

HOUSE BILL 498

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2004 Regular Session
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CF 4r1553

By: **Delegates Frush, Barkley, Benson, Bobo, Bronrott, Conroy, Cryor,
Dumais, Feldman, Goldwater, Kaiser, Lee, Madaleno, Montgomery,
Parker, Ross, Stern, and F. Turner**

Introduced and read first time: February 2, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Leghold Traps - Prohibition**

3 FOR the purpose of expanding the prohibition against using, setting, placing, or
4 maintaining a leghold trap to apply to all persons statewide; providing certain
5 exceptions to the prohibition against using, setting, placing, or maintaining a
6 leghold trap under certain circumstances; authorizing the Department of
7 Natural Resources to issue a permit to use, set, place, or maintain a leghold trap
8 to certain persons under certain circumstances; requiring any leghold trap being
9 used, set, placed, or maintained to have prominently affixed to it a registration
10 number and a permit number issued by the Department; requiring any leghold
11 trap being used, set, placed, or maintained to be checked and emptied at a
12 certain time; defining a certain term; clarifying that certain persons may not
13 use, set, place, or maintain a leghold trap to trap certain animals; and generally
14 relating to the use, setting, placement, and maintenance of leghold traps.

15 BY renumbering

16 Article - Natural Resources
17 Section 10-101(l) through (cc), respectively
18 to be Section 10-101(m) through (dd), respectively
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2003 Supplement)

21 BY adding to

22 Article - Natural Resources
23 Section 10-101(l)
24 Annotated Code of Maryland
25 (2000 Replacement Volume and 2003 Supplement)

26 BY repealing

27 Article - Natural Resources
28 Section 10-410(o)

1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2003 Supplement)

3 BY adding to
4 Article - Natural Resources
5 Section 10-410(o)
6 Annotated Code of Maryland
7 (2000 Replacement Volume and 2003 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Natural Resources
10 Section 10-414 and 10-504
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That Section(s) 10-101(l) through (cc), respectively, of Article - Natural
15 Resources of the Annotated Code of Maryland be renumbered to be Section(s)
16 10-101(m) through (dd), respectively.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article - Natural Resources**

20 10-101.

21 (L) "LEGHOLD TRAP" MEANS ANY SPRING-POWERED, PAN- OR
22 SEAR-ACTIVATED DEVICE WITH TWO OPPOSING STEEL JAWS, WHETHER THE JAWS
23 ARE SMOOTH, TOOTHED, PADDED, OR OFFSET, THAT IS DESIGNED TO CAPTURE AN
24 ANIMAL BY SNAPPING CLOSED UPON A LIMB OR PART THEREOF OF THE ANIMAL.

25 10-410.

26 [(o) (1) In Anne Arundel, Baltimore, Montgomery, and Prince George's
27 counties, a person may not use, set, place, or maintain any steel jaw leghold trap on
28 land. The steel jaw leghold trap may be used for the capture of fur-bearing mammals
29 in water only.

30 (2) This subsection does not apply to:

31 (i) Traps set on farmland by the owner of the farmland, by the
32 owner's agent or tenant, owner's lessee, or by any member of the owner's or tenant's
33 immediate family who resides on the farmland; or

34 (ii) Traps set by an authorized agent of the Maryland Forest, Park
35 and Wildlife Service who exercises the agent's duties for wildlife control under
36 guidelines established by the Department.]

1 (O) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS
2 SUBSECTION, A PERSON MAY NOT USE, SET, PLACE, OR MAINTAIN OR AUTHORIZE
3 THE USE, SETTING, PLACEMENT, OR MAINTENANCE OF ANY LEGHOLD TRAP TO
4 CAPTURE ANY ANIMAL.

5 (2) THE DEPARTMENT MAY, IN CONSULTATION WITH THE DEPARTMENT
6 OF SOCIAL AND HEALTH SERVICES OF THE U.S. DEPARTMENT OF HEALTH AND
7 HUMAN SERVICES, USE, SET, PLACE, AND MAINTAIN A LEGHOLD TRAP TO CAPTURE
8 AN ANIMAL POSING AN IMMEDIATE HUMAN HEALTH OR SAFETY THREAT.

9 (3) THE DEPARTMENT MAY ISSUE A PERMIT TO USE, SET, PLACE, AND
10 MAINTAIN A LEGHOLD TRAP FOR A PERIOD NOT EXCEEDING 30 DAYS TO ANY PERSON
11 WHO:

12 (I) APPLIES FOR A PERMIT;

13 (II) DEMONSTRATES THAT WILDLIFE HAS CAUSED ACTUAL
14 DAMAGE TO PROPERTY OWNED, LEASED, OR CONTROLLED BY THE APPLICANT AND
15 THAT THE APPLICANT HAS ATTEMPTED TO ABATE THE DAMAGE BY THE USE OF
16 LEGAL LETHAL OR NONLETHAL CONTROL TOOLS, INCLUDING EXCLUSION METHODS,
17 HABITAT MODIFICATION, GUARD ANIMALS, FRIGHTENING DEVICES, REPELLANTS,
18 ELECTRIC FENCING, AND OTHER TRAPS; AND

19 (III) DEMONSTRATES THAT:

20 1. WILDLIFE HAS CAUSED ACTUAL DAMAGE TO PROPERTY
21 OWNED, LEASED, OR CONTROLLED BY THE APPLICANT; AND

22 2. THE DAMAGE HAS NOT BEEN AND CANNOT REASONABLY
23 BE EXPECTED TO BE ABATED BY THE USE OF LEGAL LETHAL OR NONLETHAL
24 CONTROL TOOLS, INCLUDING EXCLUSION METHODS, HABITAT MODIFICATION,
25 GUARD ANIMALS, FRIGHTENING DEVICES, REPELLANTS, ELECTRIC FENCING, AND
26 OTHER TRAPS.

27 (4) THE DEPARTMENT MAY ISSUE A PERMIT TO USE, SET, PLACE, AND
28 MAINTAIN A LEGHOLD TRAP FOR THE PURPOSE OF CONDUCTING LEGITIMATE
29 WILDLIFE RESEARCH.

30 (5) THE U.S. FISH AND WILDLIFE SERVICE MAY USE, SET, PLACE, AND
31 MAINTAIN A LEGHOLD TRAP WHEN THE SERVICE, IN CONSULTATION WITH THE
32 DEPARTMENT, DETERMINES THAT THE USE OF A LEGHOLD TRAP IS NECESSARY TO
33 PROTECT SPECIES LISTED AS THREATENED OR ENDANGERED UNDER THE FEDERAL
34 ENDANGERED SPECIES ACT.

35 (6) ANY LEGHOLD TRAP USED, SET, PLACED, OR MAINTAINED UNDER
36 THIS SUBSECTION MUST HAVE PROMINENTLY AFFIXED TO IT THE FOLLOWING:

37 (I) A REGISTRATION NUMBER ISSUED BY THE DEPARTMENT AND
38 CORRELATING TO THE OWNER OF THE TRAP; AND

1 (II) A PERMIT NUMBER ISSUED BY THE DEPARTMENT.

2 (7) ANY LEGHOLD TRAP USED, SET, PLACED, OR MAINTAINED UNDER
3 THIS SUBSECTION SHALL BE CHECKED AND EMPTIED AT LEAST ONCE EVERY 12
4 HOURS.

5 (8) A LEGHOLD TRAP AUTHORIZED UNDER THIS SUBSECTION MAY NOT
6 HAVE TOOTHED JAWS.

7 10-414.

8 (a) A person may not possess any live raccoon or opossum unless the person
9 first procures a permit from the Department. Any raccoon or opossum reduced to
10 possession by a hunter or trapper shall be immediately killed.

11 (b) Notwithstanding any other provisions of this title, the owner of a marsh or
12 the owner's employees may hunt any raccoon which destroys a muskrat or its home in
13 a marsh area of the State at any time.

14 (c) [A] SUBJECT TO § 10-410(O) OF THIS TITLE, A landowner or the
15 landowner's agent may set or use steel traps or similar devices at any time to trap
16 raccoon or opossum which are damaging property.

17 (d) A person may not cut a tree for the purpose of hunting or dislodging a
18 raccoon or opossum without the consent of the owner of the tree.

19 10-504.

20 (a) [A] SUBJECT TO § 10-410(O) OF THIS TITLE, A person may not hunt any
21 muskrat, beaver, or otter in any manner except by trapping. A person may not dig into
22 or in any manner molest or destroy any part of a muskrat, beaver, or otter den or
23 house. A person may not possess at any time the hide or skin of any muskrat, beaver,
24 or otter which has been caught in any way except by trapping, and any muskrat,
25 beaver, or otter hide or skin which has been punctured by a hole which appears to be
26 a shot or bullet hole shall be prima facie evidence that the muskrat, beaver, or otter
27 was killed illegally.

28 (b) A person may not possess at any time a light for the purpose of hunting
29 muskrats, beaver, or otter at nighttime. Possession of a light shall be prima facie
30 evidence that the light was intended for this purpose.

31 (c) [A] SUBJECT TO § 10-410(O) OF THIS TITLE, A landowner or the
32 landowner's lessee shall have the exclusive right to trap for muskrats down to the
33 mean low watermark or on marsh land adjacent to the landowner's land. A person
34 may not enter upon or place traps upon the land without first obtaining the written
35 consent of the landowner or the landowner's lessee.

36 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2004.