



***Substitute House Bill No. 5447***

***Public Act No. 06-89***

***AN ACT CONCERNING ENCROACHMENT ON OPEN SPACE LANDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2006*) (a) As used in this section, "open space land" includes, but is not limited to, any park, forest, wildlife management area, refuge, preserve, sanctuary, green or wildlife area owned by the state, a political subdivision of the state or a nonprofit land conservation organization and "encroach" means to conduct an activity that causes damage or alteration to the land or vegetation or other features thereon, including, but not limited to, erecting buildings or other structures, constructing roads, driveways or trails, destroying or moving stone walls, cutting trees or other vegetation, removing boundary markers, installing lawns or utilities, or using, storing, or depositing vehicles, materials or debris.

(b) No person may encroach or cause another person to encroach on open space land or on any land for which the state, a political subdivision of the state or a nonprofit land conservation organization holds a conservation easement interest, without the permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

**Substitute House Bill No. 5447**

(c) Any owner of open space land or holder of a conservation easement subject to the provisions of subsection (b) of this section or the Attorney General may bring an action in the superior court for the judicial district where the land is located against any person who violates the provisions of said subsection with respect to such owner's land or land subject to such conservation easement. The court shall order any person who violates the provisions of subsection (b) of this section to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration. In addition, the court may award reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate.

(d) In addition to any damages and relief ordered pursuant to subsection (c) of this section, the court may award damages of up to five times the cost of restoration or statutory damages of up to five thousand dollars. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of any trees or shrubs cut, damaged, or carried away as determined in accordance with the latest revision of *The Guide for Plant Appraisal*, as published by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher, any economic gain realized by the violator and any other relevant factors.

Sec. 2. Section 52-560 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

Any person who cuts, destroys or carries away any trees, timber or shrubbery, standing or lying on the land of another or on public land, except on land subject to the provisions of section 1 of this act, without license of the owner, and any person who aids therein, shall pay to the party injured five times the reasonable value of any tree intended for

**Substitute House Bill No. 5447**

sale or use as a Christmas tree and three times the reasonable value of any other tree, timber or shrubbery; but, when the court is satisfied that the defendant was guilty through mistake and believed that the tree, timber or shrubbery was growing on his land, or on the land of the person for whom he cut the tree, timber or shrubbery, it shall render judgment for no more than its reasonable value.

Sec. 3. Subsection (b) of section 23-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(b) Any person, firm or corporation, other than a tree warden or deputy tree warden, who removes, prunes, injures or defaces any shrub or ornamental or shade tree, within the limits of a public way or grounds, without the legal right or written permission of the town tree warden, the borough tree warden, the city forester, the Commissioner of Transportation, the Department of Public Utility Control or other authority having jurisdiction, [shall be fined not more than the appraised value of the shrub or tree and shall be liable civilly for damages] may be ordered by the court in any action brought by the property owner or the authority having jurisdiction affected thereby to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration, reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate. In addition, the court may award damages of up to five times the cost of restoration or statutory damages of up to five thousand dollars. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of the shrub or ornamental or shade tree, any economic gain realized by the violator and any other relevant factors. The appraised value shall be determined by the town tree warden, the borough tree

***Substitute House Bill No. 5447***

warden, the city forester, the Commissioner of Transportation, the Department of Public Utility Control or other authority having jurisdiction and shall be determined in accordance with regulations adopted by the Commissioner of Environmental Protection. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to develop guidelines for such plant appraisal. The regulations may incorporate by reference the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois. Until such time as regulations are adopted, appraisals may be made in accordance with said Guide for Plant Appraisal.

Approved May 30, 2006