

# Branching Out: Maryland's Forest Stewardship Educator

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Published quarterly and distributed to more than 4,800 forest landowners, resource professionals, and others interested in forest stewardship. For a free subscription or to send news items, dates, and comments, phone 301-432-2767 x310; fax 301-432-4089; e-mail [vs12@umail.umd.edu](mailto:vs12@umail.umd.edu); or mail *Branching Out*, Maryland Cooperative Extension, 18330 Keedysville Road, Keedysville MD 21756. Deadlines are the 10th of January, April, July, and October. The sponsoring agencies' programs are open to all citizens without regard to race, color, sex, or physical ability

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## A Look at Landowner Liability

As the fall season approaches, forest landowners are reminded of one of the many recreational opportunities their property can provide—hunting. In addition to you and your friends, individuals or groups may want to hunt. Liability is a major consideration. You may think that anyone coming onto your property and being injured can sue and win. Case law and legal judgments do not support that belief. The chance of being held liable for an injury on your property is small. However, the chance of being sued is not as small. You can take steps to decrease your liability without decreasing your enjoyment of the property.

### Rights and Responsibilities

The Maryland Annotated Code addresses landowner rights and responsibilities and encourages you to make your property available to others. Known as *recreational statutes*, these laws limit your liability when you make your land available to recreationalists without a fee. This is accomplished by giving the recreational user the legal status of *trespasser*, which requires a minimal duty of care on your part. Recreational activities are broadly defined in the Code and cover almost any activity you can imagine.

Most states have some form of these statutes. Since laws differ among states, if you own property in another state you need to become familiar with the recreational statutes of that state. In general, these statutes are meant to apply to undeveloped, open, and expansive properties where hunting, fishing, and other recreational activities are expected to take place.

### No Fee Charged

A key test of whether or not the recreational statutes will apply is if you charge a fee to use your property. According to the Code, if you give permission for someone to hunt on your property and do not charge a fee, you do not incur liability if that person is injured because of an *act of omission of the person*. Charge is defined as *price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for invitation or permission to enter or go onto the land*. Charge was clarified this year in Maryland House Bill 296, which states that *charge does not include: the sharing of game, fish, or other products of recreational use; benefits to the land arising from the recreational use; and contributions in kind or services to promote the management for conservation of resources on the land*. This allows you to grant permission to recreational clubs or individuals to use

your property in exchange for maintaining roads or for some amount of harvested meat or fish. The new bill strengthens the existing intent of encouraging you to allow other recreationalists to use your property while assuring you of the liability protection of the recreational statute.

## **Practice Risk Management**

The Code provides good liability protection for you, but this protection does not absolve you if there is *willful or malicious failure* to guard or warn against dangerous conditions on your property. Fortunately, willful or malicious conduct is difficult to prove in a court of law. You can minimize possible problems by practicing risk management; for example, fencing off or removing hazards, posting signs to identify hazards, and giving users a written statement of known hazards and rules and regulations for use of your property. You also need liability insurance to cover your costs for legal counsel for judgments or lawsuits, frivolous or warranted. Check with your insurance provider to be certain you have adequate coverage. Tell the agent what activities are taking place on your property. Do not assume that what you are doing is covered.

## **Fee Charged**

If you charge a fee for recreational access or lease hunting rights, the recreational statute does not apply. You are now seen as a business and you are to protect users from all known dangers and those that would be *discovered with reasonable care*. However, special liability insurance will be needed. Conventional farm policies usually do not cover a fee hunting or fishing enterprise or a firewood business. Fortunately, liability insurance for fee hunting is inexpensive (around \$0.20 per acre for \$1 million in liability insurance) and easy to get from specialty companies. Extension Bulletin 357 (mentioned at the end of this article) has a list of insurance providers. Your existing insurer may also have policies. Again, don't assume you are covered.

## **Trespassers**

Two years ago changes were made in the Maryland Annotated Code that clarified and simplified trespass protection for private landowners. The Code makes it clear that it is unlawful to trespass on private property that is posted in a conspicuous manner using signs or paint marks and that trespassers must leave your property immediately when notified. For many recreational activities, such as off-road vehicle use and hunting and fishing, the recreationalist must have your written permission to be on the property. Before this year it was the landowner's responsibility to file trespass charges. Due to new legislation the DNR Police or other police now can charge trespassers.

Recreational activities such as hunting can benefit both landowners and recreationalists. This article provides only basic information and is not intended to be a substitute for advice from a lawyer or insurance agent. The publication *Recreational Access and Landowner Liability in Maryland* (EB 357, \$2.50) can be purchased from your county Cooperative Extension office. This bulletin details liability, trespass and property rights, and controlling recreational use of your property as well as controlling timber trespass and developing a lease hunting enterprise. The Maryland Annotated Code is available in public libraries. Be certain to check supplements to the Code for the most recent changes.

References mentioned in this article:

Maryland Annotated Code, Title 5, Subtitle 11 of the Natural Resources Article:

- **Liability for recreational use of private land**—*To encourage any owner of land to make land,*

water, and airspace above the land and water areas available to the public for any recreational and educational purpose by limiting the owner's liability toward any person who enters on land, water, and airspace above the land and water areas for these purposes. **Trespass protection for private landowners**—Article 27, Section 577 (supplants former sections 576-580).

- **Written permission for recreational activities**, such as off-road vehicle use, hunting, and fishing—Title 10-411.
- **Charging of trespassers**—Article 27, Section 577.
- House Bill 296, Subtitle 11, Section 5-110l:
- **Definition of charge** to recreationalists.

Minimize liability problems by practicing risk management on your property and securing adequate liability insurance.

## ***Developing a Hunting Lease***

Lease hunting can be part of the management of your forest land and can be free or for a fee. In exchange for granting the right of access for hunting, the landowner receives goods or services or fees—typically \$3-\$10/acre and higher. Goods and services include help with trail maintenance, construction of hunting stands, or a reduction in vandalism and trespassing because of the frequent presence of people on the property.

Steps to successful lease hunting include:

- Inventorying your resources,
- Careful selection of hunters,
- Preparing and notarizing a written lease, detailing conditions and terms, and
- Securing adequate liability insurance.
- Details on these steps are in *Recreational Access and Landowner Liability in Maryland*, listed on page 4.

### **PERMISSION FOR HUNTING OR OTHER USE WHEN NO FEE IS CHARGED**

When no fee is charged for hunting and other recreational use, the landowner should provide the user with written permission, listing the dates the permission is granted, the responsibilities and liabilities assumed by the user, and signed by both parties. Contact your DNR forester for suggested wording. Contact your insurance agent or lawyer to know fully your responsibility and liability.

## **Forest Stewardship Seminars**

New and experienced forest landowners can learn about managing their property by attending annual forest stewardship seminars this fall in three locations across the state.

### **Delmarva—Salisbury**

The Delmarva seminar, on Saturday, October 21, in Salisbury, presents *Opportunities in a Changing iEnvironment*. Morning speakers and workshops cover *Satellite-laser Technology and Forest Management, GIS/GPS Applications, New Technology for Urban Forestry, Conservation Reserve Enhancement Program (CREP), Forest Fertilization Opportunities, Forest Insects and Diseases, Maryland Master Logger Program, and General Forestry*. Afternoon field tours are *Forest Management*, at Glatfelter Pulpwood Company's forest management site and a private landowner's

riparian buffer plantings; and *Urban Forestry*, at Salisbury State University's tree plantings and greenhouse.

For the first time, the seminar offers continuing education credits from the International Society of Arboriculture. Registration before October 6 is \$15 per person, after that \$25, and includes lunch, breaks, printed materials, and the field tour bus. Contact Bob Tjaden, Wye Research and Education Center, 410-827-8056, or [rtjaden@umd.edu](mailto:rtjaden@umd.edu).

### **Central Maryland—Harford**

Forest management, riparian buffers, and alternate income opportunities will be featured at the Central Maryland seminar at Hereford High School, Hereford, on Saturday, October 21. The day-long event includes classroom and outdoor programs. Registration is \$15 and includes lunch. For more details and registration, contact Allan Daly, Baltimore County Cooperative Extension, 410-666-1024, or [ad160@umail.umd.edu](mailto:ad160@umail.umd.edu).

### **Mid-Atlantic—Frederick**

The 18<sup>th</sup> annual Mid-Atlantic seminar is Saturday, November 4, at Frederick Community College. *Guiding Maryland's Forest Community into the 21st Century: Maryland's Forestry Task Force*, is the keynote address by Gary Allen, chairman of the Governor's Task Force on Forestry. Breakout sessions include *Dealing with Problem Wildlife*, *Basics of Soil and Its Influence on Tree Site Selection*, *How Do I Know What My Timber is Worth?*, *Black Bears*, *Quality Deer Management*, *Growing Ginseng*, *Developing a Wildlife Habitat Plan for Your Backyard*, *Update on Insects and Disease*, *Fee Fishing as an Alternative Enterprise*, *Timber Tax Record Keeping*, and *Woodland Owners Organizing and Making It Happen*. Required preregistration is \$20 per person with a break for couples, and includes lunch and reference materials. Contact Terry Poole, Frederick County Cooperative Extension, 301-694-1594, or [tp8@umail.umd.edu](mailto:tp8@umail.umd.edu).

## **Forestry Correspondence Course**

The second class of a forestry correspondence course began recently. Landowners and others are learning about forests, forest ecology, forest management practices, forest policy, and sources of technical and financial assistance in a course offered by the University of Maryland Cooperative Extension. The only one of its kind in the country, the course is presented in six units of lessons and supplemental readings, with questions and assignments at the end of each unit. Each student will develop a framework for a forest management plan to fit his or her property. Successful students will be awarded a certificate of completion.

The course is offered on a semester basis, in the spring (February 1–May 20) and again in the fall (September 1–December 15). A fee of \$150 covers all textbooks. To register for the spring semester or for more information, contact Bob Tjaden, Wye Research & Education Center, P.O. Box 169, Queenstown, MD 21658; 410-827-8056, or [rtjaden@umd.edu](mailto:rtjaden@umd.edu)

## **Gypsy Moth Comeback**

Gypsy moth caterpillars made a cyclical comeback in Maryland this spring when they defoliated 22,566 acres of trees, the highest amount since 1995. Allegany, Washington, Dorchester, and Frederick counties were the hardest hit of the eleven counties affected, but most of Maryland's northern tier of

counties recorded some defoliation. According to the Maryland Department of Agriculture, this was an unusual year, with all of the states in the mid-Atlantic region experiencing high defoliation levels. The state gypsy moth suppression program sprayed more than twice the acres this spring as in 1999, with some areas being treated for the first time in seven years. For information on **gypsy moth** and the state's suppression program, contact MDA, Forest Pest Management Section, 410-841-5922, or [www.mda.state.md.us](http://www.mda.state.md.us).

## Urban Forestry Curriculum

Beginning this fall, the University of Maryland College of Agriculture and Natural Resources offers courses leading to a Bachelor of Science degree in urban forestry. This was a result of collaboration by the University faculty, DNR and other public agencies, and private tree care companies. For information on the urban forestry curriculum, contact Joe Sullivan, 301-405-1626, [js128@umail.umd.edu](mailto:js128@umail.umd.edu).

## Resources

- **Recreational Access and Landowner Liability in Maryland, Guidelines for Managing Free or Fee Access**, EB 357, details liability, trespass and property rights, controlling recreational use of your property, controlling timber trespass, developing a lease hunting enterprise, and lists other resources. \$2.50 from your county Cooperative Extension office.
- Some sources of **landowner liability insurance**: Buckmasters, 800-240-3337, [www.buckmasters.com](http://www.buckmasters.com); Davis-Garvin, 800-845-3163, [www.forestindustry.com/davis-garvin](http://www.forestindustry.com/davis-garvin); Forest Landowners, 800-325-2954, [www.forestland.org](http://www.forestland.org); and Maryland Forests Association, 301-895-5369, [www.mdforests.org](http://www.mdforests.org).
- **Working Trees for Treating Waste**, a new bulletin introduces the concept of managing excess nutrients and other chemicals from industrial, municipal, and agricultural operations. Contact the National Agroforestry Center, fax 402-437-5712, [nhammond@fs.fed.us](mailto:nhammond@fs.fed.us).
- Become a **Certified Wildlife Habitat Naturalist** through a virtual training seminar interactive internet course. Fee includes a personal wildlife habitat plan. Go to [www.windstar.org/homestudy/index.html](http://www.windstar.org/homestudy/index.html).

## Websites

- **Forestry, general information**: [ww.forestry.about.com/education/forestry/mbody.html](http://ww.forestry.about.com/education/forestry/mbody.html).
- Forestry, free computer program, FORVAL, **for evaluating timber and timberland investment values**: [www.cfr.msstate.edu/products/software/forval.html](http://www.cfr.msstate.edu/products/software/forval.html).
- **Wildlife damage**, with features for youth: [www.wildlifedamage.unl.edu/](http://www.wildlifedamage.unl.edu/).
- **Wildlife species, publications**: [www.ext.msstate.edu/anr/wildfish/wildresources/index.html](http://www.ext.msstate.edu/anr/wildfish/wildresources/index.html).

## Upcoming Stewardship Events

- **Oct. 12: Silviculture and Ethics workshop**, US Fish & Wildlife Center, Beltsville. For foresters and others; CFEs. Fee. Contact 301-432-2767 x301 or [cmason@umd.edu](mailto:cmason@umd.edu).
- **Oct. 14: Walnut Council workshop**, Niblock farm, Frederick County. For all interested in growing black walnut. Registration includes lunch. Contact Barbara Luchsinger, 301-831-8792, [blagluch@erols.com](mailto:blagluch@erols.com).
- **Oct. 21: Central Maryland Forest Stewardship seminar**, Hereford High School, Hereford. Fee. See article, p. 3.

- **Oct. 21: Maryland-Delaware Forest Stewardship seminar**, Worwic Community College, Salisbury. Fee. See article, p. 3.
- **Oct. 27-28: Maryland Forests Association annual meeting**, Columbia, *Forestry in the New Millenium*, featuring Dr. Patrick Moore, a founder of Greenpeace who has broken ranks with major environmental organizations on forestry issues. For landowners and all in the forest industry. CFEs. Fee. Contact Karin Miller, 301-895-5369, [mfa@hereintown.net](mailto:mfa@hereintown.net).
- **Nov. 4: Mid-Atlantic Forest Stewardship Seminar**, Frederick Community College, Frederick. Fee. Article, p. 3.
- **Nov. 13: Timber Income Tax Workshop**, Frederick, for CPAs, foresters, and landowners; CFE credits. Fee. Call 800-782-2036 or 410-296-6250, or register at [www.macpa.org](http://www.macpa.org).