

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Senate Bill 395

(Senator Baker)

Education, Health, and Environmental Affairs

Environmental Matters

Hunting - Regulation of Moorings - Blinds and Blind Sites

This bill requires the Department of Natural Resources (DNR) to adopt regulations that establish requirements for a local governing body to develop and administer its own mooring program. The bill authorizes a local governing body to establish such a program regardless of its effect on hunting. The bill also establishes a prohibition in Kent County against hunting in close proximity to a mooring permitted by a local governing body.

The bill takes effect July 1, 2002.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources.

Local Effect: The bill's changes could be handled with existing local resources.

Small Business Effect: Minimal. Some marinas could benefit to the extent that the bill allows them to keep moorings in the water for a longer period of time each year.

Analysis

Bill Summary: The bill authorizes a local governing body to develop and administer a mooring program subject to DNR approval. If a local governing body develops a mooring program, the local governing body may not be precluded from allowing a mooring even if the mooring may limit or affect hunting on nearby land or an offshore stationary blind or blind site. The bill also prohibits a person in Kent County from hunting between March 1 and November 1 from a licensed shore blind or offshore

stationary blind or blind site that is located within 150 yards of a mooring that is occupied and has been issued a permit by a local governing body.

Current Law: Pursuant to the State Boat Act, DNR is authorized to adopt a program relating to the placement of buoys, mooring buoys, and other apparatus used to secure, berth, or moor vessels in the waters of the State. DNR must consult with any county affected by the program. Current regulations authorize a local government to administer its own program for moorings once it has shown that it has adequate legal authority to impose the conditions set forth in the regulations.

Owners of riparian (waterfront) property in Maryland may license their riparian shoreline to establish offshore stationary blinds or blind sites for hunting wild waterfowl and to prevent other people from licensing the riparian shoreline for the purpose of hunting wild waterfowl offshore. In Kent County, only a riparian landowner owning a specified amount of shoreline, or a landowner's lessee, licensee, or assignee, may erect and maintain a stationary blind or blind site.

Background: Kent County and the City of Annapolis are the only two local governments that have established local programs to administer moorings. DNR approved the Kent County program in 1980. The program provided that moorings in existence prior to July 1, 1980 used in connection with permitted marina facilities could be outside the extended property lines of the owner. It also provided that moorings not interfere with access of adjacent property owners to the waters of the State. Moorings in waterfowl blind areas had to be cleared during designated waterfowl hunting season unless the riparian owner had otherwise given permission to the marina. Since 1980, this provision has been interpreted to require that moorings be cleared by November 1 (the traditional beginning of waterfowl season and the traditional end of the boating season).

In 2000 a new riparian landowner in Kent County requested that the moorings in front of his property be cleared prior to September 1. The landowner sued the county and the circuit court declared that the moorings regulation required clearing moorings for any waterfowl hunting season at any time. After a public hearing, Kent County amended its code to specifically state that moorings had to be cleared by November 1 of each year. The affected landowner again sued the county and the circuit court ruled that State hunting law demonstrated preemption by the State of all lawmaking affecting hunting. The court held the moorings law amendment invalid. This bill would ensure that State hunting licensing law does not preclude the type of local legislation enacted by Kent County.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Kent County, Department of Legislative Services

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