the program established in
18 Section 4 shall be used for research and reef development.

19 Section 7. All laws or parts of laws which conflict
20 with this act are repealed.

21 Section 8. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

1
2
3

4
5
6
7

8

9
10
11
12
13
14
15

16
17
18
19

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Agriculture and
Forestry 06-MAR-07

Read for the second time and placed
on the calendar with 1 substitute
and 26-APR-07

Read for the third time and passed
as amended 24-MAY-07

Yeas 74, Nays 21, Abstains 0

Greg Pappas
Clerk