

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 327

(Senator Elfreth, *et al.*)

Education, Energy, and the Environment

Environment and Transportation

**Hunting, Wildlife Conservation, and Outdoor Recreation - Funding, Promotion,
 Management, Licenses, Permits, and Stamps**

This bill establishes the Wildlife Conservation, Education, and Outreach Program within the Department of Natural Resources (DNR) to – in general – increase outdoor recreation and stewardship, hunting, and wildlife conservation. The bill also (1) increases fees for several hunting licenses, stamps, and permits; (2) establishes a resident and nonresident sika deer stamp and related fees; (3) authorizes qualified nonresident college or university students to purchase a resident hunting license; and (4) codifies furbearer permit fees. The bill also alters Maryland’s recreational use statute, requires DNR to work with the Maryland Department of Agriculture (MDA) to develop a plan to address deer overpopulation in the State, requires DNR to establish a cost-share program for farmers to plant forage crops under specified circumstances, and establishes a new reporting requirement for DNR. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Special fund revenues increase by an estimated \$2.3 million annually beginning in FY 2024. Special fund expenditures increase correspondingly for staff and programmatic purposes in FY 2024 and for programmatic purposes in the out-years. Federal fund revenues increase by an estimated \$6.8 million beginning in FY 2025 from federal matching grant funding. Out-year federal fund expenditures reflect ongoing staff costs only; additional federal fund spending cannot be reliably estimated and is therefore not reflected in the chart below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	\$2,271,600	\$2,271,600	\$2,271,600	\$2,271,600	\$2,271,600
FF Revenue	\$0	\$6,814,900	\$6,814,900	\$6,814,900	\$6,814,900
SF Expenditure	\$2,271,600	\$2,271,600	\$2,271,600	\$2,271,600	\$2,271,600
FF Expenditure	\$0	\$563,900	\$587,800	\$613,200	\$644,600
Net Effect	\$0	\$6,250,900	\$6,227,000	\$6,201,600	\$6,170,200

Note:(t) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not expected to directly affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Maryland's Recreational Use Statute – Title 5, Subtitle 11 of the Natural Resources Article

Under 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, or on a limited entry basis for any hunting recreational 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”).

The bill alters Maryland’s recreational use statute by expressing that it is the intent of the General Assembly that nothing in the statute may be construed to (1) require a landowner to allow the general public access to the landowner’s land or (2) prohibit a landowner from limiting or posting the landowner’s land against entry. The bill also makes stylistic changes to related provisions.

Department of Natural Resources Wildlife and Heritage Services

Under current law, DNR’s Wildlife and Heritage Service (WHS), in cooperation with DNR’s Natural Resources Police, is responsible for administering and enforcing the State’s hunting laws and programs. These responsibilities include setting bag limits; establishing seasons; and managing the sale of hunting licenses, permits, and stamps. DNR may adopt regulations to enlarge, extend, restrict, or prohibit hunting wildlife.

State Wildlife Management and Protection Fund and Migratory Bird Stamps

Under current law, DNR administers the State Wildlife Management and Protection Fund. Proceeds generated from license, permit, stamp, and application fees under State laws governing wildlife must be credited to the fund and used for the scientific investigation, protection, propagation, and management of wildlife. DNR also receives federal funds for the management and protection of wildlife.

Under current law, in addition to any other requirement, a person hunting migratory game birds in the State must purchase a Maryland migratory game bird stamp. Migratory game bird stamps may be obtained from any person designated by DNR, and the person issuing the stamp retains 75 cents as compensation for issuing the stamp. Migratory game bird stamp revenue is deposited into the Wildlife Management and Protection Fund, which must be used solely for the following purposes: (1) migratory game bird projects included in an approved State program to create, develop, enhance, maintain, and manage nesting cover, winter foods, and other habitat components on public lands to satisfy the habitat requirements of a broad range of wintering migratory game birds and native migratory game bird species; (2) migratory game bird research, management, and surveys; and (3) up to 30% to adopt and implement a program to control phragmites.

The bill modifies the authorized uses of the migratory game bird stamp revenue by (1) repealing the authorized use relating to adopting and implementing a program to control phragmites on private lands and (2) authorizing the revenue to be used for migratory game bird projects that conserve migratory game bird breeding habitats in Canada; the bill requires DNR, by December 1 annually, to report to the Maryland General Assembly on the effectiveness of any such expenditures from the Wildlife Management and Protection Fund.

Hunting Licenses and Stamps, Generally

Under current law, with certain exceptions, a person may not hunt or attempt to hunt during open season and in any permitted manner any game birds and mammals in the State without a resident or nonresident hunter's license. Resident and nonresident hunting licenses enable the purchaser to hunt all legal game birds and mammals during any appropriate season without the purchase of additional stamps, unless the purchaser is hunting migratory game birds, wild waterfowl, or deer during bow and arrow season or black powder season, in which case specified stamps are required. In general, unless grandfathered by having obtained a license prior to July 1, 1977, or hunting with supervision under an apprentice hunting license, all hunters must obtain a certificate of competency in firearms and hunter safety in order to be eligible for a hunting license.

New Hunting Stamps and Changes to Fees for Hunting Licenses, Stamps, and Permits

Sika Deer Stamp: Under current law, there are three primary seasons to hunt white-tailed deer in Maryland: deer bow hunting season; deer firearms season; and deer muzzleloader season (also known as deer black powder season). There are also separate sika deer bow hunting, firearms, and muzzleloader seasons in the State. The bag limits and seasons for sika deer are independent from those for white-tailed deer. Under current law, a hunting license is required to hunt sika deer. Additionally, as with hunting white-tailed deer, an

appropriate archery or muzzleloader stamp may be needed, depending on the type of weapon a hunter is using. The bonus antlered deer stamp may not be used to take sika deer.

The bill establishes a resident and a nonresident sika deer stamp, which, unless hunting under a deer management permit, must be purchased (in addition to a hunting license and any weapon-specific stamps) in order to hunt sika deer. Related fees are established.

Nonresident College and University Students: Under current law, in order to hunt in the State, a nonresident of any age must either purchase a nonresident hunting license or a nonresident 3-day hunting license. The bill establishes that a nonresident who is attending a college or university in the State is authorized to purchase a resident hunting license if the person provides DNR with proof of enrollment at a college or university in the State.

Furbearer Permits and Nonresident Trapping Licenses: Under current law, a furbearer means any coyote, raccoon, bobcat, opossum, beaver, mink, muskrat, otter, fox, skunk, fisher, and long-tailed weasel. Subject to certain exceptions, a Maryland resident or nonresident must have a furbearer permit to hunt, chase, or trap any furbearer in the State or participate in the unarmed chasing of foxes and raccoons in the State.

Further, under current law, an individual furbearer permit enables the purchaser to hunt, chase, or trap any furbearer in the State or participate in the unarmed chasing of foxes and raccoons. Nonresidents must also obtain a nonresident trapping license to trap furbearers in Maryland. A group furbearer permit enables an association or group established for the purpose of chasing or hunting furbearers to organize and offer hunting or chasing of furbearers to the association or group's members or guests. The fees for individual and group furbearer permits are not established in statute. The bill explicitly establishes fees for such permits in statute.

New and Increased Fees: As mentioned above, the bill establishes fees for resident and nonresident sika deer stamps and individual and group furbearer permits. The bill also increases the fees for most hunting licenses, stamps, and permits. See **Exhibit 1** for a list of all fees under current law and the fees proposed under the bill.

Exhibit 1
Hunting License, Stamp, and Permit Fees
Under Current Law and the Bill

<u>Type of Hunting License</u>	<u>Current Fee</u>	<u>Fee Under the Bill</u>
Junior Resident	\$10.50	\$15.00
Regular	24.50	35.00
Senior Resident	5.00	No Change
Nonresident Regular	130.00	160.00
Nonresident Junior	65.00	80.00
Nonresident 3-day	45.00	65.00
Resident Apprentice	10.00	15.00
Nonresident Apprentice	20.00	40.00
<u>Type of Trapping License</u>		
Nonresident Trapping	25.50	50.00
<u>Type of Stamp</u>		
Bow and Arrow	6.00	No Change
Nonresident Bow and Arrow	25.00	No Change
Black Powder	6.00	No Change
Nonresident Black Powder	25.00	No Change
MD Migratory Game Bird	9.00	15.00
Resident Bonus Antlered Deer	10.00	No Change
Nonresident Bonus Antlered Deer	25.00	No Change
Resident Sika Deer	N/A	10.00
Nonresident Sika Deer	N/A	25.00
<u>Type of Permit</u>		
Individual Furbearer	5.00	No Change
Group Furbearer	\$10.00	\$50.00

Source: Department of Legislative Services

Wildlife Conservation, Education, and Outreach Program

The bill establishes the Wildlife Conservation, Education, and Outreach Program within DNR. The stated purpose of the program is to (1) provide outreach on outdoor recreation and stewardship to urban and exurban community leaders, organizations, schools, and universities; (2) connect elementary and middle school students, their parents, and university students located in suburban and exurban areas to outdoor recreation and stewardship opportunities; (3) foster interest in the use of private land and undeveloped public land for outdoor recreation; and (4) foster interest in hunting and wildlife conservation. DNR, in consultation with program staff, must develop a plan to increase engagement of veterans and of communities that historically have not had access to hunting and conservation programs in outdoor recreation and stewardship, hunting, and wildlife conservation.

The bill also specifies that if DNR receives an increase in federal funds due to the increase in hunting license, stamp, and permit fees under the bill, a portion of that increase must be used to create eight Position Identification Numbers (PINs) for DNR to hire staff for the Wildlife Conservation, Education, and Outreach Program.

Expanded Purpose of the Heritage Conservation Fund

Under current law, the purpose of DNR's Heritage Conservation Fund (HCF) is to acquire conservation easements or a fee simple or other interests in a number of specified types of land, including forestlands, unique ecological areas of the State, any area characterized by significant natural beauty, tidal or nontidal wetlands, and lands supporting rare, threatened, or endangered plants or animals. The bill expands the purpose of HCF to include acquiring conservation easements or a fee simple or other interest in lands that can be used by the general public for hunting.

The bill also specifies that if DNR receives an increase in federal funds due to the increase in hunting license, stamp, and permit fees under the bill, any portion of that increase may be transferred to HCF to acquire conservation easements or fee simple or other interests in lands that can be used by the general public for hunting.

Required Plan to Address Deer Overpopulation in the State

The bill requires DNR, in consultation with MDA, by December 1, 2023, to develop a plan to address deer overpopulation in the State. Among other things, the plan must include (1) the feasibility of implementing a rotational closure hunting strategy on State land; (2) any legislative, budgetary, or regulatory changes needed to implement a rotational closure hunting strategy on State-owned land and locally owned land; and (3) suitable uses for any increased federal funding to the State Wildlife Management and Protection Fund.

DNR must consult with local governments regarding the feasibility of implementing a rotational closure hunting strategy on locally owned land.

Creation and Funding of a Farmer Cost-share Program

The bill specifies that if DNR receives an increase in federal funds due to an increase in hunting license, stamp, and permit fees under the bill, a portion of that increase must be used for the creation and funding of a farmer cost-share program to provide funding for farmers to plant forage crops on private agricultural land to (1) reduce the loss of commercial crops due to wildlife foraging and (2) increase forage habitat for wildlife.

State Revenues: Special fund revenues to the Wildlife Management and Protection Fund increase by an estimated \$2.3 million annually beginning in fiscal 2024. This estimate is based on the sale of the applicable hunting licenses, stamps, and permits during the 2021-2022 hunting season. The information and assumptions used in calculating the estimate are stated below:

- for the hunting licenses, stamps, and permits that are currently sold, sales remain constant over time, despite the bill's changes;
- an estimated 10,000 resident sika deer stamps and 3,000 nonresident sika deer stamps are sold annually beginning in fiscal 2024; and
- authorizing nonresident college and university students to purchase a resident hunting license does not materially affect fee revenues.

In addition, federal fund revenues increase significantly beginning in fiscal 2025 from federal matching grant funding for conservation related work. DNR advises that federal funding is awarded at a 1:3 ratio; for every \$1 that WHS receives directly in increased fee revenue and spends on eligible conservation related work, WHS receives \$3 in federal grant funding through the Federal Aid in Wildlife Restoration Act. DNR applies for the federal grant funding at the end of each fiscal year, so the increase in fee revenues in fiscal 2024 drives an increase in federal funds in fiscal 2025. Accordingly, based on the estimated increase in fee revenue resulting from the bill, assuming DNR spends the revenue (as discussed below) and qualifies for federal matching grant funding, federal fund revenues increase by an estimated \$6.8 million annually beginning in fiscal 2025.

State Expenditures: This analysis assumes that DNR spends the additional special fund revenue each year in full in order to be eligible for the additional federal funds discussed above. Accordingly, special fund expenditures increase by \$2.3 million annually beginning in fiscal 2024. An estimate of the increase in DNR's administrative expenditures, as well as a discussion of other anticipated spending, is provided below.

Administrative Costs

Special fund *administrative* expenditures increase by \$938,068 in fiscal 2024, which accounts for the bill’s July 1, 2023 effective date. This estimate reflects the cost of hiring four natural resources biologists and four natural resources technicians to establish and implement the new Wildlife Conservation, Education, and Outreach Program. It includes salaries, fringe benefits, one-time start-up costs, including the purchase of new eight new vehicles, and ongoing operating expenses.

Positions	8.0
Salaries and Fringe Benefits	\$532,996
Vehicle Purchases	312,288
Operating Expenses	<u>92,784</u>
Total FY 2024 DNR Admin. Expenditures	\$938,068

Future year administrative expenditures reflect salaries with annual increases and employee turnover as well as annual increase in ongoing operating expenses.

Because the bill requires a portion of any increase in federal funds due to the increased license, permit, and stamp fees under the bill to be used for the creation of eight PINS for DNR to hire staff for the Wildlife Conservation, Education, and Outreach Program, and because the increase in federal funds is estimated to be sufficient to cover DNR’s administrative costs beginning in fiscal 2025, it is assumed that federal funds are used to cover such costs beginning in fiscal 2025. Thus, federal fund administrative expenditures increase by \$563,916 in fiscal 2025 and by at least \$587,801 annually thereafter.

It is assumed that DNR can implement the farmer cost-share program to provide funding for farmers to plant forage crops on private agricultural land without any additional staff.

DNR advises that it already conducts annual reporting regarding sales of migratory bird stamps and related programming. Therefore, DNR can fulfill the requirement to report annually on the effectiveness of any expenditures from the Wildlife Management and Protection Fund for migratory game bird projects with existing budgeted resources. DNR also does not anticipate that the repeal of the prohibition against a person hunting migratory game birds on Sunday will have a material fiscal or operational impact on the State.

DNR advises that it has a statewide deer management plan that accompanies local deer management efforts and that it can work with MDA to develop a plan to address deer overpopulation with existing budgeted resources.

Finally, DNR advises that the expanded authorized uses of HCF largely codifies existing practice and does not have a meaningful impact on State finances or operations.

Use of the Additional Fee Revenue and Available Federal Funds

This analysis assumes that DNR spends the available special funds resulting from the bill each year in full in order to qualify for the additional federal funds. In addition to covering DNR's administrative costs in fiscal 2024, it is assumed that DNR spends the additional fee revenue on qualified wildlife conservation and management projects, including those specified under the new Wildlife Conservation, Education, and Outreach Program created by the bill.

DNR also spends a portion of the additional federal funds that remain after covering administrative costs in the out-years to implement the farmer cost-share program to provide funding for farmers to plant forage crops on private agricultural land, as required by the bill; however, a reliable estimate of the funding necessary for a viable cost-share program cannot be made at this time.

DNR likely also spends additional federal funds that remain after covering administrative costs and funding the cost-share program; however, the timing of any such spending is unknown and, therefore, has not been accounted for in this analysis.

Small Business Effect: Increasing engagement of communities that historically have not had access to hunting and conservation programs, and increasing engagement of veterans in outdoor recreation and stewardship, hunting, and wildlife conservation may meaningfully benefit small businesses that sell related gear and services. 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.

Additionally, farms, many of which are small businesses, benefit from cost-share funding provided to plant forage crops on private agricultural land to reduce the loss of commercial crops due to wildlife foraging and increase forage habitat for wildlife.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 983 (Delegate Allen, *et al.*) - Environment and Transportation.

Information Source(s): Caroline and Prince George’s counties; Maryland Association of Counties; City of Annapolis; Maryland Municipal League; University System of Maryland; Morgan State University; Maryland Department of Agriculture; Department of Budget and Management; Department of Natural Resources; Baltimore City Public Schools; Montgomery County Public Schools; Maryland State Department of Education; U.S. Fish and Wildlife Service; Department of Legislative Services

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