

Chapter 367

(Senate Bill 987)

AN ACT concerning

Natural Resources – Conservation Law Enforcement Act of 2010

FOR the purpose of authorizing the Department of Natural Resources to include certain recommendations in certain reports and to submit certain reports to the Governor and the General Assembly; stating certain findings of the General Assembly; establishing certain responsibilities of the Natural Resources Police Force; ~~authorizing rather than requiring the Department to audit books of certain individuals who pack or deal in fish resources; authorizing the Department to audit the books of certain individuals who sell fish resources at retail; providing that a certain audit shall be conducted for law enforcement purposes; authorizing a representative of the Department to inspect a certain area during a certain inspection; providing a certain penalty for a person who fails to produce records or permit an inspection under certain circumstances; establishing that a certain provision of law prohibiting the use of certain information in a certain manner does not prohibit the use of certain information for law enforcement purposes; providing a certain penalty for a person who unlawfully takes oysters in violation of certain bushel limits; providing that a person who violates certain provisions of law may be required as a condition of probation or continued licensure to have an electronic monitoring system on board the person's vessel to allow monitoring by the Department; authorizing the Department to adopt certain regulations;~~ establishing and providing for a certain commemorative lifetime hunting license; ~~authorizing the Department to file a complaint for forfeiture of property unlawfully used to violate certain provisions of law; providing for a forfeiture conducted under this Act;~~ encouraging the Maryland Public Broadcasting Commission to help promote a certain public recognition and appreciation of the role of the Natural Resources Police Force; encouraging the Department to conduct a certain study to identify certain additional changes to existing law and present certain findings and recommendations to certain committees by a certain date; requiring the Department to conduct a certain study of certain funding policies and present certain findings and recommendations by a certain date; providing that the General Assembly encourages the Governor to increase public awareness and reliance on the Natural Resources Police Force reserve officers; providing that the General Assembly encourages the National Fish and Wildlife Foundation to distribute to the Department, for the purposes of conservation law enforcement, any funds the foundation receives from the United States Department of Justice as fines or penalties resulting from federal convictions of game violations in the State; ~~defining a certain term;~~ and generally relating to conservation law enforcement.

BY adding to

Article – Natural Resources
 Section 1–107 and 1–201
 Annotated Code of Maryland
 (2005 Replacement Volume and 2009 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
 Section 1–201, ~~and 1–204, 4–206, 4–1201(f), and 4–1207~~
 Annotated Code of Maryland
 (2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Natural Resources
 Section 10–301.3 ~~and 10–1106.1~~
 Annotated Code of Maryland
 (2007 Replacement Volume and 2009 Supplement)

Preamble

WHEREAS, Maryland envisions a 21st century Chesapeake Bay, where indigenous fish and wildlife flourish because of a healthy watershed realized through citizen support; and

WHEREAS, The public trust doctrine recognizes that government has an affirmative duty to protect, manage, and conserve fish and wildlife; and

WHEREAS, Prevailing budget constraints resulting from a lingering economic recession have compromised Maryland’s ability to, among other things, offset the costs of the enforcement of State conservation laws consistent with the State’s 21st century vision and the public trust doctrine; and

WHEREAS, The intent of this Act is to recognize Maryland’s commitment to the sustainability of its finite natural resources, with due regard to the dictates of fiscal practicality, by making conservation law enforcement more effective and efficient through the provision of additional investigative and funding tools, including strengthened deterrence of natural resources–related violations; now, therefore,

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

Article – Natural Resources

1–107.

IN ANY REPORT ISSUED UNDER THIS TITLE, THE DEPARTMENT MAY:

(1) INCLUDE RECOMMENDATIONS FOR STATUTORY AND BUDGETARY PROPOSALS TO:

(I) PROMOTE PUBLIC AWARENESS OF THE BENEFITS OF CONSERVING FISHERIES AND WILDLIFE IN THE STATE; AND

(II) REDUCE THE INCIDENCE OF VIOLATIONS OF STATE CONSERVATION LAWS; AND

(2) SUBMIT THE REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

1-201.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE CONSUMPTIVE NATURE OF AN EXPANDING POPULATION POSES A CLEAR AND PRESENT THREAT TO THE LONG-TERM VIABILITY OF THE FISHERIES AND WILDLIFE OF THE STATE;

(2) AN INCREASED UNDERSTANDING BY CITIZENS OF THE INTRINSIC VALUE OF THE FISHERIES AND WILDLIFE OF THE STATE WILL HELP TO ENSURE THE PERPETUATION OF THESE COVETED NATURAL RESOURCES FOR THE BENEFIT OF FUTURE GENERATIONS;

(3) THE RESPONSIBILITY FOR PROTECTING THE NATURAL RESOURCES OF THE STATE IS VESTED IN THE NATURAL RESOURCES POLICE FORCE WITHIN THE DEPARTMENT;

(4) BUDGETARY REDUCTIONS ATTRIBUTABLE TO A LINGERING ECONOMIC RECESSION HAVE REDUCED THE NUMBER OF CONSERVATION LAW ENFORCEMENT PERSONNEL TO THE MEASURABLE DETRIMENT OF THE NATURAL RESOURCES OF THE STATE;

(5) ENTRUSTING THE ENFORCEMENT OF STATE CONSERVATION LAWS TO THE NATURAL RESOURCES POLICE FORCE, COUPLED WITH INCREASING THE HOMELAND SECURITY RESPONSIBILITIES OF THE NATURAL RESOURCES POLICE FORCE, REQUIRES AN INVESTMENT THAT IS COMMENSURATE WITH THE LEVEL OF PROTECTION THE PUBLIC CONSIDERS APPROPRIATE;

(6) A DIMINISHING ENFORCEMENT PRESENCE ON LAND AND ON THE WATERWAYS CORRELATES TO AN INCREASING NUMBER OF VIOLATIONS OF STATE CONSERVATION LAWS AND AN EROSION OF THE PROTECTIONS AFFORDED TO CITIZENS BY THE PUBLIC TRUST DOCTRINE, WHICH SETS FORTH THE RESPONSIBILITY OF THE GOVERNMENT TO ADMINISTER, PROTECT, MANAGE, AND CONSERVE FISH AND WILDLIFE; AND

(7) THE PREVALENCE OF VIOLATIONS OF STATE CONSERVATION LAWS PRESENTS A SIGNIFICANT PROBLEM THAT WARRANTS AN ENHANCED INVESTMENT IN CONSERVATION LAW ENFORCEMENT BY:

(I) INCREASING THE PRESENCE OF NATURAL RESOURCES POLICE FORCE PERSONNEL ON LAND AND ON THE WATERWAYS THROUGH THE USE OF PRESENT AND FUTURE REVENUE SOURCES; AND

(II) ENSURING THAT THE NATURAL RESOURCES POLICE FORCE IS PROPERLY EQUIPPED WITH THE EQUIPMENT, VEHICLES, AND BOATS NECESSARY TO COMPLY WITH ITS STATUTORY MANDATE.

[1-201.] **1-201.1.**

(A) There is a Natural Resources Police Force in the Department THAT SERVES AS A PUBLIC SAFETY AGENCY WITH STATEWIDE AUTHORITY TO ENFORCE CONSERVATION, BOATING, AND CRIMINAL LAWS.

(B) THE RESPONSIBILITIES OF THE NATURAL RESOURCES POLICE FORCE INCLUDE:

(1) PROVIDING MARITIME AND RURAL SEARCH AND RESCUE SERVICES;

(2) PROVIDING PUBLIC EDUCATION IN HUNTING, BOATING, AND WATER SAFETY;

(3) PROVIDING PRIMARY LAW ENFORCEMENT SERVICES FOR STATE PARKS, STATE FORESTS, WILDLIFE MANAGEMENT AREAS, AND PUBLIC LANDS OWNED AND MANAGED BY THE DEPARTMENT; AND

(4) SERVING AS THE LEAD AGENCY FOR MARITIME HOMELAND SECURITY ON STATE WATERWAYS.

1-204.

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

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

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

~~4-206.~~

~~(a) (1) The Department [shall] MAY audit the books of any person who packs or deals in fish resources OR SELLS FISH RESOURCES AT RETAIL within the jurisdiction of the Department including [anyone];~~

~~(i) ANY PERSON who catches and ships directly to market;~~
AND

~~(ii) ANY PERSON WHO OWNS OR OPERATES A RETAIL MARKET, RESTAURANT, OR OTHER ESTABLISHMENT WHERE FINFISH OR SHELLFISH ARE SOLD OR SERVED TO ULTIMATE CONSUMERS AND NOT FOR RESALE.~~

~~(2) [The] A Department audit UNDER THIS SECTION shall be conducted to determine the quantity of resources caught and any other data needed for reporting and accounting to State officials AND FOR LAW ENFORCEMENT PURPOSES.~~

~~(b) (1) Every person engaged in the business of packing, RETAILING, or dealing in any fish resource within the Department's jurisdiction shall keep accurate books, statements, and accounts showing every detail of the business.~~

~~(2) Every book, statement, and account shall be open for the Department to inspect at reasonable hours.~~

~~(3) DURING THE COURSE OF AN INSPECTION, A REPRESENTATIVE OF THE DEPARTMENT MAY INSPECT ANY AREA OF THE PREMISES WHERE FISH RESOURCES SUBJECT TO THE RECORD KEEPING REQUIREMENTS OF THIS SECTION MAY BE STORED.~~

~~(4) ANY PERSON WHO FAILS TO PRODUCE RECORDS OR ALLOW AN INSPECTION AS REQUIRED BY THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO PUNISHMENT AS PROVIDED IN § 4-1201 OF THIS SUBTITLE.~~

~~(c) Every person engaged in the business of packing, RETAILING, or dealing in any fish resource within the Department's jurisdiction shall make any report the Department requires on forms the Department prescribes.~~

~~[(e)] (D) Every person the Department licenses to catch the fish resource shall make any report the Department requires on forms the Department provides.~~

~~[(d)] (E) (1) An officer or employee of any department or unit of the Executive Branch of State government may not divulge or use in any manner information contained in any report submitted pursuant to the provisions of this section that would reveal the income of any person submitting the report.~~

~~(2) This [section] SUBSECTION does not prohibit [the]:~~

~~(I) THE publication of statistics classified to prevent the identification of particular reports and items of [them or prohibit] THE REPORTS;~~

~~(II) THE inspection of reports and records by any official or employee of the Executive Branch having a proper interest in them; OR~~

~~(III) THE USE OF INFORMATION GATHERED IN ACCORDANCE WITH THIS SECTION FOR LAW ENFORCEMENT PURPOSES.~~

~~4-1201.~~

~~(f) (1) [In addition to any other applicable penalty set forth in this title, a] A PERSON WHO UNLAWFULLY TAKES OYSTERS IN VIOLATION OF THE BUSHEL LIMITS ESTABLISHED BY LAW IS SUBJECT TO A FINE NOT EXCEEDING \$1,500 PER BUSHEL.~~

~~(2) A person who unlawfully takes oysters from a leased oyster bottom, an oyster sanctuary, an oyster reserve, or an area closed to shellfish harvest by the Department of the Environment, when the area is designated and marked by buoys or other signage or the person knew or should have known that taking the oysters from the area was unlawful, is subject to a fine not exceeding \$3,000.~~

~~(3) THE PENALTIES PROVIDED IN THIS SUBSECTION ARE IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE.~~

~~4-1207.~~

~~(a) In addition to any other penalty or fine provided in this title, any person who is convicted of violating any provision of this title or any regulation adopted under the authority of this title may [have]:~~

~~(1) HAVE the license under which the person operated in the commission of THE violation suspended or revoked by the court; AND~~

~~(2) FOR COMMERCIAL CRABBING, FISHING, OR OYSTER HARVESTING IN PROHIBITED AREAS OR DURING PROHIBITED HOURS OR DAYS, BE REQUIRED BY THE COURT AS A CONDITION OF PROBATION, OR BY THE DEPARTMENT AS A CONDITION OF CONTINUED LICENSURE, TO HAVE AN ELECTRONIC MONITORING SYSTEM ON BOARD THE PERSON'S COMMERCIAL VESSEL TO ALLOW THE DEPARTMENT TO CONTINUOUSLY MONITOR THE VESSEL'S LOCATION.~~

~~(b) (1) A court may suspend for not more than 1 year a fishing license of a person who is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing.~~

~~(2) When a person not holding a fishing license is convicted of violating § 6-402 of the Criminal Law Article while carrying a fishing rod or net for the purpose of fishing, the court may order that the person not obtain a fishing license for a period of not more than 1 year.~~

~~(c) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.~~

10-301.3.

(A) THERE IS A COMMEMORATIVE LIFETIME HUNTING LICENSE.

(B) THE DEPARTMENT SHALL ISSUE A LIMITED NUMBER OF COMMEMORATIVE LIFETIME HUNTING LICENSES TO CERTAIN NONPROFIT ORGANIZATIONS, CONSISTENT WITH ELIGIBILITY CRITERIA DEVELOPED BY THE DEPARTMENT, UNTIL DECEMBER 31, 2011.

(C) NONPROFIT ORGANIZATIONS ISSUED HUNTING LICENSES UNDER THIS SECTION MAY, IN COOPERATION WITH THE DEPARTMENT, MARKET AND SELL THE HUNTING LICENSES.

(D) ALL PROCEEDS FROM SALES OF HUNTING LICENSES UNDER THIS SECTION SHALL BE USED BY THE DEPARTMENT TO FUND CONSERVATION LAW ENFORCEMENT BY THE NATURAL RESOURCES POLICE FORCE.

(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

~~10-1106.1.~~

~~(A) IN THIS SECTION, "PROPERTY" INCLUDES:~~

- ~~(1) FIREARMS, CROSSBOWS, KNIVES, AND ANY OTHER WEAPONS;~~
- ~~(2) AMMUNITION;~~
- ~~(3) BINOCULARS, SCOPES, RANGEFINDERS, AND ANY OTHER OPTICAL DEVICES;~~
- ~~(4) TREE STANDS AND BLINDS;~~
- ~~(5) CAMERAS, SPOTLIGHTS, FLASHLIGHTS, LASERS, AND ANY OTHER ELECTRONIC EQUIPMENT;~~
- ~~(6) VEHICLES;~~
- ~~(7) VESSELS; AND~~
- ~~(8) ANY OTHER EQUIPMENT USED TO AID IN A VIOLATION OF NATURAL RESOURCES LAW.~~

~~(B) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE DEPARTMENT MAY FILE A COMPLAINT FOR FORFEITURE OF PROPERTY UNLAWFULLY USED TO VIOLATE A PROVISION OF THIS TITLE REGULATING THE PROTECTION OF WILDLIFE.~~

~~(C) A FORFEITURE OF PROPERTY UNDER THIS SECTION SHALL BE IN ACCORDANCE WITH THE PROCEDURES PROVIDED IN §§ 12-304 THROUGH 12-308 OF THE CRIMINAL PROCEDURE ARTICLE.~~

~~(D) ANY PROPERTY FORFEITED UNDER THIS SECTION BECOMES THE PROPERTY OF THE DEPARTMENT FOR DISPOSITION AT THE DISCRETION OF THE DEPARTMENT AS PROVIDED IN § 10-1106 OF THIS SUBTITLE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Maryland Public Broadcasting Commission, under the authority provided in § 24–205 of the Education Article, to help promote public recognition of and appreciation for the role of the Natural Resources Police Force in enforcing the conservation laws of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Department of Natural Resources to conduct a study to identify additional changes to existing law that may enable the Natural Resources Police Force to become more effective and efficient, including a study of the benefits of requiring the use of technology for the prevention and detection of violations. Any findings and recommendations shall be presented in a report to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee by December 1, 2010, in accordance with § 2–1246 of the State Government Article.

SECTION 4. AND BE IT FURTHER ENACTED, That the Department of Natural Resources, in cooperation with sportsmen's groups, and any other entities deemed appropriate by the Department, shall study funding policies that may bolster the ranks of the Natural Resources Police Force in order to help meet 21st century demands on conservation law enforcement, including policies by which revenues realized under this Act may be used to leverage additional revenues from the public and private sectors. On or before October 1, 2011, the Department shall report its findings and recommendations, in accordance with § 2–1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Environmental Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Governor to increase public awareness of and reliance on the Natural Resources Police Force reserve officers, who complement conservation law enforcement–related responsibilities under the direction of the Superintendent of the Natural Resources Police Force.

SECTION 6. AND BE IT FURTHER ENACTED, That the General Assembly encourages the National Fish and Wildlife Foundation to distribute to the Department of Natural Resources, for the purposes of conservation law enforcement, any funds the foundation receives from the United States Department of Justice as fines or penalties resulting from federal convictions of game violations in the State.

SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2010.

Approved by the Governor, May 4, 2010.