

HOUSE BILL 410

M2

6lr1939
CF SB 266

By: Delegates O'Donnell, Aumann, Beitzel, and Holmes ~~and Holmes~~ Holmes, Arentz, and Carey

Introduced and read first time: January 29, 2016

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2016

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources – Poaching Restitution Act of 2016**

3 FOR the purpose of requiring a court to order a person convicted of poaching deer on
4 ~~privately owned land~~ any land in the State to pay the State certain restitution ~~in~~
5 ~~accordance with certain requirements~~ under certain circumstances and to perform
6 community service under certain circumstances; ~~authorizing a person convicted of~~
7 ~~poaching deer on privately owned land to pay a certain amount of restitution instead~~
8 ~~of performing community service under certain circumstances~~; requiring certain
9 restitution collected to be credited to the State Wildlife Management and Protection
10 Fund; requiring the Department of Natural Resources to adopt certain regulations;
11 encouraging the Department and the ~~Office of Administrative Hearings~~ Office of the
12 Courts to develop a certain database; requiring the Department and the ~~Office of~~
13 ~~Administrative Office of the Courts Hearings~~ to report to certain committees of the
14 General Assembly on or before a certain date; encouraging the Department to work
15 with local law enforcement agencies in developing certain protocols and strategies;
16 defining a certain term; providing for the application of certain provisions of this Act;
17 and generally relating to penalties for poaching deer on ~~privately owned~~ any land in
18 the State.

19 BY renumbering

20 Article – Natural Resources
21 Section 10–101(q) through (cc), respectively
22 to be Section 10–101(r) through (dd), respectively
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2015 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Natural Resources
 3 Section 10–101(q) and 10–1101.1
 4 Annotated Code of Maryland
 5 (2012 Replacement Volume and 2015 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Natural Resources
 8 Section 10–212(a) and 10–1102
 9 Annotated Code of Maryland
 10 (2012 Replacement Volume and 2015 Supplement)

11 Preamble

12 WHEREAS, Maryland’s nationally acclaimed Wildlife Poaching Prevention Act
 13 enhanced the State’s ability to suspend and revoke hunting privileges for those individuals
 14 found guilty of a State or federal hunting violation; and

15 WHEREAS, The Wildlife Poaching Prevention Act focused exclusively on the loss of
 16 hunting privileges in order to help deter crimes against nature consistent with the tenets
 17 of the public trust doctrine, but was silent on financial restitution to further deter wildlife
 18 poaching, especially deer poaching on those lands referenced in the Act; and

19 WHEREAS, This Act not only declares Maryland’s disdain for poaching, but imposes
 20 mandatory restitution for deer poaching on privately owned lands that, when such
 21 restitution is combined with the potential loss of hunting privileges for up to 5 years, as set
 22 forth in the Wildlife Poaching Prevention Act, will measurably deter future deer poaching
 23 in Maryland and promote Maryland as a national leader in its zero tolerance for poaching;
 24 now, therefore,

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 26 That Section(s) 10–101(q) through (cc), respectively, of Article – Natural Resources of the
 27 Annotated Code of Maryland be renumbered to be Section(s) 10–101(r) through (dd),
 28 respectively.

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

31 **Article – Natural Resources**

32 10–101.

33 **(q) “POACHING” MEANS THE ILLEGAL HUNTING, KILLING, OR TAKING OF**
 34 **GAME.**

35 10–212.

1 (a) The General Assembly finds and declares that:

2 (1) Hunting is an important and traditional activity in which 14,000,000
3 Americans who are at least 16 years old participate;

4 (2) Hunters have been and continue to be among the foremost supporters
5 of sound wildlife management and conservation practices in the United States;

6 (3) Hunters and hunting organizations provide direct assistance to wildlife
7 managers and enforcement officers of federal, state, and local governments;

8 (4) Fees for hunting licenses, permits, and stamps, and taxes on goods used
9 by hunters, have generated billions of dollars for wildlife conservation, research, and
10 management;

11 (5) Hunting is an essential component of effective wildlife management, as
12 it is an important tool for reducing conflicts between people and wildlife and provides
13 incentives for the conservation of wildlife, habitats, and ecosystems on which wildlife
14 depends; [and]

15 (6) Hunting is an environmentally acceptable activity that occurs and can
16 be provided for on State public lands without adverse effects on other uses of the lands;
17 AND

18 (7) **POACHING, AS DEFINED IN § 10-101 OF THIS TITLE, IS NOT ONLY**
19 **A VIOLATION OF THE PUBLIC TRUST DOCTRINE, BUT ALSO VIOLATES THE TENETS OF**
20 **SOUND WILDLIFE MANAGEMENT AND CONSERVATION PRACTICES STRICTLY**
21 **ADHERED TO BY LAW-ABIDING SPORTSMEN AND SPORTSWOMEN WHO DEEM THE**
22 **ACT INTOLERABLE.**

23 **10-1101.1.**

24 (A) (1) **NOTWITHSTANDING § 10-1101 OF THIS SUBTITLE, IF A PERSON IS**
25 **CONVICTED OF POACHING DEER ON ~~PRIVATELY OWNED LAND~~ ANY LAND IN THE**
26 **STATE, THE COURT SHALL ORDER THE PERSON TO PAY THE STATE RESTITUTION IN**
27 **ACCORDANCE WITH THIS SECTION.**

28 (2) **FOR AN ACT OF POACHING THAT INVOLVES TRESPASSING ON**
29 **ANOTHER'S PROPERTY, THIS SECTION APPLIES WITH RESPECT TO THE TRESPASS**
30 **VIOLATION ONLY IF THE PERSON TRESPASSES IN A KNOWING OR WILLFUL MANNER.**

31 (B) (1) **FOR EACH SIKA DEER, ~~ANTLERLESS WHITE-TAILED DEER,~~ OR**
32 **ANTLERED WHITE-TAILED DEER THAT OBTAINS A SCORE OF 150 GROSS INCHES OR**
33 **LESS, AS MEASURED BY THE BOONE AND CROCKETT CLUB'S SCORING SYSTEM FOR**

1 WHITE-TAILED DEER, A PERSON CONVICTED OF POACHING DEER ~~ON PRIVATELY~~
2 ~~OWNED LAND~~ SHALL:

3 (I) PAY RESTITUTION OF NOT LESS THAN \$2,000 BUT NOT
4 EXCEEDING \$5,000, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; AND

5 (II) PERFORM 80 HOURS OF COMMUNITY SERVICE.

6 ~~(2) INSTEAD OF THE COMMUNITY SERVICE REQUIRED UNDER~~
7 ~~PARAGRAPH (1)(II) OF THIS SUBSECTION, A PERSON CONVICTED OF POACHING~~
8 ~~DEER MAY PAY RESTITUTION OF NOT LESS THAN \$4,000 BUT NOT EXCEEDING~~
9 ~~\$10,000, IN AN AMOUNT THAT IS DEEMED REASONABLE BY THE COURT.~~

10 ~~(3) (2) FOR EACH ANTLERED WHITE-TAILED DEER THAT OBTAINS A~~
11 ~~SCORE OF MORE THAN 150 GROSS INCHES, AS MEASURED BY THE BOONE AND~~
12 ~~CROCKETT CLUB'S SCORING SYSTEM FOR WHITE-TAILED DEER, A PERSON~~
13 ~~CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND SHALL:~~

14 (I) PAY RESTITUTION OF NOT LESS THAN \$5,000 BUT NOT
15 EXCEEDING \$10,000, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; AND

16 (II) PERFORM 80 HOURS OF COMMUNITY SERVICE.

17 ~~(4) INSTEAD OF THE COMMUNITY SERVICE REQUIRED UNDER~~
18 ~~PARAGRAPH (3)(II) OF THIS SUBSECTION, A PERSON CONVICTED OF POACHING~~
19 ~~DEER MAY PAY RESTITUTION OF NOT LESS THAN \$10,000 BUT NOT EXCEEDING~~
20 ~~\$20,000, IN AN AMOUNT THAT IS DEEMED REASONABLE BY THE COURT.~~

21 (3) FOR EACH ANTLERLESS WHITE-TAILED DEER, A PERSON
22 CONVICTED OF POACHING DEER SHALL:

23 (I) PAY RESTITUTION OF NOT LESS THAN \$300 BUT NOT
24 EXCEEDING \$500, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; OR

25 (II) PERFORM 40 HOURS OF COMMUNITY SERVICE.

26 (C) THE RESTITUTION COLLECTED UNDER THIS SECTION SHALL BE
27 CREDITED TO THE STATE WILDLIFE MANAGEMENT AND PROTECTION FUND,
28 ESTABLISHED UNDER § 10-209 OF THIS TITLE.

29 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
30 SECTION.

1 (a) If any fine is imposed by the District Court for a violation of any provision of
 2 this title, the fine shall be collected pursuant to the provisions of law of the District Court
 3 system, **WITH THE EXCEPTION OF RESTITUTION PAYMENTS MADE UNDER §**
 4 **10-1101.1 OF THIS SUBTITLE THAT ARE CREDITED TO THE STATE WILDLIFE**
 5 **MANAGEMENT AND PROTECTION FUND, ESTABLISHED UNDER § 10-209 OF THIS**
 6 **TITLE.**

7 (b) If any fine is imposed by the circuit court of any county, the fine, less the costs
 8 of collection, shall be paid to the State Wildlife Management and Protection Fund, unless
 9 otherwise provided for.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly
 11 encourages the Department of Natural Resources and the ~~Office of~~ Administrative
 12 ~~Hearings~~ Office of the Courts to develop a database that accounts for the disposition of
 13 proceeds derived from confiscated property used in the commission of a wildlife offense as
 14 set forth in § 10-1106 of the Natural Resources Article. On or before December 1, 2016, a
 15 report on these efforts shall be made to the Senate Education, Health, and Environmental
 16 Affairs Committee and the House Environment and Transportation Committee, in
 17 accordance with § 2-1246 of the State Government Article.

18 SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly
 19 encourages the Department of Natural Resources to work with local law enforcement
 20 agencies in developing protocols and strategies that facilitate a coordinated time-sensitive
 21 approach to investigate reports of deer poaching, including the authority to legally charge
 22 individuals suspected of poaching and to confiscate the property used in the commission of
 23 the offense.

24 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
 25 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.