

HOUSE BILL 380

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1999 Regular Session  
9r1276  
CF 9r1703

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By: **Delegates Gordon, Kagan, and Barve**  
Introduced and read first time: February 8, 1999  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Nongame and Endangered Species Conservation Act -**  
3 **Penalties and Searches**

4 FOR the purpose of authorizing the Secretary of Natural Resources or a certain  
5 designated hearing officer to assess and to collect a certain fine for certain  
6 violations under certain circumstances; authorizing the State to attach a lien on  
7 certain real and personal property under certain circumstances; making certain  
8 criminal penalties apply only to willful and knowing violations of certain  
9 provisions of law; clarifying that a certain violation is a misdemeanor; making  
10 stylistic changes; requiring a Natural Resources officer or other law  
11 enforcement officer to search certain business records in a certain location; and  
12 generally relating to penalties and searches under the Nongame and  
13 Endangered Species Conservation Act.

14 BY repealing and reenacting, with amendments,  
15 Article - Natural Resources  
16 Section 10-2A-07  
17 Annotated Code of Maryland  
18 (1990 Replacement Volume and 1998 Supplement)

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

21 **Article - Natural Resources**

22 10-2A-07.

23 (a) (1) (I) THE SECRETARY OR A HEARING OFFICER DESIGNATED IN  
24 WRITING BY THE SECRETARY MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN \$500  
25 FOR A VIOLATION OF § 10-2A-05 OF THIS SUBTITLE AFTER AN OPPORTUNITY FOR A  
26 HEARING. THE PERSON ACCUSED OF THE VIOLATION MAY WAIVE THE HEARING IN  
27 WRITING. THE FINE SHALL BE PAYABLE TO THE STATE AND COLLECTIBLE IN ANY  
28 MANNER PROVIDED AT LAW FOR THE COLLECTION OF DEBTS.

1 (II) IF A PERSON LIABLE TO PAY A PENALTY NEGLECTS OR  
2 REFUSES TO PAY IT AFTER DEMAND, THE PENALTY AND ANY INTEREST AND ANY  
3 COSTS THAT MAY ACCRUE SHALL BE A LIEN IN FAVOR OF THE STATE UPON THE  
4 REAL AND PERSONAL PROPERTY OF THE PERSON AND SHALL BE RECORDED IN THE  
5 CLERK OF COURT'S OFFICE OF THE POLITICAL SUBDIVISION IN WHICH THE  
6 PROPERTY IS LOCATED.

7 (2) Any person who WILLFULLY AND KNOWINGLY violates the provisions  
8 of § 10-2A-05 of this subtitle, fails to procure any permit required by § 10-2A-05 of  
9 this subtitle, or violates the terms of any permit [shall be fined not more than] IS  
10 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT  
11 EXCEEDING \$1,000 or [be imprisoned not more than] IMPRISONMENT NOT  
12 EXCEEDING 1 year[,] or both.

13 (b) Any Natural Resources police officer or any law enforcement officer may  
14 conduct searches as provided by law, and execute a warrant to search for and seize  
15 any equipment, business records, merchandise, wildlife, or plants taken, used, or  
16 possessed in connection with a violation of any subsection. ANY NATURAL RESOURCES  
17 POLICE OFFICER OR ANY LAW ENFORCEMENT OFFICER CONDUCTING A SEARCH OF  
18 THE BUSINESS RECORDS USED OR POSSESSED IN CONNECTION WITH A VIOLATION  
19 OF ANY SECTION OF THIS SUBTITLE SHALL SEARCH THE BUSINESS RECORDS ON THE  
20 PREMISES WHERE THE BUSINESS RECORDS ARE KEPT. Any Natural Resources police  
21 officer or law enforcement officer, without a warrant, may arrest any person who the  
22 officer has probable cause to believe is violating, in the officer's presence or view, this  
23 subtitle or any regulation or permit provided for by this subtitle. Any Natural  
24 Resources police officer or law enforcement officer who has made an arrest of a person  
25 in connection with any violation may search the person, premises, or business records  
26 at the time of arrest and may seize any wildlife, plants, records, or property taken, or  
27 used in connection with any violation.

28 (c) Equipment, merchandise, wildlife, plants or records seized under the  
29 provisions of subsection (b) of this section shall be held by any Natural Resources  
30 police officer or law enforcement officer pending disposition of court proceedings, and  
31 after disposition of court proceedings shall be forfeited to the State for destruction or  
32 disposition as the Secretary may deem appropriate. Prior to forfeiture the Secretary  
33 may direct the transfer of wildlife or plants so seized to a qualified zoological,  
34 botanical, educational, or scientific institution for safekeeping, costs to be assessable  
35 to the defendant. The Secretary may issue regulations to implement this section.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 October 1, 1999.