

HOUSE BILL 1194

M1, M2

9lr2561
CF SB 760

By: **Delegates Lierman, Gilchrist, Hettleman, Lafferty, R. Lewis, and P. Young**

Introduced and read first time: February 8, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2019

CHAPTER _____

1 AN ACT concerning

2 ~~Natural Resources Whistleblower Program Establishment~~
3 Natural Resources Protection Program of 2019

4 FOR the purpose of requiring the Department of Natural Resources to establish a ~~Natural~~
5 ~~Resources Whistleblower Program~~ Natural Resources Protection Program through a
6 contractual relationship with a third-party organization to provide rewards of
7 financial compensation to individuals and nonprofit organizations that report
8 violations of natural resources and conservation laws; establishing the purpose of
9 the Program; requiring the Program to provide rewards of financial compensation
10 under certain circumstances to individuals or nonprofit organizations that report
11 violations of natural resources or conservation laws; establishing the Natural
12 ~~Resources Whistleblower Fund as a special, nonlapsing fund; specifying the purpose~~
13 ~~of the Fund; requiring the Department to administer the Fund; requiring the State~~
14 ~~Treasurer to hold the Fund and the Comptroller to account for the Fund; specifying~~
15 ~~the contents of the Fund; specifying the purpose for which the Fund may be used;~~
16 ~~providing for the investment of money in and expenditures from the Fund; requiring~~
17 ~~interest earnings of the Fund to be credited to the Fund; exempting the Fund from a~~
18 ~~certain provision of law requiring interest earnings on State money to accrue to the~~
19 ~~General Fund of the State; requiring the Department and the third-party~~
20 organization annually to submit a certain joint report to the Governor and the
21 General Assembly on or before a certain date; requiring the Department to select an
22 ombudsperson to serve as a liaison between the Department and the third-party
23 organization; establishing the purpose of the ombudsperson; requiring the
24 Department to adopt regulations to implement this Act on or before a certain date;
25 ~~altering the distribution of the proceeds of certain criminal fines and restitution~~

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 ~~imposed by certain courts for certain violations; making certain conforming changes;~~
2 ~~defining a certain term; and generally relating to the establishment of the Natural~~
3 ~~Resources Whistleblower Program a program to provide rewards of financial~~
4 ~~compensation for reporting violations of natural resources or conservation laws.~~

5 BY adding to

6 Article – Natural Resources
7 Section 1–211
8 Annotated Code of Maryland
9 (2018 Replacement Volume)

10 ~~BY repealing and reenacting, with amendments,~~

11 ~~Article – Natural Resources~~
12 ~~Section 4–1202~~
13 ~~Annotated Code of Maryland~~
14 ~~(2018 Replacement Volume)~~

15 ~~BY repealing and reenacting, without amendments,~~

16 ~~Article – Natural Resources~~
17 ~~Section 10–1101.1(a)(1)~~
18 ~~Annotated Code of Maryland~~
19 ~~(2012 Replacement Volume and 2018 Supplement)~~

20 ~~BY repealing and reenacting, with amendments,~~

21 ~~Article – Natural Resources~~
22 ~~Section 10–1101.1(c) and 10–1102~~
23 ~~Annotated Code of Maryland~~
24 ~~(2012 Replacement Volume and 2018 Supplement)~~

25 ~~BY repealing and reenacting, without amendments,~~

26 ~~Article – State Finance and Procurement~~
27 ~~Section 6–226(a)(2)(i)~~
28 ~~Annotated Code of Maryland~~
29 ~~(2015 Replacement Volume and 2018 Supplement)~~

30 ~~BY repealing and reenacting, with amendments,~~

31 ~~Article – State Finance and Procurement~~
32 ~~Section 6–226(a)(2)(ii)112. and 113.~~
33 ~~Annotated Code of Maryland~~
34 ~~(2015 Replacement Volume and 2018 Supplement)~~

35 BY adding to

36 ~~Article – State Finance and Procurement~~
37 ~~Section 6–226(a)(2)(ii)114.~~
38 ~~Annotated Code of Maryland~~
39 ~~(2015 Replacement Volume and 2018 Supplement)~~

Preamble

WHEREAS, Maryland's Natural Resources Police Field Operations Program is responsible for enforcing all laws of the State, including conservation laws, the State Boat Act, regulations governing fish and wildlife, forestry laws, and laws governing State parks and other managed lands owned or controlled by the Department of Natural Resources; and

WHEREAS, The Field Operations Program includes only 241 sworn officers; and

WHEREAS, Maryland has witnessed several high profile criminal cases related to the theft of commercially grown oysters, striped bass in the public fishery, and deer; and

WHEREAS, The Department has recognized the value of establishing a ~~whistleblower program by entering into a partnership contractual relationship~~ with a third party for the anonymous reporting of natural resources and conservation violations; and

WHEREAS, It is critical for the Department to make every effort to deploy its Field Operations Program personnel as efficiently as possible; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Natural Resources

1-211.

(A) (1) THE DEPARTMENT SHALL ESTABLISH ~~A NATURAL RESOURCES WHISTLEBLOWER PROGRAM~~ A NATURAL RESOURCES PROTECTION PROGRAM THROUGH A CONTRACTUAL RELATIONSHIP WITH A THIRD-PARTY ORGANIZATION TO PROVIDE REWARDS OF FINANCIAL COMPENSATION TO INDIVIDUALS AND NONPROFIT ORGANIZATIONS THAT REPORT VIOLATIONS OF NATURAL RESOURCES OR CONSERVATION LAWS.

(2) THE PURPOSE OF THE PROGRAM IS TO:

(I) PROVIDE THE NATURAL RESOURCES POLICE FORCE WITH ADDITIONAL ASSISTANCE AND RESOURCES IN ENFORCING CRIMINAL LAWS RELATED TO NATURAL RESOURCES AND CONSERVATION; ~~AND~~

(II) AUGMENT LAW ENFORCEMENT ACTIVITIES FOR STATE PARKS, WATERS, FORESTS, AND LANDS; AND

~~(3) (III) THE PROGRAM SHALL PROVIDE~~ PROVIDE REWARDS OF FINANCIAL COMPENSATION TO INDIVIDUALS OR NONPROFIT ORGANIZATIONS THAT

1 REPORT VIOLATIONS OF NATURAL RESOURCES OR CONSERVATION LAWS THAT LEAD
2 TO A CONVICTION.

3 ~~(B) (1) IN THIS SUBSECTION, "FUND" MEANS THE NATURAL RESOURCES~~
4 ~~WHISTLEBLOWER FUND.~~

5 ~~(2) THERE IS A NATURAL RESOURCES WHISTLEBLOWER FUND.~~

6 ~~(3) THE PURPOSE OF THE FUND IS TO FINANCE THE NATURAL~~
7 ~~RESOURCES WHISTLEBLOWER PROGRAM ESTABLISHED UNDER SUBSECTION (A) OF~~
8 ~~THIS SECTION.~~

9 ~~(4) THE DEPARTMENT SHALL ADMINISTER THE FUND.~~

10 ~~(5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT~~
11 ~~SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

12 ~~(II) THE STATE TREASURER SHALL HOLD THE FUND~~
13 ~~SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

14 ~~(6) THE FUND CONSISTS OF:~~

15 ~~(I) REVENUE DISTRIBUTED TO THE FUND FROM FINES AND~~
16 ~~RESTITUTION IMPOSED BY THE DISTRICT COURT OR A CIRCUIT COURT UNDER §§~~
17 ~~4-1202, 10-1101.1, AND 10-1102 OF THIS ARTICLE;~~

18 ~~(II) MONEY APPROPRIATED IN THE STATE BUDGET TO THE~~
19 ~~FUND;~~

20 ~~(III) INTEREST EARNINGS OF THE FUND THAT ARE CREDITED TO~~
21 ~~THE FUND; AND~~

22 ~~(IV) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED~~
23 ~~FOR THE BENEFIT OF THE FUND.~~

24 ~~(7) THE FUND MAY BE USED ONLY FOR THE IMPLEMENTATION AND~~
25 ~~ADMINISTRATION OF THE NATURAL RESOURCES WHISTLEBLOWER PROGRAM~~
26 ~~ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.~~

27 ~~(8) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE~~
28 ~~FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

29 ~~(II) INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO~~
30 ~~THE FUND.~~

1 ~~(9) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN~~
2 ~~ACCORDANCE WITH THE STATE BUDGET.~~

3 ~~(c)~~ (B) ON OR BEFORE OCTOBER 1 EACH YEAR, THE DEPARTMENT AND
4 THE THIRD-PARTY ORGANIZATION SHALL SUBMIT A JOINT REPORT TO THE
5 GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
6 ARTICLE, THE GENERAL ASSEMBLY DETAILING FOR THE PREVIOUS FISCAL YEAR:

7 (1) THE ~~REVENUE~~ AGGREGATE VALUE OF THE CONTRIBUTIONS
8 COLLECTED AND THE REWARDS OF FINANCIAL COMPENSATION DISTRIBUTED BY
9 THE NATURAL RESOURCES WHISTLEBLOWER FUND;

10 (2) THE NUMBER AND TYPES OF REPORTS OF VIOLATIONS PROVIDED
11 TO THE THIRD-PARTY ORGANIZATION AND THE DEPARTMENT; AND

12 (3) THE NUMBER OF VIOLATIONS REPORTED THAT LED TO REWARDS
13 OF FINANCIAL COMPENSATION;

14 (4) THE METHODOLOGY THAT THE THIRD-PARTY ORGANIZATION
15 USED TO MAKE THE REWARDS;

16 (5) THE VALUE OF CONTRIBUTIONS BY INDIVIDUAL AND CORPORATE
17 DONATIONS;

18 (6) THE NUMBER OF TIPS THAT LED TO ARRESTS AND ADJUDICATION;

19 (7) THE CUMULATIVE VALUE OF NATURAL RESOURCES AND
20 PROPERTY INVOLVED IN THE CASES; AND

21 (8) A LIST OF NONINDIVIDUAL DONORS.

22 (C) (1) THE DEPARTMENT SHALL SELECT AN OMBUDSPERSON TO SERVE
23 AS A LIAISON BETWEEN THE DEPARTMENT AND THE THIRD-PARTY ORGANIZATION.

24 (2) THE OMBUDSPERSON SHALL BE AN EMPLOYEE OF THE
25 DEPARTMENT.

26 (3) THE PURPOSE OF THE OMBUDSPERSON IS TO:

27 (I) BE THE PRIMARY LIAISON BETWEEN THE DEPARTMENT,
28 THE NATURAL RESOURCES POLICE FORCE, THE THIRD-PARTY ORGANIZATION,
29 AND THE INDIVIDUAL OR ORGANIZATION THAT PROVIDED THE TIP;

1 (II) COLLECT AND MAINTAIN RECORDS AND DATA FOR THE
 2 REPORTING REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION;

3 (III) PROVIDE INDIVIDUALS AND NONPROFIT ORGANIZATIONS
 4 REGULAR UPDATES ON THE STATUS OF THE PROVIDED TIPS;

5 (IV) WORK WITH THE DEPARTMENT AND THE THIRD-PARTY
 6 ORGANIZATION TO PROACTIVELY MARKET THE EXISTENCE OF THE PROGRAM; AND

7 (V) MAINTAIN ACTIVE COMMUNICATION WITH THE NATURAL
 8 RESOURCES POLICE FORCE INVESTIGATORY DIVISION AND ENSURE THAT TIPS ARE
 9 INVESTIGATED FULLY BY THE NATURAL RESOURCES POLICE FORCE.

10 (D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
 11 SECTION.

12 ~~4-1202.~~

13 (a) (1) ~~Except as provided in paragraph (2) of this subsection, if any fine is~~
 14 ~~imposed by the District Court for a violation of any provision of this title, the fine shall be~~
 15 ~~collected pursuant to the provisions of law of the District Court system.~~

16 (2) ~~Notwithstanding any other provision of law, a fine imposed by the~~
 17 ~~District Court under § 4-1201(h) of this subtitle on a person who commits a separate~~
 18 ~~commercial fishing violation while the license or authorization is suspended or revoked or~~
 19 ~~who engages in commercial fishing activity without holding the appropriate license or~~
 20 ~~authorization, less the costs of collection, shall be paid AS FOLLOWS:~~

21 (I) ~~75% to the Fisheries Research and Development Fund,~~
 22 ~~ESTABLISHED UNDER § 4-209 OF THIS TITLE; AND~~

23 (II) ~~25% TO THE NATURAL RESOURCES WHISTLEBLOWER~~
 24 ~~FUND, ESTABLISHED UNDER § 1-211 OF THIS ARTICLE.~~

25 (b) ~~If any fine is imposed by the circuit court of any county, the fine, less the costs~~
 26 ~~of collection, shall be paid AS FOLLOWS:~~

27 (1) ~~75% to the Fisheries Research and Development Fund, [unless~~
 28 ~~otherwise provided for] ESTABLISHED UNDER § 4-209 OF THIS TITLE; AND~~

29 (2) ~~25% TO THE NATURAL RESOURCES WHISTLEBLOWER FUND,~~
 30 ~~ESTABLISHED UNDER § 1-211 OF THIS ARTICLE.~~

31 ~~10-1101.1.~~

1 ~~(a) (1) Notwithstanding § 10-1101 of this subtitle, if a person is convicted of~~
2 ~~poaching deer on any land in the State, the court shall order the person to pay the State~~
3 ~~restitution in accordance with this section.~~

4 ~~(e) The restitution collected under this section shall be credited AS FOLLOWS:~~

5 ~~(1) 75% to the State Wildlife Management and Protection Fund,~~
6 ~~established under § 10-209 of this title; AND~~

7 ~~(2) 25% TO THE NATURAL RESOURCES WHISTLEBLOWER FUND,~~
8 ~~ESTABLISHED UNDER § 1-211 OF THIS ARTICLE.~~

9 ~~10-1102.~~

10 ~~(a) If any fine is imposed by the District Court for a violation of any provision of~~
11 ~~this title, the fine shall be collected pursuant to the provisions of law of the District Court~~
12 ~~system, with the exception of restitution payments made under § 10-1101.1 of this subtitle~~
13 ~~that are credited to the State Wildlife Management and Protection Fund, established under~~
14 ~~§ 10-209 of this title, AND THE NATURAL RESOURCES WHISTLEBLOWER FUND,~~
15 ~~ESTABLISHED UNDER § 1-211 OF THIS ARTICLE.~~

16 ~~(b) If any fine is imposed by the circuit court of any county, the fine, less the costs~~
17 ~~of collection, shall be paid AS FOLLOWS:~~

18 ~~(1) 75% to the State Wildlife Management and Protection Fund, [unless~~
19 ~~otherwise provided for] ESTABLISHED UNDER § 10-209 OF THIS TITLE; AND~~

20 ~~(2) 25% TO THE NATURAL RESOURCES WHISTLEBLOWER FUND,~~
21 ~~ESTABLISHED UNDER § 1-211 OF THIS ARTICLE.~~

22 ~~Article State Finance and Procurement~~

23 ~~6-226.~~

24 ~~(a) (2) (i) Notwithstanding any other provision of law, and unless~~
25 ~~inconsistent with a federal law, grant agreement, or other federal requirement or with the~~
26 ~~terms of a gift or settlement agreement, net interest on all State money allocated by the~~
27 ~~State Treasurer under this section to special funds or accounts, and otherwise entitled to~~
28 ~~receive interest earnings, as accounted for by the Comptroller, shall accrue to the General~~
29 ~~Fund of the State.~~

30 ~~(ii) The provisions of subparagraph (i) of this paragraph do not apply~~
31 ~~to the following funds:~~

32 ~~112. the Pretrial Services Program Grant Fund; [and]~~

1 ~~113. the Veteran Employment and Transition Success Fund;~~
2 ~~AND~~

3 ~~114. THE NATURAL RESOURCES WHISTLEBLOWER FUND.~~

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural
5 Resources shall adopt the regulations required under this Act on or before October 1, 2019.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.