
By: **Prince George's County Delegation and Montgomery County
Delegation**

Introduced and read first time: February 6, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Citations -**
3 **Hunting**
4 **PG/MC 119-02**

5 FOR the purpose of authorizing the Maryland-National Capital Park and Planning
6 Police to issue citations for certain violations in a certain manner; prohibiting
7 hunting on property owned, operated, or leased by the Maryland-National
8 Capital Park and Planning Commission without permission of the Commission;
9 providing that certain violations are a misdemeanor subject to certain penalties;
10 clarifying certain provisions relating to certain violations; and generally relating
11 to Maryland-National Capital Park and Planning Commission property and
12 hunting.

13 BY repealing and reenacting, with amendments,
14 Article 28 - Maryland-National Capital Park and Planning Commission
15 Section 2-120
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 2001 Supplement)

18 BY adding to
19 Article 28 - Maryland-National Capital Park and Planning Commission
20 Section 2-120.1 and 5-113.1
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2001 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article 28 - Maryland-National Capital Park and Planning Commission
25 Section 5-113
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2001 Supplement)

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

3 **Article 28 - Maryland-National Capital Park and Planning Commission**

4 2-120.

5 Every act or omission designated as a misdemeanor in this article, unless
6 otherwise provided, shall be punishable before any District Court or the circuit court
7 of the county in which the offense is committed. It may be brought by warrant or
8 indictment upon the oath or information of any member of the Commission or the
9 employee thereof or any other person. [Upon] EXCEPT AS OTHERWISE PROVIDED IN
10 THIS ARTICLE, ON conviction thereof, the offender shall be subject to a fine not
11 exceeding \$500 or to 90 days imprisonment in the county jail, or both, in the
12 discretion of the court. If the act or omission is of a continuing nature, or is persisted
13 in, in violation of the provisions of this article, or of any regulation enacted or decision
14 made under the powers granted in this article, each and every day during which the
15 act or omission continues or is persisted in shall be deemed a separate misdemeanor.

16 2-120.1.

17 (A) IF A PARK POLICE OFFICER APPREHENDS A PERSON FOR VIOLATING ANY
18 LAW PUNISHABLE UNDER § 5-113.1 OF THIS ARTICLE AS A MISDEMEANOR, THE
19 OFFICER MAY PREPARE AND SIGN A WRITTEN CITATION CONTAINING A NOTICE TO
20 APPEAR IN COURT, THE NAME AND ADDRESS OF THE PERSON CHARGED,
21 APPROPRIATE LICENSE NUMBERS, IF ANY, THE OFFENSE CHARGED, THE TIME AND
22 PLACE THE PERSON SHALL APPEAR IN COURT, AND OTHER PERTINENT
23 INFORMATION REQUIRED BY THE COMMISSION.

24 (B) THE PERSON CHARGED MAY GIVE WRITTEN PROMISE TO APPEAR IN
25 COURT BY SIGNING THE CITATION PREPARED BY THE OFFICER. IF THE PERSON SO
26 PROMISES, THE OFFICER IS NOT REQUIRED TO TAKE THE PERSON INTO PHYSICAL
27 CUSTODY FOR THE VIOLATION UNLESS THE PERSON CHARGED DOES NOT FURNISH
28 SATISFACTORY EVIDENCE OF IDENTITY OR THE OFFICER HAS REASONABLE
29 GROUNDS TO BELIEVE THE PERSON CHARGED WILL DISREGARD A WRITTEN
30 PROMISE TO APPEAR.

31 (C) A PERSON MAY NOT VIOLATE THE PERSON'S WRITTEN PROMISE TO
32 APPEAR IN COURT UNLESS SUFFICIENT COLLATERAL FOR THE OFFENSE IS POSTED,
33 THE FINE IS PAID IN ADVANCE OF TRIAL, OR THE PERSON IS REPRESENTED BY
34 COUNSEL IN COURT.

35 (D) (1) IF A PERSON FAILS TO COMPLY WITH THE NOTICE TO APPEAR IN A
36 CITATION ISSUED UNDER THIS SECTION, THE COURT MAY:

37 (I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION,
38 ISSUE A WARRANT FOR THE PERSON'S ARREST; OR

39 (II) AFTER 5 DAYS, NOTIFY THE COURT CLERK OF THE PERSON'S
40 NONCOMPLIANCE.

1 (2) ON RECEIPT OF NOTICE OF NONCOMPLIANCE FROM THE COURT,
2 THE CLERK SHALL NOTIFY THE PERSON BY MAIL AT THE ADDRESS INDICATED ON
3 THE CITATION THAT A WARRANT FOR THE PERSON'S ARREST MAY BE ISSUED BY THE
4 COURT UNLESS, WITHIN 15 DAYS AFTER THE DATE ON WHICH THE NOTICE IS
5 MAILED, THE PERSON:

6 (I) PAYS THE FINE ON THE ORIGINAL CHARGE AS PROVIDED FOR
7 IN THE ORIGINAL CITATION AND AN ADDITIONAL FINE OF \$100 FOR FAILING TO
8 APPEAR; OR

9 (II) POSTS BOND OR A PENALTY DEPOSIT AND REQUESTS A NEW
10 TRIAL DATE.

11 (3) IF A PERSON FAILS TO PAY THE FINES OR POST THE BOND OR
12 PENALTY DEPOSIT UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT MAY
13 ISSUE A WARRANT.

14 (4) WHEN THE ORIGINAL OFFENSE IS NOT PUNISHABLE BY
15 IMPRISONMENT, A WARRANT MAY NOT BE ISSUED FOR THE PERSON UNDER THIS
16 SUBSECTION UNTIL 20 DAYS AFTER THE ORIGINAL TRIAL DATE HAVE ELAPSED.

17 5-113.

18 (a) The Commission may make rules and regulations for the government and
19 use of all land or other property acquired by it or under its jurisdiction. It shall cause
20 these rules and regulations to be posted outside each park headquarters building,
21 community center, recreation center, or similar building in a developed park area.
22 Following their promulgation, they shall be published at least three times within 60
23 days, in one or more newspapers published in the metropolitan district, and the
24 posting and publication shall be sufficient notice to all persons. The sworn certificate
25 of any member of the Commission of the posting and publication shall be prima facie
26 evidence thereof.

27 (b) (1) Any violation of a rule or regulation is a "Commission infraction"
28 unless the violation is declared by law to be a criminal offense. For the purpose of this
29 article, a Commission infraction is a civil offense.

30 (2) Commission police officers may deliver a citation to any person whom
31 they adjudge to be committing a Commission infraction. A copy of the citation shall be
32 retained by the issuing authority and shall bear his certification attesting to the truth
33 of the matter therein set forth. The citation shall also contain:

34 (i) Name and address of the person charged;

35 (ii) The nature of the infraction;

36 (iii) The location and time that the infraction occurred;

37 (iv) The amount of the infraction fine assessed;

1 (v) The manner, location, and time in which the fine may be paid to
2 the Commission; and

3 (vi) The person's right to elect to stand trial for the infraction.

4 (3) A pre-set fine not to exceed \$50 may be imposed for each conviction of
5 a Commission infraction. The Commission is authorized to establish a schedule of
6 pre-set fines for each conviction of a Commission infraction, which is payable by the
7 recipient of the citation to the Commission within 20 calendar days of the receipt of
8 the citation. Repeat offenders may be assessed a pre-set fine not to exceed \$100 for
9 each repeat offense.

10 (4) A person receiving the citation for a Commission infraction may elect
11 to stand trial for the offense by notifying the Commission of his intention of standing
12 trial. The notice shall be given at least 5 days prior to the date of payment as set forth
13 in the citation. Upon receipt of the notice of the intention to stand trial, the
14 Commission shall forward to the District Court having venue a copy of the citation
15 and the notice from the person who received the citation indicating his intention to
16 stand trial. Upon receipt of the citation, the District Court shall schedule the case for
17 trial and notify the defendant of the trial date. All fines, penalties, or forfeitures
18 collected by the District Court for violations of Commission infractions shall be
19 remitted to the Commission.

20 (5) If a person receiving a citation for an infraction fails to pay the fine
21 for the infraction by the date of payment set forth on the citation and fails to file a
22 notice of his intention to stand trial for the offense, a formal notice of the infraction
23 shall be sent to the owner's last known address. If the citation has not been satisfied
24 within 15 days from the date of the notice, he shall be liable for an additional fine not
25 to exceed twice the original fine. If after 35 days the citation has not been satisfied,
26 the Commission may request adjudication of the case through the District Court. The
27 District Court shall thereupon promptly schedule the case for trial and summons the
28 defendant to appear. The defendant's failure to respond to the summons is contempt
29 of court.

30 (6) If any person is found by the District Court to have committed a
31 Commission infraction, he shall be required to pay a fine in an amount not to exceed
32 \$50 or in the event that the infraction is a repeat offense, \$100.

33 (7) Adjudication of a Commission infraction, as defined in this article, is
34 not a criminal conviction for any purpose, nor does it impose any of the civil
35 disabilities ordinarily imposed by a criminal conviction.

36 (8) In any proceeding for a Commission infraction before the District
37 Court, the violation shall be prosecuted in the same manner and to the same extent as
38 set forth for municipal infractions in Article 23A, § 3(b)(8) through (15), inclusive.

39 5-113.1.

40 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
41 INDICATED.

1 (B) (1) "ANIMAL" MEANS ANY BIRD OR MAMMAL OR ANY PART, EGG,
2 OFFSPRING, OR DEAD BODY PART OF ANY OF THEM.

3 (2) "HUNT" MEANS TO PURSUE, CAPTURE, CATCH, KILL, GIG, TRAP,
4 SHOOT, OR ATTEMPT TO PURSUE, CAPTURE, KILL, GIG, TRAP, OR SHOOT, OR IN ANY
5 MANNER REDUCE ANY BIRD OR MAMMAL TO PERSONAL POSSESSION.

6 (C) A PERSON MAY NOT HUNT ANY ANIMAL ON PROPERTY OWNED BY,
7 OPERATED BY, OR LEASED BY THE COMMISSION WITHOUT PRIOR WRITTEN
8 AUTHORIZATION FROM THE COMMISSION.

9 (D) FOR THE PURPOSE OF THIS SECTION, EACH ANIMAL TAKEN ILLEGALLY BY
10 HUNTING, OFFERED FOR PURCHASE, SOLD, BARTERED, OR EXCHANGED IN EXCESS
11 OF THE BAG LIMIT OR POSSESSED ILLEGALLY CONSTITUTES A SEPARATE
12 VIOLATION.

13 (E) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
14 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

15 (I) FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$1,500, WITH
16 COSTS IMPOSED AT THE DISCRETION OF THE COURT; AND

17 (II) FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT
18 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$4,000 OR BOTH, WITH COSTS
19 IMPOSED AT THE DISCRETION OF THE COURT.

20 (2) FOR THE PURPOSE OF THIS SUBSECTION, A SUBSEQUENT VIOLATION
21 IS A VIOLATION WHICH:

22 (I) OCCURS WITHIN 2 YEARS AFTER ANY PRIOR VIOLATION OF
23 THIS SECTION; AND

24 (II) ARISES OUT OF A SEPARATE SET OF CIRCUMSTANCES.

25 (3) IN ADDITION TO THE PENALTIES IN PARAGRAPH (1)(II) OF THIS
26 SUBSECTION, THE COURT MAY ORDER THE LICENSE UNDER WHICH THE PERSON
27 OPERATED IN THE COMMISSION OF THE VIOLATION TO BE SUSPENDED FOR 12
28 MONTHS FROM THE DATE OF THE SUBSEQUENT CONVICTION.

29 (F) (1) THE COMMISSION MAY ADOPT RULES AND REGULATIONS
30 NECESSARY FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS SECTION.

31 (2) VIOLATION OF ANY REGULATION ADOPTED BY THE COMMISSION
32 UNDER THIS SUBSECTION IS A MISDEMEANOR AND IS PUNISHABLE AS PROVIDED IN
33 SUBSECTION (E) OF THIS SECTION.

34 (G) (1) THE CHIEF JUDGE OF THE DISTRICT COURT OF MARYLAND MAY
35 ESTABLISH, BY ADMINISTRATIVE REGULATION UNDER THE PROVISIONS OF § 1-605
36 OF THE COURTS ARTICLE, A SCHEDULE OF PREPAYABLE FINES FOR A FIRST
37 OFFENSE MISDEMEANOR VIOLATION OF THIS SECTION AND REGULATIONS ADOPTED

1 UNDER THIS SECTION. THE AMOUNT OF A PREPAYABLE FINE MAY BE NO MORE THAN
2 THE MAXIMUM AND NO LESS THAN THE MINIMUM CRIMINAL PENALTY
3 ESTABLISHED BY THE GENERAL ASSEMBLY IN THIS SECTION.

4 (2) BY PAYING A FINE SET UNDER THIS SECTION INSTEAD OF
5 APPEARING FOR TRIAL IN DISTRICT COURT, A PERSON IS VOLUNTARILY ACCEPTING
6 A CONVICTION FOR THE OFFENSE CHARGED.

7 (H) IF THE DISTRICT COURT OR CIRCUIT COURT IMPOSES A FINE FOR A
8 VIOLATION OF THIS SECTION, THE COURT SHALL COLLECT THE FINE AND FORWARD
9 IT TO THE COMMISSION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2002.