

Support of HB 956 - Natural Resources - Recreation

Uploaded by: Colby Ferguson

Position: FAV



Maryland Farm Bureau, Inc.

3358 Davidsonville Road • Davidsonville, MD 21035 • (410) 922-3426

March 2, 2022

To: House Environment & Transportation Committee

From: Maryland Farm Bureau, Inc.

Re: **Support of HB 956 - Natural Resources - Recreation on Private Land - Hunting**

On behalf of our member families, I submit this written testimony in support of HB 956, legislation that provides that if a landowner directly invites or permits 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, observe every safety precaution and practice, take every precaution against fire, and assume all responsibility and liability for the individual's safety and property while hunting on the landowner's real property.

During a recent court case that involved a landowner that had allowed some people to ride ATVs in his property, the judge ruled in favor of the ATV rider that wrecked on this person's property and said that since the landowner had not made his land available to all public, then the landowner did not meet the standards to be exempted based on 5-1106 of the Natural Resources Article. Even though that court case was not a hunting accident, the same statute also includes the hunting liability exemption.

Because of this ruling, this bill is being introduced to clarify the intent of the law, when it comes to allowing people to hunt on private land when invited. This bill addresses the liability exemption from non-willful or non-malicious liability for hunting only.

Maryland Farm Bureau Policy:

- We support the current contributory negligence liability standard that protects livestock and landowners in Maryland from frivolous lawsuits. We oppose passage of legislation that would use a comparative negligence standard to determine awards based on the extent of each party's responsible actions.

MARYLAND FARM BUREAU SUPPORTS HB 956 AND REQUEST A FAVORABLE REPORT

A handwritten signature in black ink, appearing to read 'Colby Ferguson'.

Colby Ferguson
Director of Government Relations

For more information contact Colby Ferguson at (240) 578-0396

DNR Enhanced Deer Management Strategy HB956.pdf

Uploaded by: Delegate Jerry Clark

Position: FAV



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Jeannie Haddaway-Ricco, Secretary
Allan Fisher, Deputy Secretary

November 5, 2021

The Honorable Guy Guzzone
Senate Budget and Taxation Committee, Chair
3 West Miller Senate Office Building
Annapolis, Maryland 21401

The Honorable Maggie McIntosh
House Appropriations Committee, Chair
Room 121 House Office Building
Annapolis, Maryland 21401

Subject: Submission of the Montgomery County Enhanced Deer Management Strategy
Agency: Department of Natural Resources
Report Authority: 2021 Joint Chairmen's Report, Page 83

Dear Chairs:

In the 2021 Joint Chairmen's Report, the Maryland General Assembly directed the Maryland Department of Natural Resources to submit a report on the uncontrollable deer population growth in Montgomery County and to develop an enhanced deer management strategy to reduce the Montgomery County deer population by a measurable amount. The attached report is intended to fulfill this report requirement.

Should you have any questions or comments on this report, please feel free to contact Bunky Luffman, Legislative Director, directly at 410-689-9165 or bunky.luffman1@maryland.gov.

Sincerely,

Jeannie Haddaway-Ricco
Secretary

Attachment

cc: Sarah Albert, Legislative Library (5 hard copies)
Bunky Luffman

Introduction

The Maryland Department of Natural Resources (DNR) is charged with managing the wildlife of Maryland, including the white-tailed deer (*Odocoileus virginianus*). White-tailed deer are one of the most recognizable and well-known species in the state. While they are admired by wildlife enthusiasts who enjoy their gracefulness and are of value to hunters, they are considered by others to be a nuisance since they negatively impact motor safety and the economic livelihood of Maryland farmers and arborists.

In fact in 2021, the Maryland General Assembly expressed concern that Montgomery County is experiencing “uncontrollable deer population growth and that the existing methods of lawfully mitigating their detrimental impact have proven ineffective.” As a result, the budget committees requested that DNR work cooperatively with Montgomery County officials “to develop an enhanced deer management strategy to reduce the Montgomery County deer population by a measurable amount.”

Background

Since 1998, Maryland has developed a 15-year deer management plan that establishes both lethal and non-lethal options to meet management goals and objectives. An extensive public input process is utilized to ensure that divergent opinions and interests are considered as the management plan is developed. The most recent revision occurred in 2020.

Additionally, DNR uses a population reconstruction model to estimate deer population based on the total annual deer harvest and the biological data collected by staff at processors during the hunting season. Maryland’s statewide deer population remains stable, but has been reduced since the first deer plan was created in 1998 (Fig. 1). The deer population was estimated at 232,000 individuals in 2020.

All of the recommendations contained in this report for enhanced deer management in Montgomery County are consistent with Maryland’s deer management plan and state law.

Montgomery County Deer Population Status

DNR uses the annual antlered deer harvest as an index to the deer population size for a given county. This method provides accurate data to assess deer population trends at the county and sub-county level.

Over the past two decades, the deer population in Montgomery County has been stable (Fig. 2). Hunters in Montgomery County harvest approximately 1,300 antlered deer annually. The antlered harvest is comparable elsewhere in the state (Fig. 3) and suggests the deer population density in much of the county is similar to other counties.

Recommendations

In addition to methods already being deployed, DNR makes the following recommendations to enhance Montgomery County's deer management strategy:

LETHAL OPTIONS

Continue and Expand Regulated Hunting and Harvest - Deer hunting remains the most effective way to manage deer in Montgomery County and across the state. Deer hunters in Montgomery County harvest approximately 4,000 total deer annually at no cost to the citizens of the county (Fig. 2). To enhance the effectiveness of regulated hunting, DNR has instituted liberal antlerless seasons and bag limits to encourage the harvest of female deer, which regulate deer population growth. Hunters in Montgomery County harvest approximately 65% antlerless deer annually (Fig. 4). This harvest rate is effective at preventing deer population growth in most parts of the county.

Lack of access to land to hunt deer and inadequate hunting pressure on many properties are primary issues limiting the effectiveness of regulated deer hunting. Encouraging landowners and producers to increase deer hunting opportunities on their properties would control deer numbers more effectively. Landowners can increase the effectiveness of legal harvest by encouraging or requiring those who lease their property to harvest female deer. This can be accomplished through hunting leases. Likewise, if friends and family are hunting the property, they too can be encouraged or required to prioritize harvest of female deer.

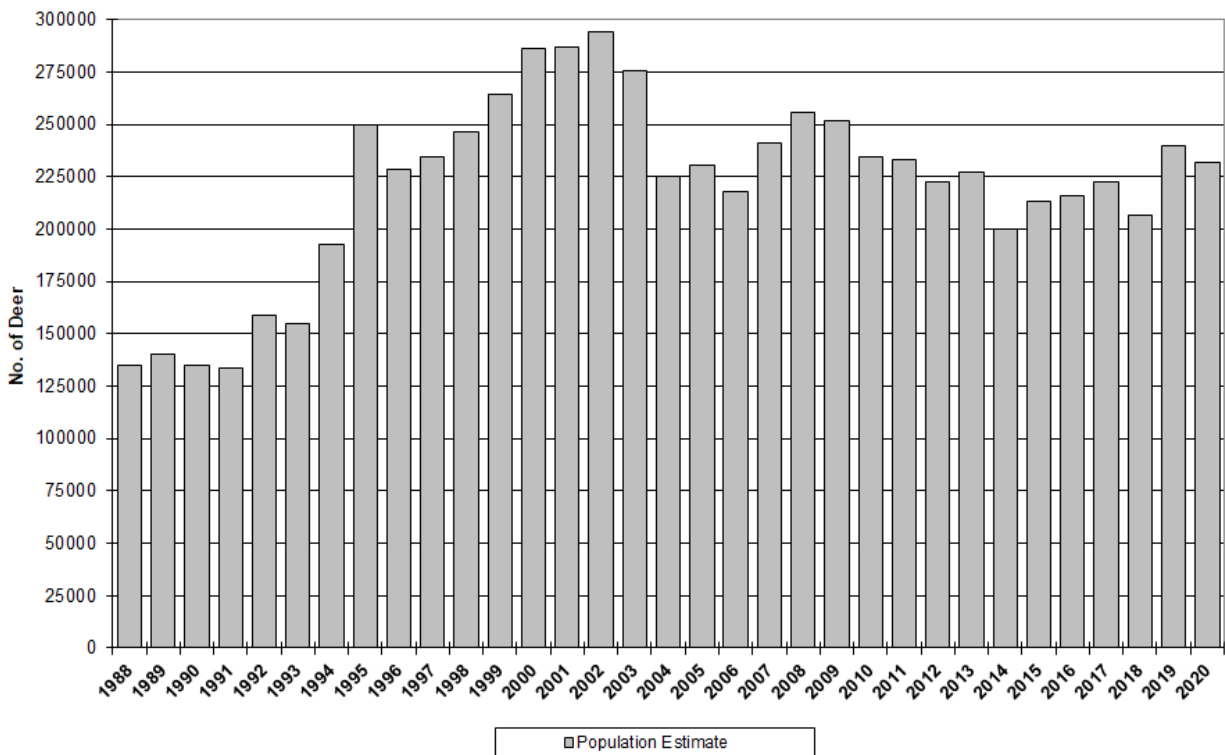


Figure 1. Estimated statewide white-tailed deer population, 1988–2020.

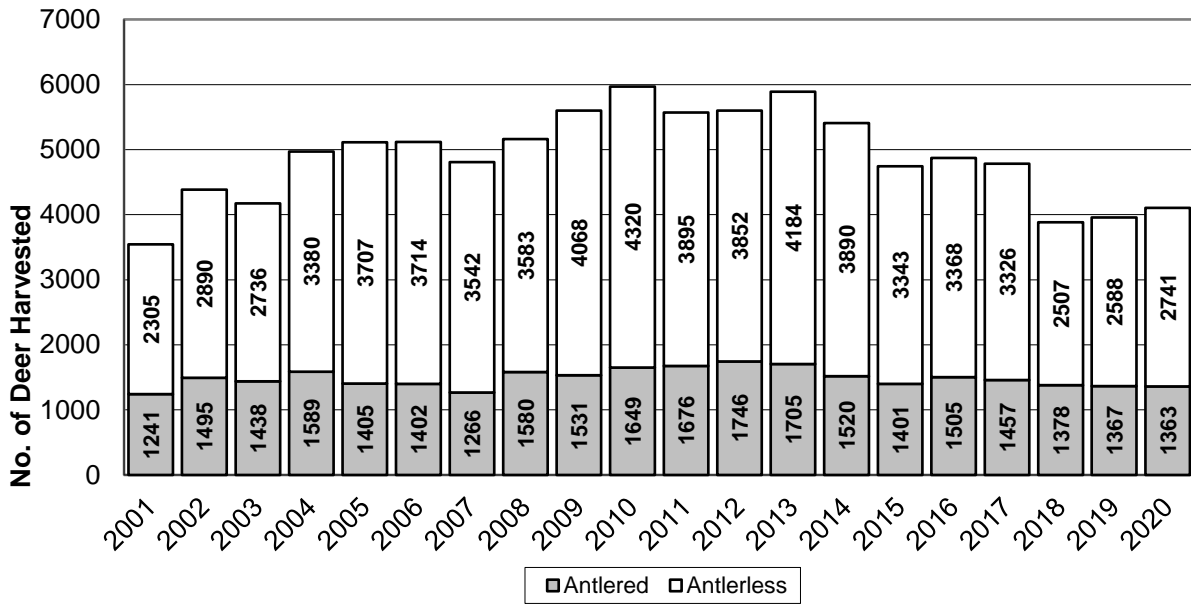


Figure 2. Antlered and antlerless white-tailed deer harvest in Montgomery County, 2001-2020.

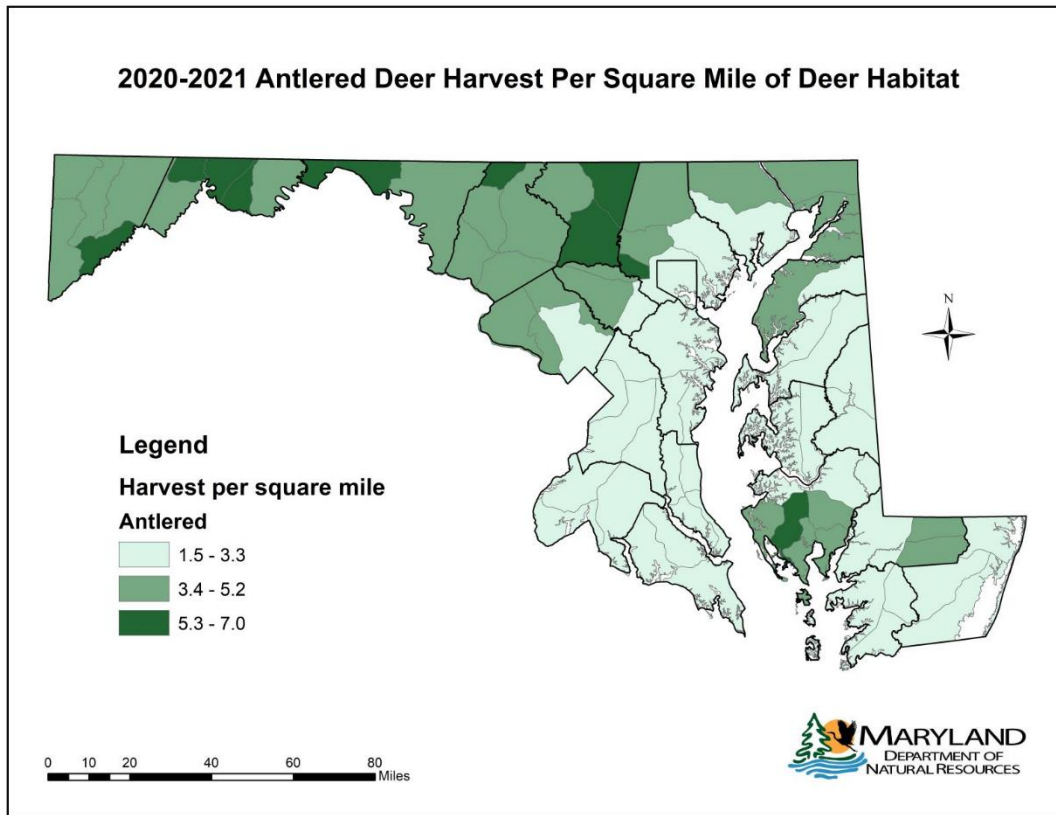


Figure 3. Antlered white-tailed deer harvest per square mile of deer habitat in Maryland, 2020-2021.

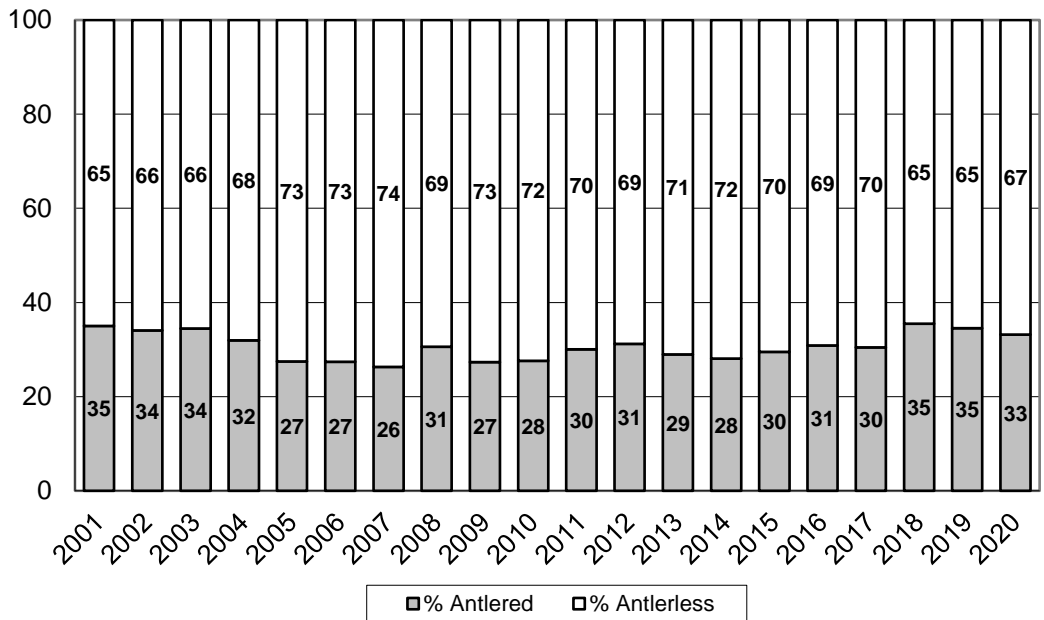


Figure 4. Percentage of antlered and antlerless deer harvested annually in Montgomery County, 2001-2020.

Reduce Liability for Landowners - One reason that private landowners may not want to allow hunting on their property is due to liability concerns. Lawmakers should consider a statutory change to reduce those concerns. In *Martinez v. Ross*, the Court of Special Appeals held that a landowner was liable despite the provisions of Maryland’s recreational use statute because the landowner did not open their land to the general public. The court interpreted that as a requirement for landowners to leverage the protections of the recreational statute. This was a great departure from how the statute had been previously interpreted. A clarification that the law does not require a landowner to make their property open to the public-at-large would likely result in more willing landowners providing hunting opportunities on their property.

Deer Management Permits - Producers (i.e., farmers, arborists, etc.) can apply for DNR Deer Management Permits (DMPs) in situations where established deer hunting seasons do not provide adequate deer population regulation for commercial farming operations. DMPs allow farmers to harvest deer 365 days a year without regard for deer season bag limits. These permits also add another mechanism for DNR to regulate the deer population. The vast majority of deer taken under DMPs are antlerless. On rare occasions, a nursery owner may receive permission to take individual antlered deer doing damage to nursery stock with their antlers during the breeding season. If antlered deer are harvested under a permit, all antlers must be turned over to the department.

Most DMPs are issued for a 12-month period. Landowners, agricultural lessees, or designated farm employees can apply for DMPs through DNR, and additional agents can act as shooters under the permits. Operations with severe deer damage and economic loss to commercial agricultural crops, orchards, or nursery stock qualify for DMPs. In addition, DMPs may be acquired for deer browse damage to natural woodland areas that have a forest management plan written by a professional forester.

Approximately 50 agricultural producers obtain a DMP annually in Montgomery County and were authorized to harvest 1,245 deer under authority of DMPs in 2020-2021, however only 480 deer were harvested (Fig. 6). Annually, Montgomery County is averaging the harvest of 400-500 deer (Fig. 5).

DNR recommends engaging local natural resources staff, county farm bureaus, or extension to educate landowners on the availability and benefits of DMPs to encourage more landowners to apply.

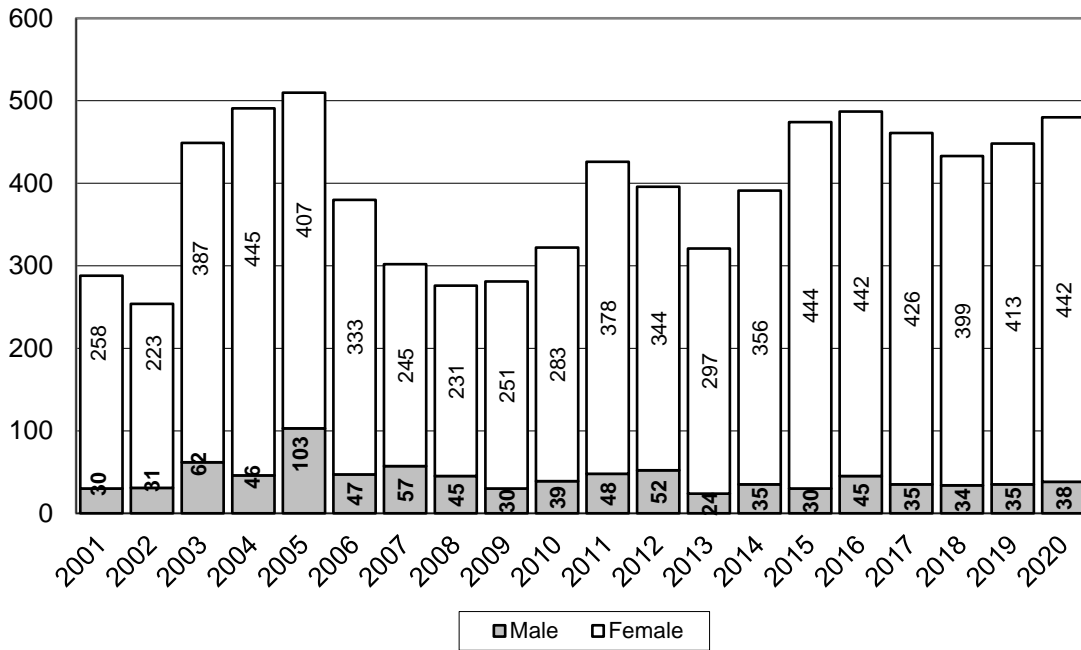


Figure 5. Number of deer harvested under authority of Deer Management Permits in Montgomery County, 2001-2020.

County	No. Permits Issued	No. Shooters Authorized	No. Successful Shooters	No. Deer Authorized to Harvest	Whitetail Males Harvested	Whitetail Females Harvested	Sika Males Harvested	Sika Females Harvested	Total Harvested	Tags Utilized (%)
Allegany	49	249	90	433	24	229			253	58
Anne Arundel	27	200	43	830	31	143			174	21
Baltimore	87	624	93	1,855	70	402			472	25
Calvert	20	129	23	605	6	58			64	11
Cardine	30	184	57	490	41	229			270	55
Carroll	170	776	207	3,935	101	756			857	22
Cecil	39	292	62	915	52	265			317	35
Charles	51	255	37	1,730	14	144			158	9
Dorchester	70	535	145	1,995	31	319	27	327	704	35
Frederick	121	746	181	2,125	67	670			737	35
Garrett	425	1,897	523	3,566	181	1,350			1,531	43
Harford	54	465	74	1,160	31	281			312	27
Howard	44	310	75	910	23	262			285	31
Kent	32	285	57	670	40	245			285	43
Montgomery	51	408	97	1,245	38	442			480	39
Prince George's	29	245	49	1,120	22	174			196	18
Queen Anne's	43	271	75	660	16	262			278	42
St. Mary's	68	445	67	2,240	39	207			246	11
Somerset	41	362	67	858	24	250	0	1	275	32
Talbot	61	400	110	1,415	70	423			493	35
Washington	99	527	126	1,275	28	419			447	35
Wicomico	76	451	99	1,296	47	416	0	16	479	37
Worcester	92	635	160	1,835	56	645			701	38
Total	1,779	10,691	2,517	33,163	1,052	8,591	27	344	10,014	30

Figure 6. Deer Management Permit statistics by county, 2020-2021.

Deer Cooperator Permits - The DNR Maryland Deer Cooperator Permit (DCP) certifies private individuals and animal control businesses to lethally and non-lethally address deer overpopulation issues (for profit, if they choose) in areas where regulated hunting is not feasible or not effective alone. Beginning in 2018, the program was modified to include an Agricultural Deer Cooperator Permit (ADCP) for producers suffering deer damage.

Sharpshooting is the primary method used to remove deer under a DCP or ADCP. The permit allows sharpshooting deer at night as well as the use of rifles in counties that do not allow rifles for deer hunting, as long as the appropriate county officials approve of the plan and shooters satisfy all other requirements. Shooting is restricted to February and March for agricultural deer cooperator permits. The vast majority of deer taken under DCPs and ADCPs are antlerless and a quota restriction is typically placed on the taking of antlered deer. The usable meat of deer taken under a DCP or ADCP must be donated to charity or otherwise used, and antlers from any deer removed must be turned over to the department.

To become a deer cooperator, applicants must take a written test about deer biology and management and pass a shooting qualification test. There is a \$100 annual permit fee. Cooperators are required to submit an operation plan to the department for approval for each project. Cooperators must also submit quarterly and final project reports. Site visits by DNR may also be warranted. To date, there have not been any ADCPs requested in Montgomery County. DNR encourages the use of this tool as part of enhanced deer management in Montgomery County.

DNR recommends engaging local natural resources staff, county farm bureaus, or extension to educate landowners on the availability of ADCPs. A common complaint that DNR receives is that the ADCPs are limited to February and March. As a result, the permit does not allow enhanced harvest during the planting and growing seasons. DNR is scoping a regulatory change that would extend the timeframe for ADCPs to July 31 of each year.

DNR also recommends that local jurisdictions invest funding and resources in venison donation programs, and provide supporting infrastructure (i.e., cooler boxes, carcass transport, etc.) to provide an avenue for DMP/DCP-harvested deer to be used, particularly during the hunting off-season.

Venison Donation Programs - Natural Resources Article Section 10-404(e) prohibits the “sale, barter, trade or exchange” for a game mammal taken from the wild. This prohibition is codified in state law because programs that induce hunting or reward killing of animals put additional pressure on the wildlife populations that cannot be accounted for in scientific modeling. Such incentives also ignore basic, fundamental principles of good natural resources management, and ethics in hunting for deer and all wildlife.

Requiring hunters to kill a deer in order to receive a ‘reward’ is therefore prohibited under state law; however, incentivizing the donation of venison or rewarding hunter participation in a venison donation program is not. Howard County recently enacted a good county model. Prizes are offered through a raffle for any deer hunter that participates in the program and donates the venison. No payments are made nor prizes are offered to hunters in exchange for dead deer. The donated venison goes from participating processors directly to the local food bank, which helps ensure food safety. The program has also proven to be cost effective. The cost is approximately \$60 per deer. That means that 300 deer were processed for less than \$20,000. The result is 15,000 pounds of edible venison at approximately \$0.75/pound.

DNR recommends that Montgomery County consider implementing a program modeled after Howard County’s program.

Promote Recently Passed Legislation - Recently, legislation has been passed to incentivize the donation of venison. In 2018, House Bill 7 and Senate Bill 182 - *Income Tax Credit - Venison Donation - Feed the Hungry Organizations* was passed. The legislation allows a person who hunts and harvests an antlerless deer to claim \$50 for expenses against state income tax if they donate to a venison donation program administered by a 501(c)(3) organization. The credit has a maximum of \$200 per taxable year, unless the individual harvested each deer for which the credits are claimed in accordance with a DMP.

DNR is encouraging hunters to take advantage of the tax credit for deer donations and has included information on it in every deer hunting season press release and announcement released during the 2021-2022 hunting year. It is also highlighted in our digital hunting guide and has been shared on social media.

Building on the 2018 legislation, House Bill 7 *Venison Donation Expenses - Income Tax Credit and Grant Program* was passed in 2021. The legislation expands the state income tax credit in

Montgomery County to include certain hunting trip expenditures. The maximum credit per tax year is \$200 (four deer at \$50 each). The bill replaces the tax credit program with a venison donation grant program within DNR beginning in FY23. The grant program is being drafted by the department with a scheduled implementation date of July 1, 2022.

Both of these initiatives incentivize the donation of venison, which is a worthy cause and supports an important purpose. DNR recommends continued promotion of these programs by state, local, private, and nonprofit partners.

NON-LETHAL OPTIONS

Given the density and geography in some regions of Montgomery County, non-lethal deer management options may be more viable. DNR recommends that Montgomery County farmers, landowners and producers consider implementing a pilot program with the following elements:

Vegetative Fencing - Several farmers and landowners in Maryland have had success with vegetative fencing. Montgomery County, DNR, and the Maryland Department of Agriculture (MDA) could establish a voluntary pilot program with willing landowners to study the effectiveness of various types of crops.

Mechanical Fencing - Several farmers and landowners in Maryland have also had success with mechanical fencing. Montgomery County, DNR, MDA could establish a voluntary pilot program with willing landowners to study the effectiveness of this.

Repellents - Another option that Maryland farmers and landowners have deployed is the use of repellents. Montgomery County, DNR, MDA could establish a voluntary pilot program with willing landowners to study the effectiveness of this.

Any producer or landowner interested in conducting such a pilot program should contact DNR. DNR will coordinate with MDA and the farmer, landowner or producer to establish baseline data sets and evaluate the effectiveness of these methods.

HB956_FAV_GUY

Uploaded by: James Guy

Position: FAV



House Bill 956

Natural Resources - Recreation on Private Land - Hunting

SUPPORT

March 1, 2022

Delegate Kumar P. Barve, Chairman
Environment and Transportation Committee
House Office Building, Room 251
6 Bladen Street
Annapolis, MD 21401

Dear Chairman Barve:

The Commissioners of St. Mary's County **SUPPORT** HB 956– Natural Resources - Recreation on Private Land - Hunting which will be heard in the Environment and Transportation Committee.

We support HB 956 and urge a favorable report. We appreciate the introduction of this legislation and believe it will benefit the citizens of St. Mary's County. We look forward to working with you on this and other initiatives throughout the session.

Sincerely,
COMMISSIONERS OF ST. MARY'S COUNTY


James Randy Guy, President

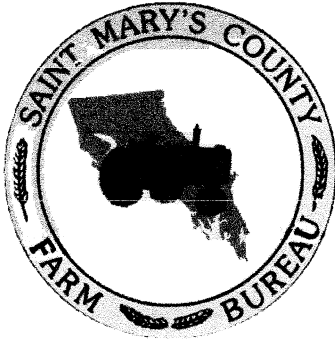
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Cc: Senator Jack Bailey
Delegate Matthew Morgan
Delegate Gerald Clark
Delegate Brian Crosby
Commissioner Eric Colvin
Commissioner Michael Hewitt
Commissioner Todd Morgan
Commissioner John O'Connor
Catherine Pratson, Acting Co-County Administrator
David Weiskopf, Acting, Co-County Administrator

HB956_FAV_Raley

Uploaded by: James Raley

Position: FAV



ST. MARY'S COUNTY FARM BUREAU

26737 Radio Station Way, Ste. G.

Leonardtown, MD 20650

(240) 309-4183

www.mdfarmbureau.com/st-marys

WORKING FOR SUSTAINABLE AGRICULTURE SINCE 1947

House Bill 956

Natural Resources - Recreation on Private Land - Hunting

Favorable

March 2, 2022

The Honorable Kumar P. Barve, Chair
House Environment and Transportation Committee
House Office Building, Room 251
11 Bladen Street
Annapolis, MD 21401

Dear Chairman Barve,

The Board of Directors of the St. Mary's County Farm Bureau **SUPPORTS** HB 956—
Natural Resources - Recreation on Private Land - Hunting, which is being heard in the
Environment and Transportation Committee.

Farm bureau requests a favorable report on HB 956. We appreciate the introduction of
this legislation and believe it will benefit farmers in St. Mary's County. Thank you for your
consideration as well as your attention to this matter.

Sincerely,

James K. Raley, Jr.
President
St. Mary's County Farm Bureau

Cc: Del. Jerry Clark

HB956 - Recreation on Private Land - Letter to Del

Uploaded by: John Norris

Position: FAV



**CALVERT COUNTY
BOARD OF COUNTY COMMISSIONERS**

175 Main Street
Prince Frederick, Maryland 20678
410-535-1600 • 301-855-1243
www.calvertcountymd.gov

Board of Commissioners
Christopher J. Gadway
Earl F. Hance
Mike Hart
Kelly D. McConkey
Steven R. Weems

February 16, 2022

VIA ELECTRONIC MAIL

The Honorable Delegate Kumar P. Barve, Chair
Environment and Transportation Committee
Room 251
House Office Building
Annapolis, MD 21401

Re: HB956 – Natural Resources - Recreation on Private Land - Hunting

Delegate Barve:

The Board of County Commissioners of Calvert County writes to express our support for HB956. This Bill properly places the burden upon the guest to comply with all applicable laws and regulations and allocates responsibility for acts upon the actor invited to hunt on the landowner's real property. There are a multitude of benefits that can be derived from this proposal, including the likelihood of additional recreation activities.

Should you have any questions or require further information, please do not hesitate to contact County Administrator Julian M. Willis at 410-535-1600 extension 2202 or County Attorney John Norris at 410-535-1600 extension 2566. Thank you for your consideration of our position regarding this important bill.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
CALVERT COUNTY, MARYLAND

Handwritten signature of Earl F. Hance in blue ink.

Earl F. Hance, President

Handwritten signature of Steven R. Weems in blue ink.

Steven R. Weems, Vice President

Handwritten signature of Christopher J. Gadway in blue ink.

Christopher J. Gadway

Handwritten signature of Mike Hart in blue ink.

Mike Hart

Handwritten signature of Kelly D. McConkey in blue ink.

Kelly D. McConkey

cc: Calvert County Senators and Calvert County Delegation

HOM Testimony for HB 956 (Recreation on Private La

Uploaded by: william miles

Position: FAV



P.O. Box 501
Huntingtown, Maryland 20639
billmilesmd@comcast.net

March 2, 2022

THE HONORABLE KUMAR P. BARVE
Chair, House Environment & Transportation Committee
HONORABLE MEMBERS

RE: SUPPORT FOR HOUSE BILL 956 (Recreation on Private Lands -- Hunting)

The HUNTERS OF MARYLAND represent the interests of Maryland's hunting community at both the State and local level. Few realize that hunters underwrite 100% of all wildlife management/research costs through their purchase of hunting license fees/ equipment. For the record, hunters do so willingly b/c of **American System of Conservation Funding**, a user-pay model celebrating its 85th Anniversary which also underscores the noble story of hunters as America's original conservationists.

Steve Keithley, Founder (301/785-4774 [sssbkeith@comcast.net])
Bill Miles, Advocate (443/404-7449 [billmilesmd@comcast.net])

The HUNTERS OF MARYLAND support House Bill 956 b/c it's intended to remedy an unforeseen liability-related dilemma faced by landowners – involving Maryland's recreational use statute -- in view of the April 29, 2020, decision by the Maryland Court of Special Appeals, aka *Martinez vs Ross*. In short, Maryland's Appellate Court ruled the recreational use statute did not shield the landowner from liability resulting from an injury having taken place earlier on the property.

According to the Maryland Wildlife Advisory Commission, the implications of the Court Ruling as follows:

Reduce Liability for Landowners: One reason that private landowners may not want to allow hunting on their property is due to liability concerns. Lawmakers should consider a statutory change to reduce those concerns. In *Martinez vs Ross*, the Court of Special Appeals held that a landowner was liable despite the provisions of Maryland's recreational use statute (RUS) because the landowner did not open their land to the general-public. The court interpreted that as a requirement for landowners to leverage the protection of the recreational statute. This was a great departure from how the statute has been previously interpreted. A clarification that the law does not require a landowner to make their property open to the public-at-large would likely result in more willing landowners providing hunting opportunities on their property.

Below is the link to the actual Court decision in the *Martinez vs Ross* decision.

<https://law.justia.com/cases/maryland/court-of-special-appeals/2020/2374-18.html>

The HUNTERS OF MARYLAND are hopeful the House Environment & Transportation Committee will view this proposal by Delegate Clarke in a favorable light and, if necessary, make any changes necessary to protect landowners and hunters while hunting on private lands.

HB956_INFO_Eutsler

Uploaded by: Lisa Eutsler

Position: INFO



Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor
Jeannie Haddaway-Riccio, Secretary
Allan Fisher, Deputy Secretary

Bill Number: HB 956

Short Title: Natural Resources - Recreation on Private Land - Hunting

Department's Position: Letter of Information

Explanation of Department's Position

The Maryland Department of Natural Resources (Department or DNR) provides the following information on HB 956. This is an important bill as it clarifies the intent of the legislature regarding the liability of a landowner who allows individuals to access their land for recreation, including hunting activities.

In *Martinez v. Ross*, the Maryland Court of Special Appeals held that a landowner must open their land to the public-at-large in order to receive certain protections under the Maryland Recreational Use statute.

Recognizing that more than 75% of the deer taken in Maryland are harvested on private land, it is critically important that landowners are afforded protection from liability when they open their properties to recreation.

The Department suggests the following modifications to the bill would amplify the legislative intent and broaden the applicability of the liability protections afforded under the statute:

(1) removing the references to "public use" and "by the public" and (2) removing "directly" on page 2 in line 12 so that the statutory provision would apply to all invitees without ambiguity as to whether they were "directly" invited or not.

For any additional information, please feel free to contact our Legislative and Constituent Services Director, Bunky Luffman.