

HOUSE BILL 410

M2

6lr1939
CF SB 266

By: **Delegates O'Donnell, Aumann, Beitzel, and Holmes**

Introduced and read first time: January 29, 2016

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources – Poaching Restitution Act of 2016**

3 FOR the purpose of requiring a person convicted of poaching deer on privately owned land
4 to pay the State restitution in accordance with certain requirements; authorizing a
5 person convicted of poaching deer on privately owned land to pay a certain amount
6 of restitution instead of performing community service under certain circumstances;
7 requiring certain restitution collected to be credited to the State Wildlife
8 Management and Protection Fund; requiring the Department of Natural Resources
9 to adopt certain regulations; encouraging the Department and the Office of
10 Administrative Hearings to develop a certain database; requiring the Department
11 and the Office of Administrative Hearings to report to certain committees of the
12 General Assembly on or before a certain date; encouraging the Department to work
13 with local law enforcement agencies in developing certain protocols and strategies;
14 defining a certain term; providing for the application of certain provisions of this Act;
15 and generally relating to penalties for poaching deer on privately owned land.

16 BY renumbering

17 Article – Natural Resources
18 Section 10–101(q) through (cc), respectively
19 to be Section 10–101(r) through (dd), respectively
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2015 Supplement)

22 BY adding to

23 Article – Natural Resources
24 Section 10–101(q) and 10–1101.1
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2015 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Natural Resources

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–212(a) and 10–1102
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2015 Supplement)

4 Preamble

5 WHEREAS, Maryland’s nationally acclaimed Wildlife Poaching Prevention Act
6 enhanced the State’s ability to suspend and revoke hunting privileges for those individuals
7 found guilty of a State or federal hunting violation; and

8 WHEREAS, The Wildlife Poaching Prevention Act focused exclusively on the loss of
9 hunting privileges in order to help deter crimes against nature consistent with the tenets
10 of the public trust doctrine, but was silent on financial restitution to further deter wildlife
11 poaching, especially deer poaching on those lands referenced in the Act; and

12 WHEREAS, This Act not only declares Maryland’s disdain for poaching, but imposes
13 mandatory restitution for deer poaching on privately owned lands that, when such
14 restitution is combined with the potential loss of hunting privileges for up to 5 years, as set
15 forth in the Wildlife Poaching Prevention Act, will measurably deter future deer poaching
16 in Maryland and promote Maryland as a national leader in its zero tolerance for poaching;
17 now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That Section(s) 10–101(q) through (cc), respectively, of Article – Natural Resources of the
20 Annotated Code of Maryland be renumbered to be Section(s) 10–101(r) through (dd),
21 respectively.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
23 as follows:

24 **Article – Natural Resources**

25 10–101.

26 **(Q) “POACHING” MEANS THE ILLEGAL HUNTING, KILLING, OR TAKING OF**
27 **GAME.**

28 10–212.

29 (a) The General Assembly finds and declares that:

30 (1) Hunting is an important and traditional activity in which 14,000,000
31 Americans who are at least 16 years old participate;

32 (2) Hunters have been and continue to be among the foremost supporters
33 of sound wildlife management and conservation practices in the United States;

1 (3) Hunters and hunting organizations provide direct assistance to wildlife
2 managers and enforcement officers of federal, state, and local governments;

3 (4) Fees for hunting licenses, permits, and stamps, and taxes on goods used
4 by hunters, have generated billions of dollars for wildlife conservation, research, and
5 management;

6 (5) Hunting is an essential component of effective wildlife management, as
7 it is an important tool for reducing conflicts between people and wildlife and provides
8 incentives for the conservation of wildlife, habitats, and ecosystems on which wildlife
9 depends; [and]

10 (6) Hunting is an environmentally acceptable activity that occurs and can
11 be provided for on State public lands without adverse effects on other uses of the lands;
12 **AND**

13 **(7) POACHING, AS DEFINED IN § 10-101 OF THIS TITLE, IS NOT ONLY**
14 **A VIOLATION OF THE PUBLIC TRUST DOCTRINE, BUT ALSO VIOLATES THE TENETS OF**
15 **SOUND WILDLIFE MANAGEMENT AND CONSERVATION PRACTICES STRICTLY**
16 **ADHERED TO BY LAW-ABIDING SPORTSMEN AND SPORTSWOMEN WHO DEEM THE**
17 **ACT INTOLERABLE.**

18 **10-1101.1.**

19 **(A) (1) NOTWITHSTANDING § 10-1101 OF THIS SUBTITLE, A PERSON**
20 **CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND SHALL PAY THE STATE**
21 **RESTITUTION IN ACCORDANCE WITH THIS SECTION.**

22 **(2) FOR AN ACT OF POACHING THAT INVOLVES TRESPASSING ON**
23 **ANOTHER'S PROPERTY, THIS SECTION APPLIES WITH RESPECT TO THE TRESPASS**
24 **VIOLATION ONLY IF THE PERSON TRESPASSES IN A KNOWING OR WILLFUL MANNER.**

25 **(B) (1) FOR EACH SIKA DEER, ANTLERLESS WHITE-TAILED DEER, OR**
26 **ANTLERED WHITE-TAILED DEER THAT OBTAINS A SCORE OF 150 GROSS INCHES OR**
27 **LESS, AS MEASURED BY THE BOONE AND CROCKETT CLUB'S SCORING SYSTEM FOR**
28 **WHITE-TAILED DEER, A PERSON CONVICTED OF POACHING DEER ON PRIVATELY**
29 **OWNED LAND SHALL:**

30 **(I) PAY RESTITUTION OF NOT LESS THAN \$2,000 BUT NOT**
31 **EXCEEDING \$5,000; AND**

32 **(II) PERFORM 80 HOURS OF COMMUNITY SERVICE.**

1 **(2) INSTEAD OF THE COMMUNITY SERVICE REQUIRED UNDER**
2 **PARAGRAPH (1)(II) OF THIS SUBSECTION, A PERSON CONVICTED OF POACHING**
3 **DEER MAY PAY RESTITUTION OF NOT LESS THAN \$4,000 BUT NOT EXCEEDING**
4 **\$10,000, IN AN AMOUNT THAT IS DEEMED REASONABLE BY THE COURT.**

5 **(3) FOR EACH ANTLERED WHITE-TAILED DEER THAT OBTAINS A**
6 **SCORE OF MORE THAN 150 GROSS INCHES, AS MEASURED BY THE BOONE AND**
7 **CROCKETT CLUB'S SCORING SYSTEM FOR WHITE-TAILED DEER, A PERSON**
8 **CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND SHALL:**

9 **(I) PAY RESTITUTION OF NOT LESS THAN \$5,000 BUT NOT**
10 **EXCEEDING \$10,000; AND**

11 **(II) PERFORM 80 HOURS OF COMMUNITY SERVICE.**

12 **(4) INSTEAD OF THE COMMUNITY SERVICE REQUIRED UNDER**
13 **PARAGRAPH (3)(II) OF THIS SUBSECTION, A PERSON CONVICTED OF POACHING**
14 **DEER MAY PAY RESTITUTION OF NOT LESS THAN \$10,000 BUT NOT EXCEEDING**
15 **\$20,000, IN AN AMOUNT THAT IS DEEMED REASONABLE BY THE COURT.**

16 **(C) THE RESTITUTION COLLECTED UNDER THIS SECTION SHALL BE**
17 **CREDITED TO THE STATE WILDLIFE MANAGEMENT AND PROTECTION FUND,**
18 **ESTABLISHED UNDER § 10-209 OF THIS TITLE.**

19 **(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
20 **SECTION.**

21 10-1102.

22 **(a) If any fine is imposed by the District Court for a violation of any provision of**
23 **this title, the fine shall be collected pursuant to the provisions of law of the District Court**
24 **system, WITH THE EXCEPTION OF RESTITUTION PAYMENTS MADE UNDER §**
25 **10-1101.1 OF THIS SUBTITLE THAT ARE CREDITED TO THE STATE WILDLIFE**
26 **MANAGEMENT AND PROTECTION FUND, ESTABLISHED UNDER § 10-209 OF THIS**
27 **TITLE.**

28 **(b) If any fine is imposed by the circuit court of any county, the fine, less the costs**
29 **of collection, shall be paid to the State Wildlife Management and Protection Fund, unless**
30 **otherwise provided for.**

31 **SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly**
32 **encourages the Department of Natural Resources and the Office of Administrative**
33 **Hearings to develop a database that accounts for the disposition of proceeds derived from**
34 **confiscated property used in the commission of a wildlife offense as set forth in § 10-1106**

1 of the Natural Resources Article. On or before December 1, 2016, a report on these efforts
2 shall be made to the Senate Education, Health, and Environmental Affairs Committee and
3 the House Environment and Transportation Committee, in accordance with § 2–1246 of the
4 State Government Article.

5 SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly
6 encourages the Department of Natural Resources to work with local law enforcement
7 agencies in developing protocols and strategies that facilitate a coordinated time-sensitive
8 approach to investigate reports of deer poaching, including the authority to legally charge
9 individuals suspected of poaching and to confiscate the property used in the commission of
10 the offense.

11 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June
12 1, 2016.