


MEMORANDUM

September 21, 2017

TO: Public Safety Committee

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Worksession:** Expedited Bill 30-17, Weapons – Discharge of Bows - Amendments

Expedited Bill 30-17, Weapons – Discharge of Bows - Amendments, sponsored by Lead Sponsor Council President Berliner, Councilmembers Leventhal, Katz, Rice, Elrich, Council Vice President Riemer, and Councilmembers Navarro, Hucker, and Floreen, was introduced on September 12, 2017. A public hearing was held on September 19.

Bill 30-17 would reduce the safety zone for archery hunters in the County.

Background

Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. See ©4-5. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand.

County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the amended State law by referencing this State law. OMB estimated that the Bill would have no fiscal or economic impact on the County. See ©6-9.

Public Hearing

Both speakers, Peggy Dennis, representing the Montgomery County Civic Federation and Dr. Mark Eakin, representing the Animal Connection Deer Management Team (©10-11), supported the Bill. They both pointed to the County's overpopulation of deer and the safety of bow hunting in Maryland and Virginia. Dr. Eakin testified that an archery hunter would need to be shooting down within 20 yards of the deer, and that his group of hunters has removed over 600 deer in southern Rockville and Potomac with a perfect safety record. The Agricultural Advisory Committee submitted written testimony in support of the Bill. See, ©12.

Issues

1. Is the County required to be consistent with State law?

Md. Nat'l Resources Code, §10-410(g) establishes statewide safety zones where hunting a bird or mammal is prohibited near a "dwelling house, residence, church, or any other building or camp occupied by human beings" without the prior permission of the owner or occupant of the property. The County would be preempted by this State law from permitting hunting within the State safety zone because the County law would conflict with the State law by permitting an activity that was expressly prohibited by State law.

However, the County's larger safety zone does not conflict with the State safety zone. Both laws are intended to serve the same purpose – protection of residents from accidental injuries caused by hunting. In this case, the County and the State have concurrent authority to legislate in this area if the County law does not frustrate the purpose of the State law. See, *City of Baltimore v. Sitnick*, 254 Md. 303 (1969), where the Court held that a higher City minimum wage did not conflict with a lower State minimum wage. A County law providing additional safety to residents does not conflict with the State law with the same purpose.

2. Should the Bill be enacted?

Reducing the safety zone from 100 yards to 50 yards would increase the ability of property owners to use archery hunters to reduce the significant overpopulation of deer in the County. Based upon the testimony, it would not increase the risk of injury to residents because a bow hunter would be aiming at the ground from an elevated stand within 20 yards of the deer. A miss would go into the ground. The overpopulation of deer has increased deer-car collisions in the County. **Council staff recommendation:** approve the Bill as introduced.

| This packet contains: | <u>Circle #</u> |
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| Legislative Request Report | 3 |
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Expedited Bill No. 30-17
Concerning: Weapons – Discharge of
Bows - Amendments
Revised: August 25, 2017 Draft No. 1
Introduced: September 12, 2017
Expires: March 12, 2019
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Berliner, Councilmembers Leventhal, Katz, Rice, Elrich, Council Vice President Riemer, and Councilmembers Navarro, Hucker, and Floreen

AN EXPEDITED ACT to:

- (1) reduce the safety zone for archery hunters in the County; and
- (2) generally amend the laws governing the discharge of bows.

By amending

Montgomery County Code
Chapter 57, Weapons
Section 57-6

| | |
|------------------------------|--|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law by original bill.</i> |
| [Single boldface brackets] | <i>Deleted from existing law by original bill.</i> |
| <u>Double underlining</u> | <i>Added by amendment.</i> |
| [[Double boldface brackets]] | <i>Deleted from existing law or the bill by amendment.</i> |
| * * * | <i>Existing law unaffected by bill.</i> |

The County Council for Montgomery County, Maryland approves the following Act:

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-17

Weapons – Discharge of Bows - Amendments

DESCRIPTION: County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the recently amended State law by referencing this State law.

PROBLEM: Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand. County law is now inconsistent with the State law.

GOALS AND OBJECTIVES: To amend County law to be consistent with the recently amended State law.

COORDINATION: Police, County Attorney

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: To be researched.

PENALTIES: Class A Violation

Chapter 443

(House Bill 313)

AN ACT concerning

Montgomery County – Archery Hunting – Safety Zone

MC 10-17

FOR the purpose of altering the size of the safety zone for archery hunters in Montgomery County within which archery hunting may not take place except under certain circumstances; requiring archery hunters in Montgomery County to use a tree stand when hunting certain animals within a certain distance of certain buildings; and generally relating to archery hunting in Montgomery County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10-410(g)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

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

Article – Natural Resources

10-410.

(g) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone”, of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of a public or nonpublic school during school hours or at a time when a school-approved activity is taking place.

(3) (i) For archery hunters in Calvert County, Carroll County, Frederick County, Harford County, **MONTGOMERY COUNTY**, or St. Mary’s County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(ii) For archery hunters in Anne Arundel County [or Montgomery County], the safety zone described in paragraph (1) of this subsection extends for 100 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(4) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

(5) In Harford County OR MONTGOMERY COUNTY, an archery hunter shall use a tree stand when hunting any wild bird or mammal within 50 to 100 yards of a dwelling house, residence, church, public or nonpublic school, or other building or camp occupied by human beings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.



ROCKVILLE, MARYLAND

MEMORANDUM

September 18, 2017

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Alexandre A. Espinosa, Director, Department of Finance

SUBJECT: FEIS for Bill No. 30-17, Weapons – Discharge of Bows, Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:mc

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Robert Hagedoorn, Department of Finance
Rich Harris, Office of Management and Budget
Felicia Zhang, Office of Management and Budget

Fiscal Impact Statement
Bill 30-17 Weapons-Discharge of Bows-Amendments

1. Legislative Summary
The proposed legislation would reduce from 100 yards to 50 yards the distance from a building that an individual can legally discharge a bow. The purpose of this bill is to conform with State law, which was amended by the General Assembly in the 2017 legislative session.
2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.
Bill 30-17 is not estimated to change County revenues or expenditures.
3. Revenue and expenditure estimates covering at least the next 6 fiscal years.
The proposed bill does not have an impact on revenues or expenditures.
4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.
Not applicable. Bill 30-17 does not have an impact on pension or insurance costs.
5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.
Not applicable.
6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.
Not applicable. Bill 30-17 does not authorize future spending.
7. An estimate of the staff time needed to implement the bill.
No staff time is needed to implement Bill 30-17.
8. An explanation of how the addition of new staff responsibilities would affect other duties.
None
9. An estimate of costs when an additional appropriation is needed.
Not applicable.
10. A description of any variable that could affect revenue and cost estimates.
Not applicable.
11. Ranges of revenue or expenditures that are uncertain or difficult to project.
Not applicable.
12. If a bill is likely to have no fiscal impact, why that is the case.
Bill 30-17 concerns the discharge of a bow, which will not have a fiscal impact on the County.

13. Other fiscal impacts or comments.


Not applicable.

14. The following contributed to and concurred with this analysis:

Capt. Michael Wahl, Montgomery County Police Department

Neil Shorb, Montgomery County Police Department

Richard Harris, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

9/18/17
Date

Economic Impact Statement
Bill 30-17, Weapons – Discharge of Bows – Amendments

Background:

Bill 30-17 would reduce the safety zone for archery hunters in the County. Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand. County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the amended State law by referencing this State law.

1. The sources of information, assumptions, and methodologies used.

This legislation does not have an economic impact as it codifies the County law to be consistent with the recently amended State law. There will be no economic impact to employment, spending, savings, investment, incomes, and property values as a result of this Bill.

2. A description of any variable that could affect the economic impact estimates.

This legislation does not have an economic impact.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.


Please see the answer to question 1.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see the answer to question 1.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

9/15/2017
Date

**Testimony in Support of Expedited Bill 30-17,
Weapons - Discharge of Bows - Amendments**
Dr. C. Mark Eakin, Director of Animal Connection Deer Management Team

Good afternoon. I'm Dr. Mark Eakin of Colesville, MD, director of the Animal Connection Deer Management Team. We are all too well aware that the number of whitetail deer has skyrocketed in this area and continues to climb. Without enough predators, populations grow unchecked. Research indicates the deer population along the eastern seaboard is ten times higher than when Columbus arrived. County wildlife managers have reported well over 200 per square mile in some areas, when healthy levels are around 20-30 deer per square mile. These levels are unhealthy for the deer, have led to increased deer-car collisions, greater damage to landscape and garden vegetation, and increasing incidences of Lyme disease.

The deer population levels we are seeing in Montgomery County are not natural. As I don't expect there's much great interest in reintroducing wolves and mountain lions around here, it leaves people as the only practical means of controlling deer herds.

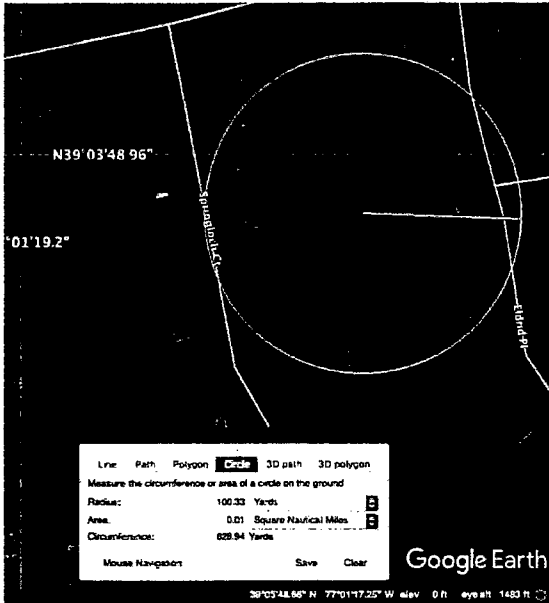
In its larger parks, Montgomery County uses managed shotgun hunts and sharpshooters to reduce deer populations. These aren't practical in smaller parks or on most private lands. Bowhunting is a practical and effective in these cases. This is why Animal Connections is one of two teams working with Montgomery Parks to use bowhunting to manage deer populations in two smaller stream valley parks. Unlike managed hunts and sharpshooters costing \$400-\$1,000 per deer, our services are free.

Since 2005, our volunteer bowhunters have safely reduced deer herds for Montgomery County residents. The 6-10 hunters on our team have removed over 600 deer from neighborhoods in southern Rockville and Potomac with a perfect safety record – and there are other teams like ours in the area.

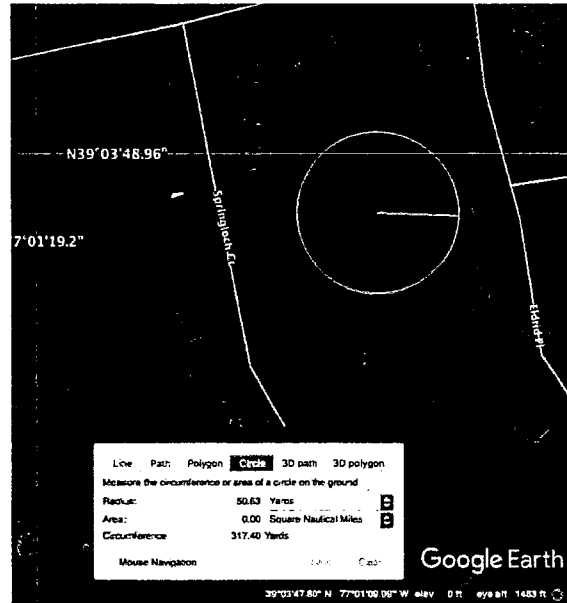
But, the 100 yard "safety zone" inside which all residents must give advance permission for bowhunting to take place impairs our ability to help homeowners with their deer problems. The State of Maryland, at Montgomery County's urging, has now reduced this safety zone for archery from elevated tree-stands to 50 yards in Montgomery County. However, the Montgomery County regulation on discharge of bows has not yet been changed to match the new Maryland law. In contrast to firearms, bowhunting is a short-range activity, with most shots being taken within 20 yards of the hunter. The new Maryland 50-yard "safety zone" for archery only applies when bowhunters are shooting downward from an elevated tree stand. Adding to the safety of the activity and stopping arrows immediately after they pass through the deer.

We find that at least one in ten Montgomery County homeowners is opposed to hunting, making it nearly impossible to gain permission in most of the county with 1/4 to 1/3 acre lots. Even in communities with large undeveloped woodland tracts, it is often impossible to gain the permissions needed to control deer through bowhunting. In the attached figures, you will see two potential scenarios for a private wooded area. The current 100-yard limit requires permission from 12 neighbors for the owner of this large wooded lot

to use our services – despite the fact that most of these neighbors would never even know we were there. Maryland has now reduced the safety zone for bowhunting from an elevated tree stand to a much more reasonable 50-yard limit. Bill 30-17 would align the County regulation to that passed by Maryland, and allow this property owner to use our services to control deer on their private land.



100 yard "safety zone"



50 yard "safety zone"

It is clear that bowhunting is a safe and effective way to deal with the expanding deer population in Montgomery County. Adjusting the County regulations to match the new Maryland law will allow your residents to safely and effectively manage deer populations.

My thanks to the County Council for addressing this disparity between State and County regulations. I encourage you all to support Expedited Bill 30-17.

Thank you.



AGRICULTURAL ADVISORY COMMITTEE

September 18, 2017

The Honorable Roger Berliner
Montgomery County Council President
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Berliner: Expedited Bill 30-17 Weapons-Discharge of Bows

On behalf of the Montgomery County Agricultural Advisory Committee-AAC we want to thank the County Council for this opportunity to provide our comments in support of Expedited Bill 30-17 Weapons-Discharge of Bows.

The Agricultural Advisory Committee participated in the 2017 Maryland Legislative Session and provided testimony in support of House Bill 313 which provided the State enabling legislation to reduce the safety zone distance for bow hunting in the County.

This Expedited Bill will provide an additional tool for bow hunters to harvest more deer in the County by reducing the safety distance from 75 yards to 50 yards.

Thank you again for the considering the views of the AAC on this Expedited Bill 30-17.

Sincerely,

Doug Lechliden, Vice Chairman of the AAC

Cc: Isiah Leggett, County Executive

