

1 HB320
2 126878-2
3 By Representatives Ison, Fincher and Gaston
4 RFD: Agriculture and Forestry
5 First Read: 22-MAR-11

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8 SYNOPSIS: Under existing law, the Department of
9 Conservation and Natural Resources administered a
10 voluntary program to acquire and retire commercial
11 gill net permits of saltwater commercial fishermen
12 that was funded through a surcharge on certain
13 saltwater fishing licenses. These provisions have
14 expired.

15 This bill would establish a new voluntary
16 permit buyback program to be administered by the
17 Department and authorizes the Department to levy a
18 surcharge on all saltwater fishing licenses to fund
19 the program that may also receive funds from any
20 private sources available to the state.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

26 To amend Sections 9-12-232, 9-12-233 and 9-12-234,
27 Code of Alabama 1975, to establish a voluntary gill net permit

1 buyback program to be administered by the Department of
2 Conservation and Natural Resources; and to authorize the
3 Department to levy a surcharge on saltwater fishing licenses
4 to fund the program that may also receive funds from any
5 private sources available to the state.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 9-12-232, 9-12-233 and 9-12-234,
8 Code of Alabama 1975, are hereby amended as follows.

9 "§9-12-232.

10 (a) The Department of Conservation and Natural
11 Resources shall establish and administer a voluntary permit
12 buyback program to acquire through purchase and retire
13 commercial gill net permits of saltwater commercial fishermen
14 issued pursuant to Section 9-12-113.

15 (b) Each resident Alabama saltwater commercial
16 fisherman who possesses a valid Alabama ~~permit June 1, 2008,~~
17 ~~and any nonresident commercial fisherman who has held a~~
18 commercial gill net permit license for 25 years or more
19 ~~without a fishing violation who possesses a valid Alabama~~
20 ~~permit on June 1, 2008, on September 30, 2011 may surrender~~
21 ~~his or her license~~ is eligible to participate in the voluntary
22 permit buyback program. Any eligible saltwater commercial
23 fisherman who participates in the voluntary permit buyback
24 program shall surrender his or her permit upon receipt of
25 payment by the Department of Conservation and Natural
26 Resources. on or before March 1, 2009.

1 (c) The Department of Conservation and Natural
2 Resources shall establish criteria, using reasonable
3 classifications, by which the department selects permits to be
4 purchased. Upon surrender of the license, the following shall
5 apply:

6 (1) ~~If the total income of the license holder from~~
7 ~~dockside value of finfish harvested and landed in Alabama~~
8 ~~using gill nets in the last three years was less than five~~
9 ~~thousand dollars (\$5,000), the licensee shall receive a~~
10 ~~payment from the Department of Conservation and Natural~~
11 ~~Resources of six thousand dollars (\$6,000), payable by March~~
12 ~~1, 2009.~~

13 (2) ~~If the total income of the license holder from~~
14 ~~dockside values of finfish harvested and landed in Alabama~~
15 ~~using gill nets was above five thousand dollars (\$5,000), but~~
16 ~~less than twenty thousand dollars (\$20,000), he or she shall~~
17 ~~receive a one-time payment from the Department of Conservation~~
18 ~~and Natural Resources equal to 200 percent of his or her~~
19 ~~highest income for the calendar year 2005, 2006, or 2007,~~
20 ~~payable by March 1, 2009.~~

21 (3) ~~In the event the total income of the license~~
22 ~~holder from dockside values of finfish harvested and landed in~~
23 ~~Alabama using gill nets was over twenty thousand dollars~~
24 ~~(\$20,000), he or she shall receive from the Department of~~
25 ~~Conservation and Natural Resources a one-time payment equal to~~
26 ~~125 percent of the highest income from the calendar year 2005,~~
27 ~~2006, or 2007, payable by March 1, 2009.~~

1 ~~(d)~~ In addition, any saltwater commercial fisherman
2 ~~surrendering his or her license shall receive two academic~~
3 ~~years of free tuition at any public institution operated by~~
4 ~~the Department of Postsecondary Education, provided the~~
5 ~~fisherman has completed registration for any classes to be~~
6 ~~taken within five years of June 1, 2008.~~

7 ~~(e)~~ (d) All payments made to the person who
8 surrenders his or her license shall be considered as
9 compensatory in nature and excludable from Alabama gross
10 income tax.

11 ~~(f)~~ (e) Each saltwater commercial fisherman who
12 surrenders his or her license under this section shall be
13 ineligible to purchase a commercial gill net license
14 thereafter. In addition, the Department of Conservation and
15 Natural Resources shall not issue a replacement license for
16 the license surrendered.

17 ~~(g)~~ (f) After June 1, 2008, the holder of a license
18 must be present whenever a gill net is being used for fishing.

19 ~~(h)~~ (g) Any person on June 1, 2008, who has been
20 issued a commercial gill net license for the 2007-2008 license
21 year may continue to annually purchase a new commercial gill
22 net license for use in near-shore and inshore salt and
23 brackish Alabama waters for the remainder of the person's
24 life, subject to the requirements of Section 9-12-113. Any
25 person authorized to purchase a commercial gill net license
26 pursuant to this subsection who fails to purchase such a
27 license for any year shall not be eligible to purchase a

1 commercial gill net license thereafter. Notwithstanding any
2 provision of Section 9-12-113, any person holding a commercial
3 gill net license thereafter may not transfer the license.

4 ~~(i)~~ (h) After June 1, 2008, the Department of
5 Conservation and Natural Resources shall not issue a permit
6 for commercial gill net fishing to any nonresident.

7 "§9-12-233.

8 ~~Effective for a period of five years following June~~
9 ~~1, 2008,~~ The Commissioner of the Department of Conservation
10 and Natural Resources may there is levied levy a surcharge of
11 up to five ~~eight~~ dollars (\$5 ~~8~~), as set by the Commissioner of
12 the Department of Conservation and Natural Resources, on any
13 ~~each annual resident and nonresident~~ saltwater fishing license
14 issued under ~~Sections 9-11-53.1, 9-11-53.2, 9-11-53.5,~~
15 ~~9-11-55.2, and 9-11-55.3~~ any provision of Alabama law. The
16 surcharge shall be in addition to the regular license and
17 issuance fees on such licenses and shall be collected in the
18 same manner as those fees. The surcharge shall not apply to
19 saltwater licenses issued to disabled persons. The proceeds
20 from the surcharge shall be deposited into the Marine
21 Resources Restoration Fund established in Section 9-12-234 and
22 used for the purposes specified therein.

23 "§9-12-234.

24 (a) There is created in the State Treasury the
25 Marine Resources Restoration Fund which shall receive funds
26 from the additional surcharge on resident and nonresident
27 saltwater fishing licenses levied pursuant to Section

1 9-12-233. In addition, the fund shall receive any state,
2 federal, local, or private funds ~~that may be legally applied~~
3 ~~toward economic relief of saltwater commercial gill net~~
4 ~~fishermen.~~

5 (b) The fund is continuously appropriated to the
6 Department of Conservation and Natural Resources for the
7 purpose of implementing the programs established in Section
8 9-12-232 and as otherwise provided in subsection (d). ~~The~~
9 ~~department may not use any of the monies in the fund for~~
10 ~~administrative expenses.~~

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

17 (d) Any funds in the Marine Resources Restoration
18 Fund not used for implementing the program established in
19 Section 9-12-232 shall be used for research, enforcement and
20 reef development.

21 (e) Notwithstanding any provision of this article to
22 the contrary, the obligations of the Department of
23 Conservation and Natural Resources to acquire and retire nets
24 as set out in Section 9-12-232 shall be limited to the
25 availability of funds in the Marine Resources Restoration
26 Fund.

1 Section 2. All laws or parts of laws which conflict
2 with this act are repealed.

3 Section 3. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor or its otherwise becoming law.