

Chapter 663

(Senate Bill 266)

AN ACT concerning

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

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

~~BY renumbering~~

~~Article – Natural Resources
Section 10–101(q) through (cc), respectively
to be Section 10–101(r) through (dd), respectively
Annotated Code of Maryland
(2012 Replacement Volume and 2015 Supplement)~~

BY renumbering

Article – Natural Resources
Section 10–101(q) through (cc), respectively
to be Section 10–101(r) through (dd), respectively
Annotated Code of Maryland
(2012 Replacement Volume and 2015 Supplement)

BY adding to

Article – Natural Resources
Section 10–101(q) and 10–101(e) and 10–1101.1
Annotated Code of Maryland

(2012 Replacement Volume and 2015 Supplement)

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

Preamble

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

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

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

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

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

Article – Natural Resources

10-101.

(Q) “POACHING” MEANS THE ILLEGAL HUNTING, KILLING, OR TAKING OF GAME.

10-212.

(a) The General Assembly finds and declares that:

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

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

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

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

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

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

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

~~10-101.~~

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

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

~~10-212.~~

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

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

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

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

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

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

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

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

~~10-1101.1.~~

~~(A) NOTWITHSTANDING § 10-1101 OF THIS SUBTITLE, A PERSON CONVICTED OF POACHING DEER ON PRIVATELY OWNED LAND ANY LAND IN THE 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) ANTERLESS WHITE TAILED DEER; OR~~

~~(3) ANTLERED WHITE TAILED DEER.~~

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

~~(2) IN ADDITION TO ANY PENALTIES PROVIDED UNDER § 10-1101 OF THIS SUBTITLE, A PERSON WHO VIOLATES SUBSECTION (B)(3) OF THIS SECTION INVOLVING AN 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, IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$10,000.~~

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

~~(D)(E)~~

10-1101.1.

(A) (1) NOTWITHSTANDING § 10-1101 OF THIS SUBTITLE, IF A PERSON IS CONVICTED OF POACHING DEER ON ANY LAND IN THE STATE, THE COURT SHALL ORDER THE PERSON TO PAY THE STATE RESTITUTION IN ACCORDANCE WITH THIS SECTION.

(2) FOR AN ACT OF POACHING THAT INVOLVES TRESPASSING ON ANOTHER'S PROPERTY, THIS SECTION APPLIES WITH RESPECT TO THE TRESPASS VIOLATION ONLY IF THE PERSON TRESPASSES IN A KNOWING OR WILLFUL MANNER.

(B) (1) FOR EACH SIKA 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 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) 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 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.

(3) FOR EACH ANTLERLESS WHITE-TAILED DEER, A PERSON CONVICTED OF POACHING DEER SHALL:

(I) PAY RESTITUTION OF NOT LESS THAN \$300 BUT NOT EXCEEDING \$500, IN AN AMOUNT DEEMED REASONABLE BY THE COURT; OR

(II) PERFORM 40 HOURS OF COMMUNITY SERVICE.

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

(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SECTION.

10-1102.

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

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

SECTION ~~3~~ 3. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Department of Natural Resources and the ~~Office of Administrative Hearings~~ Office of the Courts to develop a database that accounts for the disposition of proceeds derived from confiscated property used in the commission of a wildlife offense as set forth in § 10-1106 of the Natural Resources Article. On or before December 1, 2016, a report on these efforts shall be made to the Senate Education, Health, and Environmental Affairs Committee and the House Environment and Transportation Committee, in accordance with § 2-1246 of the State Government Article.

SECTION ~~4~~ 4. AND BE IT FURTHER ENACTED, That the General Assembly encourages the Department of Natural Resources to work with local law enforcement agencies in developing protocols and strategies that facilitate a coordinated time-sensitive approach to investigate reports of deer poaching, including the authority to legally charge individuals suspected of poaching and to confiscate the property used in the commission of the offense.

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2016.