

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1173 (Delegate Dwyer, *et al.*)
Environmental Matters

Department of Natural Resources - Powers, Limitations, and Procedures -
Wildlife

This bill establishes various requirements and limitations regarding the authority of the Department of Natural Resources (DNR). Most of the provisions relate specifically to wildlife, but some relate to the general authority of the Natural Resources Police (NRP).

Fiscal Summary

State Effect: The bill would result in an increase in workload for NRP officers; assuming the bill would not require any additional overtime, any such increase could be handled within existing budgeted resources. However, if the bill results in an increase in overtime, DNR expenditures would increase accordingly.

Local Effect: The bill would result in an increase in workload for counties to comply with the bill's requirement that a local sheriff or deputy sheriff accompany a NRP officer when entering private property. According to DNR, the cost to counties could be significant. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill establishes notification requirements for NRP officers after entering private property. In addition, a NRP officer must be accompanied by a local sheriff or deputy sheriff when entering private property.

The bill requires DNR to give a property owner, occupant, or tenant written notice of the right to request a hearing prior to seizing any wildlife being held captive. A hearing may be requested within 15 days from the date the notice is mailed. DNR must hold a hearing within 30 days of the date of the request and render a decision within 30 days of the hearing. The bill also provides that an act or omission by a NRP officer is subject to judicial review.

The bill modifies the Secretary's existing authority to reduce the wildlife population by providing that the Secretary must base any decision on the best available scientific information.

Finally, the bill clarifies the membership of the existing Wildlife Advisory Commission and provides that, before proposing any wildlife regulation, the Secretary of Natural Resources must obtain approval from the commission.

Current Law: If any wildlife is required to be licensed or permitted but is not, the wildlife is considered a nuisance and contraband and is subject to seizure by any authorized law enforcement officer.

The Secretary is authorized to adopt regulations prohibiting or restricting the importation, exportation, sale, release, or possession of wildlife not native to Maryland on a finding that the wildlife is harmful to native wildlife or to natural ecosystems. DNR is authorized to reduce the wildlife population in any identifiable area of the State if it determines that protected wildlife is seriously injurious to agricultural or other interests in the affected area.

Current law provides broad authority for NRP officers. Although the NRP Force is specifically charged with enforcing the natural resources laws of the State, the Secretary of Natural Resources and each NRP officer has all the powers conferred upon police officers of the State, and those powers can be exercised anywhere in the State.

Background: DNR regulations prohibit anyone from owning or transporting a deer in the State. In the fall of 2004, NRP entered three homes in Anne Arundel County and ordered the euthanization of 18 pet fallow deer in order to eliminate the ecological and human threat from captive deer. Concerns were raised regarding DNR's actions.

In January 2005 DNR announced that it has adopted a new policy that will give residents who own captive deer up to 90 days to transport them to suitable out-of-state facilities. If a new home cannot be found during the amnesty period, DNR will seek permission from owners to euthanize the animals and test them for chronic wasting disease, a condition similar to mad cow disease that affects captive deer and elk.

State Expenditures: DNR advises that the bill's changes regarding NRP's authority to enter private property would result in an increase in workload of at least 2,000 hours per year, which equates to approximately \$88,500 in staff time. DNR advises that, by requiring NRP officers to wait for local sheriffs or deputy sheriffs before entering private property, the bill would double the time per officer at the scene of every incident. Assuming additional overtime is not required, any increase in workload could be handled with existing budgeted resources. If overtime is required, however, DNR expenditures would increase accordingly. The extent to which the bill would result in overtime cannot be reliably estimated at this time.

The bill's other requirements could be handled with existing budgeted resources. It is assumed that the bill's changes would not significantly affect the operations or finances of the Judiciary.

Local Expenditures: The impact on local jurisdictions would depend on the frequency with which local sheriffs and deputy sheriffs are required to accompany NRP officers when they enter private property. DNR advises that the number of calls could reach into the thousands each year, which could result in a significant increase in local expenditures. Legislative Services has no way to verify the potential number of calls to counties but acknowledges that costs could be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Association of Counties, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Baltimore City, Department of Legislative Services

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