

HOUSE BILL 10

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2002 Regular Session
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(PRE-FILED)

By: Delegates Edwards, Owings, Taylor, Hurson, Arnick, Busch, Conway, Dewberry, Doory, Harrison, Hixson, Howard, Kopp, McIntosh, Menes, Montague, Rawlings, Rosenberg, Vallario, and Wood Wood, W. Baker, Cadden, Cane, Carlson, Cole, Crouse, C. Davis, DeCarlo, Donoghue, Franchot, Giannetti, Howard, Hubers, V. Jones, Kirk, Minnick, Parrott, Petzold, Riley, Valderrama, and Weir

Requested: August 24, 2001
Introduced and read first time: January 9, 2002
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: February 20, 2002

CHAPTER _____

1 AN ACT concerning

2 **Natural Resources - Black Bear Management Permit Program**

3 FOR the purpose of ~~requiring the Secretary of Natural Resources to adopt regulations~~
4 ~~establishing a limited black bear hunting season under certain circumstances;~~
5 ~~requiring the Secretary to adopt certain regulations by a certain date; providing~~
6 ~~for the distribution of certain revenues; authorizing the Department of Natural~~
7 ~~Resources to take certain actions relating to the control of the black bear~~
8 ~~population; providing that a certain criminal penalty does not apply in certain~~
9 ~~circumstances; requiring that a certain minimum percentage of black bear~~
10 ~~hunting stamps shall be awarded in a certain manner; requiring~~
11 ~~implementation of certain regulations by a certain date; defining a certain term;~~
12 establishing a certain black bear management permit program in the
13 Department of Natural Resources; requiring the Department to issue certain
14 permits to certain property owners, lessees, or designees upon a certain
15 demonstration; authorizing the harvest of bears at certain sites under a certain
16 circumstance; authorizing the Department to suspend the permit program
17 under a certain circumstance for a certain period; specifying certain legislative
18 findings; requiring the Department to adopt certain regulations by a certain
19 date; and generally relating to the control of the black bear population
20 establishment of a certain black bear management permit program.

21 ~~BY renumbering~~

1 ~~Article - Natural Resources~~
 2 ~~Section 10-101(b) through (bb), respectively~~
 3 ~~to be Section 10-101(e) through (ee), respectively~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2000 Replacement Volume and 2001 Supplement)~~

6 BY repealing and reenacting, with amendments,
 7 Article - Natural Resources
 8 Section 10-423
 9 Annotated Code of Maryland
 10 (2000 Replacement Volume and 2001 Supplement)

11 BY adding to
 12 Article - Natural Resources
 13 Section ~~10-101(b) and 10-426~~ 10-423.2
 14 Annotated Code of Maryland
 15 (2000 Replacement Volume and 2001 Supplement)

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Article - Natural Resources~~
 18 ~~Section 10-423~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2000 Replacement Volume and 2001 Supplement)~~

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 22 MARYLAND, That ~~Section(s) 10-101(b) through (bb), respectively, of Article-~~
 23 ~~Natural Resources of the Annotated Code of Maryland be renumbered to be Section(s)~~
 24 ~~10-101(e) through (ee), respectively.~~

25 ~~SECTION 2. AND BE IT FURTHER ENACTED, That~~ the Laws of Maryland
 26 read as follows:

27 **Article - Natural Resources**

28 ~~10-101.~~

29 ~~(B) "CARRYING CAPACITY" MEANS THE MAXIMUM NUMBER OF A SPECIES~~
 30 ~~THAT CAN BE SUPPORTED BY A GIVEN HABITAT.~~

31 10-423.

32 (a) Any penalty imposed under this section does not apply to an individual
 33 who kills or wounds a black bear in defense of the individual's own life, the lives of
 34 other individuals, or the lives of animals on the individual's property.

1 (b) A PENALTY IMPOSED UNDER THIS SECTION DOES NOT APPLY TO AN
 2 INDIVIDUAL WHO KILLS OR WOUNDS A BLACK BEAR IN ACCORDANCE WITH § ~~10-426~~
 3 10-423.2 OF THIS SUBTITLE AND THE REGULATIONS ADOPTED UNDER § ~~10-426~~
 4 10-423.2 OF THIS SUBTITLE.

5 (C) If the Secretary adopts any regulation, including an emergency regulation,
 6 under § 10-205 of this title or § 10-405 of this subtitle to prohibit the hunting,
 7 possessing, selling, purchasing, shipping, carrying, transporting, or exporting of black
 8 bears, a person who violates the regulation is subject to the following penalties:

9 (1) For a first offense, a fine not exceeding \$1,500, imprisonment not
 10 exceeding 6 months, or both and suspension of the person's hunting license and right
 11 to hunt any bird or game animal for a period of time not exceeding 2 years; and

12 (2) For a second or subsequent offense, a fine not exceeding \$2,000,
 13 imprisonment not exceeding 1 year, or both and suspension of the person's hunting
 14 license and right to hunt any bird or game animal for a period of time not exceeding
 15 4 years.

16 ~~10-426~~ 10-423.2.

17 (A) ~~THE GENERAL ASSEMBLY FINDS THAT DUE TO THE EFFECT OF THE~~
 18 ~~INCREASING BLACK BEAR POPULATION ON AGRICULTURAL OPERATIONS AND ON~~
 19 ~~PRIVATE PROPERTY IN MARYLAND, PARTICULARLY IN THE TWO WESTERNMOST~~
 20 ~~COUNTIES, IT IS IN THE PUBLIC INTEREST TO IMPLEMENT THE RECOMMENDATIONS~~
 21 ~~OF THE 1995 BLACK BEAR CITIZENS TASK FORCE THAT WAS ASSEMBLED BY THE~~
 22 ~~DEPARTMENT~~ THE GENERAL ASSEMBLY FINDS THAT:

23 (1) THE BLACK BEAR POPULATION HAS INCREASED SIGNIFICANTLY IN
 24 RECENT YEARS, PARTICULARLY IN THE TWO WESTERNMOST COUNTIES OF THE
 25 STATE;

26 (2) FREQUENTLY THESE BEARS HAVE IMPAIRED THE USE AND
 27 ENJOYMENT OF PRIVATE PROPERTY AND CAUSED SUBSTANTIAL DAMAGE TO
 28 AGRICULTURAL OPERATIONS, INCLUDING LIVESTOCK, AND ON OCCASION HAVE
 29 BEEN PERCEIVED TO CONSTITUTE A THREAT TO HUMAN LIFE AND DOMESTICATED
 30 ANIMALS; AND

31 (3) IT IS, THEREFORE, IN THE PUBLIC INTEREST THAT THE
 32 DEPARTMENT ADDRESS THESE CONCERNS BY ESTABLISHING A BLACK BEAR
 33 MANAGEMENT PERMIT PROGRAM TO ADDRESS THE MANAGEMENT AND CONTROL OF
 34 NUISANCE BEARS.

35 (B) ~~ON OR BEFORE OCTOBER 1, 2002, THE SECRETARY SHALL ADOPT~~
 36 ~~REGULATIONS TO:~~

37 (†) ~~ESTABLISH, IN ACCORDANCE WITH SUBSECTION (C) OF THIS~~
 38 ~~SECTION, A LIMITED BLACK BEAR HUNTING SEASON TO CONTROL THE BLACK BEAR~~
 39 ~~POPULATION IN A REGION WHERE THE BLACK BEAR POPULATION EXCEEDS THE~~
 40 ~~REGION'S CARRYING CAPACITY; AND~~

1 (2) ~~REQUIRE THAT, NOTWITHSTANDING ANY OTHER PROVISION OF THIS~~
2 ~~TITLE, MONEY GENERATED FROM THE SALE OF LOTTERY CHANCES OR BLACK BEAR~~
3 ~~HUNTING STAMPS BE CREDITED TO THE STATE WILDLIFE MANAGEMENT AND~~
4 ~~PROTECTION FUND.~~

5 (C) ~~IN ESTABLISHING A LIMITED BLACK BEAR HUNTING SEASON UNDER~~
6 ~~SUBSECTION (B)(1) OF THIS SECTION, THE DEPARTMENT MAY:~~

7 (1) ~~REGULATE THE TIME PERIOD AND LOCATIONS WHERE BLACK BEAR~~
8 ~~HUNTING IS ALLOWED;~~

9 (2) ~~ESTABLISH THE NUMBER OF BLACK BEAR HUNTING STAMPS ISSUED,~~
10 ~~AT A LEVEL NECESSARY TO CONTROL THE BLACK BEAR POPULATION;~~

11 (3) ~~OPERATE A LOTTERY WHEREBY AN INDIVIDUAL WHO HOLDS A~~
12 ~~VALID LICENSE ISSUED UNDER § 10-301(F)(1)(I), (II), OR (III), (2), OR (3) OR § 10-303 OF~~
13 ~~THIS TITLE MAY PURCHASE A CHANCE TO COMPETE FOR A BLACK BEAR HUNTING~~
14 ~~STAMP;~~

15 (4) ~~REQUIRE THAT THE FEE IS NONREFUNDABLE IF THE APPLICANT~~
16 ~~DOES NOT OBTAIN A BLACK BEAR HUNTING STAMP;~~

17 (5) ~~REQUIRE THAT IF AN INDIVIDUAL OBTAINS A BLACK BEAR HUNTING~~
18 ~~STAMP, THE APPLICATION FEE FOR THE LOTTERY WILL BE APPLIED TO THE FEE FOR~~
19 ~~THE BLACK BEAR HUNTING STAMP;~~

20 (6) ~~PROVIDE FOR THE DISTRIBUTION OF BLACK BEAR HUNTING STAMPS~~
21 ~~AND ALLOW AN AGENT SELLING BLACK BEAR HUNTING STAMPS TO RETAIN AN~~
22 ~~AMOUNT SET BY THE DEPARTMENT FOR THE COST OF THE STAMP; AND~~

23 (7) ~~ESTABLISH THE FEE FOR BLACK BEAR HUNTING STAMPS AT A LEVEL~~
24 ~~THAT THE DEPARTMENT BELIEVES WILL GENERATE ADEQUATE REVENUE IN THE~~
25 ~~STATE WILDLIFE MANAGEMENT AND PROTECTION FUND TO MEET THE BLACK BEAR~~
26 ~~MANAGEMENT NEEDS OF THE STATE.~~

27 (D) ~~A PERSON MAY HUNT BLACK BEAR ON PRIVATE LAND ONLY IF CARRYING~~
28 ~~THE WRITTEN PERMISSION OF THE OWNER OF THE LAND OR OTHER PERSON~~
29 ~~DESIGNATED BY THE OWNER OF THE LAND, IF THE LAND IS OWNED OR LEASED BY A~~
30 ~~PERSON OTHER THAN THE PERSON HUNTING.~~

31 (E) ~~TO THE EXTENT POSSIBLE, A MINIMUM OF 10% OF THE BLACK BEAR~~
32 ~~HUNTING STAMPS ISSUED IN A COUNTY WHERE HUNTING IS TO TAKE PLACE SHALL~~
33 ~~BE AWARDED TO COUNTY RESIDENTS.~~

34 (F) ~~ON OR BEFORE OCTOBER 1, 2002, THE DEPARTMENT SHALL FULLY~~
35 ~~IMPLEMENT THE REGULATIONS ADOPTED UNDER THIS SECTION.~~

36 (G) ~~A LOTTERY FOR PURPOSES OF DISTRIBUTING BLACK BEAR HUNTING~~
37 ~~STAMPS UNDER THIS SECTION MAY NOT BE CONSTRUED TO BE A LOTTERY UNDER~~

1 ~~ARTICLE III, SECTION 36 OF THE CONSTITUTION OR § 12-203 OF THE CRIMINAL LAW~~
2 ~~ARTICLE.~~

3 (B) THERE IS A BLACK BEAR MANAGEMENT PERMIT PROGRAM IN THE
4 DEPARTMENT.

5 (C) THE DEPARTMENT SHALL ISSUE A MANAGEMENT PERMIT TO AN OWNER
6 OF PROPERTY, A LESSEE OF AGRICULTURAL OR RESIDENTIAL PROPERTY, OR A
7 DESIGNEE OF AN OWNER OR LESSEE OF PROPERTY WHERE THE FOLLOWING HAVE
8 BEEN DEMONSTRATED:

9 (1) (I) ACTUAL DAMAGE TO THE PROPERTY, INCLUDING
10 AGRICULTURAL PRODUCTS, CAUSED BY A BLACK BEAR ON THE PROPERTY; OR

11 (II) A THREAT OF HARM TO HUMAN LIFE OR ANIMALS ON THE
12 PROPERTY THAT CAN BE ESTABLISHED AS A RESULT OF BLACK BEAR ACTIVITY; AND

13 (2) THE UTILIZATION OF REASONABLE PREVENTATIVE MEASURES BY
14 THE PROPERTY OWNER OR LESSEE TO MINIMIZE THE RISK OF BLACK BEAR ACTIVITY
15 ON THE PROPERTY.

16 (D) THE DEPARTMENT MAY AUTHORIZE THE HARVEST OF A BLACK BEAR ON A
17 SITE OTHER THAN THE PROPERTY THAT IS THE SUBJECT OF THE PERMIT IF THE
18 HARVEST SITE IS REASONABLY NEAR TO THAT PROPERTY.

19 (E) IF THE STATE'S POPULATION OF BLACK BEARS IS DESIGNATED AS A
20 THREATENED OR ENDANGERED SPECIES UNDER THE STATE NONGAME AND
21 ENDANGERED SPECIES CONSERVATION ACT, THE DEPARTMENT MAY SUSPEND THE
22 PERMIT PROGRAM ESTABLISHED UNDER THIS SECTION FOR THE PERIOD OF THE
23 DESIGNATION.

24 (F) BY OCTOBER 1, 2002, THE DEPARTMENT SHALL ADOPT REGULATIONS TO
25 IMPLEMENT THE PROVISIONS OF THIS SECTION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2002.