

1 HB427  
2 117042-1  
3 By Representatives Ison, Davis, Fincher and Barton  
4 RFD: Agriculture and Forestry  
5 First Read: 26-JAN-10

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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 authorize the Department to levy a  
18 surcharge on all saltwater fishing licenses to fund  
19 the program.  
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21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To amend Sections 9-12-232, 9-12-233 and 9-12-234,  
26 Code of Alabama 1975, to establish a voluntary gill net permit  
27 buyback program to be administered by the Department of

1 Conservation and Natural Resources; and to authorize the  
2 Department to levy a surcharge on saltwater fishing licenses  
3 to fund the program.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§9-12-232.

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

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

25 (c) The Department of Conservation and Natural  
26 Resources shall establish criteria, using reasonable  
27 classifications, by which the department selects permits to be

1 ~~purchased. Upon surrender of the license, the following shall~~  
2 ~~apply:~~

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

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

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

25 ~~(d) In addition, any saltwater commercial fisherman~~  
26 ~~surrendering his or her license shall receive two academic~~  
27 ~~years of free tuition at any public institution operated by~~

1 ~~the Department of Postsecondary Education, provided the~~  
2 ~~fisherman has completed registration for any classes to be~~  
3 ~~taken within five years of June 1, 2008.~~

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

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

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

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

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

4           "§9-12-233.

5           ~~Effective for a period of five years following June~~  
6 ~~1, 2008,~~ The Commissioner of the Department of Conservation  
7 and Natural Resources may there is levied levy a surcharge of  
8 up to five ~~eight~~ dollars (\$5 ~~8~~), as set by the Commissioner of  
9 the Department of Conservation and Natural Resources, on any  
10 ~~each annual resident and nonresident~~ saltwater fishing license  
11 issued under ~~Sections 9-11-53.1, 9-11-53.2, 9-11-53.5,~~  
12 ~~9-11-55.2, and 9-11-55.3~~ any provision of Alabama law. The  
13 surcharge shall be in addition to the regular license and  
14 issuance fees on such licenses and shall be collected in the  
15 same manner as those fees. The surcharge shall not apply to  
16 saltwater licenses issued to disabled persons. The proceeds  
17 from the surcharge shall be deposited into the Marine  
18 Resources Restoration Fund established in Section 9-12-234 and  
19 used for the purposes specified therein.

20           "§9-12-234.

21           (a) There is created in the State Treasury the  
22 Marine Resources Restoration Fund which shall receive funds  
23 from the additional surcharge on resident and nonresident  
24 saltwater fishing licenses levied pursuant to Section  
25 9-12-233. In addition, the fund shall receive any state,  
26 federal, local, or private funds ~~that may be legally applied~~

1 ~~toward economic relief of saltwater commercial gill net~~  
2 ~~fishermen.~~

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

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

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

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

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

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