

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

House Bill 755 (Allegany County Delegation and Garrett County
Delegation)

Environment and Transportation

Allegany County and Garrett County - Black Bears - Baiting

This bill establishes a statutory prohibition, in Allegany and Garrett counties, against a person taking or attempting to take a black bear by the aid of “baiting,” or within 150 yards of any “baited area,” if the person knows or reasonably should know that the area is baited.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: Overall, the bill does not materially affect State finances. The Department of Natural Resources (DNR) can continue to implement laws prohibiting the baiting of black bears with existing budgeted resources. However, the bill has an operational impact on DNR’s Natural Resources Police (NRP) and may result in the prosecution of fewer black bear baiting cases, as discussed below.

Local Effect: The bill does not materially impact local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Baiting” is the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed to lure bears to or on an area where people are attempting to take them. A “baited area” is an area where bait is directly or indirectly placed, exposed, deposited, distributed, or scattered. An

area remains baited for 10 days following the complete removal of all corn, wheat, or other grain, salt, or other feed.

The bill's prohibition does not extend to (1) standing crops, grain crops properly shucked on the field where they were grown, or grains found scattered solely as the result of a normal agricultural planting or harvesting or (2) lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed as the result of a bona fide agricultural operation or the manipulation of a crop or other feed on the land where grown for wildlife management purposes. However, manipulation for wildlife management purposes does not include distributing or scattering of grain or other feed once it has been removed from, or stored, on the field where grown.

Current Law: Baiting of black bears in Maryland is prohibited by regulation but not statute. In Maryland, a person may not take or attempt to take wild turkeys or black bears by the aid of baiting or on or over any baited area. The definitions of "baiting" and "baited area" in current regulations, as they pertain to black bears, are the same as those in the bill. In addition, the bill's provisions exempting specified activities from the baiting prohibition mirrors the exemptions in current regulations. However, under current regulations, baiting is a strict liability offense, meaning that a hunter does not need to know, nor reasonably should know, that an area is baited to be in violation. There is also no specific distance that a hunter must maintain from bait.

In addition to the specific prohibition on baiting, current regulations prohibit a person from placing any harvested crop, animal carcass, or food products on an area that may cause bears to congregate or become habituated to an area. A person who violates this prohibition is subject to a citation if the person does not remove the attractant at the request of a law enforcement officer.

Under current law, a person who illegally takes a black bear is subject to a fine of up to \$1,500 for a first violation and imprisonment for up to six months; for a second or subsequent violation, a violator is subject to a fine of up to \$2,000 and/or imprisonment for up to one year. Additionally, under the general wildlife penalties in the Natural Resources Article, NRP officers may seize any bear 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. An individual who violates general wildlife provisions, where the violation results in the injury, death, or destruction

of any wildlife, including a black bear, may be ordered by the court to pay restitution to the State for the resource value of the wildlife in addition to any other penalties. Under current regulations, black bears are valued at \$500. However, DNR has not yet adopted regulations establishing offenses, or a combination of offenses, for which the department may suspend hunting licenses and privileges.

Background: 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 implemented Maryland's first bear-hunting season in 51 years in October 2004 and has held hunts annually since then. The number of permits issued by DNR to hunt black bears has increased over time, from 200 permits in 2004 to 500 permits in 2015. Although each permit allows participation by up to three hunters, only one bear may be harvested per permit.

Between 2004 and 2013, DNR used a quota system for the black bear hunting season. The annual harvest quotas ranged from 30 to 130 bears. In 2004, hunters harvested 20 bears on the first day of the six-day season, and DNR closed the hunt at the end of the first day to avoid exceeding the quota. Between 2005 and 2013, the season length ranged from two to five days depending on how quickly the quota was met.

In 2014, DNR eliminated the quota system. Instead, a four-day hunting season was established, with 450 bear hunting permits issued. DNR advises that despite poor weather conditions, 69 bears were harvested during the four-day hunting season. In 2015, DNR issued 500 permits to 1,173 hunters, and 95 bears were harvested.

State Fiscal Effect: Although the bill is not expected to materially affect State finances, DNR advises that removing strict liability from black bear baiting offenses increases the workload for enforcing and prosecuting baiting cases and may result in fewer cases being prosecuted. Currently, an NRP officer does not need to prove that the hunter knows or reasonably should know that the area being hunted is baited; an officer only needs to prove that the bait acted as a lure and attraction to the bear, causing it to either be at the hunter's location, or pass by the hunter's location, while traveling to or from the baited area.

DNR advises that the number of black bear baiting violations issued by NRP in the past five years has ranged from as low as 3 in 2014 to as high as 11 in 2011. In 2015, 10 violations for black bear baiting were issued by NRP.

Additional Information

Prior Introductions: None.

Cross File: SB 524 (Senator Edwards) - Education, Health, and Environmental Affairs.

Information Source(s): Garrett County, Department of Natural Resources, Department of Legislative Services

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