

BY: Environmental Matters Committee

AMENDMENTS TO SENATE BILL NO. 18
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Waterfowl” and substitute “Riparian Property - Potomac River”; strike beginning with “repealing” in line 3 down through “Act” in line 8 and substitute “altering a certain prohibition on the licensing of certain stationary blinds or blind sites by owners of certain riparian property adjacent to the Potomac River; authorizing the licensing of certain stationary blinds or blind sites by owners of certain riparian property adjacent to the Potomac River”; in line 8, after the second “of” insert “certain”; and in line 9, after “sites” insert “by owners of certain riparian property adjacent to the Potomac River”.

AMENDMENT NO. 2

On page 1, after line 19, insert:

“Preamble

WHEREAS, Under Chapter 4 of the Acts of the General Assembly of the First Special Session of 1973, the Maryland General Assembly enacted the nonsubstantive code revision of a new Natural Resources Article; and

WHEREAS, Although the Court of Appeals has held that this 1973 Act did not effectuate a substantive change in the law, Bureau of Mines v. George’s Creek, 272 Md. 143, 155 (1974), language inserted by that Act prohibiting a nonresident from obtaining a stationary blind or blind site license for riparian shoreline did cast doubt on the rights of out-of-state riparian owners to obtain this license; and

WHEREAS, In the process of transferring blind site licensing authority from the clerks of court to the Department of Natural Resources, Chapter 703 of the Acts of 1999 added an express prohibition on the blind site licensing of nonresident riparian owners adjacent to the Potomac River;

(Over)

and

WHEREAS, In its September 7, 2001 review of this issue, the Office of the Attorney General of Maryland found that, under the Privileges and Immunities Clause of the U. S. Constitution, the denial of shoreline licensing rights solely to out-of-state residents has an unconstitutional effect on the commercial rights of these individuals; and

WHEREAS, The tidal portion of the Potomac is bordered by Virginia and Maryland, and its shoreline is well suited to licensing stationary blinds and blind sites; and

WHEREAS, The nontidal portion of the Potomac is bordered by Virginia, West Virginia, and Maryland, and the vast majority of this Maryland shoreline is owned by the federal government and is, therefore, unavailable for shoreline licensing; and

WHEREAS, What little of the nontidal Potomac shoreline in Maryland that is not federally owned consists of both mainland shoreline and islands; and

WHEREAS, Given the statutory authorization of hunting wild waterfowl from a boat that is drifting or being sculled, also known as “sneak boating”, in the nontidal waters of the Potomac River under § 10-605(a) of the Natural Resources Article, the mainland shoreline is not appropriate for the establishment of stationary blinds or blind sites; and

WHEREAS, The island shoreline, which is better suited for the establishment of these blinds and blind sites, is an area for which shoreline licenses are already issued; and

WHEREAS, The General Assembly seeks to address prior oversights in the law regarding the shoreline licensing rights of nonresidents and to correct this inadvertent discrimination to the fullest extent possible, while recognizing the limitations operative on the mainland portion of the State shoreline that is adjacent to the nontidal Potomac River; and

WHEREAS, The General Assembly hereby provides for the equal treatment of residents and nonresidents in the licensing of stationary blinds and blind sites along the Potomac shoreline in Maryland by authorizing the issuance of these licenses along shoreline that is adjacent to the tidal waters of the Potomac River, as well as on the island shoreline that is adjacent to the nontidal waters of the Potomac, and by prohibiting the issuance of licenses along the mainland shoreline that is adjacent to the Potomac’s nontidal waters; now, therefore,”.

AMENDMENT NO. 3

On page 2, in line 6, strike “Persons” and substitute “UNDER THIS SUBTITLE, PERSONS”; in the same line, after “in” insert “:

(I) MARYLAND OR”;

in line 7, strike “their” and substitute “STATE”; and in line 8, strike “under this subtitle” and substitute “: AND

(II) MARYLAND, VIRGINIA, OR WEST VIRGINIA THAT IS ADJACENT TO THE NONTIDAL WATERS OF THE POTOMAC RIVER:

1. MAY LICENSE STATE ISLAND SHORELINE; AND

2. MAY NOT LICENSE STATE MAINLAND SHORELINE”.