

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 798 (Senator Gallion)  
Education, Health, and Environmental Affairs

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**Prohibition on Sale of Wildlife - Local Venison Donation Programs - Application**

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This bill establishes that the existing prohibition against selling, offering for sale, bartering, or exchanging any game bird or mammal taken from the wild does not apply to venison from a lawfully harvested white-tailed deer that is donated to a venison donation program, administered by the county where the deer was harvested, for processing and distribution to a tax-exempt food pantry or food bank. **The bill takes effect July 1, 2021.**

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**Fiscal Summary**

**State Effect:** Potential increase in general fund expenditures for enforcement, beginning as early as FY 2022, as discussed below. The bill is not expected to materially affect State revenues.

**Local Effect:** To the extent that local governments establish or expand programs that incentivize the donation of venison as a result of the bill, local expenditures may increase minimally, as discussed below. Local government revenues are not directly affected.

**Small Business Effect:** Minimal overall, but potential meaningful impact on certain businesses, as discussed below.

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## Analysis

### Current Law:

#### *Prohibition against Selling Venison*

Generally, a person may not sell, offer for sale, barter, or exchange, at any time within the State, any game bird or mammal taken from the wild in the State or in another state, territory, or county. However, there are exemptions to this prohibition for the legally acquired (1) meat, pelt, carcass, or mounted specimen of any beaver, coyote, fisher, fox, mink, muskrat, nutria, opossum, otter, raccoon, skunk, or long-tailed weasel; (2) hide, hair, tail, or feet of deer, squirrel, or rabbit (excluding a mounted specimen); (3) feathers, skin, or feet of upland and forest game birds (excluding a mounted specimen); (4) unless prohibited by federal law, feathers of wetland game birds; or (5) antlers of deer legally acquired in another state and manufactured into an article of commerce in another state.

#### *Tax Credit and Limited Liability Related to Venison Donations*

Chapters 172 and 173 of 2018 established a tax credit for the qualified expenses incurred to donate processed deer meat to a nonprofit venison donation program. An individual can claim a credit of up to \$50 for the expenses incurred to butcher and process an antlerless deer. In order to qualify, a hunter must comply with applicable State hunting laws and regulations. The total amount of tax credits claimed in each year may not exceed \$200, unless the tax credit is claimed pursuant to a deer that is hunted in accordance with a deer management permit. Any unused amount of the tax credit may not be carried forward to any other tax year. Tax credits can be claimed in tax years 2018 through 2022. The tax credit program terminates June 30, 2023.

Individuals may also qualify to deduct the cost of butchering and processing a donated deer as a charitable donation, which typically lowers federal and State income tax liability.

If a person donates food in good faith for use or distribution by a nonprofit corporation, organization, or association, the person is not civilly liable for any act or omission that affects the nature, age, condition, or packaging of the donated food unless the act or omission amounts to gross negligence or willful and wanton misconduct.

**State Expenditures:** The Department of Natural Resources (DNR) estimates that its general fund expenditures increase by nearly \$1.3 million in fiscal 2022, and by at least \$918,000 annually thereafter, to hire nine new employees (eight Natural Resources Police (NRP) officers and one NRP sergeant) to create a new unit within NRP to monitor the legal harvest and sale of venison due to the bill's changes. In particular, DNR expects that the county-specific language under the bill that only allows for the sale or exchange of a deer

harvested *in the county where the venison donation program is administered* could encourage hunters to lie about the county in which a deer is harvested in order to be able to qualify for the bill's exemption. DNR anticipates a significant increase in enforcement activity as a result.

The Department of Legislative Services (DLS) concurs that the bill could result in additional enforcement costs for DNR. However, DLS disagrees that the bill alone justifies the need to establish an entirely new unit within NRP, particularly since there is only one known qualifying local program in the State (discussed below). To the extent that additional counties establish qualifying programs and the bill results in a significant increase in enforcement activity, costs may increase for DNR to hire additional staff.

**Local Expenditures:** DLS is only aware of one local program in the State – in Anne Arundel County – that provides financial incentives to hunters who donate wild caught venison to a local food pantry. Anne Arundel County advises that it operated a venison donation program in November and December of 2020 and reimbursed hunters \$50 per deer (for costs incurred while harvesting the deer) and \$100 per deer to processors (for costs incurred while processing the deer). Under the program, 255 deer were donated, and the total cost to the county, which was paid for with federal funds from the Coronavirus Aid, Relief, and Economic Security Act, was \$23,250.

To the extent that other counties choose to develop similar programs as a result of the bill's changes, costs in those counties may increase minimally.

**Small Business Effect:** To the extent that the bill results in additional deer hunting in the State, there could be a meaningful economic impact on certain types of businesses. The U.S. Fish and Wildlife Service reports that, in 2011, the average hunter in Maryland spent \$49 per hunting day on trip-related expenditures. In 2011, the National Survey of Fishing, Hunting, and Wildlife Associated Recreation estimated that hunters in Maryland spend more than \$260 million annually on food, lodging, equipment, and transportation.

In addition to businesses directly affected by hunting, to the extent the bill results in a decrease in the State's deer population, the bill may also affect several other types of businesses, such as farms (due to a reduction in crop damage) and businesses that own or repair vehicles (due to a reduction in deer-vehicle collisions).

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## Additional Information

**Prior Introductions:** None.

**Designated Cross File:** HB 594 (Delegate Fraser-Hidalgo) - Environment and Transportation.

**Information Source(s):** Anne Arundel, Baltimore, Charles, Frederick, and Montgomery counties; Maryland Department of Health; Maryland Association of County Health Officers; Department of Natural Resources; U.S. Fish and Wildlife Service; Department of Legislative Services

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