
By: **Senator Baker**

Introduced and read first time: January 19, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources - Criminal Charges - Search and Seizure in Connection**
3 **with Offense**

4 FOR the purpose of broadening the authority of Natural Resources police officers and
5 law enforcement officers with respect to search and seizure in connection with
6 certain offenses relating to fish and wildlife to include instances in which
7 persons are charged with these offenses; and generally relating to searches and
8 seizures of certain persons, property, or records for certain Natural Resources
9 violations under certain circumstances.

10 BY repealing and reenacting, with amendments,
11 Article - Natural Resources
12 Section 4-2A-07, 4-1205, 4-1206, 10-2A-07, 10-1105, and 10-1106
13 Annotated Code of Maryland
14 (2000 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Natural Resources**

18 4-2A-07.

19 (a) Any person who violates the provisions of § 4-2A-05, or fails to procure
20 any permit required by § 4-2A-05, or who violates the terms of any permit shall be
21 fined not more than \$1,000 or be imprisoned not more than one year, or both.

22 (b) Any Natural Resources police officer or any law enforcement officer may
23 conduct searches as provided by law, and execute a warrant to search for and seize
24 any equipment, business records, merchandise, fish taken, used or possessed in
25 connection with a violation of any subsection. Any Natural Resources police officer or
26 law enforcement officer, without a warrant, may arrest any person who the officer has
27 probable cause to believe is violating, in his presence or view, this subtitle, any rule or
28 regulation, or permit provided for by this subtitle. Any Natural Resources police
29 officer or law enforcement officer who has CHARGED OR made an arrest of a person in

1 connection with any violation may search the person, premises, or business records at
2 the time of CHARGING OR arrest and may seize any fish, records, or property taken, or
3 used in connection with any violation.

4 (c) Equipment, merchandise, fish or records seized under the provisions of
5 subsection (b) shall be held by any Natural Resources police officer or law
6 enforcement officer pending disposition of court proceedings, and thereafter shall be
7 forfeited to the State for destruction or disposition as the Secretary may deem
8 appropriate. Prior to forfeiture the Secretary may direct the transfer of fish so seized
9 to a qualified zoological, educational, or scientific institution for safekeeping, costs to
10 be assessable to the defendant. The Secretary may issue rules and regulations to
11 implement this section.

12 4-1205.

13 A Natural Resources police officer or any law enforcement officer, upon
14 CHARGING OR arresting any person for violating any provision of this title or any rule
15 or regulation promulgated pursuant to it, shall seize every fish unlawfully caught,
16 sold, offered for sale, transported, or possessed. The Department may dispose of the
17 seized fish at its discretion.

18 4-1206.

19 (a) A Natural Resources police officer or any law enforcement officer, upon
20 CHARGING OR arresting any person for violating any provision of this title or any rule
21 or regulation promulgated pursuant to it, may seize every device, equipment,
22 conveyance, or property unlawfully used. If the owner or person in charge of the
23 seized device, equipment, conveyance, or property is convicted, the court may declare
24 the device, equipment, conveyance, or property forfeited in addition to any other
25 penalty provided in this title. Any forfeiture becomes the property of the Department
26 for disposition at its discretion. If the owner is not known, the court may proceed ex
27 parte to hear and determine any question of forfeiture. If the owner or person charged
28 with the violation is not convicted, the device, equipment, conveyance, or property
29 seized shall be released and returned to the owner or person charged.

30 (b) However, the device, equipment, conveyance, or property may not be
31 forfeited if the owner was not a consenting party or privy to a violation.

32 10-2A-07.

33 (a) Any person who violates the provisions of § 10-2A-05 of this subtitle, fails
34 to procure any permit required by § 10-2A-05 of this subtitle, or violates the terms of
35 any permit shall be fined not more than \$1,000 or be imprisoned not more than 1
36 year, or both.

37 (b) Any Natural Resources police officer or any law enforcement officer may
38 conduct searches as provided by law, and execute a warrant to search for and seize
39 any equipment, business records, merchandise, wildlife, or plants taken, used, or
40 possessed in connection with a violation of any subsection. Any Natural Resources
41 police officer or law enforcement officer, without a warrant, may arrest any person

1 who the officer has probable cause to believe is violating, in the officer's presence or
2 view, this subtitle or any regulation or permit provided for by this subtitle. Any
3 Natural Resources police officer or law enforcement officer who has CHARGED OR
4 made an arrest of a person in connection with any violation may search the person,
5 premises, or business records at the time of CHARGING OR arrest and may seize any
6 wildlife, plants, records, or property taken, or used in connection with any violation.

7 (c) Equipment, merchandise, wildlife, plants or records seized under the
8 provisions of subsection (b) of this section shall be held by any Natural Resources
9 police officer or law enforcement officer pending disposition of court proceedings, and
10 after disposition of court proceedings shall be forfeited to the State for destruction or
11 disposition as the Secretary may deem appropriate. Prior to forfeiture the Secretary
12 may direct the transfer of wildlife or plants so seized to a qualified zoological,
13 botanical, educational, or scientific institution for safekeeping, costs to be assessable
14 to the defendant. The Secretary may issue regulations to implement this section.

15 10-1105.

16 A Natural Resources police officer or any law enforcement officer, upon
17 CHARGING OR arresting any person for violating any provision of this title or any
18 regulation adopted pursuant to this title, may seize every bird, mammal, reptile, and
19 amphibian unlawfully caught, sold, offered for sale, transported, or possessed. The
20 Department may dispose of any seized species of wildlife at the Department's
21 discretion.

22 10-1106.

23 (a) A Natural Resources police officer or any law enforcement officer, upon
24 CHARGING OR arresting any person for violating any provision of this title or any
25 regulation adopted pursuant to this title, may seize any device, equipment,
26 conveyance, or property unlawfully used. If the owner or person in charge of the
27 seized device, equipment, conveyance, or property is convicted, the court may declare
28 the device, equipment, conveyance, or property forfeited, in addition to any other
29 penalty provided in this title. Any forfeiture becomes the property of the Department
30 for disposition at the Department's discretion. If the owner is not known, the court
31 may proceed ex parte to hear and determine any question of forfeiture. If the owner or
32 person charged with the violation is not convicted, the device, equipment, conveyance,
33 or property seized shall be released and returned to the owner or person.

34 (b) The device, conveyance, or property may not be forfeited if the owner was
35 not a consenting party or privy to a violation.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2001.