



House of Representatives

File No. 892

General Assembly

January Session, 2013

(Reprint of File No. 329)

Substitute House Bill No. 6538
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 1, 2013

AN ACT CONCERNING ARBORISTS AND TREE WARDENS.

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

1 Section 1. (NEW) (*Effective October 1, 2013*) For the purposes of
2 sections 2 to 7, inclusive, of this act:

3 (1) "Arborist business" means any business that wholly, or in part,
4 holds itself out for hire to perform arboriculture.

5 (2) "Arboriculture" has the same meaning as provided in section 23-
6 61a of the general statutes.

7 (3) "Place of business" means any physical location at or through
8 which the functional operations of business regularly occur, including,
9 but not limited to, financial transactions, arrangement of contracts,
10 assignment of contracts, assignment of work and record keeping.
11 "Place of business" does not include buildings or locations used solely
12 for storage of equipment or supplies or any telephone answering
13 service.

14 Sec. 2. (NEW) (*Effective October 1, 2013*) (a) No person shall engage
15 in the operation of an arborist business unless such person has a
16 certificate of registration from the Commissioner of Energy and
17 Environmental Protection. A certificate of registration shall expire on
18 the thirty-first day of August next succeeding its issuance. Any
19 arborist business with more than one place of business in the state or
20 that operates under more than one name shall register and pay the
21 application fee for each place of business and for each business name.

22 (b) Application for a certificate of registration shall be made on such
23 form as the commissioner may prescribe and with such information as
24 the commissioner deems necessary to fulfill the purposes of sections 2
25 to 7, inclusive, of this act, provided such information shall, at a
26 minimum, include the following: (1) The applicant's name and
27 residential address, (2) the name, address and telephone number of the
28 place of business, (3) the name and license number of the licensed
29 arborist employed by the arborist business, and (4) the type of
30 business. Each arborist business shall notify the commissioner of any
31 change in the information contained in an application or in the status
32 of the business as an arborist business. Such notification shall be
33 submitted, in writing, not more than thirty days after any change.

34 (c) An application for a certificate of registration shall be
35 accompanied by payment of a fee of two hundred forty dollars. The
36 commissioner may waive payment of the fee for the initial renewal of a
37 certificate of registration issued during the three months prior to
38 expiration of such certificate of registration. An application for a
39 certificate of registration or renewal shall not be deemed to be
40 complete or sufficient until the applicable fee is paid in full.

41 (d) Notwithstanding the provisions of section 22a-66c of the general
42 statutes, any person who complies with the registration requirements
43 of this section shall not be required to register such arborist business
44 pursuant to section 22a-66c of the general statutes if such arborist
45 business also engages in pesticide application.

46 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The Commissioner of
47 Energy and Environmental Protection shall, after review of a complete
48 application submitted in accordance with the provisions of section 2 of
49 this act, issue or deny a certificate of registration. The commissioner
50 shall inform an applicant of a denial of a certificate of registration by
51 certified mail, return receipt requested. The commissioner shall briefly
52 state the reasons, as listed in subsection (c) of this section, for such
53 denial. Any applicant aggrieved by the commissioner's decision to
54 deny a certificate of registration may, not later than thirty days after
55 the date of such decision, request a hearing before the commissioner.
56 Such hearing shall be held in accordance with the provisions of chapter
57 54 of the general statutes.

58 (b) The commissioner may revoke or suspend a certificate of
59 registration in accordance with the provisions of subsection (c) of this
60 section and section 4-182 of the general statutes.

61 (c) The grounds for denial, revocation or suspension of a certificate
62 of registration shall include the following:

63 (1) Violation of any provision of chapter 441 or 451 of the general
64 statutes or any regulation, permit, certificate, registration or order
65 adopted, issued or administered or issued pursuant to said chapters
66 441 and 451;

67 (2) Inclusion of false or misleading information in an application or
68 the failure to notify the commissioner of a change, as required by
69 section 2 of this act;

70 (3) Inclusion of false or misleading information in records required
71 to be maintained pursuant to section 5 of this act, or the failure to
72 maintain such records or provide the commissioner with the records
73 required by section 5 of this act;

74 (4) Use of a pesticide in a manner inconsistent with the registered
75 labeling or with state or federal restrictions on the use of such
76 pesticide;

77 (5) Application of pesticides generally known in the trade to be
78 ineffective or improper for the intended use;

79 (6) Operation of faulty or unsafe equipment which may result in
80 improper pesticide application or harm to the environment, a worker
81 or other persons;

82 (7) Application of a pesticide or performance of arboriculture in a
83 faulty, careless or negligent manner;

84 (8) Aiding or abetting a licensed or unlicensed person to evade the
85 provisions of chapter 441 or 451 of the general statutes or any
86 regulation, permit, certificate, registration or order adopted, issued or
87 administered pursuant to said chapters 441 and 451;

88 (9) The making of a false or misleading statement during an
89 inspection or investigation concerning an infestation of pests, an
90 accident in applying a pesticide, misuse of a pesticide, or violation of a
91 statute, regulation, certificate, registration or order;

92 (10) The performance of arboriculture which does not meet
93 generally accepted industry standards;

94 (11) The performance of work, whether or not for compensation, in
95 a category for which the arborist is not certified; and

96 (12) The conviction of the applicant of a felony, as defined in section
97 53a-25 of the general statutes.

98 (d) Any arborist business whose certificate of registration is denied,
99 suspended or revoked shall not be eligible to reapply for a certificate of
100 registration until the commissioner determines that such applicant
101 may reapply.

102 (e) The commissioner shall not issue a certificate of registration or a
103 renewal of a certificate of registration to an arborist business unless
104 such arborist business submits the summary required pursuant to
105 subsection (d) of section 22a-58 of the general statutes for the previous

106 calendar year.

107 Sec. 4. (NEW) (*Effective October 1, 2013*) Each arborist business shall
108 employ at each place of business no fewer than one arborist licensed
109 pursuant to section 23-61b of the general statutes, as amended by this
110 act.

111 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) Each arborist business
112 shall maintain records for not less than five years from the date such
113 record is made or amended, whichever is later. The record shall
114 indicate: (1) For each application of a pesticide made on behalf of the
115 business, (A) the name and certification number of the commercial
116 supervisor and the commercial operator, (B) the kind and amount of
117 pesticide used and the amount of acreage treated, if applicable, (C) the
118 date and place of application, (D) the pest treated for, and (E) the crop
119 or site treated; (2) a list of the names and corresponding United States
120 Environmental Protection Agency registration numbers of any
121 pesticide applied by the business; (3) the names and applicator
122 certification numbers of all certified commercial pesticide applicators,
123 whether operator or supervisory, who are employees or agents of the
124 arborist business, and a list of the types of applications that each
125 applicator performs; and (4) for each site where arboriculture not
126 involving the use of pesticides was performed: (A) The type of work
127 performed, including, but not limited to, pruning, trimming, cabling,
128 bracing, fertilization or treating cavities, (B) the date and place of work,
129 (C) the name and license number of the licensed arborist supervising
130 the work, and (D) the names of any unlicensed or licensed persons
131 performing the work under the supervision of the licensed arborist.

132 (b) Information required under subdivision (2) of subsection (a) of
133 this section may be kept separately from the records required by
134 subdivision (1) of subsection (a) of this section or may be integrated
135 with such records by including on the record of each pesticide
136 application the full name and the United States Environmental
137 Protection Agency registration number of the pesticide used.

138 (c) All records and information required to be kept pursuant to this
139 section shall be kept at the place of business for such arborist business
140 and may be inspected by the Commissioner of Energy and
141 Environmental Protection pursuant to section 22a-59 of the general
142 statutes. If the place of business for such arborist business is outside of
143 the state, the records and information shall be made available to the
144 commissioner at a location in the state not more than ten days after
145 receipt of a request for inspection from the commissioner.

146 (d) Each arborist business shall, upon written request, provide any
147 customer with a copy of the record which is required to be kept
148 pursuant to this section and which pertains to arboriculture performed
149 for such customer.

150 Sec. 6. (NEW) (*Effective October 1, 2013*) Any person who violates
151 any provision of sections 2 to 7, inclusive, of this act shall forfeit to the
152 state a sum not to exceed five thousand dollars per day for each day of
153 violation. The Attorney General, upon complaint of the Commissioner
154 of Energy and Environmental Protection, shall institute a civil action to
155 recover such forfeiture in the superior court for the judicial district of
156 Hartford. All actions brought by the Attorney General shall have
157 precedence in the order of trial as provided in section 52-191 of the
158 general statutes.

159 Sec. 7. (NEW) (*Effective October 1, 2013*) In any proceeding regarding
160 the denial, suspension or revocation of a certificate of registration, and
161 any proceeding pursuant to section 3 of this act, the action, omission or
162 failure to act of any officer, agent or other person acting for or
163 employed by the arborist business shall be deemed to be the action,
164 omission or failure to act of the arborist business as well as that of the
165 person employed.

166 Sec. 8. Section 23-61b of the general statutes is repealed and the
167 following is substituted in lieu thereof (*Effective October 1, 2013*):

168 (a) No person shall advertise, solicit or contract to do arboriculture
169 within this state at any time without a license issued in accordance

170 with the provisions of this section, except that any person may
171 improve or protect any tree on such person's own premises or on the
172 property of such person's employer without securing such a license
173 provided such activity does not violate the provisions of chapter 441,
174 subsection (a) of section 23-61a or this section. Application for an
175 examination for such license shall be made to the Commissioner of
176 Energy and Environmental Protection and shall contain such
177 information regarding the applicant's qualifications and proposed
178 operations and other relevant matters as the commissioner may
179 require and shall be accompanied by a fee of [fifty] two hundred
180 dollars which shall not be returnable.

181 (b) The commissioner shall require the applicant to show upon
182 examination that the applicant possesses adequate knowledge
183 concerning the proper methods of arboriculture and the dangers
184 involved and the precautions to be taken in connection with these
185 operations, together with knowledge concerning the proper use and
186 application of pesticides and the danger involved and precautions to
187 be taken in connection with their application. If the applicant is other
188 than an individual, the applicant shall designate an officer, member or
189 technician of the organization to take the examination, which designee
190 shall be subject to approval of the commissioner except that any
191 person who uses pesticides in arboriculture shall be licensed to do
192 arboriculture or shall be a licensed commercial applicator under
193 chapter 441. If the extent of the applicant's operations warrant, the
194 commissioner may require more than one such member or technician
195 to be examined. If the commissioner finds the applicant qualified, the
196 commissioner shall issue a license to perform arboriculture within this
197 state. A license shall be valid for a period of five years, provided the
198 commissioner may issue such licenses such that one-fifth of such
199 licenses expire each year and the commissioner may issue a license for
200 a period of less than five years and prorate the license fee accordingly.
201 If the commissioner finds that the applicant is not qualified, or if the
202 commissioner refuses to issue a license for any other reason, the
203 commissioner shall so inform the applicant in writing, giving reasons

204 for such refusal.

205 (c) The commissioner may issue a license without examination to
206 any nonresident who is licensed in another state under a law that
207 provides substantially similar qualifications for licensure and which
208 grants similar privileges of licensure without examination to residents
209 of this state licensed under the provisions of this section.

210 (d) Each licensee shall pay a license [renewal fee of one hundred
211 ninety] fee of two hundred eighty-five dollars for each license or
212 renewal. All examination and license [renewal] fees shall be deposited
213 as provided in section 4-32, and any expenses incurred by the
214 commissioner in making examinations, issuing certificates, inspecting
215 tree work or performing any duties of the commissioner shall be
216 charged against appropriations of the General Fund.

217 (e) Each licensee shall maintain and, upon request, furnish such
218 records concerning licensed activities as the commissioner may
219 require.

220 (f) The commissioner may suspend for not more than ten days and,
221 after notice and hearing as provided in any regulations established by
222 the commissioner, may suspend for additional periods, or the
223 commissioner may revoke, any license issued under this section if the
224 commissioner finds that the licensee is no longer qualified or has
225 violated any provision of section 23-61a or this section, or any
226 regulation adopted thereunder.

227 (g) The Commissioner of Energy and Environmental Protection, in
228 consultation with the board, shall establish standards for examining
229 applicants and reexamining applicators with respect to the proper use
230 and application of pesticides and [agricultural] arboricultural methods.
231 Such standards shall provide that in order to be certified, an individual
232 shall be competent with respect to the use and handling of pesticides
233 or the use and handling of the pesticide or class of pesticides covered
234 by such individual's application or certification and in the proper and
235 safe application of recognized arboricultural methods.

236 (h) Any licensed arborist shall be considered to be a certified
237 applicator under section 22a-54 with respect to the use of pesticides.

238 (i) Any person who is a certified supervisory pesticide applicator, as
239 described in section 22a-54, and who is also licensed as an arborist
240 pursuant to this section, shall not be required to pay a license fee
241 pursuant to this section provided such person pays any fee required
242 pursuant to section 22a-54.

243 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) Not later than one year
244 after appointment or reappointment as a tree warden, pursuant to
245 section 23-58 of the general statutes, such tree warden shall
246 successfully complete coursework, as approved by the Commissioner
247 of Energy and Environmental Protection. The minimum requirements
248 for such coursework shall include: Tree biology, tree maintenance and
249 pruning, urban forest management and tree laws. The commissioner
250 may administer such coursework or may, in the commissioner's sole
251 discretion, delegate responsibility to administer such coursework to a
252 professional or educational organization capable of providing such
253 training.

254 (b) In the event that a tree warden fails to comply with the
255 provisions of subsection (a) of this section, such tree warden shall not
256 be eligible for reappointment pursuant to section 23-58 of the general
257 statutes.

258 (c) Upon written request to the Commissioner of Energy and
259 Environmental Protection by the chief elected official of the
260 municipality that appointed a tree warden, a six-month extension of
261 time may be granted for the purpose of the completion of the
262 coursework required pursuant to subsection (a) of this section.

263 (d) Each tree warden shall maintain a record of the completion of
264 the coursework required pursuant to subsection (a) of this section and,
265 upon request, furnish such records to the commissioner or the
266 commissioner's designee, and the chief elected official of the
267 municipality that appointed such tree warden.

268 (e) (1) Any tree warden who successfully completes the Tree
269 Wardens Association of Connecticut coursework prior to the effective
270 date of this section shall be deemed by the Commissioner of Energy
271 and Environmental Protection to have successfully completed the
272 coursework required by this section, provided not later than December
273 31, 2013, a duly authorized officer of the Tree Wardens Association of
274 Connecticut certifies to the commissioner and to the chief elected
275 official of the municipality that appointed such tree warden, in
276 writing, that such tree warden has successfully completed the Tree
277 Wardens Association of Connecticut coursework.

278 (2) The successful completion of the Tree Wardens Association of
279 Connecticut coursework prior to the effective date of this section by a
280 deputy tree warden appointed pursuant to section 23-58 of the general
281 statutes shall be deemed by the commissioner to satisfy the
282 requirements of subsection (a) of this section, provided not later than
283 December 31, 2013, a duly authorized officer of the Tree Wardens
284 Association of Connecticut certifies to the commissioner and to the
285 chief elected official of the municipality that appointed such deputy
286 tree warden, in writing, that such deputy tree warden has successfully
287 completed the Tree Wardens Association of Connecticut coursework.

288 (3) The requirements of subsection (a) of this section shall not apply
289 to any tree warden who: (A) Is an arborist licensed by the
290 Commissioner of Energy and Environmental Protection, or (B)
291 appoints a deputy tree warden who successfully completes the
292 coursework required by subsection (a) of this section, who meets the
293 requirements of subdivision (2) of this subsection or who is an arborist
294 licensed by the Commissioner of Energy and Environmental
295 Protection.

296 (f) The commissioner, or the commissioner's designee, may charge a
297 reasonable fee to cover the costs associated with the coursework
298 required pursuant to this section. In the event a tree warden is a
299 volunteer, the municipality that appointed such tree warden shall pay
300 the cost of such required coursework.

301 Sec. 10. Section 23-58 of the general statutes is repealed and the
 302 following is substituted in lieu thereof (*Effective October 1, 2013*):

303 The selectmen of each town, except those having cities with
 304 coextensive boundaries within their limits, which cities have an officer
 305 with similar duties to those of a tree warden who in fact assumes
 306 control of all the territory embraced within their limits, and the warden
 307 or burgesses of each borough shall, within thirty days of their election,
 308 appoint a town or borough tree warden, as the case may be. Such tree
 309 wardens shall be appointed for the term of [one year] two years and
 310 until their successors are appointed and have qualified. Any tree
 311 warden may appoint such number of deputy tree wardens as [he] said
 312 warden deems expedient and [he] said warden may, at any time,
 313 remove [them] any such deputy tree warden from office. A town or
 314 borough tree warden and [his] such warden's deputies shall receive for
 315 their services such reasonable compensation, from the town or
 316 borough, as the town or borough may determine or, in default of such
 317 determination, as the selectmen or borough warden prescribes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	23-61b
Sec. 9	<i>October 1, 2013</i>	New section
Sec. 10	<i>October 1, 2013</i>	23-58

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Department of Energy and Environmental Protection	GF - Revenue Gain	Less than 133,000	Less than 133,000
Department of Energy and Environmental Protection	GF - Cost	10,000	10,000

Municipal Impact:

Municipalities	Effect	FY 14 \$	FY 15 \$
Various Municipalities	Potential Cost	Minimal	Minimal

Explanation

The bill is anticipated to generate approximately \$83,000 annually from the increase in the arborist (1) nonreturnable license application fee and (2) the license and renewal fee, and (3) from a newly established penalty.

The bill increases the arborist nonreturnable license application fee from \$50 to \$500. In FY 12, there were 144 nonreturnable license applications issued at \$50 generating \$7,200 in revenue. Increasing this fee to \$500 would result in an annual revenue gain to the Department of Energy and Environmental Protection (DEEP) of approximately \$64,800 based on the current number of licenses issued.

Additionally, the bill increases the arborist license and renewal fee from \$190 to \$285. In FY 12, there were 194 license and renewal licenses issued at \$190 generating \$36,860 in revenue. Increasing this fee to \$285 is expected to generate an additional \$18,430 annually

based on the current number of licenses issued.

The bill establishes a fine of \$5,000 per day for each violation. This is anticipated to result in a revenue gain of less than \$50,000 annually.

The bill also requires municipalities to complete tree warden training with DEEP. This is anticipated to result in an annual cost of approximately \$10,000 for DEEP to administer the training. However, it is estimated that DEEP will charge approximately \$275 for the training. It is estimated that this will offset DEEP's costs to administer the course.

This requirement is also anticipated to result in costs to various municipalities of approximately \$275 per tree warden for taking the required training under certain circumstances.

House "A" extends the tree warden appointment term length which results in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of violations.

OLR Bill Analysis**sHB 6538 (as amended by House "A")******AN ACT CONCERNING ARBORISTS AND TREE WARDENS.*****SUMMARY:**

This bill requires arborist businesses to (1) register annually with the Department of Energy and Environmental Protection (DEEP) and pay a \$240 fee and (2) employ at least one licensed arborist at each place of business. Among other things, it: (1) prescribes the manner in which an arborist business must apply for a certificate of registration; (2) allows the DEEP commissioner to deny, revoke, or suspend a registration; (3) requires arborist businesses to keep detailed records for at least five years; and (4) penalizes violators by requiring them to forfeit up to \$5,000 to the state for each day the violation continues.

The bill increases the nonreturnable arborist license application fee from \$50 to \$200. It creates an initial license fee of \$285 and increases the license renewal fee from \$190 to \$285. Certain licensed certified pesticide applicators are exempt from the arborist license fee.

The bill extends, from one year to two, the term length of municipally appointed tree wardens. It generally requires municipal tree wardens to complete certain coursework approved by DEEP within one year after being appointed or reappointed. It allows DEEP to charge a reasonable fee for coursework costs.

The bill exempts from the coursework requirement tree wardens who (1) completed similar coursework and provide evidence of its completion; (2) are licensed arborists; or (3) appoint deputy tree wardens with similar qualifications. The bill requires the wardens to keep coursework records and provide the records upon request to

DEEP and the officials who appointed them.

The bill also makes technical changes.

*House Amendment "A" extends the tree warden appointment term length, allows DEEP to delegate responsibility for administering the DEEP-approved tree warden coursework, establishes minimum coursework requirements and allows a reasonable fee to be charged for the coursework, exempts certain tree wardens from the coursework requirement, and makes other minor and technical changes to the tree warden provisions.

EFFECTIVE DATE: October 1, 2013

ARBORIST BUSINESSES

Registration Requirement

The bill requires anyone operating a business that, at least in part, holds itself out for hire to perform arboriculture ("arborist business") to register with DEEP. By law, "arboriculture" includes (1) improving the condition of fruit, shade, or ornamental trees by such things as feeding, fertilizing, pruning, trimming, bracing, or treating cavities or (2) protecting trees from, or curing them of, insect or disease damage by spraying or other methods (CGS § 23-61a). The bill exempts a registered arborist business that engages in pesticide application from also having to register with DEEP as a pesticide application business.

The bill requires arborist businesses operating from more than one place of business in Connecticut or under more than one name to apply for a certificate of registration and pay the application fee for each location and name.

Under the bill, an arborist businesses' "place of business" is a physical location where its functional operations such as financial transactions, contract arrangements and assignments, work assignments, and recordkeeping, regularly occur. It excludes places or buildings used only to store equipment or supplies or for telephone answering services.

Application and Decision Process

Applicants must apply for a certificate of registration on a form the DEEP commissioner prescribes and supply the following information, together with any other information the commissioner requests:

1. applicant's name and home address;
2. business name, address, and phone number;
3. name and license number of the licensed arborist employed by the business; and
4. business type.

Registrants must notify the commissioner in writing within 30 days after any change in the application information or in its status as an arborist business.

Businesses applying for an initial or renewed certificate of registration must also provide a summary for the previous calendar year of the (1) names and certification numbers of its commercial pesticide application supervisors and operators and (2) kinds and amounts of pesticides it used.

The bill requires the DEEP commissioner to review applications and, if he denies one, inform the applicant of his reasons by certified mail, return receipt requested. Within 30 days after the date of the decision, a denied applicant may request a hearing before the commissioner in accordance with the Uniform Administrative Procedure Act (UAPA).

Fees and Expiration Dates

The application for a certificate of registration or its renewal must include a \$240 fee, but the commissioner may waive the fee for an initial renewal of a registration issued during the three months before its expiration date. The bill specifies that an application is not complete or sufficient until the fee is fully paid.

A registration certificate expires on the August 31st after issuance.

Registration Denial, Suspension, or Revocation

Under the bill, the DEEP commissioner may deny, revoke, or suspend a certificate of registration in accordance with the UAPA for such reasons as:

1. violating or helping someone avoid the state's pesticide control or arboriculture and public shade trees laws or any regulation, permit, certificate, registration, or order adopted, administered, or issued under them;
2. including false or misleading information in an application or failing to notify the commissioner of a change in application information;
3. including false or misleading information in required records, failing to maintain them, or failing to provide them to the commissioner when requested;
4. using a pesticide in a manner that is inconsistent with its registered label or with state or federal restrictions;
5. applying pesticides generally known in the trade to be ineffective or improper for the intended use;
6. operating faulty or unsafe equipment that may result in improper pesticide application or harm the environment, a worker, or other people;
7. applying pesticide or performing arboriculture in a faulty, careless, or negligent manner;
8. making a false or misleading statement during an inspection or investigation concerning pest infestation, a pesticide application accident, pesticide misuse, or a violation of a law, regulation, certificate, registration, or order;

9. performing arboriculture that does not meet generally accepted industry standards;
10. performing work outside of the arborist's certification, whether or not for compensation; or
11. conviction of a felony.

The bill specifies that an arborist business with a denied, suspended, or revoked certificate of registration is ineligible to reapply until the commissioner allows it to.

Under the bill, in any proceeding on registration denial, suspension, or revocation, the action, omission, or failure to act of a business employee is also deemed to be that of the business.

Record Keeping

The bill requires arborist businesses to maintain the following records for at least five years:

1. for each pesticide application, the (a) name and certification number of the commercial supervisor and operator; (b) kind and amount of pesticide used and the amount of acreage treated, if applicable; (c) date and place of application; (d) pest treated for; and (e) crop or site treated;
2. a list of the names and U.S. Environmental Protection Agency (EPA) registration numbers of pesticides applied by the business;
3. the names and certification numbers of all certified commercial pesticide applicators employed or used as agents by the business and the types of applications each performs;
4. for each location where arboriculture was performed without pesticide use, the (a) type of work performed, (b) date and place of work, (c) name and license number of the supervising arborist, and (d) names of any unlicensed or licensed people

working under the supervising licensed arborist.

The bill allows the pesticide name and EPA registration number information to be either kept separately from, or integrated with, the pesticide application records. Integrated records must include the pesticide's full name and registration number on the record of each application.

If a record is amended, it must be kept for at least five years from the amendment date.

Records Inspections

The bill requires arborist businesses to keep the records at their places of business. It allows the DEEP commissioner to inspect them. If the place of business is located outside of Connecticut, the business must make the records available to the commissioner at a location in the state within 10 days after receiving the commissioner's request to do so.

Arborist businesses must, in response to a customer's written request, provide copies of the records that relate to the arboriculture performed for the customer.

Penalties

Anyone who violates the bill's arborist business provisions must be fined up to \$5,000 for each day of violation. The attorney general must bring a civil action in Hartford Superior Court to recover the fine if the DEEP commissioner requests it. Such suits take precedence over all private civil actions except those taken on probate bonds.

LICENSED ARBORISTS

The law generally requires anyone who advertises, solicits, or contracts to do arboriculture in Connecticut to be licensed by DEEP. Applicants must apply for the license and take an examination.

The bill increases the nonreturnable application fee from \$50 to \$200. It establishes an initial license fee of \$285 and increases the

license renewal fee from \$190 to \$285. Certified supervisory pesticide applicators that are also licensed as arborists are exempt from having to pay an arborist license fee if they paid to be licensed as a pesticide applicator. (The license fee for a certified supervisory pesticide applicator is also \$285).

Under current law, an arborist license is valid for five years. The bill allows the DEEP commissioner to issue licenses (1) for a period of less than five years and prorate the license fee and (2) in a way that causes 20% of the licenses to expire each year.

TREE WARDENS

Appointment Term Length

The bill extends, from one year to two, the term length for municipally appointed tree wardens. By law, the wardens serve for the term and until a successor is appointed and has qualified, and may appoint deputy tree wardens.

Coursework Requirement

The bill requires tree wardens to successfully complete coursework related to the position within one year after their appointment or reappointment. The coursework, approved by the DEEP commissioner, must at least include tree biology, tree maintenance and pruning, urban forest management, and tree laws.

The bill allows the commissioner to administer the coursework or delegate the responsibility to a professional or educational organization that can provide the training. The commissioner or his designee can charge a reasonable fee for coursework costs. The bill requires municipalities to pay the cost for appointed tree wardens who are volunteers.

The bill makes tree wardens who fail to complete the coursework ineligible for reappointment. But it allows a municipal chief elected official to make a written request to DEEP for a six-month extension to complete the coursework.

The bill exempts from the coursework requirement a tree warden who (1) is a DEEP-licensed arborist or (2) successfully completes the Tree Wardens Association of Connecticut (TWAC) coursework before October 1, 2013, if a duly authorized TWAC officer certifies to that fact, in writing, to the DEEP commissioner and the municipal chief elected official by December 31, 2013. It also exempts wardens who appoint deputy tree wardens who (1) successfully complete the required coursework, (2) successfully complete the TWAC coursework by October 1, 2013 and provide the certification described above, or (c) are DEEP-licensed arborists.

The bill also requires tree wardens to (1) maintain a record of coursework completion and (2) provide, upon request, the records to the DEEP commissioner, or his designee, and the chief elected municipal officials who appointed them.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 20 Nay 8 (03/18/2013)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 40 Nay 8 (04/19/2013)

Planning and Development Committee

Joint Favorable

Yea 13 Nay 5 (04/29/2013)

Judiciary Committee

Joint Favorable

Yea 22 Nay 18 (05/07/2013)