

**SENATE BILL 266**

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6lr1780  
CF HB 410

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**By: Senators Salling, Astle, Jennings, and Waugh**

Introduced and read first time: January 22, 2016

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2016

Returned to second reading: March 3, 2016

Senate action: Adopted with floor amendments

Read second time: March 3, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Natural Resources – Poaching Restitution Act of 2016~~  
3 Hunting – Deer – Penalties

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

19 ~~BY renumbering~~20 ~~Article – Natural Resources~~21 ~~Section 10 – 101(q) through (cc), respectively~~

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

1 ~~to be Section 10-101(r) through (dd), respectively~~  
 2 ~~Annotated Code of Maryland~~  
 3 ~~(2012 Replacement Volume and 2015 Supplement)~~

4 BY adding to  
 5 Article – Natural Resources  
 6 Section ~~10-101(q) and~~ 10-1101.1  
 7 Annotated Code of Maryland  
 8 (2012 Replacement Volume and 2015 Supplement)

9 BY repealing and reenacting, with amendments,  
 10 Article – Natural Resources  
 11 Section ~~10-212(a) and~~ 10-1102  
 12 Annotated Code of Maryland  
 13 (2012 Replacement Volume and 2015 Supplement)

14 Preamble

15 WHEREAS, Maryland's nationally acclaimed Wildlife Poaching Prevention Act  
 16 enhanced the State's ability to suspend and revoke hunting privileges for those individuals  
 17 found guilty of a State or federal hunting violation; and

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

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

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 29 ~~That Section(s) 10-101(q) through (cc), respectively, of Article – Natural Resources of the~~  
 30 ~~Annotated Code of Maryland be renumbered to be Section(s) 10-101(r) through (dd),~~  
 31 ~~respectively.~~

32 ~~SECTION 2. AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland read  
 33 as follows:

34 **Article – Natural Resources**

35 ~~10-101.~~

1           ~~(Q) (1) "POACHING" MEANS THE ILLEGAL HUNTING, KILLING, OR TAKING~~  
2 ~~OF GAME, KNOWINGLY OR WILLFULLY.~~

3           ~~(2) "POACHING" INCLUDES HUNTING, KILLING, OR TAKING OF GAME~~  
4 ~~WHILE TRESPASSING ON ANOTHER'S PROPERTY.~~

5 ~~10-212.~~

6           ~~(a) The General Assembly finds and declares that:~~

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

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

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

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

16           ~~(5) Hunting is an essential component of effective wildlife management, as~~  
17 ~~it is an important tool for reducing conflicts between people and wildlife and provides~~  
18 ~~incentives for the conservation of wildlife, habitats, and ecosystems on which wildlife~~  
19 ~~depends; [and]~~

20           ~~(6) Hunting is an environmentally acceptable activity that occurs and can~~  
21 ~~be provided for on State public lands without adverse effects on other uses of the lands;~~  
22 ~~AND~~

23           ~~(7) POACHING, AS DEFINED IN § 10-101 OF THIS TITLE, IS NOT ONLY~~  
24 ~~A VIOLATION OF THE PUBLIC TRUST DOCTRINE, BUT ALSO VIOLATES THE TENETS OF~~  
25 ~~SOUND WILDLIFE MANAGEMENT AND CONSERVATION PRACTICES STRICTLY~~  
26 ~~ADHERED TO BY LAW-ABIDING SPORTSMEN AND SPORTSWOMEN WHO DEEM THE~~  
27 ~~ACT INTOLERABLE.~~

28 ~~10-1101.1.~~

29           ~~(A) NOTWITHSTANDING § 10-1101 OF THIS SUBTITLE, A PERSON~~  
30 ~~CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND ANY LAND IN THE~~  
31 ~~STATE SHALL PAY THE STATE RESTITUTION IN ACCORDANCE WITH THIS SECTION.~~

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

~~(I) PAY RESTITUTION OF NOT LESS THAN \$2,000 BUT NOT EXCEEDING \$5,000, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; AND~~

~~(II) PERFORM 80 HOURS OF COMMUNITY SERVICE.~~

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

~~(3) (2) FOR EACH ANTLERED WHITE TAILED DEER THAT OBTAINS A SCORE OF MORE THAN 150 GROSS INCHES, AS MEASURED BY THE BOONE AND CROCKETT CLUB'S SCORING SYSTEM FOR WHITE TAILED DEER, A PERSON CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND SHALL:~~

~~(I) PAY RESTITUTION OF NOT LESS THAN \$5,000 BUT NOT EXCEEDING \$10,000, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; AND~~

~~(II) PERFORM 80 HOURS OF COMMUNITY SERVICE.~~

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

(A) FOR PURPOSES OF THIS SECTION, EACH DEER HUNTED, KILLED, OR TAKEN CONSTITUTES A SEPARATE OFFENSE.

(B) A PERSON MAY NOT KNOWINGLY AND WILLFULLY HUNT, KILL, OR TAKE, IN VIOLATION OF THIS TITLE:

(1) SIKA DEER;

(2) ANTLERLESS WHITE-TAILED DEER; OR

(3) ANTLERED WHITE-TAILED DEER.

1           **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SECTION AND**  
2 **IN ADDITION TO ANY PENALTIES PROVIDED UNDER § 10-1101 OF THIS SUBTITLE, A**  
3 **PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**  
4 **CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000.**

5           **(2) IN ADDITION TO ANY PENALTIES PROVIDED UNDER § 10-1101 OF**  
6 **THIS SUBTITLE, A PERSON WHO VIOLATES SUBSECTION (B)(3) OF THIS SECTION**  
7 **INVOLVING AN ANTLERED WHITE-TAILED DEER THAT OBTAINS A SCORE OF MORE**  
8 **THAN 150 GROSS INCHES, AS MEASURED BY THE BOONE AND CROCKETT CLUB'S**  
9 **SCORING SYSTEM FOR WHITE-TAILED DEER, IS GUILTY OF A MISDEMEANOR AND ON**  
10 **CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.**

11           ~~(C)~~ **(D) THE RESTITUTION FINE COLLECTED UNDER THIS SECTION SHALL**  
12 **BE CREDITED TO THE STATE WILDLIFE MANAGEMENT AND PROTECTION FUND,**  
13 **ESTABLISHED UNDER § 10-209 OF THIS TITLE.**

14           ~~(D)~~ **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT**  
15 **THIS SECTION.**

16 10-1102.

17           (a) If any fine is imposed by the District Court for a violation of any provision of  
18 this title, the fine shall be collected pursuant to the provisions of law of the District Court  
19 system, **WITH THE EXCEPTION OF RESTITUTION FINE PAYMENTS MADE UNDER §**  
20 **10-1101.1 OF THIS SUBTITLE THAT ARE CREDITED TO THE STATE WILDLIFE**  
21 **MANAGEMENT AND PROTECTION FUND, ESTABLISHED UNDER § 10-209 OF THIS**  
22 **TITLE.**

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

26           SECTION ~~2~~ **2.** AND BE IT FURTHER ENACTED, That the General Assembly  
27 encourages the Department of Natural Resources and the ~~Office of Administrative~~  
28 ~~Hearings~~ **Office of the Courts** to develop a database that accounts for the disposition of  
29 proceeds derived from confiscated property used in the commission of a wildlife offense as  
30 set forth in § 10-1106 of the Natural Resources Article. On or before December 1, 2016, a  
31 report on these efforts shall be made to the Senate Education, Health, and Environmental  
32 Affairs Committee and the House Environment and Transportation Committee, in  
33 accordance with § 2-1246 of the State Government Article.

34           SECTION ~~4~~ **3.** AND BE IT FURTHER ENACTED, That the General Assembly  
35 encourages the Department of Natural Resources to work with local law enforcement  
36 agencies in developing protocols and strategies that facilitate a coordinated time-sensitive  
37 approach to investigate reports of deer poaching, including the authority to legally charge

1 individuals suspected of poaching and to confiscate the property used in the commission of  
2 the offense.

3 SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 June 1, 2016.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.