

Chapter 698

(House Bill 1052)

AN ACT concerning

~~Natural Resources — Suspension of Hunting Licenses and Privileges~~
Wildlife Poaching Prevention Act

FOR the purpose of ~~authorizing the Department of Natural Resources to suspend for certain periods of time the hunting license or privileges of a person who is convicted of a State or federal hunting violation; requiring the Department to suspend for a certain time period the hunting license or privileges of a person who receives within a certain time period a second conviction for certain hunting violations; authorizing the Department to order that certain persons not obtain a hunting license for a certain time period; repealing certain provisions of law authorizing the Department to impose a certain fine and certain hunting license suspensions for a conviction for certain hunting violations; authorizing a court to suspend the hunting license of a person convicted of a federal hunting violation and the hunting privileges of a person convicted of a State or federal hunting violation; prohibiting a person whose hunting license is suspended from hunting or performing certain hunting activities anywhere in the State; prohibiting a person whose hunting privileges are suspended from hunting, or performing certain activities related to hunting, in the State; authorizing the Department to adopt regulations to implement this Act; clarifying certain language; defining a certain term~~ repealing certain provisions of law that authorize a court to suspend the hunting license or, under certain circumstances, privileges of a person who has been convicted of certain hunting offenses; repealing certain corresponding standards and prohibited acts related to the suspension of a hunting license or hunting privileges; authorizing the Department of Natural Resources or the court, in addition to certain other applicable penalties, to suspend for up to a certain period of time the hunting license or privileges of a person who is convicted of a State or federal hunting violation; requiring the Department to adopt certain regulations, including regulations that list the criteria for the suspension of a hunting license or the hunting privileges of a person; clarifying that a prohibition against hunting during a period of suspension applies to trapping and pursuing game; establishing certain grounds for the immediate suspension of a hunting license; establishing certain timing and hearing requirements before the suspension of a hunting license or hunting privileges; repealing certain provisions of law authorizing the Department to impose a certain fine and certain hunting license suspensions for a conviction for certain hunting violations; stating the intent of the General Assembly; and generally relating to the suspension of hunting licenses and privileges in the State.

BY repealing and reenacting, with amendments,
 Article – Natural Resources
 Section 10–205, 10–423, and 10–1101, and ~~10–1108~~
 Annotated Code of Maryland
 (2007 Replacement Volume and 2011 Supplement)

BY repealing
Article – Natural Resources
Section 10–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

BY adding to
Article – Natural Resources
Section 10–1108
Annotated Code of Maryland
(2007 Replacement Volume and 2011 Supplement)

Preamble

WHEREAS, The vast majority of sportsmen are conscientious and conservation-minded, and strictly abide by the wildlife laws of Maryland; and

WHEREAS, There are always the insular few sportsmen who blatantly violate these laws through reckless and selfish poaching; and

WHEREAS, The Public Trust Doctrine recognizes that the State has an affirmative duty to administer, protect, manage, and conserve wildlife; and

WHEREAS, The recent slowdown in State revenue has resulted in insufficient funds being available for the enforcement of Maryland’s wildlife laws, thus perpetuating wildlife violations on the presumption that apprehension is unlikely to occur; and

WHEREAS, The Wildlife Poaching Prevention Act will strengthen compliance with Maryland’s wildlife laws through the imposition of penalties intended to deter those who repeatedly commit wildlife violations and who willfully violate the spirit of the Public Trust Doctrine; now, therefore,

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

Article – Natural Resources

10–205.

(a) Having a due regard for the distribution, abundance, economic value, and breeding habits of wildlife, the Secretary may adopt regulations to enlarge, extend, restrict, or prohibit hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting wildlife.

(b) [In addition to any other penalty provided in this title, any person convicted of violating any regulation adopted by the Department shall be fined \$5 for each bird, mammal, amphibian, or reptile illegally hunted or possessed. However, this additional penalty does not apply to game birds and mammals. If a person is convicted a second or subsequent time within the same 12 month period for a violation of the regulations the Department adopts, the person:

- (1) Shall have the person's hunter's license suspended; and
- (2) May not procure a hunter's license the following calendar year.

(c)] Notwithstanding any other provision of law, the Department may use a lottery-based system to issue hunting licenses, permits, or stamps.

10-423.

(a) Any penalty imposed under this section does not apply to an individual who kills or wounds a black bear in defense of the individual's own life, the lives of other individuals, or the lives of animals on the individual's property.

(b) If the Secretary adopts any regulation, including an emergency regulation, under § 10-205 of this title or § 10-405 of this subtitle to prohibit the hunting, possessing, selling, purchasing, shipping, carrying, transporting, or exporting of black bears, a person who violates the regulation is subject to the following penalties:

(1) For a first offense, a fine not exceeding \$1,500, imprisonment not exceeding 6 months, or both [and suspension of the person's hunting license and right to hunt any bird or game animal for a period of time not exceeding 2 years]; and

(2) For a second or subsequent offense, a fine not exceeding \$2,000, imprisonment not exceeding 1 year, or both [and suspension of the person's hunting license and right to hunt any bird or game animal for a period of time not exceeding 4 years].

10-1101.

(a) For the purpose of this title, each game bird or mammal taken illegally, purchased, offered for purchase, sold, bartered, or exchanged in excess of the bag limit or possessed illegally constitutes a separate offense.

(b) Any person who violates any provision of this title is guilty of a misdemeanor. Unless another penalty is specifically provided elsewhere in this title, the person, upon conviction, is subject to a fine not exceeding \$1,500, with costs imposed in the discretion of the court.

(c) (1) Unless another penalty is specifically provided elsewhere in this title any person found guilty of a second or subsequent violation of any provision of this title, is subject to a fine not exceeding \$4,000, or imprisonment not exceeding 1 year, or both, with costs imposed in the discretion of the court.

(2) [In addition, the license under which the person operated in the commission of the violation shall be suspended for 12 months from the date of the second conviction.

(3)] For the purpose of this subsection, a second or subsequent violation is a violation which has occurred within 2 years of any prior violation of this title and which arises out of a separate set of circumstances.

(d) In addition to any administrative penalty provided in this title, violation of any regulation adopted by any unit within the Department pursuant to the provisions of this title is a misdemeanor and is punishable as provided in subsections (b) and (c) of this section.

(e) This section does not apply to a violation of § 10-424(2) of this title.

~~10-1108.~~

~~(a) IN THIS SECTION, "CONVICTION" MEANS:~~

~~(1) A PLEA OR VERDICT OF GUILTY; OR~~

~~(2) AN ACCEPTED PLEA OF NOLO CONTENDERE.~~

~~(B) (1) In addition to any other penalty, a court OR THE DEPARTMENT may suspend FOR A PERIOD NOT EXCEEDING 5 YEARS the hunting license OR HUNTING PRIVILEGES of any person who is convicted of violating IN THE STATE any provision of this title [or], any regulation adopted under this title, [for a period not exceeding 5 years] OR ANY COMPARABLE PROVISION OF FEDERAL LAW.~~

~~(2) (i) A court OR THE DEPARTMENT may suspend for not more than 1 year the hunting license OR HUNTING PRIVILEGES of a person who is convicted of violating THE TRESPASS PROVISIONS OF § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting.~~

~~(ii) When a person not holding a hunting license is convicted of violating THE TRESPASS PROVISIONS OF § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting, the court OR THE DEPARTMENT may order that the person not obtain a hunting license for a period of not more than 1 year.~~

~~(3) (i) FOR THE PURPOSES OF THIS SUBSECTION, A SECOND CONVICTION IS A CONVICTION FOR A VIOLATION THAT ARISES OUT OF A SEPARATE SET OF CIRCUMSTANCES.~~

~~(ii) THE DEPARTMENT SHALL SUSPEND FOR A MINIMUM OF 1 YEAR AND A MAXIMUM OF 5 YEARS THE HUNTING LICENSE AND HUNTING PRIVILEGES OF A PERSON WHO, IN ANY 12 MONTH PERIOD, RECEIVES A SECOND CONVICTION FOR VIOLATIONS OF STATE OR FEDERAL LAW DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT ARE NOT ADMINISTRATIVE OR MINOR IN NATURE AS DETERMINED BY THE DEPARTMENT.~~

~~[(b)] (C) If a person whose hunting license is suspended under this section passes another hunting safety course after the suspension has expired, the person may reapply for and be issued a hunting license.~~

~~[(e)] (D) A person whose hunting license [is] OR HUNTING PRIVILEGES ARE suspended under this section may not:~~

~~(1) Hunt [on any lands where a hunting license is required], TRAP, PURSUE GAME, OR CHASE FOX OR OTHER FURBEARERS ANYWHERE IN THE STATE; or~~

~~(2) Purchase or attempt to purchase another hunting license during the period of suspension.~~

~~(E) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.~~

[10-1108.

(a) (1) In addition to any other penalty, a court may suspend the hunting license of any person who is convicted of violating any provision of this title or any regulation adopted under this title, for a period not exceeding 5 years.

(2) (i) A court may suspend for not more than 1 year the hunting license of a person who is convicted of violating § 6-402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting.

(ii) When a person not holding a hunting license is convicted of violating § 6–402 of the Criminal Law Article while carrying a firearm or bow and arrow for the purpose of hunting, the court may order that the person not obtain a hunting license for a period of not more than 1 year.

(b) If a person whose hunting license is suspended under this section passes another hunting safety course after the suspension has expired, the person may reapply for and be issued a hunting license.

(c) A person whose hunting license is suspended under this section may not:

(1) Hunt on any lands where a hunting license is required; or

(2) Purchase or attempt to purchase another hunting license during the period of suspension.]

10–1108.

(A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, THE DEPARTMENT OR THE COURT MAY SUSPEND FOR A PERIOD NOT EXCEEDING 5 YEARS THE HUNTING LICENSE OR HUNTING PRIVILEGES OF A PERSON WHO IS CONVICTED OF A STATE OR FEDERAL HUNTING VIOLATION.

(B) THE DEPARTMENT SHALL ADOPT REGULATIONS:

(1) TO IMPLEMENT THIS SECTION; AND

(2) THAT LIST THE CRITERIA FOR THE SUSPENSION OF A HUNTING LICENSE OR THE HUNTING PRIVILEGES OF A PERSON.

(C) (1) DURING A PERIOD OF SUSPENSION OF A HUNTING LICENSE OR THE HUNTING PRIVILEGES OF A PERSON IMPOSED BY THE DEPARTMENT OR THE COURT, THE PERSON MAY NOT:

(I) HUNT, TRAP, OR PURSUE GAME IN THE STATE; OR

(II) PURCHASE OR ATTEMPT TO PURCHASE ANOTHER HUNTING LICENSE.

(2) THE FOLLOWING ARE GROUNDS FOR AN IMMEDIATE SUSPENSION OF A HUNTING LICENSE OR HUNTING PRIVILEGES:

(I) KNOWINGLY MAKING A FALSE STATEMENT IN A LICENSE APPLICATION;

(II) A SECOND CONVICTION FOR VIOLATIONS OCCURRING ON SEPARATE DAYS WITHIN ANY 12-MONTH PERIOD FOR VIOLATIONS OF STATE OR FEDERAL HUNTING LAW THAT ARE NOT ADMINISTRATIVE OR MINOR IN NATURE AS DETERMINED BY THE DEPARTMENT;

(III) FAILURE TO SUBMIT A REPORT OR REPORT TO A CHECKING STATION AS REQUIRED UNDER THIS TITLE OR BY REGULATION; OR

(IV) FAILURE OF A NONRESIDENT OF THE STATE TO APPEAR IN COURT IN ACCORDANCE WITH A CITATION ISSUED BY A NATURAL RESOURCES POLICE OFFICER, OR TO ANY OTHER PROCESS ISSUED BY ANY COURT OF MARYLAND, FOR A VIOLATION OF THIS TITLE.

(3) A SUSPENSION IMPOSED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO ANY OTHER PENALTY AUTHORIZED UNDER THIS TITLE.

(4) THE DEPARTMENT SHALL INITIATE ANY PROCEEDING TO SUSPEND A HUNTING LICENSE OR HUNTING PRIVILEGES UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION IMMEDIATELY AFTER THE TIME FOR FILING AN APPEAL OF THE SECOND CONVICTION HAS PASSED.

(5) (I) BEFORE THE SUSPENSION OF A HUNTING LICENSE OR HUNTING PRIVILEGES UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE LICENSEE OR PERSON IN WRITING OF THE LICENSEE'S OR PERSON'S RIGHT TO A HEARING ON REQUEST.

(II) IF A LICENSEE OR PERSON SUBMITS A WRITTEN REQUEST FOR A HEARING TO THE DEPARTMENT WITHIN 30 DAYS AFTER THE DATE THAT THE NOTICE REQUIRED UNDER THIS PARAGRAPH IS MAILED, THE DEPARTMENT SHALL:

1. HOLD A HEARING AFTER PROVIDING AT LEAST 10 DAYS' NOTICE TO THE LICENSEE OR PERSON; AND

2. CONDUCT THE HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(III) THE DEPARTMENT MAY SUSPEND A HUNTING LICENSE OR HUNTING PRIVILEGES WITHOUT A HEARING IF:

1. THE LICENSEE OR PERSON DOES NOT SUBMIT A WRITTEN REQUEST FOR A HEARING; OR

2. THE LICENSEE OR PERSON FAILS TO APPEAR FOR A SCHEDULED HEARING FOR WHICH THE DEPARTMENT PROVIDED NOTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to recognize and commend the Maryland landowners and managers who provide and support native wildlife habitat, especially the landowners who embrace the principles of quality deer management and manage their land accordingly. The Department of Natural Resources is encouraged to augment the deer management efforts of these landowners by vigorously enforcing the wildlife laws against poachers who violate the public trust, thus helping ensure that the citizens of Maryland who recognize the value of sustainable native wildlife populations will be able to enjoy these resources now and in the future.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.