

SUBJECT: Menhaden boat licensing changes

COMMITTEE: State Recreational Resources — favorable, without amendment

VOTE: 7 ayes — Kuempel, McCall, Hightower, Horn, King, Merritt, Palmer

0 nays

2 absent — Hilderbran, Longoria

WITNESSES: For — Barney White, Zapata Protein, Inc. and the National Fish Meal and Oil Association

Against — none

BACKGROUND : Menhaden are small fish, approximately seven inches long, similar to herring or shad. They are not consumed by humans but are used as a high-protein ingredient in animal and fish food. Menhaden school in abundance off the Gulf Coast and are caught in nets by boats called "steamers," which are approximately 160 feet long. Steamers usually carry two small 30-foot "purse" boats that help set the net around the school of menhaden.

Under current law, the owner of a menhaden boat is required to purchase a menhaden boat license annually from the Parks and Wildlife Department. Originally, the department interpreted the licensing statutes in such a way to consider the two purse boats as part of the steamer's equipment. In 1996, however, it reinterpreted the statute to require that menhaden purse boats obtain separate licenses.

The Parks and Wildlife Commission has set the amount of the license fee, which cannot be less than \$2,000, at \$3,500. In 1996, only one menhaden company, Zapata Protein Inc., was operating off the Texas coast, with 13 steamers carrying 26 purse boats. The company is headquartered in Houston, with processing facilities in Louisiana and Mississippi.

**DIGEST:** HB 520 would categorize menhaden boat licenses into two classes: boats used to catch, transport and store menhaden (Class A) and boats used to assist in catching menhaden (Class B). The annual fee for a Class B license would be no less than \$50 or more, as set by the Parks and Wildlife Commission. The fee for Class A licenses would remain \$2,000 or higher, as set by the commission.

The bill would take effect September 1, 1997.

**SUPPORTERS SAY:** HB 520 would clarify an interpretation of current law that caused the licensing fees paid by menhaden boat operators in Texas to triple. Annual boat licensing fees paid by Zapata Protein soared from \$45,500 to \$135,500 when the Parks and Wildlife Department reinterpreted the law to require the same license for the small “purse” boats used to set menhaden nets as for the large steamer boats. There is an obvious distinction between the two, and HB 520 would change the law to recognize the difference.

Menhaden boat licensing fees — which were increased from \$2,000 to \$3,500 in 1991 — are already the highest boat license fees in the state. In contrast, the second most expensive boat license issued by the Parks and Wildlife Department is for commercial non-resident oyster boats and costs \$1,400. Nonresidents pay \$1,025 for gulf commercial shrimp boat licenses in Texas; residents pay \$275 annually.

The state should be encouraging business, jobs, and economic development in Texas rather than burdening companies with excessive fees. Zapata Protein has been operating in the Gulf for almost 50 years and employs 50 Texas residents. The company spends \$5.1 million every year in Texas to purchase goods and services and pay state taxes and fees.

Although the fiscal note for HB 520 shows a revenue loss to the state, this is only because fee revenues for fiscal 1996 tripled when the statute was reinterpreted last year. If this aberrant increase in fees had not occurred, HB 520 would actually represent an increase in revenue for the state due to the new fees imposed on menhaden purse boats.

The Parks and Wildlife Code leaves the amount of most license fees to the discretion of the Parks and Wildlife Commission, although it often specifies

minimum fee amounts. There is no evidence that the department has set exorbitant or unreasonable fees. As a matter of fact, Zapata Protein and the Parks and Wildlife Department have worked together to come up with the compromise proposed by HB 520. Furthermore, the department can process purse boat licenses without hiring additional employees since it is already licensing each purse boat.

OPPONENTS  
SAY:

The new category of license proposed by the bill would result in additional administrative time and red tape for the department and the regulated industry. The Parks and Wildlife Department should be streamlining its licensing procedures rather than adding new categories of licenses.

OTHER  
OPPONENTS  
SAY:

The license fee for a Class B menhaden boat should be capped to prevent the Parks and Wildlife Commission from imposing an unreasonable fee.

NOTES:

The Legislative Budget Board estimates that implementing the bill would result in a revenue loss of \$144,900 to the state game, fish and water safety account, a dedicated fund within the general revenue fund that is used for fisheries, wildlife conservation, and law enforcement.