
By: **Delegates Dwyer, Boschert, Frush, Gilleland, Impallaria, Kirk, Leopold,
McComas, McConkey, Menes, Paige, Shewell, and Stocksdale**

Introduced and read first time: February 11, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Natural Resources - Powers, Limitations, and Procedures -**
3 **Wildlife**

4 FOR the purpose of altering the membership of the Wildlife Advisory Commission;
5 requiring the Secretary of Natural Resources to obtain certain approval from
6 the Commission before adopting certain regulations; requiring a Natural
7 Resources police officer to provide certain notice within a certain time period to
8 a property owner, occupant, or tenant after entering the property without notice;
9 requiring a Natural Resources police officer to be accompanied by a local sheriff
10 or deputy sheriff under certain circumstances; requiring the Secretary to base
11 certain decisions on certain scientific information; altering the power of the
12 Secretary to adopt certain regulations; establishing certain hearing
13 requirements as a prerequisite to the Department of Natural Resources seizing
14 certain wildlife; requiring judicial review of a Natural Resources police officer's
15 certain action or omission after a certain hearing; and generally relating to
16 advisory units within the Department, the duties of the Secretary, and the
17 Department's police powers and procedures for seizing wildlife.

18 BY repealing and reenacting, with amendments,
19 Article - Natural Resources
20 Section 1-102(c), 1-204, 10-206, 10-903, and 10-911
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2004 Supplement)

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

25 **Article - Natural Resources**

26 1-102.

27 (c) (1) Unless otherwise provided by this article, each advisory commission
28 created by law consists of five members appointed by the Governor, with the advice of
29 the Secretary, to serve at the pleasure of the Governor.

1 (2) (i) The Wildlife Advisory Commission is composed of 9 members
2 appointed by the Governor.

3 (ii) 1. The Governor shall solicit nominations for vacancies on
4 the Wildlife Advisory Commission from individuals or organizations that promote the
5 future of hunting and individuals or organizations that promote the preservation of
6 wildlife in the State, with geographical distribution being a prime consideration for
7 filling vacancies.

8 2. There shall be [representation]:

9 A. TWO REPRESENTATIVES from the farming community;

10 B. TWO REPRESENTATIVES FROM ORGANIZATIONS THAT
11 PROMOTE THE INTERESTS OF COMMERCIAL WATERMEN;

12 C. TWO REPRESENTATIVES FROM ORGANIZATIONS THAT
13 PROMOTE THE FUTURE OF HUNTING;

14 D. TWO REPRESENTATIVES FROM ORGANIZATIONS THAT
15 PROMOTE ENVIRONMENTAL CONSERVATION AND WILDLIFE PROTECTION; AND

16 E. ONE REPRESENTATIVE WHO HOLDS A DOCTORATE
17 DEGREE IN WILDLIFE BIOLOGY OR IN A RELATED FIELD FROM AN ACADEMIC
18 INSTITUTION OF THIS STATE.

19 (iii) The term of a member is 4 years.

20 (iv) A member may not serve more than 2 terms on the Commission.

21 (v) The terms of members are staggered so that:

22 1. 3 shall end in 1987;

23 2. 3 shall end in 1988; and

24 3. 3 shall end in 1989.

25 (vi) At the end of a term, a member continues to serve until a
26 successor is appointed and qualifies.

27 (vii) A member who is appointed after a term has begun serves only
28 for the rest of the term and until a successor is appointed and qualifies.

29 (3) A member shall be knowledgeable in the area of interest of the
30 advisory commission on which he serves.

31 (4) (I) Each advisory commission shall advise the Secretary or the
32 administration of the appropriate Department unit, pursuant to rules and regulations
33 the Secretary adopts.

1 (II) BEFORE PROPOSING ANY REGULATION UNDER TITLE 10 OF
2 THIS ARTICLE, THE SECRETARY SHALL OBTAIN APPROVAL FROM THE WILDLIFE
3 ADVISORY COMMISSION.

4 (5) The members of each advisory commission annually shall elect a
5 chairman of the commission and may adopt procedures to conduct its meetings.

6 (6) An advisory commission member receives the compensation provided
7 in the Department budget. Every member shall be reimbursed for necessary travel
8 expenses incurred in performing any official duty, pursuant to rules and regulations
9 the Secretary adopts.

10 1-204.

11 (a) In addition to any other powers conferred by this title, the Secretary and
12 every Natural Resources police officer shall have all the powers conferred upon police
13 officers of the State. These powers may be exercised anywhere within the State. The
14 Natural Resources Police Force specifically is charged with enforcing the natural
15 resource laws of the State.

16 (b) Every Natural Resources police officer appointed under § 1-203 of this
17 subtitle shall perform duties the Secretary designates.

18 (C) (1) WITHIN 24 HOURS AFTER ENTERING PRIVATE PROPERTY WITHOUT
19 NOTICE TO THE PROPERTY OWNER, OCCUPANT, OR TENANT, A NATURAL RESOURCES
20 POLICE OFFICER SHALL PROVIDE THE PROPERTY OWNER, OCCUPANT, OR TENANT
21 WITH WRITTEN NOTIFICATION OF:

22 (I) THE ENTERING;

23 (II) ANY SUSPICION OR ALLEGATION THAT PROMPTED THE
24 ENTERING;

25 (III) ANY VIOLATIONS OF LAW ON THE PRIVATE PROPERTY
26 ENTERED; AND

27 (IV) THE INTENT OF THE DEPARTMENT TO ACT ON ANY VIOLATIONS
28 OF LAW ON THE PRIVATE PROPERTY.

29 (2) A NATURAL RESOURCES POLICE OFFICER SHALL BE ACCOMPANIED
30 BY A LOCAL SHERIFF OR DEPUTY SHERIFF WHEN ENTERING PRIVATE PROPERTY.

31 [(c)] (D) Any law enforcement employee of the Department of Natural
32 Resources who works overtime for any reason, whether or not the employee receives
33 monetary payment for that overtime work, shall be considered to be employed by this
34 State during those hours for purposes of all other employee entitlements.

1 10-206.

2 (A) The Department may reduce the wildlife population in any county, election
3 district, or other identifiable area of the State after a thorough investigation reveals
4 that protected wildlife is seriously injurious to agricultural or other interests in the
5 affected area. The method of reducing the wildlife population is at the Department's
6 discretion, except that trapping is preferred whenever feasible. The Department shall
7 dispose of wildlife taken pursuant to the provisions of this section as the Department
8 deems advisable.

9 (B) THE SECRETARY, OR THE SECRETARY'S DESIGNEE, SHALL BASE ANY
10 DECISION UNDER THIS SECTION ON THE BEST AVAILABLE SCIENTIFIC
11 INFORMATION.

12 10-903.

13 [The] SUBJECT TO § 10-911 OF THIS SUBTITLE, THE Secretary may adopt
14 regulations prohibiting or restricting the importation, exportation, sale, release, or
15 possession of wildlife not native to Maryland on a finding that the wildlife is harmful
16 to native wildlife or to natural ecosystems.

17 10-911.

18 (a) In addition to any other penalty provided by the provisions of this title, the
19 Secretary may revoke or suspend any license, permit, or certificate issued to any
20 person pursuant to this subtitle if the Secretary finds the person or a guest of the
21 person has violated:

22 (1) The terms and conditions of the license, permit, or certificate;

23 (2) Any regulation adopted to implement this subtitle; or

24 (3) Any State or federal wildlife law or regulation.

25 (b) [Any] SUBJECT TO SUBSECTION (C) OF THIS SECTION, ANY wildlife for
26 which a license or permit is required under this subtitle and for which a license or
27 permit is not obtained shall be considered a nuisance and contraband and is subject to
28 seizure by any authorized law enforcement officer.

29 (C) (1) BEFORE SEIZING ANY ANIMAL BEING HELD CAPTIVE BY A PROPERTY
30 OWNER, OCCUPANT, OR TENANT, THE DEPARTMENT SHALL GIVE THE PROPERTY
31 OWNER, OCCUPANT, OR TENANT WRITTEN NOTICE OF THE RIGHT TO REQUEST A
32 HEARING.

33 (2) A PROPERTY OWNER, OCCUPANT, OR TENANT MAY REQUEST A
34 HEARING WITHIN 15 DAYS FROM THE DATE THAT THE NOTICE REQUIRED BY THIS
35 SUBSECTION IS MAILED.

36 (3) THE DEPARTMENT SHALL HOLD A HEARING WITHIN 30 DAYS OF THE
37 DATE OF THE REQUEST AND RENDER A DECISION WITHIN 30 DAYS OF THE HEARING.

1 (D) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN ACT OR OMISSION BY A
2 NATURAL RESOURCES POLICE OFFICER SHALL BE SUBJECT TO JUDICIAL REVIEW
3 UNDER THE PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
4 ARTICLE.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
6 effect October 1, 2005.