

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 750 (Delegate McDonough)
Environmental Matters

Public Health - Importation, Release, and Disposal of Wildlife - Prohibition

This bill prohibits a person from (1) importing and releasing wildlife into the State if the wildlife was captured outside the State; or (2) disposing of wildlife in the State if the wildlife was killed outside the State. Under the bill, “wildlife” means any free-roaming wild animal but does not include domestic animals, “commensal rodents,” invertebrates, or fish. A violator is guilty of a misdemeanor and on conviction is subject to (1) for a first offense, a fine of up to \$500 and/or imprisonment for up to one year; and (2) for a second offense, a mandatory fine of at least \$500 (and up to \$2,500) and/or mandatory imprisonment for at least one year (and up to three years). In addition, if a person violates the bill in the course of the person’s employment with a State-licensed pest control company, the license must be revoked.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: To the extent that pest control licenses are revoked under the bill, general fund expenditures increase to reflect the cost of additional administrative hearings; the exact cost of additional hearings cannot be reliably estimated at this time, as discussed below. Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. Enforcement can be handled with existing resources.

Local Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions. Enforcement can be handled with existing resources.

Small Business Effect: Potential meaningful decrease in revenues for small businesses in the hunting and pest control industries.

Analysis

Current Law: The Secretary of Health and Mental Hygiene may, in coordination with the Department of Natural Resources (DNR) and the Maryland Department of Agriculture (MDA), prohibit the importation, selling, trading, purchasing, bartering, breeding, raising, keeping, or possession of any animals found to be dangerous to human health or safety. This does not apply to domestic cats, dogs, or ferrets; animals used for agricultural, scientific, or educational purposes; animals used for public exhibitions; or any animal that the Secretary determines is not a threat to human health and safety. A local government may impose stricter possession requirements or ban possession of certain animals.

A violator is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500 and/or imprisonment for up to one year. In addition, any animal whose possession or keeping is prohibited must be considered a nuisance and a contraband and is subject to seizure by any authorized law enforcement officer.

Regulations related to the Maryland Pesticide Applicator's Law specify that, when a person is charged with a violation, the person must have an opportunity for a hearing.

Background: The District of Columbia's animal control law, called the Wildlife Protection Act, was approved in 2010 but has not yet been fully implemented. The law sets restrictions on the capture, handling, transport, and euthanasia of wildlife.

Although the law specifically authorizes the euthanasia of any wild animal "if relocation and rehabilitation are not feasible" and, like the present bill, excludes "commensal rodents" from protection, the Attorney General of Virginia has claimed that the law would force pest control workers in the District of Columbia to cross the border and relocate rats into Virginia or Maryland. ("Commensal rodents" are, generally, types of mice and rats that live in close contact with humans.)

Officials in the District of Columbia's Department of the Environment, which will enforce the law, have stated that they plan to consider all rodents exempt from the law's protective provisions.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: Regulations related to the Maryland Pesticide Applicator's Law specify that, when a person is charged with a violation, the person must have an opportunity for a hearing. Thus, MDA advises (and Legislative Services concurs) that, to the extent that pest control licenses are revoked under the bill, general fund expenditures may increase to reflect the cost of additional administrative hearings. The exact cost cannot be reliably determined at this time but depends on the number of license revocations under the bill and the number of licensees that opt for a hearing.

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is about \$385 per month. Excluding all medical care, the average variable costs total \$170 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalty provisions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is

provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Small Business Effect: DNR advises that some State-licensed wildlife control operators (who are required by regulation to euthanize certain species of mammals that may carry transmittable diseases) handle wildlife for clients outside, as well as inside, the State. DNR further advises that such operators generally trap the problem wildlife at the client's property and transport it back to the operator's facility in the State to be euthanized, which is prohibited under the bill. Thus, revenues may decrease under the bill for small wildlife control operators that currently serve clients outside the State and may not be able to do so under the bill.

DNR further advises that, because the bill makes no exception for hunters (and given that many State residents bring wildlife into the State after hunting outside of the State), revenues may decrease under the bill for small businesses that sell hunting equipment and supplies.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): *The Washington Post*; Baltimore City; Howard, Montgomery, and Prince George's counties; Maryland Department of Agriculture; Department of Natural Resources; Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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