

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

Senate Bill 748 (Senator Middleton, *et al.*)
 Education, Health, and Environmental Affairs

Deer Hunting - Crop Damage Permit - Wild Venison

This bill establishes a crop damage permit to be issued by the Department of Natural Resources (DNR). The holder of a crop damage permit may (1) hunt deer during or outside deer hunting season for the purpose of preventing damage to crops and (2) sell or offer for sale in the State the meat or carcass of the deer in accordance with regulations adopted by DNR and the Secretary of Agriculture. There is no permit fee. By October 1, 2016, the Secretary of Agriculture must adopt regulations to establish requirements for the processing, inspection, labeling, and sale of “wild venison” in the State, and DNR must adopt regulations to implement the crop damage permit.

Fiscal Summary

State Effect: General fund expenditures increase by \$711,300 in FY 2017 for the Maryland Department of Agriculture (MDA) to inspect deer-slaughter operations and for DNR to issue crop damage permits and inspect farms. Potential minimal increase in general fund revenues and expenditures beginning in FY 2017 from the application of existing incarceration and monetary penalties.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	\$0	-	-	-	-
GF Expenditure	\$0	\$711,300	\$686,800	\$718,400	\$751,400
Net Effect	\$0	(\$711,300)	(\$686,800)	(\$718,400)	(\$751,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential minimal increase in local revenues and expenditures beginning in FY 2017 from the application of existing incarceration and monetary penalties.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Under the bill, “livestock” includes deer legally taken by a person holding a crop damage permit for purposes of the regulation of livestock sales and prohibitions against inhumane slaughter of livestock. “Wild venison” means venison from a deer legally taken by a person holding a crop damage permit in accordance with the bill.

The bill also (1) repeals language that prohibits a person from selling lawfully obtained white-tailed and sika venison and (2) brings deer legally taken by a person holding a crop damage permit under the purview of the Maryland Wholesome Meat Act and the Federal Meat Inspection Act (FMIA).

Current Law:

Department of Natural Resources and Deer Management Permits

DNR establishes the open season to hunt forest and upland game birds and mammals by regulation each year. DNR may adopt regulations to enlarge, extend, restrict, or prohibit hunting wildlife.

DNR has traditionally offered deer management permits (DMPs), as established by regulation, to Maryland landowners or agricultural lessees that are experiencing severe economic loss from deer to commercially grown crops (including row crops, truck crops, pasture, nursery stock, orchards, and certain tree plantings). Generally, DMPs allow permittees to remove deer from the designated property outside of the established deer hunting seasons and/or deer bag limits. These permits are issued by DNR’s Wildlife and Heritage Service. DNR reviews requests for eligibility and considers the type, extent, and severity of damage; the time of year; and deer populations for a local area when evaluating applications for DMPs. There is no permit fee.

Chapter 574 of 2014 established that a person who holds a DMP in Charles and St. Mary’s counties may use a shotgun approved by DNR to (1) hunt deer throughout deer season in the locations and under the conditions set forth in the permit and (2) hunt deer on State agricultural crop land located in Charles and St. Mary’s counties to the same extent as the person is authorized under the DMP to hunt on private land in those counties. The provisions of Chapter 574 terminate on June 30, 2017.

Under general wildlife penalties, a person who illegally takes deer is guilty of a misdemeanor and subject to a fine of up to \$1,500 for the first violation and a fine of up to \$4,000 and/or imprisonment for one year for second or subsequent violations. Natural Resources Police (NRP) officers may seize any deer unlawfully caught, sold, offered for sale, transported, or possessed. DNR may dispose of any seized animal at the department’s

discretion. Further, NRP officers may seize any device, equipment, conveyance, or property unlawfully used. DNR, by regulation, is required to (1) establish a schedule of resource values for individual species in order to value and charge restitution to guilty parties for injury, death, or destruction of any wildlife, including deer and (2) list criteria for the suspension of a person's hunting license or privileges for up to five years. However, DNR has not yet adopted regulations establishing offenses, or combinations of offenses, for which the department may suspend hunting licenses and hunting privileges. Thus, it is unknown whether the unlawful taking of deer would lead to an immediate suspension of a person's hunting license and privileges.

Federal Meat Inspection Act and Maryland Wholesome Meat Act

The U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service enforces FMIA, which requires federal inspection and regulation of meat products prepared for distribution in interstate commerce for use as human food. The Maryland Wholesome Meat Act authorizes MDA to inspect establishments engaged in the slaughtering of livestock or the processing of livestock carcasses, parts of carcasses, or meat or meat food products capable of use as human food solely for intrastate commerce. MDA advises, however, that it has not inspected establishments since the early 1990s, when the department's inspection program ended for budgetary reasons and establishments were advised to seek federal authorization in order to continue operating.

FMIA and the Maryland Wholesome Meat Act require antemortum and postmortem inspection of any livestock slaughtered for commercial purposes. There are several narrow exceptions to these provisions, including a person slaughtering livestock for personal consumption that is not for sale. Additionally, on-farm poultry operations with less than 20,000 birds and rabbit processing plants fall under an agricultural commodity exception and are not subject to federal inspection. In order to qualify for an agricultural commodity certificate to sell farm products, individuals must apply to MDA for certification, attend MDA Rabbit and Poultry Slaughter and Processing Training, and submit to spot checks regarding storage and slaughter of the rabbits and/or poultry.

The Maryland Wholesome Meat Act contains various prohibitions relating to livestock carcasses, meat food products, and labeling, including a prohibition against selling, donating, transporting, or offering or receiving for sale or transportation in intrastate commerce any livestock carcass, part of it, or meat or meat food products of any livestock, unless it is clearly identified to show the kind of animals from which it is derived. The prohibitions under the Act are subject to criminal penalties, including (1) for a first offense, imprisonment for up to six months and/or a fine of up to \$3,000; (2) for a second violation, imprisonment for up to one year and/or a fine of up to \$5,000; and (3) for a third violation, imprisonment for up to two years and/or a fine of up to \$10,000.

Department of Health and Mental Hygiene

The Department of Mental Health and Hygiene (DHMH) inspects and regulates food processing plants in Maryland. There are two exceptions: (1) animal and poultry processing plants (which includes slaughtering) are under the jurisdiction of USDA; and (2) on-farm poultry and rabbit processing plants are under the jurisdiction of MDA. DHMH works with MDA to ensure that these on-farm processing plants comply with Maryland food safety requirements through the on-farm processing certification discussed above.

Background: Because white-tailed deer thrive in habitat that is composed of woods and openings and because hunter access in those areas is limited, suburban development has provided excellent deer habitat in the State. This has resulted in growing deer populations in suburban areas. Higher populations of deer can lead to a greater number of negative interactions with suburban residents, such as deer-vehicle collisions and vegetation damage. Deer also cause agricultural damage. According to DNR, regulated hunting is the most cost-effective deer population control mechanism available throughout most of the State. In 2013, DNR issued 1,655 DMPs, and a total of 8,969 deer were killed under DMPs

State Fiscal Effect:

Department of Natural Resources

DNR's general fund expenditures increase by \$410,817 in fiscal 2017, which reflects the bill's requirement that DNR establish regulations to implement the crop damage permit by October 1, 2016. This estimate reflects the cost of hiring seven employees (five natural resources technicians, one natural resources biologist, and one administrative specialist) to issue a significant number of crop damage permits throughout the State, oversee permit compliance, facilitate check-in procedures for deer taken under the permit, and regulate the commercial harvest of deer. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of a vehicle for each technician and the biologist), and ongoing operating expenses, including vehicle maintenance costs. The information and assumptions used in calculating the estimate are stated below:

- the natural resources biologist supervises the natural resources technicians;
- DNR must conduct at least annual, if not quarterly, inspections of properties managed by crop damage permits;
- there is a significant demand for crop damage permits; and

- DNR manages crop damage permits more stringently than it does DMPs due to the commercial viability of venison harvested under the authority of crop damage permits.

Positions	7
Salaries and Fringe Benefits	\$274,507
Vehicle Purchases	103,068
Operating Expenses	<u>33,242</u>
Total FY 2017 DNR Expenditures	\$410,817

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including vehicle maintenance.

Maryland Department of Agriculture

MDA general fund expenditures increase by \$300,475 in fiscal 2017, which reflects the bill's requirement that Secretary of Agriculture must adopt regulations to establish the requirements for the processing, inspection, labeling, and sale of wild venison in the State by October 1, 2016. This estimate reflects the cost of hiring four employees (one agricultural veterinarian and three agricultural inspectors) to enforce the relevant provisions of the bill. It includes salaries, fringe benefits, one-time start-up costs (including the purchase of four vehicles), and ongoing operating expenses, including significant travel costs. The information and assumptions used in calculating the estimate are stated below:

- pursuant to current law, the Secretary of Agriculture must carry out and enforce the provisions of the Agriculture Article;
- under the Maryland Wholesome Meat Act, MDA must conduct antemortem and postmortem inspection of each deer legally taken by a person holding a crop damage permit at each facility slaughtering and processing deer, and the State must bear the cost of inspection;
- MDA conducts 5 to 10 inspections at 50 to 100 locations annually;
- MDA purchases a vehicle for each employee; and
- each employee travels an average of 15,000 miles annually.

Positions	4
Salaries and Fringe Benefits	\$186,476
Travel Expenses	12,726
Vehicles Purchases	82,360
Operating Expenses	<u>18,913</u>
Total FY 2017 MDA Expenditures	\$300,475

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including travel.

Small Business Effect: The bill may result in a significant increase in revenues for crop damage permittees that are able to successfully sell venison under the bill's provisions. The bill likely has the most significant impact on agricultural operations, many of which are small businesses; the bill creates an entirely new market for wild venison and could offer a potentially significant source of additional income.

Due to the increased incentive to hunt deer under crop damage permits, the bill also likely increases the annual deer harvest. In 2011, USDA's National Agricultural Statistics Service estimated that Maryland deer caused \$7.7 million in agricultural damage statewide. Based on past estimates of crop damage losses, DNR estimates that an individual deer causes \$33.05 in agricultural damage annually. To the extent that the bill reduces crop damage, farmers benefit.

The bill may also affect vehicle owners and businesses involved in the repair of vehicles. DNR estimates that there were 31,300 deer-vehicle collisions in 2013 and that the average cost per collision is \$3,400. Reducing the deer population likely reduces the number of deer-vehicle collisions, which will have a positive impact on vehicle owners and a corresponding negative impact on vehicle repair businesses.

Additional Comments: DNR advises that the bill may jeopardize federal funds it receives from the federal Wildlife Restoration Program; under that program, federal funds are contingent on several conditions, including that the control of wildlife in the State is under the authority of DNR's Wildlife and Heritage Service. DNR advises that the bill could jeopardize these funds since authority over the sale of wild venison is shared between DNR and MDA.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Natural Resources, Department of Legislative Services

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