

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 582

(Senator Bailey)

Education, Health, and Environmental Affairs

Environment and Transportation

Natural Resources - Recreation on Private Land - Hunting

This bill alters the stated purpose of Maryland's recreational use statute (Title 5, Subtitle 11 of the Natural Resources Article), which limits a landowner's liability in specified circumstances relating to the recreational use of the landowner's real property, to include encouraging any owner of land to make land, water, and airspace above the land and water areas available to the public *on a limited entry basis for any recreational hunting purpose*. Further, if a landowner invites or permits on a limited entry basis, with or without charge, an individual to use the landowner's real property for hunting, the invited or permitted individual impliedly consents to adhere to every law, to observe every safety precaution and practice, to observe all property boundaries, to take every precaution against fire, and to assume all responsibility and liability for the individual's safety and property while hunting on the landowner's real property. Pursuant to current law, the Department of Natural Resources (DNR) must adopt regulations to permit such use of a landowner's real property. The bill also makes stylistic changes to related provisions. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations. DNR can update regulations as necessary with existing budgeted staff and resources.

Local Effect: The bill does not materially affect local finances or operations.

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

Analysis

Current Law: In order to encourage a landowner to make land, water, and airspace above the land and water areas available to the public for any recreational and educational purpose, certain protections from liability are established in statute for those landowners that do so (referred to by the Maryland Court of Special Appeals, in *Fagerhus v. Host Marriott Corp.*, 143 Md. App. 525 (2002), as “Maryland’s recreational use statute”). Generally, an owner of land, including a local government and a landowner that has leased land to the State or any of its political subdivisions (for any recreational or educational purpose), is not liable for injury to persons that use the land for recreational or educational purposes upon invitation or permission from the owner, *provided it is at no charge*. The owner is not protected from liability for injury where the owner charges the person for the use of the land. An owner is also not protected from liability resulting from willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

To facilitate a method of providing written consent, the Secretary of Natural Resources is required to distribute specified permission cards to be available to the public and landowners. On the card, the landowner grants permission to enter the property, and the user of the land agrees to specified assumption of responsibility and liability. The card contains signature lines for both the landowner and user.

If a landowner agrees to the use of a defined part of the landowner’s real property for cross-country skiing, for use of an off-highway vehicle, *or for hunting*, users impliedly consent to (1) adhere to every law; (2) observe every safety precaution and practice; (3) take every precaution against fire; and (4) assume all responsibility and liability for the person’s safety and property. If a landowner leases a defined part of the landowner’s property for those uses, the provisions described above related to permission cards are applicable. DNR must adopt regulations to allow such use of a landowner’s real property.

Under current law specific to hunting, a person must obtain written permission from the landowner (or the landowner’s agent) before hunting on the landowner’s property. The person hunting on the private property is liable for any damages he or she causes while hunting. The landowner is not liable for accidental injury or damage to the person regardless of whether the landowner gave permission to hunt on the private property.

Small Business Effect: To the extent that the bill allows landowners to charge for the use of land for hunting without incurring liability, the bill may have a meaningful impact. For example, farmers may benefit from allowing hunters to use their land for a charge. Additionally, to the extent that the bill results in a decrease in the 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.)

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Natural Resources; Department of Legislative Services

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