

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Natural Resources
(DLS Control No. 15-104)**

Overview and Legal and Fiscal Impact

The regulation modifies an existing prohibition against a person hunting baited game birds by adding an element of criminal intent to the baiting regulation in accordance with Chapter 148 of 2015.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

Department of Natural Resources:

Wildlife: General Wildlife Hunting Regulations: COMAR 08.03.10.07

Legal Analysis

Background

“Baiting” generally means putting out corn, grain, salt, or other feed to lure birds over an area where people are attempting to hunt them. The “baited area” broadly means the place where the bait was deposited or distributed. Under federal law, a person may not hunt game birds with the aid of bait or over a baited area if the person knows or reasonably should know that the area is a baited area. Chapter 148 of 2015 conforms Maryland law with federal law by adding the element of criminal intent that a person must know or reasonably should know that an area is baited before the person may be convicted of hunting game birds with the aid of bait or over a baited area.

Summary of Regulation

The regulation implements Chapter 148 by modifying an existing prohibition against a person hunting baited upland game birds (except pheasant and quail) or wetland game birds by adding language that a person may not hunt these game birds if the person knows or reasonably should know that the area is a baited area.

Legal Issue

The regulation presents no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites § 10-412 of the Natural Resources Article as authority for the regulation. Section 10-412, as amended by Chapter 148, prohibits a person from hunting upland game birds (except quail and pheasant) or wetland game birds by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area.

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Special Note

The department intends to publish this regulation in the June 26, 2015 issue of the *Maryland Register*. Although this publication date is well in advance of the October 1, 2015 effective date of Chapter 148, the department has indicated that the adoption of the regulation will be effective October 1, 2015.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulation has minimal or no impact on State or local governments. The Department of Legislative Services concurs and notes that the regulation merely implements Chapter 148 of 2015 (Senate Bill 88). The fiscal and policy note for Senate Bill 88 estimates that general fund expenditures may increase by up to \$386,300 in fiscal 2016 for the department to purchase equipment necessary to enforce the prohibition on baiting, as amended by the bill. Future year expenditures (ranging from \$15,000 in fiscal 2017 to \$24,000 by fiscal 2020) reflect maintenance of equipment. The regulation has no fiscal impact beyond that anticipated in the fiscal and policy note.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

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